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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 6 to 17 May 2019**

The Turkish Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2020) 25.

Strasbourg, 5 August 2020

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## EXECUTIVE SUMMARY

The main objective of the CPT's May 2019 visit to Turkey was to examine the treatment and safeguards afforded to persons detained by law enforcement agencies. To this end, the CPT's delegation visited a great number of police and gendarmerie establishments as well as remand prisons in different parts of Turkey and interviewed hundreds of persons who were or had recently been held in police custody in the Ankara, Diyarbakır, Istanbul and Şanlıurfa areas. On the occasion of the visit, the delegation also went to Imralı F-type High-Security Prison ('Imralı Prison'), in order to examine the treatment and conditions of detention of all prisoners held there and to review the measures taken by the Turkish authorities in the light of the recommendations made by the CPT after the April 2016 visit.

### *Police custody*

As was the case during the CPT's 2017 visit, the delegation received a considerable number of allegations of excessive use of force and/or physical ill-treatment by police/gendarmerie officers from persons who had recently been taken into custody (including women and juveniles). These allegations mainly consisted of slaps, kicks, punches (including to the head and/or face) and truncheon blows after the persons concerned had been handcuffed or otherwise brought under control. A significant proportion of the allegations related to beatings during transport or inside law enforcement establishments, apparently with the aim of securing confessions or obtaining other information, or as a punishment. Further, numerous detained persons claimed to have been subjected to threats and/or severe verbal abuse. Moreover, a number of allegations were once again received of excessive use of force and/or physical ill-treatment by members of the mobile motorcycle intervention teams (so-called '*Yunus*') in Istanbul. In a number of cases, the allegations of physical ill-treatment were supported by medical evidence, such as bodily injuries documented in medical records or directly observed by medical members of the delegation.

Overall, the CPT has gained the impression that, compared to the findings of the 2017 visit, the severity of alleged police ill-treatment has diminished. However, the frequency of allegations remains at a worrying level. The Committee stresses once again the need for more decisive action by all relevant authorities in order to combat the phenomenon of police ill-treatment in Turkey and reiterates its recommendation that a clear and firm message of "zero tolerance" of ill-treatment be delivered to all law enforcement officials, from the highest political level, namely the President of the Republic.

As concerns fundamental safeguards against ill-treatment, it transpired from the information gathered during the visit that notification of custody to a relative (or another trusted person) was generally performed soon after apprehension and that detained persons usually had access to a lawyer whilst in police custody. However, as during previous visits to Turkey, a number of detained persons claimed that the police had granted their request for an *ex officio* lawyer only after a considerable delay, in order to be able to informally question them about the suspected offence without the presence of a lawyer (prior to the taking of a formal statement). The CPT also remains concerned about the existence of legal restrictions regarding access to a lawyer during the initial phase of police custody for certain serious crimes, and it emphasises the importance for the prevention of ill-treatment of guaranteeing such access from the very outset of police custody.

Further, despite the specific recommendations repeatedly made by the Committee after previous visits, the system of mandatory medical controls at the outset and end of police/gendarmerie custody remained fundamentally flawed. In particular, in the vast majority of cases, law enforcement officials continued to be present during medical controls and such controls were often carried out without any physical examination. Moreover, several persons claimed that they had been threatened not to show their injuries by police officers present during medical controls.

As regards conditions of detention, in all the law enforcement establishments visited, detention facilities were in a good state of repair and generally clean. That said, due to major structural deficiencies, the CPT considers these facilities to be unsuitable for detention lasting more than a few days. In particular, many cells did not have access to natural light, and in none of the establishments visited had arrangements been made to enable detained persons to have access to the open air. The situation was further exacerbated by the fact that detained persons were often held under very cramped conditions (e.g. up to four persons in cells of some 9 m<sup>2</sup>). It is also a matter of concern that persons held overnight in police custody were still often not provided with a mattress (in addition to blankets). In addition, many detained persons claimed that they had received no or insufficient food and, on occasion, no drinking water and that they had not been provided with personal hygiene products during their stay in police custody. The CPT recommends that these shortcomings be remedied.

#### *Specific issues related to the prisons visited*

Notwithstanding the expansion of the prison estate and greater use of conditional release and alternative non-custodial measures, the problem of prison overcrowding remained acute, and the steady increase in the size of the prison population already observed in the mid-2000s continued. With the exception of Diyarbakır Juvenile Prison, the official capacities of all the establishments visited were being greatly exceeded at the time of the visit. Consequently, a large number of inmates in these prisons did not have their own bed and had to sleep on mattresses placed on the floor. Moreover, in some living units, prisoners were even obliged to share mattresses, as no floor space was left for additional mattresses.

The CPT recalls that constructing new prisons is not likely, in itself, to provide a lasting solution to the problem of overcrowding. Addressing this problem calls for a coherent strategy, covering both admission to and release from prison, to ensure that imprisonment – including pre-trial detention – really is the measure of last resort. The Committee once again calls upon the Turkish authorities to take decisive action to curb prison population inflation and to eradicate prison overcrowding, in the light of the remarks made in the visit report and relevant recommendations of the Committee of Ministers of the Council of Europe.

Despite the specific recommendations repeatedly made by the Committee after previous visits, the procedure for medical screening of newly-arrived remand prisoners continued to display major shortcomings. In particular, it was not uncommon for newly-admitted prisoners to be seen by a doctor only after a considerable delay or not to be seen at all, and the screening generally did not include a physical examination of the prisoner. Moreover, no progress was observed as regards other issues of concern to the CPT, such as the continued lack of respect for medical confidentiality and the recording and reporting of injuries, as well as health-care staffing levels.

Further, in several of the prisons visited, the delegation observed that newly-arrived inmates with acute opioid withdrawal signs were left unattended, without receiving painkillers or other symptomatic treatment. Such a state of affairs is not acceptable. The CPT recommends that the Turkish authorities take the necessary steps to ensure that, in all prisons, newly-arrived prisoners with drug addiction problems are systematically identified and that those suffering from withdrawal signs are promptly provided with adequate treatment (i.e. substitution treatment or treatment relieving the symptoms).

*Situation of prisoners held at Imralı Prison*

As during previous visits, the delegation received no allegations of ill-treatment of prisoners by prison officers. Further, the health-care services and material conditions of detention remained generally satisfactory.

However, the situation regarding the prisoners' regime had not improved at all since the CPT's 2016 visit. They were still only allowed to associate all together for six hours per week, as well as in pairs for an additional three hours per week, and association during daily outdoor exercise remained prohibited. As a result, all prisoners were being held in solitary confinement for most of the time (i.e. 159 hours out of 168 hours per week, including 24 hours per day at weekends). In the Committee's view, such a state of affairs is not acceptable. The CPT calls upon the Turkish authorities to take steps without further delay to ensure that all prisoners held at Imralı Prison are allowed to associate together during daily outdoor exercise, as well as during all other out-of-cell activities. Further, the Committee reiterates that the underlying concept of the detention regime of persons sentenced to aggravated life imprisonment is fundamentally flawed. It once again calls upon the Turkish authorities to carry out a complete overhaul of the detention regime applied to prisoners sentenced to aggravated life imprisonment in Turkish prisons.

The issue of contact with the outside world of prisoners held at Imralı Prison has been the subject of a long-standing intense dialogue between the CPT and the Turkish authorities, given that no visits by lawyers had been granted since July 2011 and that hardly any visits by family members had taken place since October 2014. The situation was further exacerbated by the fact that, following the military coup attempt of 15 July 2016, a total ban on contacts with the outside world (including correspondence) was imposed on all prisoners, which resulted in a type of incommunicado imprisonment. As repeatedly stressed by the CPT in its dialogue with the Turkish authorities, such a state of affairs is not acceptable and clearly contravenes various relevant international human rights instruments and standards.

