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

from 16 to 29 March 2004

The Turkish Government has authorised the publication of the report on the CPT's visit to Turkey from 16 to 29 March 2004 (see CPT/Inf (2005) 18) and of its response. The Government's response is set out in this document.

Strasbourg, 8 December 2005

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

from 16 to 29 March 2004

**REPORT OF THE TURKISH GOVERNMENT IN REPLY
TO THE RECOMMENDATIONS, REQUESTS FOR INFORMATION AND
COMMENTS
SET OUT IN THE REPORT OF THE EUROPEAN COMMITTEE FOR THE
PREVENTION OF TORTURE
ON ITS VISIT TO TURKEY FROM 16 TO 29 MARCH 2004**

The Turkish Government's views on the points made by the European Committee for the Prevention of Torture (CPT) in the report on its visit to Turkey from 16 to 29 March 2004 are set out below in the order adopted in the report.

Paragraph 8

Request for information on the steps taken against the allegations that detained persons were ill-treated by Diyarbakır Police Headquarters Law and Order Department, contained in para.9 of the report on the CPT's visit to Turkey in September 2003:

Police chief inspectors were appointed by the Directorate General of Security (DGS) to enquire into the allegations brought to our attention by the CPT to the effect that persons detained in the Law and Order Department of Diyarbakır Police Headquarters had been ill-treated. The intention was to open an investigation depending on the outcome of the enquiry. The inspectors visited the units concerned where they carried out unannounced inspections; they individually interviewed persons randomly selected from the list of persons who had been detained and had given statements in the Law and Order Department in 2003, guaranteeing that they would not incur any liability or be in danger as a result of the statements they gave. The inspectors also requested written information from the Diyarbakır Provincial Governor's Office, Chief Public Prosecutor's Office, Provincial Police Headquarters and Provincial Health Directorate. They concluded that it was not possible to obtain any concrete information, findings or evidence that would corroborate the allegations raised by the CPT and that there was consequently no need to open a judicial or administrative investigation in respect of any officials in post in the Law and Order Department of Diyarbakır Police Headquarters (a detailed information note concerning the investigations conducted by the DGS at Gaziantep Police Headquarters as well as Diyarbakır Police Headquarters is submitted in Appendix 1).

Paragraph 15

Request for information on the steps taken by the Gaziantep Chief Public Prosecutor with regard to the rumours brought to our attention by the CPT concerning the treatment of persons detained in units of Gaziantep Police Headquarters:

Police chief inspectors were appointed by the DGS to enquire into the allegations brought to our attention by the CPT to the effect that persons detained in the Law and Order Department, the Smuggling, Trafficking and Organised Crime Department and the Anti-Terror Department of Gaziantep Police Headquarters had been ill-treated. The intention was to open an investigation depending on the outcome of the enquiry.

The inspectors visited the units concerned where they carried out unannounced inspections; they individually interviewed persons randomly selected from the list of persons who had been detained and had given statements in these units in 2003 and 2004, guaranteeing that they would not incur any liability or be in danger as a result of the statements they gave. The inspectors also requested written information from the Gaziantep Provincial Governor's Office, Chief Public Prosecutor's Office, Provincial Police Headquarters and Provincial Health Directorate. They concluded that it was not possible to obtain any concrete information, findings or evidence that would corroborate the allegations raised by the CPT and that there was consequently no need to open a judicial or administrative investigation in respect of any officials in post in the units concerned of Gaziantep Police Headquarters (a detailed information note concerning the investigations conducted by the DGS at Diyarbakır Police Headquarters as well as Gaziantep Police Headquarters is submitted in Appendix 1).

Paragraph 17

Recommendation on the need to ensure proportionate use of force by the law enforcement agencies during apprehension:

The use of force is dealt with as a separate topic in the general human rights training programmes provided by the DGS. As part of the 2004 In-service Training Plan, the Rapid Reaction Force Department, which is part of the DGS Security Division, provided courses on "Human rights and the proportionate use of force" to a total of 812 staff members. In 2004 a seminar entitled "Human rights and the proportionate use of force" was also held for 17 heads of security departments and heads of rapid reaction force departments. A seminar on the same subject is planned in 2005 for the other heads of security departments and rapid reaction force departments. It is planned to give 398 staff members training on this subject as part of the 2005 In-service Training Plan. In addition to these training courses provided within the central network of the DGS, the provincial police headquarters are giving personnel in the relevant units training in the proportionate use of force.

On 17 August 2004 the Ministry of the Interior sent a circular entitled "Civil disturbances and the principles of intervention" to all provincial governors' offices, drawing the relevant personnel's attention to the need for a more sensitive approach to the subject (the circular appears in Appendix 2).

Paragraph 19

Recommendation that it would be useful to pursue the training programmes on human rights and modern investigation techniques for law enforcement agencies and to extend them to broader audiences:

The "Police and Human Rights beyond 2000" programme was jointly set up by the European Union, the Council of Europe, the Ministry of Foreign Affairs, the Presidency of the Ten Years of Human Rights Education Committee and the DGS as part of the "Human Rights Education Programme for Turkey (1997-2007)" drawn up by the DGS in parallel to the "United Nations Ten Years of Human Rights Education Action Plan (1995-2004)". As part of this programme, the project "Police, Professionalism and the Public" approved by the Council of Europe was put into operation in 2002.

Under this project, which was later extended to the Gendarmerie Central Command, a training staff nucleus was set up to train the trainers who would be appointed to the DGS and Gendarmerie Central Command training units and in-service training courses.

As of the year 2000, "Human rights" and "Public relations" were made compulsory subjects in all DGS in-service training courses. Since 2004 all in-service training courses required in order to change branches have included at least two hours of tuition each in "Human rights", "Community policing" and "Police professional ethics".

In the five-year period between 1999 and 2003, a total of 100,525 DGS staff members received tuition in "Human rights". This subject was also included in the training programmes for 2004. In addition to this training, almost 80,000 staff members who graduated from initial training establishments such as the Police Academy, the police schools and the police colleges over the past ten years received tuition in human rights during their studies. This gives a clearer picture of the importance assigned to human rights training and the systematic efforts to train all DGS personnel.

Besides the efforts to provide general training in the area of human rights, intensive efforts are being pursued in the DGS to reduce the number of allegations of torture and ill-treatment in particular. As the CPT has already been informed, prohibited statement-taking methods are listed in Article 135/a of the Code of Criminal Procedure and Article 23 of the Regulations on Apprehension, Custody and Taking of Statements, as part of the drive to curb torture and ill-treatment. Our legislation also provides that statements obtained by prohibited methods may not be used as evidence, even with the consent of the person giving the statement.

Given that the use of modern criminal investigation techniques in investigative procedures is of great importance in terms of effective action against crime and criminals, the course on "Criminal analysis and profiling" held in December 2003 and March 2004 is also scheduled for 2005 to enable DGS Law and Order Department personnel assigned to investigative procedures to assess information on crime and criminals in technical terms and put it to the best possible use in investigative procedures. Since the beginning of 2002, courses on "Forensic interview techniques" have also been held for the benefit of Law and Order Department personnel.

The DGS Smuggling, Trafficking and Organised Crime Department has launched a project on "Investigative Interviews and Statement Analysis" with a view to setting up a standard structure for statement taking within the DGS, producing visual and written material for training purposes and training expert trainers.

In parallel to the DGS's work on training in the use of modern investigative techniques, work on modernising detention facilities and interview rooms, the start of which was announced in the government's reply to the CPT's report on its visit to Turkey in September 2003, is being pursued to the extent permitted by budgetary resources. It includes plans for the electronic recording of statements.

The “Project for the Development of Interview Methods and Interview Rooms”, devised as part of Turkey’s financial co-operation with the EU in the context of the EU membership application process, is to be carried out under the “PHARE-Twinning” mechanism and has now been put into operation. It was detailed in the government’s reply to the CPT’s report on its visit to Turkey in September 2003. Another Twinning Project, the “Project for Strengthening Police Forensic Capacity”, aims to develop the methods used in criminal investigation procedures, to strengthen forensic capacity with regard to the identification, collection, examination and assessment of evidence and to instil understanding and awareness of the concept of “going from the evidence to the suspect” into personnel at all levels.

Paragraph 20

Request for information on the steps to be taken to implement the recommendation concerning points to be emphasised during vocational training for prosecutors and judges and the recommendation on including the question of the reliance that can be placed on medical examination reports in the context of combating torture and ill-treatment in training courses for prosecutors and judges:

A seminar on “Combating Torture” jointly organised by the Ministry of Justice, the British Embassy in Turkey and the International Bar Association was held in Ankara on 2 and 3 December 2004 and attended by 30 judges, public prosecutors and judicial inspectors. The issues discussed and assessed at the seminar were the prohibition of torture under international law, the protection of persons deprived of their liberty against torture, investigation rules (eg medical evidence, interviewing the victim, witness protection), trial procedures for those responsible for torture and the role of judges, prosecutors, lawyers and civil society organisations.

“Combating Torture – A Manual for Judges and Prosecutors”, commissioned by the Human Rights Centre at the University of Essex and written by Connor Foley has been translated into Turkish with the aid of the British Foreign Office; 1,600 copies have been procured and distributed to the judicial network for use by all judges and prosecutors.

In the context of the fight against torture, medical examination reports were discussed in detail at the criminal law seminars held in previous years and at the human rights seminars held in 2004 and attended by 8,600 judges and prosecutors. The issue of medical examination reports will also be discussed in connection with the fight against torture at the information seminars on “The New Turkish Criminal Justice System”, currently being held and scheduled for completion by 1 April 2005; they have been attended by a total of 6,000 judges and prosecutors.

In co-operation with the Institute of Forensic Medicine, various training activities on the subject of forensic medicine are being carried out for the benefit of judges and prosecutors.

Paragraph 22

Request for information on measures to implement the provisions of Articles 243 and 245 of the Turkish Criminal Code on combating torture and ill-treatment:

Under the new Turkish Criminal Code (Law No.5237) adopted on 26 September 2004, torture is a “crime against humanity” if it is “committed in a planned and systematic manner against a section of society and for political, philosophical, racial or religious motives”. The new Turkish Criminal Code enables the penalty for torture to be increased to strict life imprisonment; it provides that acts of torture are to be dealt with as a matter of urgency even during court vacations, that they are to be automatically investigated by public prosecutors, that the interval between two hearings in cases concerning torture may not exceed one month, that the penalties for torture may not be converted to fines or deferred and that the concept of limitation period does not apply in respect of such offences.

Statistics are supplied in Appendix 3 on DGS personnel in respect of whom judicial and administrative proceedings were brought between 1 January 1995 and 31 December 2004 under the provisions of Articles 243 and 245 of the former Turkish Criminal Code on combating torture and ill-treatment. In the same context, statistics are provided in Appendix 4 on the preliminary investigations opened and proceedings brought by chief public prosecutors’ offices under those articles of the Code.

Paragraph 25

Recommendation on promoting the exercise of detained persons’ right of access to a lawyer and ensuring that the general public is widely informed of this right:

As part of the implementation of the Regulations on Apprehension, Custody and Taking of Statements, and in addition to the measures taken to safeguard detained persons’ right of access to a lawyer, which were noted by the CPT in the same paragraph, work is in progress on the production of posters headed “Legal Aid for Suspects and Accused Persons”. These posters remind detained persons of the rights granted to them and will be visible to them even during custody; it is planned to distribute them to all law enforcement units in 2005. We believe that continuously reminding detained persons of their rights by means of posters such as these may help to dispel the misguided view, which is observed to have impressed itself on the general public, that accepting legal aid means that the suspect or accused admits the offence, and may help to end the widespread cultural tendency to want to solve their problems without legal aid.

The statistics on the situation regarding access to a lawyer by persons detained by the DGS anti-terror departments and smuggling, trafficking and organised crime departments in 2004 (Appendix 5) demonstrate that the number of those benefiting from access to a lawyer exceeds the number of those who do not exercise their right of access to a lawyer.

Paragraph 27

Comment on monitoring the practice of giving detained persons a copy of the Suspects' Rights Form at the outset of custody:

The fifth paragraph of Article 6 of the Regulations on Apprehension, Custody and Taking of Statements provides that “during apprehension, irrespective of the nature of the offence, the person shall immediately be informed, in writing in all cases and orally if this is not immediately possible, of the reason for apprehension, the allegations against him and his right to remain silent and to have access to a lawyer”. The eighth paragraph of Article 6 provides for the drafting of the Suspects' Rights Form indicating that suspects have been informed of their rights in writing and have understood them, and for a copy of the form to be given to the suspect or accused concerned; it confers responsibility for this on law enforcement officials.

To reduce possible malfunctions to a minimum when it comes to law enforcement officials immediately informing detained persons of their rights, 200,000 Rights Information Cards have been printed for distribution to all personnel in the DGS central and provincial networks; personnel have been instructed to have this card on them at all times and to inform suspects of all the rights listed on the card without exception at the time of apprehension (a copy of the card appears in Appendix 6).

The Gendarmerie Central Command has also introduced a similar arrangement. Copies of the Suspects' Rights Form and the Record of Transfer/Release, updated to include the amendments made to the Regulations on Apprehension, Custody and Taking of Statements in 2002 and 2004, have been sent to all units under the authority of the Gendarmerie Central Command, and copies of a card listing the rights to be notified to the suspect/accused at the time of apprehension have been distributed for all ranking personnel in gendarmerie stations to carry in their pockets.