The CPT also notes with great concern that, following the lifting of the state of emergency (in July 2018), all prisoners continued to be denied visits by their lawyers and family members. That said, the Committee welcomes the fact that, shortly before the 2019 visit, the judicial ban on lawyers' visits was lifted and Abdullah Öcalan was granted the first visit by lawyers since July 2011. Further, four more lawyers' visits took place until the beginning of August 2019. However, since then all requests for visits submitted by lawyers have apparently been turned down. As regards family visits, the situation has slightly improved since the May 2019 visit with all prisoners being able to receive a visit from family members in June and August 2019, despite the existence of disciplinary sanctions of prohibition of family visits.

The Committee acknowledges that there may be valid security reasons to introduce certain restrictions vis-à-vis prisoners on the exercise of their right to have contacts with the outside world. However, a balance must be struck between such security considerations and the basic human rights of the prisoners concerned. The measures taken thus far by the Turkish authorities since the May 2019 visit are a significant step in the right direction. That said, much more needs to be done to render the situation acceptable. More specifically, a sustainable system of regular visits by family members and lawyers should be developed for all prisoners held at Imralı Prison.

## I. INTRODUCTION

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

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Turkey from 6 to 17 May 2019. The visit was one which appeared to the Committee “to be required in the circumstances” (see Article 7, paragraph 1, of the Convention).

2. The main objective of the visit was to examine the treatment and safeguards afforded to persons detained by law enforcement agencies. To this end, the CPT’s delegation visited a great number of police and gendarmerie establishments as well as remand prisons in different parts of the country and interviewed hundreds of persons who were or had recently been held in police custody in the Ankara, Diyarbakır, Istanbul and Şanlıurfa areas.

On the occasion of the visit, the delegation also went to Imralı F-type High-Security Prison, in order to examine the treatment and conditions of detention of all prisoners held in the establishment and to review the measures taken by the Turkish authorities in the light of the recommendations made by the CPT after its previous visit to the prison (in April 2016).

A list of the establishments visited by the delegation is set out in Appendix I to this report.

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

- Mykola Gnatovskyy, President of the CPT (Head of the delegation)
- Djordje Alempijević
- Nico Hirsch
- Julia Kozma
- Davor Strinović
- Hans Wolff.

They were supported by Michael Neurauter (Head of Division) and Elvin Aliyev of the Committee’s Secretariat.

4. The report on the visit was adopted by the CPT at its 100<sup>th</sup> meeting, held from 4 to 8 November 2019, and transmitted to the Turkish authorities on 2 December 2019. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Turkish authorities to provide within three months a response containing a full account of action taken by them to implement the Committee’s recommendations and replies to the comments and requests for information formulated in this report.

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

5. In the course of the visit, the delegation held consultations with Süleyman Soylu, Minister of the Interior, Abdulhamit Gül, Minister of Justice, Muhterem Ince, Deputy Minister of the Interior, and Muhammet Güven, Deputy Minister of Health, as well as with senior officials from the Ministries of the Interior, Justice, Health and Foreign Affairs.

Further, the delegation met Süleyman Arslan, President of the Human Rights and Equality Institution of Turkey, in his capacity as Head of the National Preventive Mechanism (NPM) set up under the Optional Protocol to the United Nations Convention against Torture (OPCAT), and representatives of 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.

6. The co-operation received throughout the visit was on the whole very good. The delegation generally enjoyed rapid access to the establishments 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 detained persons.

The CPT would also like to express its appreciation for the assistance provided before and during the visit by its liaison officer, Ms Neval Orbay, Deputy Director General for the Council of Europe and Human Rights, from the Ministry of Foreign Affairs.

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

### A. Police custody

#### 1. Preliminary remarks

7. The general legal framework regulating the deprivation of liberty by law enforcement agencies of persons who are suspected of having committed a criminal offence remains unchanged since the CPT's 2017 periodic visit. It is recalled that the maximum period of police/gendarmerie custody is generally 24 hours<sup>1</sup> or, in some cases, 48 hours, excluding the time required to bring the suspect before the nearest judge (which shall not exceed twelve hours).<sup>2</sup> In the case of "collective" offences (i.e. committed by three or more people), the custody period can be extended, for no more than one day at a time, up to a maximum of four days by written order of the public prosecutor.<sup>3</sup>

8. Turkey's nationwide state of emergency, which had been declared in the immediate aftermath of the July 2016 military coup attempt, was lifted on 19 July 2018. It should be recalled that the first executive decree with the force of law issued under the state of emergency rule (Decree-Law No. 667 from 22 July 2016) had extended the maximum period of police custody for certain offences related to national security as well as for terrorism-related and collective offences to 30 days (without bringing the suspect before a judge). By Decree-Law No. 684 issued six months later, the maximum custody period for the aforementioned offences had been reduced to seven days, with a possible extension to 14 days.<sup>4</sup>

Following the termination of the state of emergency, the above-mentioned framework was further modified; with the entry into force on 31 July 2018 of Law No. 7145 on "Amendments to some laws and decree-laws", a transitional provision (Section 19) was added to the Anti-Terrorism Law. It provides that, for a period of three years from that date, with regard to crimes against national security or constitutional order,<sup>5</sup> crimes falling within the scope of the Anti-Terrorism Law or committed by a criminal organisation, the authorised period of police custody (i.e. 48 hours or, in the case of collective offences, four days) may be extended twice due to the difficulty in collecting evidence or the volume of the case file, each time within the time-limit of the respective authorised custody period.<sup>6</sup> The decision to extend the custody period is taken at the request of a prosecutor and by decision of a judge who shall hear the detained person.

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<sup>1</sup> The 24-hour time limit also applies to persons who have been deprived of their liberty for identification purposes (See Section 5 of the Regulation on Apprehension, Detention and Statement Taking; hereinafter: "Detention Regulation").

<sup>2</sup> Section 91, paragraphs 1 and 4, of the Code of Criminal Procedure (CCP).

<sup>3</sup> Section 91 (3), *ibid*.

<sup>4</sup> Such an extension had to be authorised by the prosecutor, owing to difficulties in collecting evidence or the high number of suspects.

<sup>5</sup> Sections 302 to 339 of the Criminal Code.

<sup>6</sup> That is, to a total of six days or, as regards collective offences, twelve days.

9. The maximum possible period of police/gendarmerie custody is of direct relevance to the CPT's mandate. First of all, the prolonged stay of criminal suspects on the premises of law enforcement agencies, even after the person concerned has been brought before a judge, increases the risk of intimidation and ill-treatment. Secondly, law enforcement establishments are not designed for lengthy stays. Indeed, although during more recent visits to Turkey material conditions in police/gendarmerie detention facilities were found to be generally adequate for short stays, the Committee has so far not come across any such facility that would be suitable for prolonged detention (in particular, due to the frequent limitations regarding access to natural light and the absence of outdoor exercise areas and of proper sleeping places).<sup>7</sup>

**The CPT calls upon the Turkish authorities to amend the legislation regulating the duration of police/gendarmerie custody with a view to re-introducing an absolute upper limit of four days, regardless of the type of the offence.**

## **2. Ill-treatment**

10. As already mentioned in paragraph 2, the delegation interviewed hundreds of persons who were or had recently been held in police custody in the Ankara, Diyarbakır, Istanbul and Şanlıurfa areas.

As was the case during the CPT's 2017 visit, the delegation received a considerable number of allegations of excessive use of force and/or physical ill-treatment by police/gendarmerie officers from persons who had recently been taken into custody (including women and juveniles). These allegations mainly consisted of slaps, kicks, punches (including to the head and/or face) and truncheon blows after the persons concerned had been handcuffed or otherwise brought under control. A significant proportion of the allegations related to beatings during transport or inside law enforcement establishments, apparently with the aim of securing confessions or obtaining other information, or as a punishment. Further, numerous detained persons claimed to have been subjected to threats and/or severe verbal abuse.

Further, several detained persons, interviewed separately, gave consistent accounts of ill-treatment inflicted on them by police officers on the premises of Sultanbeyli District Police Headquarters in Istanbul, sometimes in the presence of or even with the active participation of a senior police officer. Moreover, as during the 2017 visit, a number of allegations were received of excessive use of force and/or physical ill-treatment by members of the mobile motorcycle intervention teams (so-called '*Yunus*') in Istanbul.

11. It is noteworthy that only a limited number of allegations of physical ill-treatment by law enforcement officials were received from persons detained on suspicion of terrorism-related crimes. Actually, most of the allegations came from persons suspected of ordinary criminal offences (such as drug-related offences; see, in this regard, also paragraph 13 below).

<sup>7</sup>

For further details, see paragraphs 28 to 32.

12. In a number of cases, the allegations of physical ill-treatment were supported by medical evidence, such as bodily injuries documented in medical records or directly observed by medical members of the delegation.<sup>8</sup>

By way of illustration, descriptions are given below of some of these cases:

(i) A person with a severe physical disability indicated that, at the moment of apprehension, he had been treated correctly by officers of Sultanbeyli District Police Headquarters. However, shortly after having been placed in the police van he was allegedly slapped and punched by police officers. Upon arrival at the police establishment, he was allegedly again kicked, punched and hit with truncheons by several other officers inside an office. He further claimed that one senior police officer had punched him in the face, pushed him to the floor and inflicted further pain on him by forcibly lifting his arms whilst being handcuffed to the back.

During the medical check at Sultanbeyli Hospital at the end of police custody, the following injuries were recorded: “ecchymosis of the left eye extending to zygomaticus; ecchymosis oedema of left ear; ecchymosis of the right eye extending to zygomaticus; 5 x 4 cm hyperemic area of the lower side of the left knee”.

(ii) One detained person stated that, in April 2019, he had been apprehended on the street by ten 'Yunus' police officers and handcuffed to the back. The team leader allegedly told the officers 'to beat him up'. Subsequently, the person concerned was allegedly kicked and punched on various parts of the body (including the face) and received baton blows. At a certain point, the team leader also kicked him in the face.

During the medical check at Bakırköy Hospital at the end of police custody, the following injuries were recorded: “ecchymosis on left and right ear auricle; red ecchymosis on the outer side of right shoulder of 4 x 2 cm; 2 x 1 cm abrasion on right elbow; purple ecchymosis of 5 x 4 cm on back side of left arm as well as abrasions of 5 x 2 cm and 2 x 0.5 cm; red ecchymosis with abrasion of 3 x 2 cm on right cruris lateral; red ecchymosis 2 x 1 cm and two red ecchymoses 1 x 1 cm; 6 x 5 cm oedema and purple ecchymosis; 2 x 1 cm purple ecchymosis on back side of left knee; 2 x 2 cm purple ecchymosis on right hip”.

(iii) One detained person claimed that, during his apprehension, he had been punched in the face and handcuffed by officers of Sancaktepe Police Station (Istanbul). During his transport to the police station, the car stopped and the officers allegedly took him out of the car and hit him several times with a baton (including on the head). At the police station, he was then allegedly handcuffed during the whole night in the lawyers' visiting room. Further, during his transfer to a remand prison, he was allegedly handcuffed very tightly for several hours.

Upon examination by a medical member of the delegation, the person concerned displayed the following injuries: above left eye, 2 x 3 cm dark blue hematoma, 4-6 days old; above right eye, 0.5 x 1 cm hematoma dark colour; complains about pain on the head; on the parietal region; on both wrists, linear oedema and superficial lesion of the skin 5 x 0.3 cm as well as persisting numbness in the ulnar nerve region.

<sup>8</sup>

As regards the shortcomings frequently observed in the recording of injuries, see paragraphs 23 and 38.

(iv) One detained person claimed that, during his apprehension in April 2019, he had been kicked, slapped and punched (including in the face) by ‘Yunus’ police officers, whilst being handcuffed on the ground.

Upon arrival at the remand prison, the prison doctor documented the following injuries: “ecchymosis on right zygomaticus area with a size of 2 x 0.5 cm; on left forehead, ecchymosis 1 x 1 cm; ecchymosis 3 x 0.5 cm on frontal side of lower neck. Right elbow 1 cm ecchymosis, minimal ecchymosis on right clavícula 2 cm; multiple ecchymoses on back side of right shoulder”.

(v) a man apprehended in October 2018 in the district of Hani (Diyarbakır Province) alleged that, after having been handcuffed and thrown to the ground, he had been repeatedly kicked, punched and slapped by several police officers.

In the medical report drawn up during his medical check at Hani District Hospital at the end of police custody, the following injuries were marked on a body chart: “sutures on the forehead, lesion measuring 4 x 3cm in the right scapular region, and bruises under the eyes”. In addition, the following injuries were recorded by the doctor upon arrival at the prison: “bruises under the eyes, scabbed wound on the nose, and contusion on both ears”.

(vi) One detained person alleged that, during his recent detention at Bağlar Police Station, he had received several baton blows in an office called ‘*Grup Amiri Odası*’ on the ground floor, in the presence of his wife and other family members. On the following day, he was allegedly taken to the Military Hospital and kept in the police van, while officers went into the hospital in order to obtain a ‘clean’ medical report without him having been seen by a doctor.

Upon examination by a medical member of the delegation, the person concerned displayed the following injuries: on the anterior aspect of the left brachial region, in the middle portion, irregular yellowish bruising of skin, measuring 6 x 5 cm; on the anterior aspect of the right femoral region, in the lower part, a yellowish bruising of skin, measuring 11 x 5 cm; on the lateral aspect of the left femoral region a wide area, measuring 14 x 11 cm, of violet skin bruising in which few parallel, transversally oriented lines of more intensive bruising are apparent.

13. Overall, the CPT has gained the impression that, compared to the findings of the 2017 visit, the severity of alleged police ill-treatment has diminished. However, the frequency of allegations remains at a worrying level.

In their response to the report on the 2017 visit, the Turkish authorities indicated that, since 2003, Turkey decisively implemented a ‘zero tolerance policy’ against torture and ill-treatment.<sup>9</sup> This position was also reiterated by the Minister of the Interior during the consultations the delegation held with him at the end of the 2019 visit.

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<sup>9</sup> Including by introducing a number of legislative changes to the relevant criminal legislation (for instance, abolition of the statute of limitations regarding the crime of torture; obligation of possible cases of torture to be investigated personally by a public prosecutor; abolition of the requirement of obtaining an administrative authorisation for the prosecution of law enforcement officials concerning the offence of torture and ill-treatment).

Notwithstanding that, it is a matter of serious concern that, in early 2018, political statements made at the ministerial level had been widely publicised within and outside Turkey, which appear not only to run counter to the Turkish authorities' commitment to pursue a 'zero tolerance policy' against torture and ill-treatment but which could easily be perceived even as incitement of law enforcement officials to ill-treat certain categories of criminal suspects such as suspected drug dealers.

14. In the light of the above, the CPT must stress once again that more decisive action by all relevant authorities is required to combat the phenomenon of police ill-treatment in Turkey.

**To this end, the CPT reiterates its recommendation that a clear and firm message of “zero tolerance” of ill-treatment be delivered to all law enforcement officials, from the highest political level, namely the President of the Republic. As part of this message, it should be reiterated that all forms of ill-treatment of detained persons (including verbal abuse), as well as any tolerance of ill-treatment by superiors, are illegal and will be punished accordingly.**

Further, the Committee recommends that all law enforcement officials be regularly reminded, including through appropriate training programmes, that:

- no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for their being struck;
- when it is deemed essential to handcuff a person at the time of apprehension (or during the period of custody), the handcuffs should under no circumstances be excessively tight and should be applied only for as long as is strictly necessary.

15. As regards more particularly Sultanbeyli District Police Headquarters in Istanbul, the Committee recommends that an independent and thorough investigation be carried out without delay into the methods used by its staff when detaining criminal suspects.

Moreover, steps should be taken by the relevant authorities to exercise closer oversight of interventions of 'Yunus' police officers in Istanbul.