This form and these cards clearly state apprehended persons' rights and indicate that the personnel concerned will be legally responsible if information on those rights is incomplete or delayed. Controls are carried out at varying intervals to check whether or not the obligation to inform suspects and accused persons of their rights is being met in full and without delay. In addition, the Gendarmerie Centre for the Examination and Assessment of Human Rights Violations set up at the Gendarmerie Central Command headquarters is functioning efficiently round the clock to examine complaints on the subject. When any deficiencies are observed in practice despite the measures taken, the personnel at fault are identified and the necessary legal steps taken.

The Suspects' Rights Form has been translated into English, German, French, Spanish, Arabic, Russian, Georgian, Ukrainian, Bulgarian, Greek and Romanian, including the amendments made to the Regulations on Apprehension, Custody and Taking of Statements in 2002 and 2004, and has been posted on the DGS Law and Order Department's Intranet website for the benefit of all the units concerned.

Paragraph 28

Recommendation that in keeping custody records, the section of the custody register on “temporary departures from custody” should include information as to the purpose and duration of such absences from holding cells, including detained persons’ temporary departures “for the purposes of questioning or other investigative procedures”:

The current training activities for DGS personnel will be reviewed in the light of this recommendation and steps will be taken to ensure that personnel are made aware of this point. In its circular of 20 April 2004 the Ministry of the Interior set out all the CPT’s recommendations and proposals and gave instructions for the custody registers to be meticulously filled in. As regards the correct filling in of the “temporary departures” section of the custody register, it is planned to provide all DGS units with more detailed information on this point and make them more aware of it by means of a circular.

Paragraph 32

Recommendation that compliance with the provisions of Article 18 of the Regulations on Apprehension, Custody and Taking of Statements concerning juveniles be closely monitored:

In our country all procedures relating to offences committed by juveniles, or involving juveniles as parties or victims, are conducted by the juvenile departments set up in the provincial police headquarters and the juvenile bureaux set up in the district police headquarters, in accordance with the Regulations of 13 April 2001 on the Establishment, Duties and Activities of the DGS Juvenile Department Bureau.

As the CPT has already been informed, the work of the Juvenile Police is conducted in accordance with four separate circulars on “The use of handcuffs” (8 August 1999), “Protecting children” (17 April 2000), “Protecting the family” (25 July 2000) and “The Juvenile Police” (29 May 2001).

In addition, to enable the personnel of DGS law and order departments to conduct investigative procedures in a professional manner, as investigation experts, ten-day in-service training courses have been provided in the provincial police headquarters since the end of 2002. To date 4,974 staff members have attended these courses, which have provided “Specialist training in law and order policing and juvenile policing” on subjects such as basic legal provisions governing investigative procedures, human rights, custody procedures and statement-taking procedures.

As regards the allegations that in Gaziantep detained juveniles are not brought before a judge (paragraph 31), the information obtained from the Gaziantep Chief Public Prosecutor's Office indicates that statement-taking and interrogation procedures relating to juveniles are systematically conducted in the presence of a lawyer, bearing in mind Article 135 of the Code of Criminal Procedure and the provisions of Law No.2253 on the Establishment, Duties and Trial Procedures of Juvenile Courts. In accordance with Section 19 of Law No.2253, the preliminary investigation is systematically conducted by a public prosecutor, and in such cases juveniles in respect of whom a public prosecutor has opened a preliminary investigation are released and handed over to their families. Consequently, juveniles in respect of whom a preliminary investigation is opened are not brought before a judge at this preliminary stage, but juveniles referred for interrogation are systematically interrogated before a judge and in the presence of a lawyer.

Paragraph 36

Request for information on the steps taken by the Ministries of Health and the Interior to ensure that the medical examination of persons in custody in Gaziantep is carried out in compliance with the rules in force:

The Ministry of Health has drawn the attention of the Gaziantep Provincial Governor's Office to the need to check that the medical examination of detained persons is carried out in accordance with the rules in force and has given instructions for the necessary measures to be taken.

Paragraph 36

Comment on the close monitoring of compliance with the rule that no law enforcement officials must be present during the medical examination of suspects:

The last paragraph of Article 10 of the Regulations on Apprehension, Custody and Taking of Statements provides that "the rule shall be that the doctor and the person examined remain alone and that the examination is conducted as part of the doctor/patient relationship. However, the doctor may, on the grounds of concern for his personal safety, request that the examination be conducted under the supervision of law enforcement officials. This request shall be documented and complied with".

The circular issued by the Ministry of the Interior to provincial police headquarters on 20 April 2004 reiterates that Article 10 of the Regulations on Apprehension, Custody and Taking of Statements must be complied with.

The CPT's allegations that law enforcement officials were continuously present in the examination room during the medical examination of detained persons in Gaziantep State Hospital have been examined by the authorities concerned. According to the statements given by two doctors in post in the Casualty Department of Gaziantep State Hospital, who also work as forensic doctors, persons brought in for a medical examination by gendarmerie officers with a view to their being taken into custody are taken into the examination room and examined alone.

According to these doctors, there is no question of law enforcement officials entering the examination room or requesting, for example, to intervene in the examination report being drawn up, and the reports are written on the basis of the medical findings resulting from the physical examination. The two doctors pointed out in their statements that a substantial proportion of the persons brought for examination by law enforcement officials had psychological problems requiring treatment, that doctors remaining alone with their patients in the examination room could find themselves in danger and that all the doctors on duty were afraid of this possibility.

Paragraph 37

Recommendation that the authorities ensure that detained persons' medical examination forms separately set out these persons' statements, the examining doctor's objective medical findings and the conclusions of the examination:

The General Forensic Examination Report devised by the Ministry of Health and issued for use in 2000 already includes separate sections for recording the points indicated in the recommendation. For example, it is clearly indicated on the form (see Appendix 7) that the sections entitled "Account of the incident" and "Complaints by the person examined" are to be filled in "in the patient's own words". The form also includes sections for the separate recording of the examination findings and the conclusions.

Paragraph 39

Recommendation that a single medical establishment be designated in each provincial capital to perform the forensic medical examinations of persons in custody:

The Institute of Forensic Medicine, placed under the authority of the Ministry of Justice, was set up under Law No.2659 on the Institute of Forensic Medicine to provide expertise in judicial matters. Under the terms of this law, the group head offices and branches set up in certain provinces under the authority of the Institute of Forensic Medicine are required to provide scientific and technical opinions on forensic medical matters referred to them by the courts and public prosecutors' offices in the provincial capitals in which they are located. However, as the Institute of Forensic Medicine is not organised throughout the country or in such a way as to operate round the clock, the majority of forensic medical services are provided by establishments, health centres and state hospitals under the authority of the Ministry of Health.

Paragraph 40

Comment on the fact that the detention facilities in the Smuggling, Trafficking and Organised Crime Department of Izmir Police Headquarters must be brought into line with the rules in force:

In response to the CPT delegation's findings at the Smuggling, Trafficking and Organised Crime Department of Izmir Police Headquarters, the DGS has requested a survey to enable the requisite repairs, maintenance and rearrangements to be carried out.

Paragraph 40

Recommendation on remedying the deficiencies in the detention facilities of the Anti-Terror Department of Kahramanmaraş Police Headquarters and in Türkoğlu and Menemen District Police Headquarters:

The surveys carried out by the Provincial Directorate of Public Works in order to take the necessary steps to remedy the shortcomings found by the CPT in the detention facilities at the Anti-Terror Department of Kahramanmaraş Police Headquarters and in Türkoğlu District Police Headquarters have been completed and the process is at the contract awarding stage.

The deficiencies in material conditions and lighting in the interview and identification rooms in Menemen District Police Headquarters have been remedied.

Paragraph 41

Recommendation that conditions in the detention facilities used for juveniles in Gaziantep and Kahramanmaraş be improved:

Work has started on improving material conditions in the Juvenile Department of Gaziantep Police Headquarters. To this end, correspondence with the units concerned is in progress with a view to turning a number of rooms on the ground floor of the department into detention facilities meeting the required standards.

The “detention facilities” visited by the CPT delegation in the Juvenile Department of Kahramanmaraş Police Headquarters are in fact used as storage areas for the Logistics Department. In this unit, juvenile suspects are not placed in detention facilities; instead, they are made to wait in the company of an official in special rooms on the unit’s ground floor until the procedures concerning them are completed.

Paragraph 42

Comment on pursuing the efforts made to bring interview and identification rooms throughout the country up to an acceptable standard:

Work on bringing detention facilities and interview and identification rooms up to standard in all police units is being pursued under various projects. In the light of the CPT’s recommendations, various steps are being taken in connection with material conditions in the detention facilities of the units visited by the CPT delegation.

The interview and identification rooms in the Law and Order Department of Izmir Police Headquarters have been included in the “Twinning Project” currently being carried out by the Law and Order Division of the Directorate General of Security, and it is planned to install three separate sections comprising interview rooms, recording rooms and suspect identification rooms.

In response to the CPT delegation's finding that in their current material state the interview and identification rooms in the Anti-Terror Department of Kahramanmaraş Police Headquarters are oppressive, the Provincial Directorate of Public Works has been requested to carry out a survey of these facilities and the process has reached the contract awarding stage.

In order to remedy the oppressive appearance of the interview and identification rooms in Kilis Police Headquarters, the soundproofing materials on the windows of these rooms have been removed, so that the rooms now receive natural light.

Paragraph 50

Recommendation that staff at Izmir Buca Closed Prison and Aydın and Gaziantep E-type Prisons be reminded that ill-treatment of prisoners is unacceptable and will call for criminal sanctions:

In response to the CPT's recommendation on this subject, the chief public prosecutor's offices concerned have held meetings with all the personnel of Izmir Buca Closed Prison and Aydın and Gaziantep E-type Prisons and have drawn their attention to the fact that all forms of ill-treatment of sentenced or remand prisoners constitute an offence subject to heavy penalties.

As regards the allegations referred to by the CPT (paragraph 48) that juvenile prisoners in particular have been ill-treated in those prisons, no complaints have reached the Ministry of Justice to date. It has also been established that no administrative or judicial investigation has been opened to date by the Gaziantep Chief Public Prosecutor's Office or Gaziantep E-type Prison Director's Office concerning the instances of ill-treatment alleged to have occurred specifically in Gaziantep.

Paragraph 50

Request for information on the results of the investigation initiated by the Izmir Chief Public Prosecutor's Office concerning the cases of ill-treatment alleged to have taken place immediately after a disturbance that occurred on 5 November 2003 in the unit accommodating juvenile sentenced prisoners in Izmir Buca Closed Prison:

In the juvenile dormitory of Izmir Buca Closed Prison, at about 4am on 5 November 2003, a group of juveniles including some who were known to have engaged in solvent abuse in the past and bore scars on their bodies due to their tendency to self-injury started a riot and injured other juveniles who did not want to take part in the riot by hitting them on the head with hard objects. The riot was soon brought under control and all the juveniles were given medical examinations the next day.

In response to allegations that the juvenile prisoners had been ill-treated during the incident, the Izmir Chief Public Prosecutor's Office started an investigation in respect of the prison officers and gendarmerie members who had intervened. The investigation files have been joined and the investigation is still in progress on account of the broad scope of the incident.

In connection with the incident, the Turkish Grand National Assembly's Human Rights Enquiry Commission has visited the prison concerned and interviewed the juvenile prisoners.

Paragraph 52

Request for information on the steps to be taken to improve the situation of two sentenced prisoners held in Gaziantep E-type prison:

Of the two prisoners concerning whose fate the CPT requested information in the report on its visit to Turkey in March 2004, D.A. (*), born in 1922 or 1924 and serving a life sentence for murder in Gaziantep E-type Prison, filed two applications on 13 April 2004 and 19 April 2004 to benefit from the power conferred on the President of the Republic by Article 104/2-b. of the Constitution to “remit, on grounds of chronic illness, invalidity or old age, all or part of the sentences imposed on certain individuals”. Following his applications for a pardon, he was transferred to Gaziantep State Hospital and a health committee report drawn up by the hospital on 13 May 2004 was sent to the Institute of Forensic Medicine. After examining the matter, the Institute drew up a report dated 18 August 2004 in which it concluded that the patient’s present illness did not amount to the “chronic illness, invalidity or old age” provided for in Article 104/2-b. of the Constitution. In view of this report by the Institute of Forensic Medicine, the prisoner’s request for a pardon was not submitted to the President of the Republic on the grounds that it did not meet the requirements provided for in the Constitution. However, in order to reduce the hardship he suffers, the prisoner was transferred to Gaziantep H-type Prison on 4 June 2004 and is currently held there.

The other prisoner concerning whom information was requested is A.S., born in 1969. Between 5 and 19 April 2004 he was treated in Adana Mental Hospital on the basis of a diagnosis of anti-social personality disorder and agitation. After being discharged, he was returned to Gaziantep E-type Prison. He is currently held in dormitory 8 of the prison’s C block and continues to take medication under the doctor’s supervision.

Paragraph 53

Comment on the allegations that in Izmir Buca Closed Prison two female prisoners were being sexually exploited by male prisoners and that prison staff were helping to make the arrangements:

The Izmir Chief Public Prosecutor’s Office has conducted preparatory enquiries into the allegations concerning Izmir Buca Closed Prison. It concluded that the allegations were not based on any concrete evidence and were rumours attributing an offence to those concerned, started with a view to denigrating the prison and its personnel. The Office consequently did not consider it necessary to open a judicial investigation.

(*) Only the initials of detained persons are given (cf Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment)

Paragraph 59

Recommendation on developing the activity programmes for prisoners at Izmir No.1 F-type Prison:

The CPT's recommendation concerning activity programmes in Izmir No.1 F-type Prison is received with thanks. However, we believe it is necessary to bear in mind that F-type prisons are high-security institutions which therefore accommodate remand and sentenced prisoners who have committed specific offences, and that some prisoners held there for the offence of membership of a terrorist organisation are known to refuse to take part in any activity programmes offered to them, of whatever kind, as a protest against the structure and system of this type of prison.

Paragraph 59

Request for statistics on activities for remand and sentenced prisoners in F-type prisons:

A table of the number of remand and sentenced prisoners taking part in communal activities in F-type and D-type prisons at 10 January 2005 is reproduced in Appendix 8.

Paragraph 63

Recommendations that every prison in Aydın and Gaziantep E-type Prisons should have his/her own bed and that the number of inmates of these prisons should be brought down to a reasonable level:

Turkey, like many European countries, is experiencing overcrowding in prisons and a substantial increase in the number of people held in prisons. In principle, the rule is that each prisoner sleeps in their own bed. However, by way of exception, when overcrowding occurs, mattresses are spread out on the floor and collected in the morning. As a result, the CPT delegation may have concluded during its visit to Gaziantep E-type Prison that there were fewer beds than prisoners. The administration of Aydın E-type Prison has informed us that during the delegation's visit there were 473 sets of two bunk beds, 843 sets of bedding and 1,249 blankets, or in other words that at the time of the visit each prisoner had his own bed.

The overcrowding observed by the CPT delegation in Aydın and Gaziantep E-type Prisons, which is due to an increase in the number of offences committed in recent years in the provinces of Aydın and Gaziantep, has been at least partially remedied by the releases following the adoption of the new Turkish Criminal Code, so that by 10 January 2005 the number of prisoners had fallen to 490 in Aydın E-type Prison and 761 in Gaziantep E-type Prison.

Paragraphs 64 and 67

Request for information on whether persons accommodated in the units for new arrivals in Gaziantep E-type Prison and Izmir Buca Closed Prison are offered the possibility of outdoor exercise:

According to the information received from the Izmir Chief Public Prosecutor's Office, all new arrivals at Izmir Buca Closed Prison are granted access to open-air exercise.

In point of fact, although the inmates of all prisons are given access to open-air exercise, this arrangement has become mandatory under Section 87/b. of Law No.5275 on the Enforcement of Penalties and Security Measures, which was adopted on 13 December 2004 and will come into force on 1 April 2005.

Remand and sentenced prisoners arriving at Izmir Buca Closed Prison are held for no less than one day and no more than three days in the new arrivals unit. During this time their educational and occupational status, skills, moral tendencies and psychological state are investigated and, according to the results of this investigation, they are placed in units suited to their situation. In these units where they are placed, or in the open-air exercise yards, they have access to light sporting activities.

Paragraph 67

Recommendation on giving priority to withdrawal from service of Izmir Buca Closed Prison:

The construction in Izmir of a prison complex meeting the requirements of a modern enforcement regime has been included in the investment programme for 2005. It will be possible to assess the question of whether to close down Izmir Buca Closed Prison after the complex has been completed.

Paragraph 67

Recommendation that more opportunities for activities be provided for adult prisoners in Izmir Buca Closed Prison:

The gymnasium in Izmir Buca Closed Prison, which can hold 350 people, has been refurbished and made available to remand and sentenced prisoners. Prisoners who so wish may take part in social, cultural and sporting activities, as organised by the prison administration, in this facility.

Paragraph 71

Request for information on whether the juvenile prisoners in Izmir Buca Closed Prison have been transferred to Bergama Prison and on the conditions and activities provided for those juveniles in Bergama Prison:

On 22 May 2004 the juvenile remand and sentenced prisoners in Izmir Buca Closed Prison were transferred to Bergama Prison, which had been specially prepared for them; they are at present held in a section separate from the adult prisoners. Work continues on improving the existing material conditions in Bergama Prison and on designing three-bed to ten-bed rooms for juvenile prisoners.

Bergama Prison includes an open-air football ground, a multi-purpose gymnasium for sports such as basketball and volleyball, areas for social and cultural activities and a library which is sufficiently well stocked to develop and sustain reading habits.

Paragraph 72

Request for updated information on current arrangements and future plans with regard to the establishment of special detention facilities for juveniles:

A comprehensive information note on educational and rehabilitation activities for juveniles held in prisons and remand prisons, and on the reorganisation efforts in this area, is attached in Appendix 9.

Paragraph 74

Recommendation that suitable material conditions and opportunities for activities be provided for juveniles held on remand in prison units built for adults:

Under the laws and regulations on the subject, juvenile remand prisoners are held in prison for a short period until their sentences become final; at the end of this period, they are transferred to juvenile reformatories based on educational principles and holding the status of open prisons. The law does not require remand prisoners to take part in activities, but only makes reading/writing lessons and primary education compulsory. As a result, the fact that not very many activities can be provided to juvenile remand prisoners before and during the trial process also stems from their status as juvenile remand prisoners.

Paragraph 74

Recommendation that material conditions in the units of Aydın and Gaziantep E-type Prisons set aside for juvenile prisoners be reviewed in line with the recommendations made in paragraph 63:

The juvenile units in Aydın and Gaziantep E-type Prisons have been reviewed in the light of the CPT's recommendations and the innovations introduced or planned are listed below:

Gaziantep E-type Prison:

- There were three juvenile dormitories at the time of the CPT delegation's visit; in line with the CPT's recommendations, one wing of the prison's B block has been completely vacated so as to increase the number of dormitories to seven, and the entire B block has been turned into a Juvenile Unit.
- The Education Unit in B block has been moved to A block and the area thus vacated has been turned into a social activities area for juveniles, offering them access to activities such as table tennis and chess.
- The projection and sound systems in the conference/cinema hall in B block have been refurbished and educational film showings for juveniles have started.
- Construction of the workshops and gymnasium planned in the immediate vicinity of the prison is currently at the contract awarding stage.

Aydın E-type Prison:

- The workshop which was closed for security reasons at the time of the CPT delegation's visit was brought back into operation in August 2004.
- Construction of a multi-purpose sports complex started on 1 August 2004 and is still in progress.

In co-operation with various public bodies, vocational training courses are held for juvenile remand and sentenced prisoners in Aydın E-type Prison in areas such as hairdressing, carpet making, fruit and vegetable growing and bee-keeping; those who successfully complete these courses are given a certificate to that effect. At present 26 prisoners are enrolled in open primary education, 19 in open lower secondary education and two in open university courses. As far as social and cultural activities are concerned, concerts and musical entertainments are arranged for prisoners and they are allowed to put on their own plays.

Paragraph 77

Recommendation that health care services throughout the prison system be reviewed:

On 30 October 2003 the Ministries of Justice, the Interior and Health signed a protocol designed to raise the qualitative and quantitative standards of prison health-care services.

Article 25 of the protocol deals with the making of appointments at the Institute of Forensic Medicine for remand and sentenced prisoners requiring medical examinations, while Article 27 deals with appointments at medical establishments. Article 46 provides that in emergencies and in the case of life-threatening illnesses, sick prisoners are to be transferred to hospital without delay, on the basis of a doctor's certificate if available, and if none can be obtained, at the written request of the head of the institution or his deputy.

Article 51 deals with the appointment of doctors and dentists in order for prison health-care services to be provided on the spot. Article 52 provides that if it is impossible to fill the posts of psychiatrist, specialist family doctor, public health specialist, doctor, dentist, psychologist and social worker, the province's senior territorial official may make appointments to these posts.

The protocol also covers the appointment of doctors and dentists to district prisons (Article 53), the appointment of specialist doctors (Article 54), the provision of health-care assistants (Article 55), the appointment of dentists (Article 56), payment of the treatment expenses of destitute sentenced and remand prisoners (Article 57) and the hospital treatment of prisoners (Articles 58, 59, 60 and 65-69). Under the terms of Article 57, as of 31 December 2003, the Ministry of Justice will pay the cost of out-patient and in-patient examinations and treatment for destitute prisoners transferred by prisons and remand prisons to official medical establishments for examinations, tests and treatment, and the cost of medicines, medical supplies, orthopaedic appliances and prostheses which the hospital is unable to supply.

Article 61 of the protocol confirms that the doctor and patient are to be left alone during hospital examinations of prisoners.

Lastly, Article 70 provides for the provincial health directorates to arrange training programmes in basic health care and first aid for prison staff.

Paragraph 81

Recommendation that new arrivals at Izmir Buca Closed Prison and Gaziantep E-type Prison receive adequate medical screening:

The medical examination of all new arrivals in prisons is conducted in accordance with Article 98 of the Regulations on Prison Administration and Sentence Enforcement and with Ministry of Justice circular 15/47 of 28 May 2002 on the admission examinations of remand and sentenced prisoners. Once newly arrived prisoners have been given a medical examination, the examination findings are recorded on the prisoners' medical cards and reports on the findings are kept in the file of the prisoner concerned. Unless the health-care official carrying out the examination requests otherwise, law enforcement officials are not allowed into the examination room. If the health-care official requests otherwise, the law enforcement officials admitted to the examination room remain out of earshot of the health-care official and the prisoner being examined and simply supervise the examination for security purposes.

Both Izmir Buca Closed Prison and Gaziantep E-type Prison have a sufficient number of doctors. Under certain circumstances, however, when these prisons are obliged to exceed their capacity, there may be a number of shortcomings in the medical examinations given to new arrivals on admission. However, the health-care officials in post in these prisons have been instructed to take greater care over admission examinations and their attention has been drawn to the fact that they will be held legally responsible for inadequate or incomplete examinations.

Paragraph 82

Recommendation that steps be taken to arrange for regular visits by a psychiatrist to the prisons visited by the CPT delegation:

There are no psychiatrists in post in the prisons visited by the CPT delegation. However, the prison administrations are now co-operating with the local medical establishments to ensure that a psychiatrist visits the prisons.

Paragraph 83

Recommendation concerning the measures whose adoption is proposed in all prisons with regard to prisoners with psychiatric disorders:

In principle, prisoners suffering from psychiatric problems or mental illnesses are transferred to prisons in provinces where there is a mental hospital. If a prisoner is found to be mentally ill and his state of health is covered by Article 399 of the Code of Criminal Procedure, enforcement of his sentence can be suspended. If a prisoner's state of health is consistent with the definition in Article 104/2-b. of the Constitution ("chronic illness, invalidity or old age"), he can be pardoned by the President of the Republic. Depending on the seriousness of their illness, mentally ill prisoners may, by court decision, be provided with long-term treatment in a mental hospital. Prisoners whose illness is not considered serious enough to prevent them from remaining in prison are accommodated according to the structure of the prison and kept under continuous supervision by the prison doctor and the psycho-social service; where necessary, they can be transferred for examination or treatment to a hospital where there are specialist doctors and psychiatrists.

According to Section 18/1 of Law No.5275 on the Enforcement of Penalties and Security Measures, which is to come into force on 1 April 2005, "persons suffering from psychological disorders other than mental illnesses due to imprisonment and other causes, who are returned to prison because it is not considered necessary for them to be held in a mental hospital, shall serve their sentences in special sections of the prisons concerned". Section 18/2 of this law provides that the specialists and other medical staff required by the prisons chosen for enforcement of these prisoners' sentences are to be supplied by the Ministry of Health.

At present Adana, Elazığ, Istanbul, Manisa and Samsun mental hospitals have special units for forensic cases. Although these units are crowded at times, prisoners brought there are provided with the necessary treatment as far as possible.

Paragraph 86

Recommendation on rescinding the rule that prisoners' visits to the doctor are subject to the prison administration's approval, except in emergency situations:

According to the current arrangements for prisoners' visits to the prison doctor, those who submit their requests to see the doctor to the administration are able to see the doctor directly without waiting for the administration's approval. For security reasons, they are escorted by prison officers from the unit in which they are accommodated to the prison infirmary.

Paragraph 87

Request for information on whether certain disciplinary rooms in Aydın and Gaziantep E-type Prisons have been withdrawn from service:

After Gaziantep E-type Prison was converted to the room system, the two disciplinary rooms on the first floor stairway of the segregation unit located on both sides of C block were withdrawn from service, on the CPT delegation's recommendation, as of the date of the delegation's visit. However, it has been established that the stairway cavities directly opposite the disciplinary rooms referred to in the CPT report have never been used as disciplinary or isolation rooms, but simply as storage areas for the belongings of prisoners held in the disciplinary room. On the delegation's recommendation during its visit, these rooms were withdrawn from service as storage areas and their doors welded to seal them off completely.

The four disciplinary rooms on the first floor of the prison have remained out of use, on the CPT delegation's recommendation, since the date of the delegation's visit. The twenty observation, disciplinary and isolation rooms in the remaining two blocks are currently in use. All the isolation rooms have windows ensuring access to natural light. They have toilets and bathrooms and the hot and cold water supply functions properly.

The disciplinary rooms in Aydın E-type Prison referred to in the CPT report have been withdrawn from service on the CPT delegation's recommendation.

Paragraph 87

Recommendation that disciplinary cells in prisons undergo regular maintenance and have access to natural light as well as adequate artificial lighting:

Section 44/4 of Law No.5275 on the Enforcement of Penalties and Security Measures, which is to come into force on 1 April 2005, provides that disciplinary cells in prison shall be fitted out "in such a way as to satisfy vital needs".

Paragraph 88

Recommendation that prisoners held in disciplinary cells in prisons be granted the opportunity to take at least one hour of outdoor exercise every day:

Section 44/1 of Law No.5275 on the Enforcement of Penalties and Security Measures, which is to come into force on 1 April 2005, provides that all remand and sentenced prisoners who receive the penalty of confinement in a disciplinary cell have "the right of access to open-air exercise".