16. In order to obtain a comprehensive and up-to-date picture of the situation regarding the treatment of persons detained by law enforcement agencies, **the CPT would like to be provided with the following information, in respect of the period from 1 January 2017 to the present time:**

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

17. Further, **the Committee would like to receive an update on the information referred to in paragraph 16, indents a) – c), regarding cases of possible ill-treatment by law enforcement officials of persons detained in 2016 on charges related to the military coup attempt of 15 July 2016.**

18. The CPT notes with interest that a Law Enforcement Supervision Commission (LESC) has been set up (on the basis of Law No. 6713 of May 2016). The LESC is composed of the Deputy Minister of the Interior (as Chairperson), the Head of the Civil Inspection Board<sup>10</sup> of the Ministry of the Interior, the President of the Human Rights and Equality Institution, and representatives of the Ministry of Justice, the Bar Association and civil society. It aims at enhancing the efficiency and transparency of law enforcement units by creating a common database for all prosecutions and disciplinary procedures against law enforcement officials.

In their letter of 24 October 2019, the Turkish authorities informed the CPT that, following the adoption on 7 August 2019 of the Regulation on the Implementation of Law No. 6713, the LESC had started its activities and had held its first meeting on 20 September 2019. Further, civil inspectors of the Ministry of the Interior and inspectors in charge of law enforcement units were diligently conducting inspections and disciplinary proceedings in compliance with Article 8 of the Law No. 6713.

**The CPT would like to receive detailed information on the work carried out thus far by the LESC.**

### **3. Safeguards against ill-treatment**

#### **a. notification of custody**

19. It appeared from the information gathered during the visit that notification of custody to a relative or another trusted person was generally performed by law enforcement officials soon after apprehension.<sup>11</sup> The application of this right was also usually well documented in the files consulted by the delegation (see, however, paragraph 27). That said, in some instances, notification of custody was reportedly delayed by law enforcement officials for several hours (e.g. until the taking of a formal statement) or even days (e.g. until the initial court appearance).

**The CPT encourages the Turkish authorities to make further efforts to ensure that all persons detained by law enforcement agencies are able to benefit from the right of notification of custody as from the very outset of deprivation of liberty.**

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<sup>10</sup> The Civil Inspection Board of the Ministry of the Interior, which reports directly to the Minister of the Interior, is responsible for the carrying out of disciplinary procedures against law enforcement officials.

<sup>11</sup> The right of notification of custody is set out in Section 95 (1) of the CCP, which reads as follows: “When a suspect or accused is apprehended or detained, or the detention period is extended, his/her relative or another person he/she identifies shall be informed without delay by the order of a prosecutor”. The law does not allow for any exceptions to this rule.

b. access to a lawyer

20. Overall, the delegation gained a positive impression of the implementation in practice of the right of access to a lawyer. From the information gathered during the visit, it transpired that detained persons who wished to benefit from this right were usually able to contact their own lawyer or were offered an *ex officio* lawyer from the Bar Association during police custody.<sup>12</sup> In fact, most of the criminal suspects (including terror suspects) interviewed by the delegation confirmed that they had received the visit of a lawyer (private and/or *ex officio*) during their period of custody; many of them were reportedly permitted to speak with their lawyers in private before their statement was taken by the police.

However, once again, a number of detained persons claimed that the police had granted their request for an *ex officio* lawyer only after a considerable delay in order to be able to informally question them about the suspected offence without the presence of a lawyer (prior to the taking of a formal statement). Complaints were also received that state-appointed lawyers did not provide any meaningful assistance. More specifically, several detained persons, who had been provided with *ex officio* lawyers, indicated that they had not had – and the lawyers had not insisted on having – a private consultation during police custody or that the lawyer had shown up only after the statement was taken by the police, simply to sign documents. Moreover, some stated that they had seen an *ex officio* lawyer for the first time at the courthouse (during an interview by the prosecutor and/or at the remand hearing by the judge).

21. The CPT has on several occasions in the past expressed serious misgivings about legal provisions (initially to be found in the Anti-Terrorism Law, and later in decree-laws), according to which persons detained by law enforcement agencies for certain serious crimes could be denied access to a lawyer for a certain period of time. Such a ban is currently stipulated in Section 154 (2) of the Code of Criminal Procedure (as amended by Law No. 7070 in March 2018), which provides that, upon the request of a public prosecutor, persons suspected of having committed crimes related to national security, terrorism and organised drug trafficking may be denied access to a lawyer for 24 hours by the decision of a judge.<sup>13</sup>

It would appear from the delegation's findings during the visit that the aforementioned ban is only rarely applied in practice. Nevertheless, the CPT remains concerned about the existence of such a legal restriction, and it must stress once again the importance of guaranteeing an effective right of access to a lawyer – from the very outset of police custody – for the prevention of ill-treatment. In the Committee's experience, it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is at its greatest. The CPT 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 have access to a lawyer 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.

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<sup>12</sup> 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, and indigent persons are entitled to free legal aid by a lawyer appointed *ex officio*. In addition, the appointment of a lawyer is obligatory in cases where a detained person is suspected of having committed a criminal offence punishable by more than five years of imprisonment (Sections 149, 150 and 154 of the CCP).

<sup>13</sup> No statement may be taken from the person concerned as long as he/she is denied access to a lawyer.

22. In the light of the above, **the CPT reiterates its recommendation that the Turkish authorities take all necessary steps – including of a legislative nature – to ensure that every person detained by law enforcement agencies effectively has the right to have access to a lawyer (which includes the rights to speak with the lawyer in private and to have him/her present during questioning), as from the very outset of deprivation of liberty, it being understood that whenever there are serious doubts about the professional integrity of the lawyer chosen by the detained person, another lawyer will be appointed (if necessary, *ex officio*).**

Further, **steps should be taken in consultation with the relevant Bar Associations to ensure that lawyers appointed to represent persons in police custody perform their functions in a diligent and timely manner.**

c. medical examinations of persons in police/gendarmerie custody

23. In accordance with Section 9 of the Detention Regulation, persons detained by law enforcement agencies continued to undergo a mandatory medical control (*sağlık kontrolü*) at the outset and end of police/gendarmerie custody (and after every extension of a custody period). In addition, as observed by the delegation in certain police departments (such as Anti-Terror and Organised Crime Departments), this system had been complemented by a medical control every 24 hours.

However, the CPT is very concerned to note that, despite the specific recommendations repeatedly made by the Committee after previous visits<sup>14</sup>, the system of mandatory medical controls has remained fundamentally flawed. In particular, the visit brought to light that the confidentiality of such controls was still far from being guaranteed; contrary to the requirements of the Detention Regulation, law enforcement officials continued to be present during medical controls in the vast majority of cases, which meant that the persons concerned had no opportunity to speak with the doctor in private. Unsurprisingly, many detained persons interviewed by the delegation who claimed to have sustained injuries as a result of police ill-treatment stated that they did not want to inform the doctor thereof. Moreover, several persons interviewed by the delegation claimed that they had been threatened by police officers present during the medical control not to show their injuries. The delegation also received a few allegations from detained persons that they had not been subjected to a medical control at all; allegedly, they were obliged to wait in the police van outside the hospital, while a police officer went inside to obtain a medical report signed by a doctor.

It also appeared that such medical controls were often limited to the posing of a question by the doctor about possible ill-treatment (if at all), and only rarely did they entail a physical examination (detained persons usually being “examined” with their clothes on).<sup>15</sup> In this regard, a number of persons interviewed stated that the doctor went to the police van to ask all persons in the vehicle collectively if they had any medical issues. It is also a matter of concern that it was not uncommon for detained persons, including juveniles and women, to remain handcuffed during medical controls.

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<sup>14</sup> See, most recently, CPT (2017) 61, paragraph 19.

<sup>15</sup> By way of illustration, in one case, a detained person was examined in a state hospital by a doctor who recorded “an abrasion in his left elbow, ecchymoses and abrasions in different parts of his back”. About nine hours later, the person concerned underwent a second medical control at the same hospital by a different doctor who indicated on the report that no injuries had been found.

The examination of medical records in various law enforcement establishments also revealed that, in those rare cases where a proper examination was performed and any injuries found were recorded by doctors, the description of injuries was superficial and the detained person's account of how the injuries had been sustained was missing.