Paragraph 89

Recommendation that detailed and regular records be kept with regard to prisoners held in disciplinary rooms in prisons:

As a rule, decisions to impose disciplinary penalties on prisoners, the implementation of those decisions and all the stages relating to implementation are recorded. Thus, basic information such as the identity of the prisoner receiving a disciplinary penalty, the reasons for the imposition of the penalty and the dates of the beginning and end of the penalty is recorded in such a way that it can be checked.

On the CPT delegation's recommendation, an "observation register" has been brought into use in Gaziantep E-type Prison to record information on the prisoners held in disciplinary rooms and on the disciplinary penalties imposed on them.

Again on the delegation's recommendation, greater care has begun to be taken in Aydın E-type Prison over the recording of information on the prisoners held in disciplinary rooms, the disciplinary decisions taken concerning them and the disciplinary penalties imposed on them.

In practice, however, it is worth noting that some prisoners with psychological problems have been found to prefer to remain alone in the observation rooms at their own request.

Paragraph 91

Recommendation on the measures to be taken by prisons to fulfil their responsibilities in relation to female prisoners accommodated with their babies or small children:

Children up to the age of five, who are in need of a mother's care and love, are allowed to remain with their mothers in prison. If their mothers so request, the children are taken to day care centres or day nurseries and brought back to the prison by service bus, escorted by prison officials, during daytime working hours. On the instructions of the Ministry of Justice, babies and infants who are obliged to remain with their mothers are provided with food such as special baby food and milk, as well as items such as diapers, by the prison administration concerned; breastfeeding mothers are also assigned their own nursing room and the necessary steps are taken to protect the mothers' and children's health.

Paragraph 94

Recommendation that the quorum required for prison monitoring boards to convene be reduced:

A bill amending Law No.4681 of 14 June 2001 establishing the Prison Monitoring Boards is on the agenda of the Turkish Grand National Assembly's Judicial Affairs Committee. The bill increases the number of members of a prison monitoring board from five to eight (five regular members and three substitutes). It amends the sentence "The monitoring board shall convene with an absolute majority of the full number of members plus one" in Section 7 of Law No.4681 to read "The monitoring board shall convene with an absolute majority of the number of regular members".

The bill also provides that in the absence of an absolute majority, the substitute members may also take part in the meeting in order of seniority. When the bill becomes law, the quorum for meetings will be reduced from four out of five to three out of five, thus enabling the prison monitoring boards to convene without difficulty and work more effectively.

Paragraph 95

Request for the Turkish authorities' comments on the fact that the Deputy Governor of Gaziantep Province is a member of the Gaziantep Prison Monitoring Board:

In line with the CPT's recommendation, the Gaziantep Deputy Provincial Governor's membership of the Gaziantep prison monitoring board was terminated on 22 October 2004.

Paragraph 96

Recommendation that prisoners be better informed about the existence and role of the enforcement magistrates and request for information as to whether prisoners' complaints are forwarded to the enforcement magistrates directly and on a confidential basis:

On admission to prison, remand and sentenced prisoners are given the Prisoners' Information Sheet setting out their statutory rights and the prison's basic rules. It has been checked that this practice is also being implemented in Gaziantep E-type Prison and Izmir Buca Closed Prison.

In accordance with the Regulations on Prison Administration and Sentence Enforcement and with ministry circulars, prisoners' complaints are sent to the official institution concerned in sealed envelopes without anyone else's intervention. Prisoners who so wish may put the notes setting out their complaints into the complaints boxes in their dormitories; complaints received in this way are forwarded to the official authority concerned without intervention of any kind. It has also been checked that these rules are being complied with in Gaziantep E-type Prison and Izmir Buca Closed Prison and that no complaints on the subject have been received to date.

Paragraph 98

In view of the likelihood that the functions of prison monitoring boards and enforcement magistrates and the functions of the prosecutors responsible for prisons overlap, request for comments on the possibility that prosecutors' responsibilities in relation to prisons might be reduced:

In the light of the existing statutory provisions, there is no likelihood of the functions of prison monitoring boards and enforcement magistrates overlapping with those of the prosecutors responsible for prisons. The prison prosecutor's responsibility, on behalf of the chief public prosecutor's office, is the lawful implementation of court decisions concerning conviction or arrest. The Ministry of Justice is nevertheless assessing the question of whether to withdraw prosecutors' responsibilities with regard to prisons.

The request for information made in the letter of 5 November 2004 sent to the Turkish Government by CPT President Silvia Casale concerning the CPT's March 2004 visit to Turkey, on the subject of the allegation that prisoner M.B. was ill-treated following an incident in Izmir Buca Closed Prison in October 2004:

It has been established that M.B. and seven other sentenced prisoners held in Izmir Buca Closed Prison started a riot on 13 October 2004 on the pretext of a number of problems they claimed were being experienced in the prison, and that during the riot they took a number of prison officers hostage, injured them with cutting and piercing instruments and caused damage to state property. On the basis of these allegations, proceedings were brought against a number of remand and sentenced prisoners, including M.B., on 18 November 2004. In the indictment relating to the proceedings, M.B. was charged with the offences of "rebellion against the prison administration using piercing and cutting instruments and causing damage to the prison" and "causing injuries".

On 19 October 2004, after the incident, he was transferred to Izmir Kırıklar No.1 F-type Prison. In accordance with statutory procedure, he was given a medical examination both at Izmir Buca Closed Prison and at the new prison to which he was transferred, and examination reports concerning him were drawn up.

M.B. lodged a complaint to the effect that prison officers in Izmir Buca Closed Prison had tortured him on the day on which he was to be transferred to Izmir Kırıklar No.1 F-type Prison, whereupon the Izmir Chief Public Prosecutor's Office opened a judicial investigation. As part of the investigation, M.B. was transferred to the Institute of Forensic Medicine. Both the report drawn up by the Institute of Forensic Medicine and the examination reports drawn up by the doctors in Izmir Buca Closed Prison and Izmir Kırıklar No.1 F-type Prison stated that he bore no traces of assault or violence. On 23 December 2004 the Izmir Chief Public Prosecutor's Office, which was conducting the judicial investigation, decided not to prosecute on the grounds that no evidence other than abstract allegations could be found to the effect that the offence with which the eleven prison officers named in M.B.'s complaint were charged had actually been committed.

**INFORMATION NOTE ON THE INVESTIGATIONS CARRIED OUT BY THE
DIRECTORATE GENERAL OF SECURITY IN VARIOUS UNITS OF GAZİANTEP
AND DİYARBAKIR POLICE HEADQUARTERS**

Paragraph 13 of the report drawn up by the European Committee for the Prevention of Torture (CPT) after its fact-finding visit to Gaziantep province in March 2004 contains allegations that persons detained by the Law and Order Department, the Anti-Terror Department and the Smuggling, Trafficking and Organised Crime Department of Gaziantep Police Headquarters were subjected to ill-treatment, that the interrogation of persons detained by the Law and Order Department continued until late at night and that the rules governing medical examinations were not complied with in medical certificates. Paragraph 9 of the report drawn up by the CPT after its visit to Diyarbakır province in September 2003 contains allegations that persons detained by the Law and Order Department of Diyarbakır Police Headquarters were tortured through the administration of electric shocks and ill-treated. On the basis of Order No.B.05.1.EGM.0.71.03.02.Müf.2004/237-58690 issued by the Directorate General of Security (DGS) on 29.11.2004 and Investigation Order No.B.05.1.EGM.0.60.12.04(Sor.218)2358-104 issued by the Head Office of the DGS Inspection Board on 29.11.2004, Police Chief Inspectors T. Tuncay İşidir and Yılbay Çelik were appointed to investigate those allegations.

The conclusions of the police chief inspectors' investigations are set out below.

A. INVESTIGATIONS IN GAZİANTEP PROVINCE

1. By letter No.698 addressed to the Inspectorate on 03.12.2004, the Governor of Gaziantep Province M. Lütfullah Bilgin said it had been established that persons detained, interrogated and taken to the Chief Public Prosecutor's Office by the Law and Order Department, Anti-Terror Department and Smuggling, Trafficking and Organised Crime Department of Gaziantep Police Headquarters had not made any applications to the Provincial Human Rights Commission alleging torture or ill-treatment; however, the complaints which had indirectly reached the Provincial Governor's Office and the Security Directorate had been assessed and, where necessary, judicial and administrative investigations had been conducted.

2. During an unannounced inspection (in the form of a sudden raid) of the holding rooms and interrogation rooms in the Law and Order Department, Anti-Terror Department and Smuggling, Trafficking and Organised Crime Department of Gaziantep Police Headquarters on 07.12.2004, we found that the custody registers were regularly kept up and that annotations were made to the appropriate section of the registers indicating that detained persons' needs had been met; the interrogations rooms contained no instruments, apparatus or electrical systems that could be used for the purposes of coercion, violence or torture; the holding rooms were consistent with human rights standards; the holding and interrogation rooms were electronically monitored with the use of recording equipment and the facilities had repeatedly been inspected by public prosecutors, who had signed their registers.

3. By letter No.2004/4-4874 addressed to the Inspectorate on 06.12.2004, the Gaziantep Chief Public Prosecutor Kazım Arapoğlu said that since September 2003 his office had received ten written complaints of torture; five of these had resulted in decisions not to prosecute on the grounds of lack of evidence, four were the subject of ongoing preliminary investigations and the last one concerned Yamaçoba Gendarmerie Station Command.

Although it was alleged in the CPT report that the Gaziantep Chief Public Prosecutor's Office had not taken the requisite care over the offences of torture and ill-treatment reported to it, he said on the subject of these torture allegations that:

a. On the basis of the complaints by N.Y. and E.S., who had been detained for pickpocketing by the Law and Order Department of Gaziantep Police Headquarters and alleged that they had been ill-treated and threatened during custody and while statements were being taken from them, it had been decided not to prosecute (Decision No.3677) "on the grounds that there was no adequate and convincing evidence other than the plaintiffs' allegations";

b. In response to the complaint by F.A., a sentenced prisoner held in Silifke Closed Prison, that he had been subjected to torture and cruel treatment on 01.02.2000 while in custody at Gaziantep Police Headquarters, the Gaziantep Chief Public Prosecutor's Office had decided (Decision No.2004/5216) that as a decision not to prosecute had been given following the procedure conducted in respect of this complaint on 20.05.2000, there was no need for a repeat investigation of the subject or for proceedings to be brought against the accused or concerning the incident on the basis of the offence charged. (It will be apparent from this decision that sentenced prisoners who lodged complaints of torture renewed their allegations although their complaints had resulted in a decision not to prosecute and although a very long time (four years) had elapsed since the date of their custody);

c. In response to the complaint by S.G. that he had been continuously harassed and ill-treated by personnel of the Anti-Terror Department of Gaziantep Police Headquarters, the Gaziantep Chief Public Prosecutor's Office had decided (Decision No.2004/5513) that as there was no apparent indictable offence, "there were no grounds for prosecution" in the matter;

d. In response to the complaint by lawyer Y.E., on behalf of E.P., to the effect that in November 1996 her client had been tortured to make him confess to his offences during custody at Gaziantep Police Headquarters, the Gaziantep Chief Public Prosecutor's Office had decided not to prosecute (Decision No.2004/3013) on the grounds that the offence was time-barred. (Given that the lawyer must have known that eight years after the date of the offence the offence would be time-barred, it is possible to conclude that the complaint was lodged deliberately to discredit the police);

e. In response to the complaint by H.T. that he had been subjected to ill-treatment on 10.09.2003, while in custody in Gaziantep Karşıyaka Police Station, the Gaziantep Chief Public Prosecutor's Office had decided (Decision No.2003/7922) that owing to the absence of concrete and convincing evidence there were no grounds for prosecution.

A study of the files on the complaints of torture and ill-treatment in respect of which the Gaziantep Chief Public Prosecutor's Office has initiated proceedings shows that:

f. On behalf of B.N., who was detained in the Anti-Terror Department of Gaziantep Police Headquarters from 13 to 15 November 2003 and is currently held in Adana Kürkçüler Prison, F.K. and E.K., lawyers practising in Istanbul, lodged a complaint with the Istanbul Public Prosecutor's Office on 20.11.2004, a year after the date of the incident, alleging that their client had been tortured while in custody but without providing any concrete evidence; the Gaziantep Public Prosecutor's Office recorded the complaint and continues to examine it.

A study of the investigation file drawn up by the Anti-Terror Department of Gaziantep Police Headquarters shows that B. N. was apprehended on 13.11.2003 and detained on charges of aiding and abetting the illegal terrorist organisation PKK-KADEK, together with material evidence of the offence; on 15.11.2003 he was taken to [*the Chief Public Prosecutor's Office*] together with the summary investigation report concerning him (No.2003/SN:14) and was placed under arrest by Decision No.2003/517 of the Gaziantep 3rd Criminal Court; the medical certificates obtained before he was taken into custody and before he was taken to the Chief Public Prosecutor's Office stated that no signs of "beating or violence" were found. The plaintiff did not complain that he had been tortured, either when he was taken to the public prosecutor's office or when he was brought before the court. The fact that he lodged a complaint through the Istanbul Bar Association alleging torture a year after the date of the incident is clearly not convincing.

g. As regards M. A., concerning whom a preliminary investigation is currently being conducted by the Gaziantep Chief Public Prosecutor's Office on the grounds that he was tortured and ill-treated, a study of the file on the investigation conducted by the Gaziantep Anti-Terror Department shows that he was taken into custody on 04.02.2002 on account of illegal activities; he was taken to the public prosecutor's office on 07.02.2002 with investigation file No.Ceraim-2; the medical certificates obtained during the investigation state that no signs of "beating or violence" were found, and the plaintiff did not complain of torture either when interrogated by the public prosecutor's office or when brought before the court. For this reason, the fact that his complaint of torture was lodged two years after the date of the incident is considered unconvincing.

h. A study of the allegations made by plaintiff M.U.S., registered by the Gaziantep Chief Public Prosecutor's Office under No.Hz.2004/13112, to the effect that he was tortured and ill-treated while in custody in the Gaziantep Law and Order Department, shows that he was detained for robbery on 09.11.2003, was taken to the Chief Public Prosecutor's Office on 10.11.2003 together with the summary investigation report, was sentenced to 17 years' imprisonment by the competent court and is at present in prison; his statement in the Law and Order Department was taken in the presence of lawyer A. K., the medical certificates stated that no signs of "beating or violence" had been found, and he did not complain either during the public prosecutor's office investigation or before the court of having been tortured during the investigation conducted while he was in custody. His allegation is consequently considered unconvincing.

As the allegations of torture and ill-treatment that he made to the Gaziantep Chief Public Prosecutor's Office were far from convincing and were not based on concrete evidence requiring the opening of an investigation, a decision not to prosecute was given in respect of his complaint.

4. By letter No.2004/62 addressed to the Inspectorate on 03.12.2004, the Gaziantep Police Director said that:

- the Police Directorate had taken no steps in respect of any personnel for the offence of torture;
- in 2003, administrative steps had been taken in respect of 76 staff members for the offence of ill-treatment; in 17 cases there had been no grounds for imposing a penalty; two staff members had been given a warning, four a reprimand, seven a short-term suspension and one a long-term suspension; 45 cases had been struck off the list because there was not enough evidence to warrant opening an investigation;
- in 2003, judicial proceedings had been initiated in respect of 48 staff members; under the terms of Law No.4483, permission to open an investigation had been withheld in 45 cases because of the lack of sufficient evidence; permission to open an investigation had been granted in three cases;
- in 2004, administrative steps had been taken in respect of 45 staff members; in four cases there had been no grounds for imposing a penalty; two staff members had been given the penalty of short-term suspension; 31 cases had been struck off the list because there was not enough evidence to warrant opening an investigation and administrative investigations were pending in respect of nine staff members;
- in 2004 no judicial proceedings had been initiated in respect of any personnel;
- no complaints of torture had been received to date from persons detained, interrogated and taken to the public prosecutor's office by police headquarters departments;
- reports of medical examinations were drawn up with the doctor and the person examined remaining alone during the examination;
- importance was attached to the training of personnel with a view to preventing torture and ill-treatment; various brochures had been produced and distributed to personnel, who were required to attend conferences on human rights and EU compliance legislation and were given in-service training on the subject.

5. By letter No.B.1.(04)SM-42.70.001 addressed to the Inspectorate on 03.12.2004, the Gaziantep Provincial Health Directorate said that with regard to the question that some persons detained, interrogated and taken to the public prosecutor's office by departments of Gaziantep Police Headquarters might have been tortured during their medical examinations, no complaints had been received either from persons medically examined or from the doctors who had performed the examinations, and that medical examinations were conducted in accordance with the regulations.

6. K.K.A., A.D., M.O., M. M.E., L.I., C.D., M.O., A.A., M.K., A.Y., M.Y., Ö.H., N.D., A.Y., S. V.C., N.P., F.P., H.A., C.T., R.D., F.Y. and N.U., randomly selected from the list of persons detained for various offences by the Law and Order Department, Anti-Terror Department and Smuggling, Trafficking and Organised Crime Department of Gaziantep Police Headquarters in 2003 and 2004, stated, after receiving guarantees that they would not be in any danger, be subjected to ill-treatment or incur any liability, that they had not been subjected to any form of torture, violence, coercion or ill-treatment during custody or interrogation, that they had been informed of their statutory rights prior to giving their statements and when taken into custody and that during their medical examinations they had remained alone with the doctor.

7. The Head of the Law and Order Department of Gaziantep Police Headquarters said in his statement that persons detained, interrogated and taken to the public prosecutor's office by units of his department were informed of their rights under the Code of Criminal Procedure; those who wished a lawyer to be present while they were giving a statement were provided with a lawyer from the bar association; no suspects were tortured or ill-treated during interrogation; medical certificates were drawn up in compliance with the rules governing medical examinations; it was compulsory to take detained persons to the public prosecutor's office within 24 hours, and in his department's units, which operated on a 12/24-hour basis, it was imperative to continue investigations at night in order for the statutory procedures to be completed. He said that the allegations were unfounded.

8. The Deputy Head of the Anti-Terror Department of Gaziantep Police Headquarters said in his statement that the holding rooms and interrogation rooms of the Anti-Terror Department were consistent with European standards; detained persons were electronically monitored during custody and interrogation; no suspects were tortured or ill-treated; personnel acted in compliance with the Code of Criminal Procedure and medical certificates were drawn up in compliance with the rules governing medical examinations.

9. The Head of the Smuggling, Trafficking and Organised Crime Department of Gaziantep Police Headquarters said in his statement that as regards persons detained for offences concerning his department, medical certificates were drawn up in compliance with the rules governing medical examinations both before they were taken into custody and before they were taken to the public prosecutor's office; their statutory rights were read out to them during interrogation, before their statements were taken; no acts of torture or ill-treatment were committed; the holding rooms were consistent with human rights standards and were electronically monitored.

It has not been possible to obtain any concrete information, findings or evidence substantiating the allegations made in paragraph 13 of the report drawn up after the CPT's fact-finding visit to Gaziantep province in March 2004, to the effect that persons detained by the Smuggling, Trafficking and Organised Crime Department were ill-treated, that detained persons' statements were taken until late at night by the Law and Order Department without any written records being kept and that in the Anti-Terror Department detained persons were ill-treated by personnel and medical examinations were not conducted in compliance with the rules. We therefore conclude that these allegations are not proved.

B. INVESTIGATIONS IN DİYARBAKIR PROVINCE

1. By letter No.B054VLK4210600.15.2004 addressed to the Inspectorate on 10.12.2004, the Diyarbakır Provincial Governor's Office said that no applications had reached the office on the subject of persons detained by the Law and Order Department of Diyarbakır Police Headquarters being tortured through the administration of electric shocks; the investigation procedures concerning allegations of torture and ill-treatment had been conducted by the Provincial Police Directorate.

2. As a result of an unannounced inspection (in the form of a sudden raid) of the holding rooms and interview rooms in the Law and Order Department, Anti-Terror Department and Smuggling, Trafficking and Organised Crime Department of Diyarbakır Police Headquarters, we observed that the holding rooms were consistent with human rights standards and were electronically monitored; there were no instruments, apparatus or electrical systems that could be used for the purposes of beating, coercion, violence or torture; the custody registers were regularly kept up; the holding rooms had been inspected by public prosecutors and annotations to that effect had been made to the custody registers. The Human Rights Enquiry Commission of the Turkish Grand National Assembly had indicated in the inspection register that it was satisfied with the inspection it had carried out on 19.01.2003.

3. By letter No.2004/215 addressed to the Inspectorate, with appendices, on 08.12.2004, the Diyarbakır Chief Public Prosecutor's Office gave an account of the preliminary investigations and their results concerning complaints of the offences of torture and ill-treatment received by the office. A study of the letter and appendices shows that:

a. In 2003:

- i. the Diyarbakır Chief Public Prosecutor's Office opened preliminary investigations in respect of 22 complaints alleging torture under Article 243 of the Turkish Criminal Code; it decided not to prosecute in nine of these cases on the grounds that there was not enough evidence to warrant a prosecution;
- ii. in four cases it decided that it lacked jurisdiction because the accused were not officials in post in Diyarbakır Police Headquarters;

- iii. of the four complaints registered by the Diyarbakır Chief Public Prosecutor's Office in 2003 under preliminary investigation Nos.2003/7987, 2003/6009, 2003/2354 and 2003/14820, and concerning which indictments were drawn up and proceedings brought before the competent courts:
 - the Diyarbakır Chief Public Prosecutor's Office gave additional decisions not to prosecute in respect of files Nos.2003/7987 Hz. and 2003/14820 Hz.,
 - complaint No.2003/6009 Hz. concerned personnel belonging to the Acıpayam Gendarmerie District Command,
 - complaint No.2003/2354 Hz. did not concern persons detained by Diyarbakır Police Headquarters but police officers assigned the duty of dispersing a group holding an unauthorised demonstration;
 - iv. files Nos.2003/688 Hz. and 2003/16929 Hz. were joined with the files on the other complaints;
 - v. a study of three complaints registered under file Nos.2003/9818 Hz., 2003/10266 Hz. and 2003/5222 Hz., and currently being examined by the public prosecutor's office, shows that:
 - complaint No.2003/9818 Hz. does not concern detained persons but persons who imply that they were under surveillance on account of their political inclinations;
 - as regards complaint No.2003/10266 Hz., lawyer R. E. lodged a complaint with the Diyarbakır Chief Public Prosecutor's Office on 02.07.2003 on behalf of plaintiff O.D., to the effect that he had been tortured and ill-treated; the application stated that the public prosecutor had been informed of the subject of the complaint during the plaintiff's interrogation at the public prosecutor's office and that the session judge had been informed of it when the plaintiff appeared in court; given that neither the public prosecutor conducting the preliminary investigation nor the session judge took account of the complaint, it will be concluded that the complaint was not based on concrete and convincing evidence;
 - a study of complaint No.2003/5222 Hz. shows that the complaint is far from convincing, since it was lodged on 06.03.2003, two years after the date on which the incident occurred;
- b. In 2004:
- i. the Diyarbakır Chief Public Prosecutor's Office opened preliminary investigations in respect of six complaints alleging torture under Article 243 of the Turkish Criminal Code;
 - ii. with regard to two of these complaints, it decided not to prosecute on the grounds that there was not enough evidence to warrant a prosecution;

- iii. with regard to three complaints registered under preliminary investigation Nos.2004/961, 2004/5712 and 2004/14186, and currently being examined by the public prosecutor's office:
 - a study of complaint No.2004/961 Hz. shows that the nature of the application has nothing to do with the allegation of torture and ill-treatment during custody and interrogation; it concerns a dispute that broke out when police asked individuals for identification during an attempt to hold an unauthorised press conference for protest purposes; the complaint was printed and was lodged collectively;
 - a study of complaint No.2004/5712 Hz. shows that A. D., sentenced for the offence of membership of the Hesbollah terrorist organisation and held in Mardin E-type Closed Prison, complained at his hearing before the Diyarbakır No.4 State Security Court on 11.03.2004 that he had been tortured and ill-treated while in custody on 14.09.2001; the fact that he lodged such a complaint almost three years after the date of the incident is far from convincing;
 - the content of complaint No.2004/14186 Hz. clearly concerns the Bağırvar Gendarmerie Station Command;
- iv. a study of the file registered under No.2004/18934 Hz., with a request for proceedings to be brought under indictment No.2004/457, shows that the alleged offence was committed between 9 and 18.04.2001; the fact that the subject of this complaint was raised about three and a half years after that date, without any concrete evidence being adduced, is far from convincing.

As will be clear from the above explanations, the allegations of torture and ill-treatment forwarded to the Diyarbakır Chief Public Prosecutor's Office are far from convincing, the complaints were lodged a very long time after the dates on which the persons concerned alleged that they had been ill-treated and there was no concrete evidence warranting the opening of an investigation; after investigation by the public prosecutor's office it was therefore decided not to prosecute in respect of these complaints.

4. By letter No.1249 addressed to the Inspectorate on 10.12.2004, the Diyarbakır Provincial Health Directorate said that no cases of torture had been referred to any medical establishments in Diyarbakır; no offences of the kind had been reported and doctors responsible for performing forensic medical duties complied with the rules governing general medicine and forensic medicine.

5. By letter No.11.01-2004 addressed to the Inspectorate on 08.12.2004, the Diyarbakır Police Directorate said that:

- in 2003 three investigations had been opened with regard to allegations of torture; decisions not to prosecute had been taken at both judicial and administrative level in these investigations; nine investigations had been opened into allegations of ill-treatment; decisions not to prosecute had been given at judicial level in five of these cases, an acquittal had been given in one case and the investigations were pending in three cases;

- in 2004 nine investigations had been opened into allegations of torture and ill-treatment; decisions not to prosecute had been given in three of these investigations, an acquittal had been given in one and five of the investigations were pending;
- detained persons were informed of their statutory rights and were not subjected to any form of torture or ill-treatment; medical certificates were drawn up in accordance with the rules governing medical examinations;
- personnel were given training in human rights and human rights violations, and public meetings were held to strengthen relations between the police and the public and prevent human rights violations.

6. H.A., C.B., N.T., V.U., N.T., E.F., A.O., M.A., Ö.D. and H.S., randomly selected from the list of persons detained, interrogated and taken to the public prosecutor's office by the Law and Order Department of Diyarbakır Police Headquarters in 2003, stated, after receiving guarantees that they would not be in any danger, be subjected to ill-treatment or incur any liability, that when taken into custody by officials of the Law and Order Department of Police Headquarters they had been informed of their statutory rights, that their needs had been met during custody, that they had not been subjected to any form of beating, coercion or violence during interrogation and that during their medical examinations they had remained alone with the doctor.

7. The Head of the Pickpocketing and Theft Section of the Diyarbakır Law and Order Department said in his statement that detained persons were definitely not tortured or ill-treated; medical certificates were drawn up both before and after custody in accordance with the rules governing medical examinations; efforts were made to apprehend suspects on the basis of the evidence obtained during investigations and the allegations were groundless.