Finally, similar to the situation observed during previous CPT visits, it appeared that the legal requirement for the medical report drawn up at the end of custody to be transmitted to the public prosecutor by the relevant health institution in a closed and sealed envelope was generally not complied with. On the contrary, it seemed to be common practice for police officers escorting the detained person to hospital to receive such reports openly.

24. In the light of these findings, the CPT cannot but conclude that the system of mandatory medical controls, in its current form, constitutes a mere formality and fails to serve its intended purpose. **The Committee once again calls upon the Ministry of the Interior to take vigorous steps – in co-operation with the Ministry of Health – to ensure that medical controls of detained persons are carried out in full compliance with the requirements set out in Section 9 of the Detention Regulation. In particular, steps should be taken to ensure that the persons concerned are systematically subjected to a physical examination and that medical controls are always conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of law enforcement officials. As regards the recording of injuries, the recommendations made in paragraph 40 apply equally to medical controls of persons detained by law enforcement agencies.**

Further, the Committee reiterates its recommendation that the Turkish authorities remind all law enforcement officials that any threats or other discouragement vis-à-vis detained persons to report injuries inflicted upon them are unacceptable and will be punished accordingly. Steps should also be taken to put an end to the use of handcuffs during medical controls.

25. By letter of 24 October 2019, the Turkish authorities informed the CPT that the General Directorate of Security had issued instructions in May 2019 to all Provincial Security Directorates on the procedure to be followed by the police with regard to mandatory medical controls. **The CPT would like to receive a copy of these instructions.**

d. information on rights

26. From the information gathered during the visit, it appeared that verbal information on the rights of detained persons were still not usually given to them at the outset of their deprivation of liberty but only after their arrival at a police/gendarmerie establishment. As regards more specifically the right of access to a lawyer, a number of detained persons stated they had been informed of it only several hours after having been brought to the law enforcement establishment, often after an initial “informal” questioning session.

Further, as was the case during previous visits, detained persons were not systematically provided with a copy of the Suspects Rights Form (SRF), despite the requirement in the Detention Regulation (Section 6) that this be done.

The CPT calls upon the Turkish authorities to take steps to ensure that all persons detained by law enforcement agencies – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police/gendarmerie). This should be ensured by the provision of clear verbal information at the moment of apprehension, to be supplemented at the earliest opportunity (that is, immediately upon the first arrival at a law enforcement establishment) by the provision of the SRF. The latter form should be available in an appropriate range of languages. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights and always be given a copy of the SRF. Particular care should be taken to ensure that detained persons actually understand their rights; it is incumbent on police/gendarmerie officers to ascertain that this is the case.

e. custody records

27. The delegation observed that, in most of the law enforcement establishments visited, the custody register was well kept, fully and accurately recording the relevant information.

However, the quality of record keeping left much to be desired in some of the establishments visited (such as Ankara Law and Order Department, Diyarbakır-Hani Police Station and Şanlıurfa Juveniles Department) where officers had often failed to record important aspects of custody (e.g. time of apprehension or release/transfer; whether a family member or lawyer had been contacted; etc.). Perusal of the custody records in those establishments also revealed that in some cases similar shortcomings had been identified by inspecting prosecutors.

**The CPT recommends that appropriate steps be taken in all law enforcement establishments in Turkey to ensure that the custody register is properly kept.**

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

28. In all the law enforcement establishments visited, detention facilities were in a good state of repair and generally clean and well ventilated.

That said, the CPT wishes to stress again that the above-mentioned detention facilities suffer from major structural deficiencies which render them unsuitable for detention lasting more than a few days (see, in this regard, the remarks and recommendation made in paragraph 9). In particular, many custody cells did not have access to natural light, and artificial lighting was often insufficient. Further, in none of the establishments visited had arrangements been made to enable detained persons to have access to the open air. It is highly regrettable that, despite the long-standing recommendation to take the need for providing outdoor exercise into account in the layout when constructing new detention facilities, the two brand new detention units of Ankara Police Headquarters do not comprise any outdoor exercise areas.

**The Committee reiterates its recommendation that the Turkish authorities review the conditions of detention in all law enforcement establishments in order to ensure that:**

- **custody cells have adequate lighting (including access to natural light);**
- **persons detained for 24 hours or more are, as far as possible, offered outdoor exercise on a daily basis;**
- **the need for outdoor exercise areas for detained persons is taken into account in the design of any new police/gendarmerie detention facilities.**

29. Further, the CPT must express its concern that, despite the specific recommendation repeatedly made by the Committee since the first visit to Turkey in 1990, persons held overnight in police custody were still often not provided with a mattress (in addition to blankets).<sup>16</sup> The CPT wishes to stress that the practice observed in various establishments of fitting wooden benches with a very thin foam layer cannot be considered to be an acceptable substitute for the provision of a mattress. In addition, given their narrowness (60 cm and, occasionally, even less), the aforementioned benches cannot be considered to be adequate sleeping facilities.

**The CPT calls upon the Turkish authorities to take steps without further delay to ensure that, in all law enforcement establishments throughout the country, detained persons held overnight are provided with sleeping facilities (such as a bed or plinth) of a reasonable size as well as with a (clean) mattress (in addition to blankets).**

30. The CPT once again found that detained persons were often held under very cramped conditions. For instance, in several establishments visited, up to three persons were held in cells measuring some 8 m<sup>2</sup> and up to four persons in cells measuring some 9 m<sup>2</sup>. **The Committee reiterates its recommendation that the Turkish authorities take steps to ensure that all custody cells where persons may be held overnight offer sufficient living space to detained persons; cells measuring between 7 and 9 m<sup>2</sup> should not be used for accommodating more than two persons at a time.**

31. In particular in the Diyarbakır and Şanlıurfa Provinces, the delegation received numerous allegations from detained persons that they had received no or insufficient quantities of food and, on occasion, no drinking water whilst in police custody, mostly during the first 24 hours and sometimes even for longer.<sup>17</sup> **The CPT recommends that the Turkish authorities take immediate steps to remedy this state of affairs.**

32. Finally, many detained persons claimed that they had received no personal hygiene products (such as a soap or tooth brush/paste) during their stay in police custody. Moreover, some complaints were received from detained persons about long delays in accessing sanitary facilities outside their cell. **The CPT recommends that the Turkish authorities take the necessary steps to ensure that, in all law enforcement establishments, detained persons are granted ready access to a toilet at all times (including at night) and that those held overnight are supplied with basic personal hygiene products.**

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<sup>16</sup> Mattresses were only provided to detained persons at the Anti-Terror Department in Istanbul and the Gendarmerie establishments visited.

<sup>17</sup> In a number of cases, food was provided by the family.

**B. Specific issues related to the prisons visited**

33. Given the main purpose of the visit (i.e. treatment and safeguards afforded to persons detained by law enforcement agencies), the delegation did not examine in detail the situation in the prisons visited (with the exception of Imralı F-type High-Security Prison; see Section C). Instead, it focused on the medical screening of newly-arrived remand prisoners and addressed certain general aspects of prisoners' conditions of detention.

34. In its more recent reports (concerning visits carried out in 2009 and thereafter), the CPT repeatedly criticised the high levels of overcrowding in Turkish prisons and its negative consequences for the daily life of inmates, such as extremely cramped accommodation, limited access to out-of-cell activities and overburdened health-care services. The Turkish authorities responded that measures were being taken to further expand the country's prison estate and to make greater use of conditional release and alternative non-custodial measures. Regrettably, the 2019 visit brought to light that, notwithstanding these measures, the situation remained critical.

For example, despite the opening of two new T-type prisons in Şanlıurfa in 2016 with an official capacity of some 1,050 places each, Şanlıurfa E-type Prison continued to suffer from extreme overcrowding.<sup>18</sup> Moreover, the T-type prisons were also affected by severe overcrowding at the time of the visit, each of them accommodating some 1,600 inmates.

As regards Diyarbakır, although the opening of two T-type prisons in 2018 had led to some reduction in overcrowding at Diyarbakır D- and E-type Prisons, they continued to operate well above their official capacity at the time of the visit.<sup>19</sup> Moreover, the recently-opened T-type Prison No. 2 was already overpopulated, holding 1,278 inmates for an official capacity of 1,032.