8. The Head of the Armed Robbery Section of the Law and Order Department of Diyarbakır Police Headquarters, said in his statement that the accusations were groundless; personnel acted in accordance with the laws and regulations concerning detained persons and suspects from whom statements were taken, and they did not commit any act of torture or ill-treatment.

It has not been possible to obtain any concrete information, findings or evidence substantiating the allegations made in the CPT report to the effect that acts of torture and ill-treatment were committed in the Law and Order Department of Diyarbakır Police Headquarters. We therefore conclude that these allegations are not proved.

In conclusion, it has not been possible to obtain any concrete information, findings or evidence substantiating the allegations listed in paragraph 13 of the report drawn up after the CPT's fact-finding visit to Gaziantep province in March 2004, to the effect that persons detained by the Smuggling, Trafficking and Organised Crime Department were ill-treated, that detained persons' statements were taken until late at night by the Law and Order Department without any written records being kept and that in the Anti-Terror Department detained persons were ill-treated by personnel and medical examinations were not conducted in compliance with the rules, or the allegations made in paragraph 9 of the report drawn up after the CPT's fact-finding visit to Diyarbakır province in September 2003, to the effect that persons detained by the Law and Order Department of Diyarbakır Police Headquarters on charges of armed robbery and theft were tortured through the administration of electric shocks and ill-treated. We therefore conclude that there are no grounds for opening a judicial or administrative investigation in respect of any officials in post in the units concerned of Gaziantep or Diyarbakır Police Headquarters.

**REPUBLIC OF TURKEY
MINISTRY OF THE INTERIOR**

Private Office

No.: B050ÖKM0000011-12/1315

17/08/2004

Subject: Civil disturbances and the principles of intervention

CIRCULAR 2004/129

TO THE DIRECTORATE GENERAL OF SECURITY

- Re:** a. “Civil Disturbances and the Principles of Intervention” issued by the Gendarmerie Central Command under No.JGYY:164-115;
b. Circular No.523-3657-93 issued by the Directorate General of Security on 12/05/2003;
c. Letter No.72/51 of 15/04/2002 from the Directorate General of Security;
d. Letter No.1399-825 of 23/05/2001 from the Directorate General of Security;
f. Information note from the Rapid Reaction Force Department of the Law and Order Division;
g. Unnumbered letter of 07/04.2001 from the Directorate General of Security.

In order to be a respected part of the modern world, it is necessary to respect human rights and apply international human rights standards, which are regarded as an indication of this. The modern concept of the rule of law implies acceptance of the fact that citizens have fundamental rights, but also includes responsibility for establishing, developing and protecting those rights. Besides other fundamental rights and freedoms, our country, which possesses a democratic regime, has therefore endeavoured to bring the right of assembly and the right to hold demonstrations into line with modern criteria, and will continue to do so.

From time to time the press and audiovisual media broadcast undesirable pictures and reports of interventions in civil disturbances, and this paves the way for the formation of unfair opinions on our country and our law enforcement agencies. As of now, reducing to a minimum the number of cases in which officials exceed the limits of their authority to use force, and if possible doing away with such cases altogether, will be one of the top priorities of provincial governors, who are responsible for the peace, for our citizens’ well-being and for public order.

In the light of these considerations:

1. Provincial governors and the top-ranking officials of our provincial law enforcement agencies will reappraise the principles set out in those of the above-mentioned documents that concern their units and will take all the necessary administrative steps to implement the arrangements provided for in the above orders.

2. The annual training programmes on intervention in civil disturbances drawn up by the Gendarmerie Central Command and the Directorate General of Security will be meticulously implemented as scheduled, without disruption.

3. Provincial governors and the top-ranking officials of the provincial law enforcement agencies will seek to discover the root causes (which may relate to psychological, family or training factors, working conditions or other factors) underlying the disproportionate use of force during intervention in civil disturbances and will seek ways of removing those causes. To this end, where necessary, they will commission databases likely to be of use in determining the types of demonstrations and marches and the forms of intervention occurring in their provinces; where necessary, they will seek ways of co-operating with civil society organisations, universities and other state institutions. They will transmit the work done and the results obtained to the Ministry so that the other provinces may also be informed of them. On this point, they will look for ways of making use of the documentary resources of the special provincial authorities and other local authorities, in accordance with the relevant legislation.

4. The necessary administrative and disciplinary steps will be taken immediately in respect of personnel who fail to comply with the principles and procedures set out in the above-mentioned documents and those who are found to have used disproportionate force when intervening in civil disturbances. The provincial governors, gendarmerie commanders and police directors will be personally responsible for ensuring that these steps are taken. The results of disciplinary procedures will be sent to the Human Rights Enquiry Bureau of the Ministry's Civil Service Inspection Board. The Head Office of the Inspection Board will meticulously examine the reports received.

5. If there are allegations or complaints that the law enforcement agencies have seriously exceeded their authority to use force when intervening in civil disturbances, or if the public becomes aware of offensive or disturbing acts committed in the course of an intervention, all the information, documents, pictures and other supporting material, together with the provincial governor's personal assessment and views on the subject, will be sent immediately to the Ministry's Civil Service Inspection Board, without being requested, to serve as the basis for assessment of the matter.

6. If the Human Rights Enquiry Bureau of the Ministry's Inspection Board, on examining and assessing the information and documents sent to it by the provinces in accordance with paragraph 4 or 5, concludes that inadequate or incomplete steps have been taken, it will immediately initiate the necessary procedures under the provisions of Circular No.2004/70 issued by the Inspection Board. It will also establish during the examination, enquiry and/or investigation whether the steps indicated in the above paragraphs were taken and whether the senior civil servants and top-ranking law enforcement officials have a responsibility in the matter.

Please take the requisite action.

(signed)
Abdülkadir AKSU
Minister of the Interior

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- Prime Minister's Office
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Civ. Dist. Dept
19/08/2004
(signed)

SECUR. DEPT.
DIRECTOR GENERAL
(signed)

DIRECTORATE GENERAL OF
SECURITY
DOCUMENTS DEPARTMENT
18 August 2004
No.: 295024

APPENDIX 3

PERSONNEL IN RESPECT OF WHOM JUDICIAL PROCEEDINGS WERE BROUGHT UNDER ART.243 OF TCC (TORTURE)
BETWEEN 1 JANUARY 1995 AND 31 DECEMBER 2004 (DATE OF OFFENCE)

Branch	Outcome	YEAR										TOTAL
		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	
General duties	Suspended sentence under Law No.4616	1			11	4						16
	Acquittal	31	54	61	69	75	43	27	37	32	3	432
	Imprisonment	10	8	10	8	5	12	2	1	1		57
	Trial pending			1	5	26	11	43	62	30	6	184
	Charges dismissed by court	6	10	7	7	3	6					39
	Decision not to prosecute	5	11	9	1	14	37	66	228	57	4	432
	Suspended sentence under Law No.4616	1										1
Anti-Terror	Acquittal	17	52	8	19	3	8	8	20			135
	Imprisonment	16	4		1	1	1					23
	Trial pending			4		12	1	17	18	6		58
	Charges dismissed by court	1	7	2	2	3						15
	Decision not to prosecute	13	9	10	6	24	9	27	47	17		162
TOTAL		101	155	112	129	170	128	190	413	143	13	1554

TOTAL PERSONNEL IN RESPECT OF WHOM PROCEEDINGS WERE BROUGHT

Outcome	YEAR											TOTAL
	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004		
Suspended sentence under Law No.4616	2	0	0	11	4	0	0	0	0	0	17	
Acquittal	48	106	69	88	78	51	35	57	32	3	567	
Imprisonment	26	12	10	9	6	13	2	1	1	0	80	
Trial pending	0	0	5	5	38	12	60	80	36	6	242	
Charges dismissed by court	7	17	9	9	6	6	0	0	0	0	54	
Decision not to prosecute	18	20	19	7	38	46	93	275	74	4	594	
TOTAL	101	155	112	129	170	128	190	413	143	13	1554	

CONSISTENT WITH OUR COMPUTER RECORDS

29.12.2004

Hüseyin BALTACI
No.97580
Police Officer

PERSONNEL IN RESPECT OF WHOM DISCIPLINARY PROCEEDINGS WERE BROUGHT UNDER ART.243 OF TCC (TORTURE)
BETWEEN 1 JANUARY 1995 AND 31 DECEMBER 2004 (DATE OF OFFENCE)

Branch	Outcome	YEAR												TOTAL
		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004			
General duties	No grounds for penalty	33	55	53	66	81	53	104	322	125	5	897		
	Loss of one day's salary		1									1		
	Reprimand						2					2		
	Short-term suspension								1			1		
	Dismissal from police force						1		2			3		
Anti-Terror	Long-term suspension	1							5	1		7		
	No grounds for penalty	18	24	19	24	6	10	31	59	14		205		
	TOTAL	52	80	72	90	87	66	135	389	140	5	1116		

TOTAL PERSONNEL IN RESPECT OF WHOM PROCEEDINGS WERE BROUGHT

Outcome	YEAR										TOTAL
	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	
No grounds for penalty	51	79	72	90	87	63	135	381	139	5	1102
Loss of one day's salary	0	1	0	0	0	0	0	0	0	0	1
Reprimand	0	0	0	0	0	2	0	0	0	0	2
Short-term suspension	0	0	0	0	0	0	0	1	0	0	1
Dismissal from police force	0	0	0	0	0	1	0	2	0	0	3
Long-term suspension	1	0	0	0	0	0	0	5	1	0	7
TOTAL	52	80	72	90	87	66	135	389	140	5	1116

CONSISTENT WITH OUR COMPUTER RECORDS

29.12.2004

Hüseyin BALTACI
No.97580
Police Officer

PERSONNEL IN RESPECT OF WHOM JUDICIAL PROCEEDINGS WERE BROUGHT UNDER ART.245 OF TCC
(ILL-TREATMENT) BETWEEN 1 JANUARY 1995 AND 31 DECEMBER 2004 (DATE OF OFFENCE)

Branch	Outcome	YEAR											TOTAL
		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004		
General duties	Suspended sentence under Law No.4616	46	111	185	614	133		1	1			1091	
	Acquittal	94	200	222	194	193	353	199	277	223	5	1960	
	Imprisonment	38	60	26	33	81	70	43	30	15	1	397	
	Trial pending	4	12	23	37	104	182	187	516	475	152	1692	
	Charges dismissed by court	214	374	360	325	321	16					1610	
	Decision not to prosecute	85	58	67	72	169	335	374	479	443	67	2149	
Anti-Terror	Suspended sentenced under Law No.4616	20	11	32	34	15						112	
	Acquittal	30	50	76	79	28	15	20	12	4	1	315	
	Imprisonment	1	2	2		6	3	1				15	
	Trial pending	2	6	11	1	6	8	14	18	12	3	81	
	Charges dismissed by court	26	35	35	25	14	1					136	
	Decision not to prosecute	8	23	14	19	20	34	30	62	19	5	234	
TOTAL		568	942	1053	1433	1090	1017	869	1395	1191	234	9792	

TOTAL PERSONNEL IN RESPECT OF WHOM PROCEEDINGS WERE BROUGHT

Outcome	YEAR											TOTAL
	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004		
Suspended sentence under Law No.4616	66	122	217	648	148	0	1	1	0	0	1203	
Acquittal	124	250	298	273	221	368	219	289	227	6	2275	
Imprisonment	39	62	28	33	87	73	44	30	15	1	412	
Trial pending	6	18	34	38	110	190	201	534	487	155	1773	
Charges dismissed by court	240	409	395	350	335	17	0	0	0	0	1746	
Decision not to prosecute	93	81	81	91	189	369	404	541	462	72	2383	
TOTAL	568	942	1053	1433	1090	1017	869	1395	1191	234	9792	

CONSISTENT WITH OUR COMPUTER RECORDS

29.12.2004

Hüseyin BALTACI
No.97580
Police officer

PERSONNEL IN RESPECT OF WHOM DISCIPLINARY PROCEEDINGS WERE BROUGHT UNDER ART.245 OF TCC
(ILL-TREATMENT) BETWEEN 1 JANUARY 1995 AND 31 DECEMBER 2004 (DATE OF OFFENCE)

Branch	Outcome	YEAR												TOTAL
		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004			
General duties	No grounds for penalty	347	559	538	766	715	678	722	1209	1100	125		6759	
	Loss of one day's salary	4	6	8	4	5	3		5				35	
	Reprimand	4	3	3	1		2	1	1	1			16	
	Short-term suspension	5	7	22	13	50	22	30	32	10	10		201	
	Warning	7		1	1	1	2						12	
Anti-Terror	Long-term suspension	1	9	2	7	10	12	14	12	4	2		73	
	No grounds for penalty	32	134	94	102	95	24	84	46	55	4		670	
	Loss of one day's salary	2		3									5	
	Short-term suspension			3		2							5	
	TOTAL	402	718	674	894	878	743	851	1305	1170	141		7776	

TOTAL PERSONNEL IN RESPECT OF WHOM PROCEEDINGS WERE BROUGHT

Outcome	YEAR										TOTAL
	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	
No grounds for penalty	379	693	632	868	810	702	806	1255	1155	129	7429
Loss of one day's salary	6	6	11	4	5	3	0	5	0	0	40
Reprimand	4	3	3	1	0	2	1	1	1	0	16
Short-term suspension	5	7	25	13	52	22	30	32	10	10	206
Warning	7	0	1	1	1	2	0	0	0	0	12
Long-term suspension	1	9	2	7	10	12	14	12	4	2	73
TOTAL	402	718	674	894	878	743	851	1305	1170	141	7776