More generally, with the notable exception of Diyarbakır Juvenile Prison, the official capacities of all the establishments visited were being greatly exceeded at the time of the visit (the rate of overcrowding being particularly high at Şanlıurfa E- and T-type Prisons, Istanbul-Maltepe L-type Prisons Nos. 1 and 3 and Istanbul-Silivri Prison No. 6). Consequently, a large number of prisoners in these establishments did not have their own bed<sup>20</sup> and had to sleep on mattresses placed on the floor. Moreover, in some cases (e.g. E-type Prisons in Diyarbakır and Şanlıurfa and Maltepe L-type Prison No. 1), prisoners were even obliged to share mattresses, as there was no floor space left in the living units for more individual mattresses.<sup>21</sup> A number of other negative effects of this situation were also in evidence in the prisons visited (e.g. insufficient numbers of chairs, tables and lockers; 40 to 50 inmates having to share one toilet; etc.).

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<sup>18</sup> It was accommodating 1,373 inmates for an official capacity of 600 places, being one of the most overcrowded prisons in the whole country.

<sup>19</sup> With a reduced official capacity of 815 places (following the closure of the juvenile unit), Diyarbakır E-type Prison was accommodating 1,199 inmates at the time of the visit. Diyarbakır D-type Prison was holding 928 inmates for an official capacity of 670 places.

<sup>20</sup> Despite the widespread practice of fitting additional bunk beds in existing accommodation units.

<sup>21</sup> By way of illustration, at Maltepe L-type Prison No. 1, a unit holding 55 inmates had 28 beds and additional 22 mattresses put on the floor.

35. The CPT was also concerned to note that the steady increase in the size of the prison population already observed in the mid-2000s continued: according to official figures, the total number of prisoners in Turkey had reached 260,000 in November 2018. It should be recalled that, during its 2009 periodic visit, the Committee had noted that the country's prison population had doubled since January 2006, reaching 112,000. At the time of the CPT's following periodic visit in 2013, this number stood at approximately 130,000, which rose further to over 220,000 at the time of the 2017 periodic visit.

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

**The CPT once again calls upon the Turkish authorities to take decisive action to curb prison population inflation and to eradicate prison overcrowding, in the light of the above remarks.<sup>22</sup> In this context, it is essential that appropriate action be taken vis-à-vis the prosecutorial and judicial authorities, including through training, to ensure their full understanding of – and support for – the policies being pursued, thereby avoiding unnecessary pre-trial custody and sentencing practices.**

37. The CPT wishes to stress once again the crucial role of prompt medical screening of newly-arrived prisoners, in particular at establishments which represent points of entry into the prison system. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, of the timely provision of medical and psychosocial care and of the timely recording of any injuries.

38. The Committee noted with grave concern that, despite the specific recommendations repeatedly made by the Committee after previous visits, the procedure for medical examination of newly-arrived remand prisoners continued to display major shortcomings.

Firstly, it emerged from the information gathered during the visit that, in practically all the prisons visited, initial medical examinations usually consisted of the doctor asking the prisoner whether he/she had any health problem and, unless the prisoner complained of a somatic condition or bodily injury or made an allegation of ill-treatment, generally did not entail a physical examination. Further, it appeared that it was not uncommon for newly-admitted prisoners to be seen by a doctor with considerable delay (several days, or even weeks after admission) or not to be seen at all. It is also a matter of concern that doctor-inmate consultations still frequently took place in the presence of custodial staff. Moreover, as in the past, no systematic screening/testing for transmissible diseases was performed in any of the prisons visited.

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<sup>22</sup> In so doing, the authorities should be guided by the relevant Recommendations of the Committee of Ministers of the Council of Europe: Recommendation R (99)22 concerning prison overcrowding and prison population inflation, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody, Recommendation Rec(2010)1 on the Council of Europe Probation Rules, and Recommendation Rec(2017)3 on the European Rules on community sanctions and measures.

The delegation also noted that the descriptions of traumatic injuries by health-care staff in the establishments visited were usually superficial. Further, in a number of cases, doctors chose not to document the injuries observed on admission, instead referring to the hospital report obtained at the end of police custody. Moreover, with very few exceptions, no record was kept of statements made by the prisoner concerned as to the origin of the injuries, and there was no mention of the conclusions on the consistency of the injuries with any recorded statements. There was also no dedicated trauma register in most of the establishments visited.

As regards the reporting of injuries, at Bakırköy Prison for Women, the delegation saw examples of recorded injuries being communicated to the relevant prosecutor. That said, it appeared that this was not systematically done in this establishment, including in cases where the injuries had allegedly been caused by police violence. In some of the other prisons visited, the management considered that, in order for them to notify the prosecutor, there had to be a written statement by the prisoner concerned about the alleged ill-treatment. Furthermore, some of the prison doctors met by the delegation were not aware how and to whom they should report injuries and allegations of ill-treatment, and one doctor even told the delegation that it was not his duty to report such cases to the prison management or to the prosecutor.

39. Moreover, the CPT notes with great concern that, in the same way as during previous visits to Turkey, the health-care services in the prisons visited were poorly resourced. For instance, at Silivri Prison No. 5 and Maltepe Prison No. 3, holding some 2,800 and 2,500 inmates respectively, there was only one doctor and five nurses. At Şanlıurfa T-type Prison No. 1, there was only one doctor and four nurses for almost 1,600 prisoners.

Obviously, under such circumstances, a prison health-care service cannot be expected to perform its tasks in an effective manner, and certain deficiencies (in particular, such as those described in paragraph 38) will inevitably occur. Indeed, some of the doctors met by the delegation expressed their indignation at the current state of affairs and admitted that they were not in a position to perform a full medical examination on all newly-arrived prisoners.

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

- **all newly-arrived prisoners are subject to a comprehensive medical examination (including systematic TB screening and voluntary testing for HIV and hepatitis B/C) by a doctor (or a qualified nurse reporting to a doctor) within 24 hours of admission;**
- **the record drawn up after the medical examination of a prisoner contains: (i) a full account of objective medical findings based on a thorough examination (supported by a “body chart” for marking traumatic injuries and, preferably, photographs of injuries), (ii) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), and (iii) the doctor’s observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings. The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed. Further, the results of every examination, including the above-mentioned statements and the doctor’s conclusions, should be made available to the prisoner and his/her lawyer;**

- all medical examinations of prisoners are conducted out of the hearing and – unless the health-care professional concerned requests otherwise in a particular case – out of the sight of non-medical staff;
- a special trauma register is kept, in which all types of injury observed are recorded;
- whenever injuries are recorded by a health-care professional which are consistent with allegations of ill-treatment made by the prisoner (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. The health-care staff should advise prisoners of the existence of the reporting obligation and that the forwarding of the report to the relevant prosecutor is not a substitute for the lodging of a formal complaint;

The CPT also recommends that the Turkish authorities take urgent steps to increase the health-care staffing levels in the prisons visited, as well as in other prisons where similar low levels of staffing occur.

41. The lack of systematic medical screening upon admission (or significant delays in carrying out such screening) in the establishments visited was of particular concern with respect to prisoners using drugs. In several prisons visited, the delegation observed that newly-arrived inmates with acute opioid withdrawal signs (including vomiting, shivering, agitation, abdominal cramps, piloerection and pain) were left unattended, without receiving painkillers or other symptomatic treatment. Such a state of affairs is not acceptable.

The CPT recommends that the Turkish authorities take the necessary steps to ensure that, in all prisons, newly-arrived prisoners with drug addiction problems are systematically identified and that those suffering from withdrawal signs are promptly provided with adequate treatment (i.e. substitution treatment or treatment relieving the symptoms).

**C. Situation of prisoners held at Imralı F-type High-Security Prison**

42. At the time of the 2019 visit, Imralı F-type High-Security Prison ('Imralı Prison') was accommodating the same four prisoners as in 2016 (three sentenced to aggravated life imprisonment and one serving a normal life sentence). The delegation interviewed individually and in private all prisoners, examined their administrative and medical files and spoke with the management and medical staff.

Following the visit to the prison, the delegation held consultations with the Minister of Justice and the Chief Prosecutor of Bursa, in Ankara and Bursa respectively, in order to discuss with them certain issues related to Imralı Prison and, in particular, the issue of prisoners' contact with the outside world.

43. As during previous visits, the delegation received no allegations of ill-treatment of prisoners by prison officers at Imralı Prison. On the contrary, all prisoners indicated that they were treated correctly by staff.

44. The delegation once again gained a positive impression of the health-care services at Imralı Prison. In particular, it remained the case that the same four full-time doctors rotated on a weekly basis (with one week of work on the island and three weeks off) and thus ensured a daily 24-hour medical cover. Further, prisoners' access to health care (including any specialist care and medication) was satisfactory, and the confidentiality of medical data appeared to be respected.

That said, the delegation received allegations that prison officers had been present during medical consultations. **The CPT reiterates its recommendation that all medical consultations be conducted out of the hearing of prison officers.**

45. Material conditions of detention remained generally satisfactory for all prisoners and do not call for any particular comments.

46. However, the situation had not improved at all since the April 2016 visit regarding the regime. All prisoners were still allowed to associate in collective activities for only six hours per week, including three hours of 'conversation', one hour of volleyball, one hour of basketball and one hour of badminton/darts. They were also offered three additional activities for a total of three hours per week (including one hour of painting/handicrafts, one hour of table tennis and one hour of board games). However, prisoners were still not allowed to participate in these additional activities all together, but only in pairs. Due to this limitation, they categorically refused to take part in any of the aforementioned additional activities.

Whilst acknowledging that all prisoners continued to be offered four hours of outdoor exercise per day (two hours in the morning and two hours in the afternoon),<sup>23</sup> it is a matter of serious concern that, despite the specific recommendation made by the Committee in the report on the 2016 visit, the prisoners concerned were still not allowed to associate during outdoor exercise.

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<sup>23</sup> The prisoner who is serving a normal life sentence had unrestricted access to the outdoor exercise adjacent to his cell during the daytime.

As a result, all prisoners were being held in solitary confinement for most of the time (i.e. 159 hours out of 168 hours per week, including 24 hours per day at weekends). In the CPT's view, such a state of affairs is not acceptable. As indicated in the report on the 2016 visit, there can be no legitimate security considerations to justify the imposition of the above-mentioned restrictions regarding prisoners' association during outdoor exercise and other organised activities.

**The Committee calls upon the Turkish authorities to take steps without further delay to ensure that all prisoners held at Imralı Prison are allowed to associate together during daily outdoor exercise, as well as during all other out-of-cell activities.**

47. More generally, the CPT must stress once again that the underlying concept of the detention regime of persons sentenced to aggravated life imprisonment, as defined in Section 25 of the Law on the Execution of Sentences and Security Measures (LESSM), is fundamentally flawed and should be revised not only at Imralı Prison, but in the prison system as a whole.<sup>24</sup> As indicated in the report on the April 2016 ad hoc visit, as well as in the reports on the 2013 and 2017 periodic visits, the imposition of restrictions regarding the regime should, as a matter of principle, lie with the *prison authorities* and always be based on an *individual* risk assessment, and not be the automatic result of the type of sentence imposed. Prisoners sentenced to (aggravated) life imprisonment – as indeed all convicted prisoners – are sent to prison as a punishment and not to receive punishment.

**The CPT once again calls upon the Turkish authorities to carry out a complete overhaul of the detention regime applied to prisoners sentenced to aggravated life imprisonment in Turkish prisons, in the light of the precepts set out in paragraphs 82 to 84 of the report on the 2013 visit.<sup>25</sup> To this end, the relevant legislation should be amended accordingly.**

48. The issue of contact with the outside world of prisoners held at Imralı Prison has been the subject of a long-standing intense dialogue between the CPT and the Turkish authorities (including through consultations at ministerial level), given that no visits by lawyers had been granted since July 2011 and that hardly any visits by family members had taken place since October 2014.<sup>26</sup> The situation was further exacerbated by the fact that, following the military coup attempt of 15 July 2016, a total ban on contacts with the outside world (including correspondence) was imposed on all prisoners held at Imralı Prison by the competent enforcement judge (and upheld by the appeal court), which resulted in a type of incommunicado imprisonment. As repeatedly stressed by the CPT in its dialogue with the Turkish authorities, such a state of affairs is not acceptable and clearly contravenes various relevant international human rights instruments and standards.

Moreover, the CPT has misgivings about the fact that, from July 2016 until the end of the state of emergency in July 2018, family visits were denied on the basis of legal provisions which were formally applicable only to remand prisoners.

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<sup>24</sup> See also Rules 6 and 102.2 of the European Prison Rules (and the Commentary to the aforementioned Rules), as well as Recommendation Rec (2003) 23 on the management by prison administrations of life sentence and other long-term prisoners.

<sup>25</sup> See also Rules 43 and 44 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (*Nelson Mandela Rules*).

<sup>26</sup> Abdullah Öcalan was allowed to receive a visit from his brother twice (on 11 September 2016 and 12 January 2019).

49. The CPT also notes with great concern that, following the lifting of the state of emergency, all prisoners continued to be denied visits by their lawyers and family members. Decisions to refuse access to lawyers were repeatedly taken by the competent enforcement judge, each time for a period of six months, on the basis of Section 59 of the LESSM.<sup>27</sup>

As regards family visits, the official justification for refusing visits appears to be rather specious. Since the lifting of the state of emergency, decisions have been taken every three months by the Disciplinary Board of Imralı Prison (on the basis of Section 43, paragraph 2 (e), of the LESSM) to impose on all prisoners the disciplinary sanction of prohibition of family visits for a period of three months for having committed the disciplinary offence of ‘hindering sports activities’ by spending time in the open air during ‘sports activity hours’ without actively exercising the type of sports that had been scheduled for those hours.<sup>28</sup>

In this regard, the CPT wishes to stress again that any restrictions on family contacts as a form of disciplinary punishment should be applied only when the offence relates to such contacts,<sup>29</sup> which is obviously not the case in the present situation.

50. The CPT welcomes the fact that, prior to its May 2019 visit, the judicial ban on lawyers’ visits was lifted, and that, on 2 May 2019, Abdullah Öcalan was granted the first visit by two of his lawyers since July 2011. Further, according to the Turkish authorities’ letter dated 24 October 2019, lawyers’ visits also took place on 22 May, 12 June, 18 June and 7 August 2019. However, since 7 August 2019, all requests for visits submitted by lawyers have apparently been turned down.

As regards family visits, the situation has slightly improved since the May 2019 visit with all prisoners being able to receive a visit from a family member on 5 June and 12 August 2019, despite the existence of new disciplinary sanctions of prohibition of family visits for the above-mentioned reasons.<sup>30</sup>

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<sup>27</sup> Section 59 of the LESSM *inter alia* stipulates: “(7) In the event that it is understood that a meeting between the sentenced prisoner falling under paragraph 5 [i.e. convicted for involvement in organised crime, crimes against national security or constitutional order and crimes falling within the scope of the Anti-Terrorism Law] and his/her lawyer is used for one of the purposes stated in the same paragraph [i.e. endangering public security and the security of the penitentiary institution, directing terrorist or other criminal organisations or giving orders and instructions to them], the meeting shall be stopped immediately and a report containing the reasoning shall be drawn up on the matter. Advance warning shall be given to the parties in this regard before the start of a meeting; (8) If a report is drawn up pursuant to paragraph 7, the enforcement judge may, at the request of the chief public prosecutor’s office, impose a ban on meetings between the prisoner concerned and his/her lawyers for a period of six months. The decision on such a ban shall be notified to the prisoner and immediately to the relevant bar association for the appointment of a new lawyer. The chief public prosecutor’s office may request the chairmanship of the bar association to replace the lawyer allocated by them. [...]”