CONSISTENT WITH OUR COMPUTER RECORDS

29.12.2004

Hüseyin BALTACI

No.97580

Police officer

APPENDIX 4

TCC ART.243 AND ART.245 PRELIMINARY INVESTIGATION FILES IN CHIEF PUBLIC PROSECUTORS' OFFICES 2004 1st period

TYPE OF OFFENSE CHARGED	FILES REMAINING FROM PREVIOUS YEAR					FILES RECEIVED DURING THIS PERIOD							TOTAL NO. OF FILES RECEIVED				
	NO. OF FILES	NO. OF ACCUSED	PROFESSIONAL STATUS OF ACCUSED			NO. OF VICTIMS	NO. OF FILES	NO. OF ACCUSED	PROFESSIONAL STATUS OF ACCUSED			NO. OF VICTIMS	NO. OF FILES	NO. OF ACCUSED	PROFESSIONAL STATUS OF ACCUSED		NO. OF VICTIMS
			POLICE	GEND.	OTHER PUBLIC SERVANTS				POLICE	GEND.	OTHER PUBLIC SERVANTS				POLICE	GEND.	
TCC 243/1	247	450	397	38	15	502	130	255	221	28	6	194	705	618	66	21	696
TCC 243/2	14	20	17	3	0	14	9	16	11	3	2	9	36	28	6	2	23
TCC 245	578	1394	798	546	50	866	426	792	655	97	40	798	2186	1453	643	90	1664
TOTAL	839	1864	1212	587	65	1382	565	1063	887	128	48	1001	2927	2099	715	113	2383

TCC ART.243 AND ART.245 INVESTIGATIONS COMPLETED BY CHIEF PUBLIC PROSECUTORS' OFFICES

TYPE OF OFFENSE CHARGED	OUTCOME OF INVESTIGATION							PROFESSIONAL STATUS OF ACCUSED			NO. OF VICTIMS	FILES CARRIED OVER TO NEXT PERIOD						
	DECISION NOT TO PROSECUTE		PROSECUTION		OTHER DECISIONS			TOTAL		POLICE		GEND.	OTHER PUBLIC SERVANTS	NO. OF FILES	NO. OF ACCUSED	PROFESSIONAL STATUS OF ACCUSED		NO. OF VICTIMS
	NO. OF FILES	NO. OF ACCUSED	NO. OF FILES	NO. OF ACCUSED	NO. OF FILES	NO. OF ACCUSED	NO. OF FILES	NO. OF ACCUSED	POLICE							OTHER PUBLIC SERVANTS		
TCC 243/1	82	143	40	97	21	30	143	270	229	31	10	201	234	435	389	35	11	495
TCC 243/2	10	12	1	3	1	1	12	16	14	2	0	11	11	20	14	4	2	12
TCC 245	245	453	160	327	79	102	484	882	720	105	57	787	520	1304	733	538	33	877
TOTAL	337	608	201	427	101	133	639	1168	963	138	67	999	765	1759	1136	577	46	1384

TCC ART.243 AND ART.245 PRELIMINARY INVESTIGATION FILES IN CHIEF PUBLIC PROSECUTORS' OFFICES
2004 2nd period

TYPE OF OFFENSE CHARGED	FILES REMAINING FROM PREVIOUS PERIOD					FILES RECEIVED DURING THIS PERIOD					TOTAL NO. OF FILES RECEIVED				
	NO. OF FILES	NO. OF ACCUSED	PROFESSIONAL STATUS OF ACCUSED		NO. OF VICTIMS	NO. OF FILES	NO. OF ACCUSED	PROFESSIONAL STATUS OF ACCUSED		NO. OF VICTIMS	NO. OF FILES	NO. OF ACCUSED	PROFESSIONAL STATUS OF ACCUSED		NO. OF VICTIMS
			POLICE	GEND.				POLICE	GEND.				POLICE	GEND.	
TCC 243/1	234	439	393	35	11	170	353	287	55	11	245	404	680	90	740
TCC 243/2	11	20	14	4	2	5	5	3	0	2	5	16	17	4	17
TCC 245	520	1300	729	538	33	461	1062	834	151	77	626	981	1563	689	1503
TOTAL	765	1759	1136	577	46	636	1420	1124	206	90	876	1401	2260	783	2260

TCC ART.243 AMD ART.245 INVESTIGATIONS COMPLETED BY CHIEF PUBLIC PROSECUTORS' OFFICES

TYPE OF OFFENSE CHARGED	OUTCOME OF INVESTIGATION								PROFESSIONAL STATUS OF ACCUSED			NO. OF VICTIMS	FILES CARRIED OVER TO NEXT PERIOD					
	DECISION NOT TO PROSECUTE		PROSECUTION		OTHER DECISIONS			TOTAL		POLICE	GEND.		OTHER PUBLIC SERVANTS	NO. OF FILES	NO. OF ACCUSED	PROFESSIONAL STATUS OF ACCUSED		NO. OF VICTIMS
	NO. OF FILES	NO. OF ACCUSED	NO. OF FILES	NO. OF ACCUSED	NO. OF FILES	NO. OF ACCUSED	NO. OF FILES	NO. OF ACCUSED	POLICE							GEND.	OTHER PUBLIC SERVANTS	
TCC 243/1	65	140	50	170	52	72	167	382	320	48	14	254	237	410	360	42	8	486
TCC 243/2	10	13	1	2	0	0	11	15	13	0	2	12	5	10	4	4	2	5
TCC 245	213	439	176	359	89	122	478	920	729	127	64	642	503	1442	834	562	46	861
TOTAL	288	592	227	531	141	194	656	1317	1062	175	80	908	745	1862	1198	608	56	1352

TCC ART.243 AND ART.245 PRELIMINARY INVESTIGATION FILES IN CHIEF PUBLIC PROSECUTORS' OFFICES
2004 3rd period

TYPE OF OFFENSE CHARGED	FILES REMAINING FROM PREVIOUS YEAR						FILES RECEIVED DURING THIS PERIOD						TOTAL NO. OF FILES RECEIVED				
	NO. OF FILES	NO. OF ACCUSED	PROFESSIONAL STATUS OF ACCUSED			NO. OF VICTIMS	NO. OF FILES	NO. OF ACCUSED	PROFESSIONAL STATUS OF ACCUSED			NO. OF VICTIMS	NO. OF FILES	NO. OF ACCUSED	PROFESSIONAL STATUS OF ACCUSED		
			POLICE	GEND.	OTHER PUBLIC SERVANTS				POLICE	GEND.	OTHER PUBLIC SERVANTS				POLICE	GEND.	OTHER PUBLIC SERVANTS
TCC 243/1	237	406	356	42	8	486	119	281	246	33	2	162	356	687	602	75	10
TCC 243/2	5	10	4	4	2	5	12	16	10	0	6	13	17	26	14	4	8
TCC 245	503	1446	838	562	46	861	445	785	665	76	44	595	948	2231	1503	638	90
TOTAL	745	1862	1198	608	56	1352	576	1082	921	109	52	770	1321	2944	2119	717	108

TCC ART.243 AND ART.245 INVESTIGATIONS COMPLETED BY CHIEF PUBLIC PROSECUTORS' OFFICES

TYPE OF OFFENSE CHARGED	OUTCOME OF INVESTIGATION							NO. OF VICTIMS	PROFESSIONAL STATUS OF ACCUSED				FILES CARRIED OVER TO NEXT PERIOD					
	DECISION NOT TO PROSECUTE		PROSECUTION		OTHER DECISIONS		TOTAL		POLICE	GEND.	OTHER PUBLIC SERVANTS	NO. OF FILES	NO. OF ACC USED	PROFESSIONAL STATUS OF ACCUSED		NO. OF VICTIM S		
	NO.OF FILES	NO.OF ACCUSED	NO. OF FILES	NO. OF ACCUSED	NO. OF FILES	NO. OF ACCUSED	NO. OF FILES							NO. OF ACCUSED	POLICE		GEND.	OTHER PUBLIC SERVANTS
TCC 243/1	57	136	31	120	22	50	110	306	278	22	6	171	246	381	324	53	4	477
TCC 243/2	6	8	3	5	0	0	9	13	9	0	4	9	8	13	5	4	9	12
TCC 245	127	346	83	161	54	82	264	589	472	76	41	394	684	1642	1031	562	49	1062
TOTAL	190	490	117	286	76	132	383	908	759	98	51	574	938	2036	1360	619	57	1548

TCC ART.243 AND ART.245 PRELIMINARY INVESTIGATION FILES IN CHIEF PUBLIC PROSECUTORS' OFFICES
2004

TYPE OF OFFEN CE CHARG ED	FILES REMAINING FROM PREVIOUS YEAR					FILES RECEIVED DURING THIS YEAR					TOTAL NO. OF FILES RECEIVED						
	NO. OF FILES	NO. OF ACCUS ED	PROFESSIONAL STATUS OF ACCUSED			NO. OF VICTIMS	NO. OF FILES	NO. OF ACCUS ED	PROFESSIONAL STATUS OF ACCUSED			NO. OF FILES	NO. OF ACCUS ED	PROFESSIONAL STATUS OF ACCUSED			NO. OF VICTI MS
			POLICE	GEND.	OTHER PUBLIC SERVA NTS				POLICE	GEND.	OTHER PUBLIC SERVA NTS			POLICE	GEND.	OTHER PUBLIC SERVA NTS	
TCC 243/1	247	450	397	38	15	502	419	889	754	116	19	601	1339	1151	154	34	1103
TCC 243/2	14	20	17	3	0	14	26	37	24	3	10	27	40	41	6	10	41
TCC 245	578	1394	798	546	50	866	1332	2639	2154	324	161	2019	1910	2952	870	211	2885
TOTAL	839	1846	1212	587	65	1382	1777	3565	2932	443	190	2647	5429	4144	1030	255	4029

TCC ART.243 AND ART.245 INVESTIGATIONS COMPLETED BY CHIEF PUBLIC PROSECUTORS' OFFICES

TYPE OF OFFEN CE CHARG ED	OUTCOME OF INVESTIGATION								PROFESSIONAL STATUS OF ACCUSED			NO. OF VICTIM S	FILES CARRIED OVER TO NEXT YEAR					
	DECISION NOT TO PROSECUTE		PROSECUTION		OTHER DECISIONS		TOTAL		POLICE	GEND.	OTHER PUBLIC SERVANTS		NO. OF FILES	NO. OF ACCUS ED	PROFESSIONAL STATUS OF ACCUSED		NO. OF VICTIM S	
	NO OF FILES	NO OF ACCUSED	NO. OF FILES	NO. OF ACCUSED	NO. OF FILES	NO. OF ACCUSED	NO. OF FILES	NO. OF ACCUSED							POLICE	OTHER PUBLIC SERVAN TS		
TCC 243/1	204	419	121	387	95	152	420	958	827	101	30	626	246	381	324	53	4	477
TCC 243/2	26	33	5	10	1	1	32	44	36	2	6	32	8	13	5	4	4	9
TCC 245	585	1238	419	847	222	306	1226	2391	1921	308	162	1823	684	1642	1031	562	49	1062
TOTAL	815	1690	545	1244	318	459	1678	3393	2784	411	198	2481	938	2036	1360	619	57	1548

NOTE: INCLUDES DATA FOR FIRST 3 PERIODS OF 2004 (JANUARY-SEPTEMBER)

DISTRIBUTION OF TCC ART.243 AMD ART.245 CASES BEFORE THE CRIMINAL COURTS
2004 1st period

ALL CRIMINAL COURTS

TYPE OF OFFENCE CHARGED	CASES REMAINING FROM PREVIOUS PERIOD				CASES BROUGHT DURING THIS PERIOD				CASES REFERRED AFTER DECISIONS WERE SET ASIDE				TOTAL RECEIVED											
	No. of cases	No. of accused	PROFESSIONAL STATUS OF ACCUSED			No. of victims	No. of cases	No. of accused	PROFESSIONAL STATUS OF ACCUSED			No. of cases	No. of accused	PROFESSIONAL STATUS OF ACCUSED			No. of victims							
			Police	Gend.	Other public servants				Police	Gend.	Other public servants			Police	Gend.	Other public servants								
TCC 243/1	194	1028	497	522	9	338	55	179	151	22	6	77	1	2	2	0	0	1	250	1209	650	544	15	416
TCC 243/2	7	28	26	2	0	7	0	0	0	0	0	0	0	0	0	0	0	0	7	28	26	2	0	7
TCC 245	897	2489	1899	474	116	1567	230	684	570	80	34	415	5	11	8	3	0	5	1132	3184	2477	557	150	1987
TOTAL	1098	3545	2422	998	125	1912	285	863	721	102	40	492	6	13	10	3	0	6	1389	4421	3153	1103	165	2410

CASES DEALT WITH DURING THIS PERIOD

TYPE OF OFFENCE CHARGED	No. of cases	No. of accused	PROFESSIONAL STATUS OF ACCUSED			TYPES OF DECISION CONCERNING ACCUSED IN COMPLETED CASES								No. of accused receiving suspended sentences	No. of victims	CASES CARRIED OVER TO NEXT PERIOD						
						Convictions							Total no. of accused convicted								No. of accused acquitted	No. of accused other decisions
			Police	Gend.	Other public servants	Imprisonment	Fine	Imprisonment and fine	Other measures													
TCC 243/1	46	540	105	433	2	10	4	0	0	14	28	86	426	540	16	73	204	669	545	111	13	343
TCC 243/2	2	12	12	0	0	4	0	0	0	0	4	8	0	12	0	2	5	16	14	2	0	5
TCC 245	154	441	318	112	11	12	15	2	2	50	79	328	34	441	28	264	978	2743	2159	445	139	1723
TOTAL	202	993	435	545	13	26	19	2	2	64	111	422	460	993	44	339	1187	3428	2718	558	152	2071