<sup>28</sup> According to disciplinary decisions provided to the delegation, the prisoners concerned had played basketball during the weekly one-hour period officially scheduled for ‘basketball activity’. However, after approximately 20 minutes, they stopped playing basketball and commenced engaging in conversations in the exercise yard.

<sup>29</sup> See Rule 60.4 of the European Prison Rules and the Commentary to that Rule; see also paragraph 139 of the report on the 2017 visit.

<sup>30</sup> The visits were granted by the Minister of Justice on the occasion of a ‘religious, national or other special day’, by virtue of his discretionary power under Section 85 of the LESSM and Section 15 of the Regulation on Visiting Convicts and Remand Prisoners.

51. As mentioned in the report on the April 2016 visit, the Committee acknowledges that there may be valid security reasons to introduce certain restrictions vis-à-vis prisoners on the exercise of their right to have contacts with the outside world. However, a balance must be struck between such security considerations and the basic human rights of the prisoners concerned.

The measures taken thus far by the Turkish authorities since the May 2019 visit are a significant step in the right direction. That said, much more needs to be done to render the situation acceptable. More specifically, a sustainable system of regular visits by family members and lawyers should be developed for all prisoners held at Imralı Prison.

**The CPT urges the Turkish authorities to take the necessary steps to ensure that all prisoners at Imralı Prison are effectively able, if they so wish, to receive visits from their relatives and lawyers. To this end, an end should be put to the practice of imposing a ban on family visits for ‘disciplinary’ reasons.**

Further, the Committee requests the Turkish authorities to provide – on a monthly basis – an account of the visits which all prisoners held at Imralı Prison have received from their family members and lawyers.

52. During the visit, the delegation was informed that the ban on correspondence had been lifted and that prisoners were henceforth allowed to send and receive letters (subject to security measures applied in all Turkish prisons). **The Committee would like to receive confirmation that this is still the case.**

53. Since April 2016, Imralı Prison had been visited by the competent prison monitoring board five times.<sup>31</sup> That said, according to the information available, no such visits have thus far taken place in 2019. **The CPT recommends that members of the competent prison monitoring board be reminded of their legal obligation to visit Imralı Prison (as well as other prisons under their authority) on a regular basis.**

Further, the Committee would like to receive copies of the reports on all visits carried out by the competent prison monitoring board to Imralı Prison in 2019 and 2020.

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<sup>31</sup> In June 2016; March and October 2017; May and October 2018.

## **APPENDIX I:**

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

#### **Law enforcement establishments**

##### **Ankara Police Headquarters:**

- Anti-Terror Department
- Homicide Department
- Law and Order Department
- Narcotics Department
- Organised Crime Department
- Theft Department

##### **Diyarbakır Police Headquarters:**

- Anti-Terror Department
- Narcotics Department

Diyarbakır-Hani Police Station

Diyarbakır-Huzur Police Station

Diyarbakır-Yenişehir Police Station

Diyarbakır Regional Gendarmerie Commandership

Diyarbakır-Mermer Gendarmerie Station

##### **Istanbul Police Headquarters:**

- Anti-Terror Department
- Common Detention Facility

Istanbul-Sultanbeyli District Police Headquarters

Istanbul-Sancaktepe Police Station

Istanbul-Ahmet Yesevi Police Station

##### **Şanlıurfa Police Headquarters:**

- Anti-Terror Department
- Juveniles Department
- Narcotics Department

#### **Prisons**

Diyarbakır D-type High-Security Prison

Diyarbakır E-type Prison

Diyarbakır T-type Prison No. 2

Diyarbakır Juvenile Prison

İmralı F-type High-Security Prison

Istanbul Bakırköy Prison for Women

Istanbul-Metris T-type Prison No. 1

Istanbul-Silivri Prison No. 5

Istanbul-Silivri Prison No. 6

Istanbul-Maltepe L-type Prison No. 1

Istanbul-Maltepe L-type Prison No. 3

Şanlıurfa E-type Prison

Şanlıurfa T-type Prison No. 1

Şanlıurfa T-type Prison No. 2

**APPENDIX II:**

**List of the national authorities, other bodies and non-governmental organisations  
with which the CPT's delegation held consultations**

**A. National authorities**

**Ministry of Justice**

|                      |                                                                         |
|----------------------|-------------------------------------------------------------------------|
| Abdulhamit GÜL       | Minister of Justice                                                     |
| Selahaddin MENTEŞ    | Deputy Minister                                                         |
| Şaban YILMAZ         | Director General of Prisons and Detention Houses                        |
| Dr. Hacı Ali AÇIKGÜL | Head of Human Rights Department                                         |
| Mehmet YILMAZ        | Deputy Director General of Prisons and Detention Houses                 |
| Dr. Davut ÖKSÜZ      | Senior Counselor of the Ministry, Advisor to the Minister               |
| Ali Murat NAS        | Deputy Director General of Legislation, Advisor to the Minister         |
| Fatih GÜNGÖR         | Head of Department, Directorate General of Prisons and Detention Houses |
| Selahattin DOĞAN     | Head of Department, Directorate General of Foreign Relations and EU     |
| Nazmiye AYDEMİR      | Chief of Section, Directorate General of Prisons and Detention Houses   |
| Hüseyin KOCABAY      | Rapporteur Judge, General Directorate of Prisons and Detention Houses   |

**Ministry of the Interior**

|                          |                                                                                        |
|--------------------------|----------------------------------------------------------------------------------------|
| Süleyman SOYLU           | Minister of the Interior                                                               |
| Muhterem İNCE            | Governor, Deputy Minister                                                              |
| Ali ÇELİK                | Director General of Provincial Administration                                          |
| Selami HÜNER             | Deputy Director General of Turkish National Police                                     |
| Erhan GÜLVEREN           | Deputy Director General of Turkish National Police                                     |
| Mehmet Fatih SERDENGECİ  | Deputy Director General of Turkish National Police                                     |
| Savaş ÜNLÜ               | Head of EU Affairs and Foreign Relations Department                                    |
| Brig. Gen. Cengiz YILDIZ | Head of Strategy and Foreign Relations, General Command of Gendarmerie                 |
| Abdülaziz AYDIN          | Head of Department of Supporting Services, Directorate General of Migration Management |

|                  |                                                                  |
|------------------|------------------------------------------------------------------|
| Mehmet MUT       | Advisor to the Minister                                          |
| Kemal Turan ACAR | Assistant EU Expert, EU Affairs and Foreign Relations Department |

### **Ministry of Health**

|                          |                                            |
|--------------------------|--------------------------------------------|
| Prof. Muhammet GÜVEN, MD | Deputy Minister                            |
| Prof. Rahmi KILIÇ, MD    | Director General of Public Hospitals       |
| Selami KILIÇ, MD         | Director General of EU and Foreign Affairs |
| Bekir KESKİNKILIÇ, MD    | Deputy Director General of Public Health   |
| Pınar KOÇATAKAN, MD      | Head of Department                         |
| Esra ALATAŞ, MD          | Head of Department                         |
| Azmi EKMEN               | Head of Department                         |

### **Ministry of Foreign Affairs**

|                 |                                                                                                     |
|-----------------|-----------------------------------------------------------------------------------------------------|
| Kıvılcım KILIÇ  | Ambassador, Director General for Multilateral Political Affairs, Council of Europe and Human Rights |
| Neval ORBAY     | Deputy Director General for the Council of Europe and Human Rights, CPT's liaison officer           |
| Çiğdem PATTABAN | Head of Department for the Council of Europe                                                        |

### **Chief Prosecutor's Office of Bursa**

|            |                  |
|------------|------------------|
| Gökhan ŞEN | Chief Prosecutor |
|------------|------------------|

### **B. Other bodies**

|                 |                                                                                                                   |
|-----------------|-------------------------------------------------------------------------------------------------------------------|
| Süleyman ARSLAN | President of the Human Rights and Equality Institution of Turkey, Head of the National Preventive Mechanism (NPM) |
|-----------------|-------------------------------------------------------------------------------------------------------------------|

### **C. Non-governmental organisations**

Human Rights Association  
Human Rights Foundation of Turkey