TYPE OF OFFENCE CHARGED	CASES REMAINING FROM PREVIOUS PERIOD				CASES BROUGHT DURING THIS PERIOD				CASES REFERRED AFTER DECISIONS WERE SET ASIDE				TOTAL RECEIVED											
	No. of cases	No. of accused	PROFESSIONAL STATUS OF ACCUSED			No. of cases	No. of accused	PROFESSIONAL STATUS OF ACCUSED			No. of cases	No. of accused	PROFESSIONAL STATUS OF ACCUSED											
			Police	Gend.	Other public servants			Police	Gend.	Other public servants			Police	Gend.	Other public servant									
TCC 243/1	204	669	545	111	13	343	60	221	185	35	1	84	7	13	9	4	0	10	271	903	739	150	14	437
TCC 243/2	5	16	14	2	0	5	1	3	3	0	0	2	0	0	0	0	0	0	6	19	17	2	0	7
TCC 245	978	2743	2159	445	139	1723	268	844	734	71	39	461	4	8	4	4	0	4	1250	3595	2897	520	178	2188
TOTAL	1187	3428	2718	558	152	2071	329	1068	922	106	40	547	11	21	13	8	0	14	1527	4517	3653	672	192	2632

CASES DEALT WITH DURING THIS PERIOD

TYPE OF OFFENCE CHARGED	No. of cases	No. of accused	PROFESSIONAL STATUS OF ACCUSED			TYPES OF DECISION CONCERNING ACCUSED IN COMPLETED CASES								No. of accused receiving suspended sentences	No. of victims	CASES CARRIED OVER TO NEXT PERIOD					
			Police	Gend.	Other public servants	Convictions					Total no. of accused convicted	No. of accused acquitted	No. of accused : other decisions			Total	No. of cases	No. of accused	PROFESSIONAL STATUS OF ACCUSED		
						Imprisonment	Fine	Imprisonment and fine	Other measures												
TCC 243/1	44	148	132	11	5	4	2	0	14	20	119	9	148	0	55	227	755	607	139	9	382
TCC 243/2	2	5	3	2	0	0	0	0	0	0	5	0	5	0	2	4	14	14	0	0	5
TCC245	212	527	433	76	18	22	23	8	66	119	261	147	527	25	279	1038	3068	2464	444	160	1909
TOTAL	258	680	568	89	23	26	25	8	80	139	385	156	680	25	336	1269	3837	3085	583	169	2296

DISTRIBUTION OF TCC ART.243 AMD ART.245 CASES BEFORE THE CRIMINAL COURTS
2004 3rd period

ALL CRIMINAL COURTS

TYPE OF OFFENCE CHARGED	CASES REMAINING FROM PREVIOUS PERIOD						CASES BROUGHT DURING THIS PERIOD						CASES REFERRED AFTER DECISIONS WERE SET ASIDE						TOTAL RECEIVED								
	No. of cases		No. of accused		PROFESSIONAL STATUS OF ACCUSED			No. of victims		No. of cases		No. of accused		PROFESSIONAL STATUS OF ACCUSED			No. of cases		No. of accused		PROFESSIONAL STATUS OF ACCUSED			No. of victims			
					Police	Gend.	Other public servants							Police	Gend.	Other public servants					Police	Gend.	Other public servant				
TCC 243/1	227	755	607	139	9	382	29	90	55	34	1	41	1	405	0	405	0	405	0	0	1	257	1250	662	578	10	424
TCC 243/2	4	14	14	0	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	14	14	0	0	5	
TCC 245	1038	3068	2464	444	160	1909	159	367	310	32	25	218	7	11	10	1	10	1	0	7	1204	3446	2784	477	185	2134	
TOTAL	1269	3837	3085	583	169	2296	188	457	365	66	26	259	8	416	10	406	0	416	0	8	1465	4710	3460	1055	195	2563	

CASES DEALT WITH DURING THIS PERIOD

TYPE OF OFFENCE CHARGED	No. of cases		No. of accused		TYPES OF DECISION CONCERNING ACCUSED IN COMPLETED CASES										No. of accused receiving suspended sentences		No. of victims		CASES CARRIED OVER TO NEXT PERIOD				
					PROFESSIONAL STATUS OF ACCUSED			Convictions				Total no. of accused convicted	No. of accused acquitted	No. of accused other decisions					Total			No. of cases	No. of accused
	Police	Gend.	Other public servants	Imprisonment	Fine	Imprisonment and fine	Other measures	Police	Gend.	Other public servants													
	TCC 243/1	28	61	48	13	0	0	0	7	10	49	2	61	2	32	229	1189	614	565	10	392		
TCC 243/2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	14	14	0	0	5			
TCC 245	137	367	311	33	8	12	0	65	85	238	44	367	22	216	1067	3079	2473	444	162	1918			
TOTAL	165	428	359	46	23	12	0	72	95	287	46	428	24	248	1300	4282	3101	1009	172	2315			

DISTRIBUTION OF TCC ART.243 AMD ART.245 CASES BEFORE THE CRIMINAL COURTS
2004

ALL CRIMINAL COURTS

TYPE OF OFFENCE CHARGED	CASES REMAINING FROM PREVIOUS YEAR				CASES BROUGHT DURING THIS YEAR				CASES REFERRED AFTER DECISIONS WERE SET ASIDE				TOTAL RECEIVED											
	No. of cases	PROFESSIONAL STATUS OF ACCUSED			No. of victims	No. of cases	No. of accused	PROFESSIONAL STATUS OF ACCUSED			No. of cases	No. of accused	No. of cases	PROFESSIONAL STATUS OF ACCUSED										
		Police	Gend.	Other public servants				Police	Gend.	Other public servants				Police	Gend.	Other public servant								
TCC 243/1	194	1028	497	522	9	338	144	490	391	91	8	202	9	420	11	409	0	12	347	1938	899	1022	17	552
TCC 243/2	7	28	26	2	0	7	1	3	3	0	0	2	0	0	0	0	0	0	8	31	29	2	0	9
TCC 245	897	2489	1899	474	116	1567	657	1895	1614	183	98	1094	16	30	22	8	0	16	1570	4414	3535	665	214	2677
TOTAL	1098	3545	2422	998	125	1912	802	2388	2008	274	106	1298	25	450	33	417	0	28	1925	6383	4463	1689	231	3238

CASES DEALT WITH DURING THIS YEAR

TYPE OF OFFENCE CHARGED	No. of cases	No. of accused	PROFESSIONAL STATUS OF ACCUSED			TYPES OF DECISION CONCERNING ACCUSED IN COMPLETED CASES								No. of accused receiving suspended sentences	No. of victims	CASES CARRIED OVER TO NEXT YEAR					
			PROFESSIONAL STATUS OF ACCUSED			Convictions					No. of cases					PROFESSIONAL STATUS OF ACCUSED					
						Police	Gend.	Other public servants	Imprisonment	Fine									Imprisonment and fine	Other measures	Total no. of accused convicted
TCC 243/1	118	749	285	457	7	17	6	0	35	58	254	437	749	18	160	229	1189	614	565	10	392
TCC 243/2	4	17	15	2	0	4	0	0	0	4	13	0	17	0	4	4	14	14	0	0	5
TCC 245	503	1335	1062	221	52	42	50	10	181	283	827	225	1335	75	759	1067	3079	2473	444	162	1918
TOTAL	625	2101	1362	680	59	63	56	10	216	345	1094	662	2101	93	923	1300	4282	3101	1009	172	2315

NOTE: INCLUDES DATA FOR FIRST 3 PERIODS OF 2004 (JANUARY-SEPTEMBER)

APPENDIX 5

STATISTICS ON THE SITUATION CONCERNING ACCESS TO A LAWYER BY PERSONS DETAINED BY ANTI-TERROR
DEPARTMENTS AND SMUGGLING, TRAFFICKING AND ORGANISED CRIME DEPARTMENTS BETWEEN 01.01.2004 AND
31.10.2004

(JURISDICTION: ASSIZE COURTS UNDER LAW NO.5190)

DEPARTMENTS	NUMBER OF SUSPECTS REQUESTING AND GRANTED ACCESS TO A LAWYER	NUMBER OF SUSPECTS NOT REQUESTING ACCESS TO A LAWYER	NUMBER OF SUSPECTS DETAINED FOR OFFENCES WITHIN THE JURISDICTION OF THE STATE SECURITY COURTS
ANTI-TERROR DEPARTMENTS	1791	1244	3035
SMUGGLING, TRAFFICKING AND ORGANISED CRIME DEPARTMENTS	1272	1675	2947
TOTAL NUMBER OF PERSONS	3063	2919	<u>5982</u>

IMPORTANT WARNING!!! • This card was drawn up under Article 19 of the Constitution, Articles 5 and 6 of the European Convention on Human Rights, Article 128 of the Code of Criminal Procedure (Law No.1412), Section 13 of Law No.2559 on Police Duties and Powers and Article 6 of the Regulations on Apprehension, Custody and Taking of Statements. • Failure to inform apprehended persons of their rights, or failure to inform them in full and without delay, may make the apprehension procedure “illegal”. Every illegal procedure will give rise to “legal responsibility” in the individual sense. • It must be remembered that compensation which the State is ordered to pay either by our domestic courts or by the European Court of Human Rights will be recovered, under Article 40 of the Constitution, from the official who conducted the procedure. So when you apprehend someone, <u>ALWAYS INFORM THEM OF THEIR STATUTORY RIGHTS</u> and record the fact in writing! ... DGS LAW AND ORDER DEPARTMENT	RIGHTS TO BE NOTIFIED WHEN APPREHENDING SOMEONE 1. You have been apprehended because (...). 2. The allegations against you are: (...). 3. You have the right to remain silent, but you are obliged to answer questions on your identity truthfully. 4. You have the right of access to a lawyer. 5. If you are not in a position to appoint a lawyer, you may receive legal assistance from a lawyer appointed by the bar association. 6. Your legal next-of-kin will be informed that you have been apprehended. Informing a person of your choice other than your next-of-kin will be subject to the public prosecutor’s decision. 7. You have the right to object to your apprehension. Your written application will be forwarded to the judge with jurisdiction in the matter without delay. 8. You may put forward arguments in your favour. 9. Before giving a statement you have the right to see and speak to your lawyer. 10. If you wish, your lawyer will be present during the taking of a statement.
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A.

GENERAL FORENSIC EXAMINATION REPORT

Report No.: Date and time of report:

TO: CHIEF PUBLIC PROSECUTOR'S OFFICE
..... POLICE DEPARTMENT/DIRECTORATE
..... GENDARMERIE COMMAND

Issuing authority:	First name/surname of person examined:
Date of official letter:	Father's name:
No. of official letter:	Place/date of birth:
	Sex: ☐ Female ☐ Male
Serial No.:	Occupation:
First name/surname	Left arm stamped: ☐ Yes ☐ No
Of law enforcement official bringing person for examination	
Medical identity of person examined (to be filled in for persons who do not have a valid identity document)	
.....	

Date of incident:	Time of incident:
Account of incident (Allegations concerning the manner in which the incident occurred to be written in the examined person's own words)	
.....	
.....	
.....	
.....	
.....	
Complaints by the person examined (Physical and psychological complaints arising after the incident to be described in the examined person's own words)	
.....	
.....	
.....	
.....	
Person's medical history:	
.....	
.....	
.....	
Family medical history:	
.....	
.....	
.....	
...	
Date of examination:	Time of examination:
Examination findings (Tick area of injury, indicate injuries on diagram and describe characteristics of injuries)	
Head-neck ☐ Chest ☐ Abdomen ☐ Back ☐ Upper limbs ☐ Lower limbs ☐ Genitals ☐	
.....	
.....	
.....	

*System examinations (Tick system relating to findings and explain)

Central nervous system ☐ Cardiovascular System ☐ Respiratory system ☐ Digestive system ☐ Urogenital system ☐ Bone muscle system ☐ + Sensory systems ☐

.....
.....
.....

* Psychiatric examination (If you diagnose one or more of the symptoms below, request a psychiatric consultation or state your views

Anxiety (Fear Panis, agitation etc.) ☐ Depression (Sadness, pessimism memory problems, sleep problems etc.) ☐ Psychotic symptoms (Hallucinations, delirium etc.) ☐ Awareness disorders (Confusion, etc.) ☐

.....
.....
.....

* Consultation (If consultation is unnecessary, opinion of the examining doctor)

.....
.....
...

Consulting doctor: Dr. Signature:

Diploma No.: Stamp:

* Tests (Tick those of the tests shown below that you have requested and state the results)

Laboratory ☐ Direct ☐ Computer ☐ Ultrasound ☐ Scintigraphy ☐ Biopsy ☐ Other ☐
graphology ☐ tomography ☐ scan ☐

.....
.....
.....

CONCLUSION

Dr. Signature:
Diploma No.: Stamp:

First name/surname of the official receiving the report: Serial No.:
Institution to which he belongs: Date: Time:

* Steps to be taken as considered necessary by the doctor on the basis of the occurrence, allegations, request or examination findings.

GENERAL FORENSIC EXAMINATION REPORT

Serial No.:

APPENDIX 8

NUMBER OF PERSONS TAKING PART IN COMMUNAL ACTIVITIES IN F-TYPE AND D-TYPE PRISONS
10.01.2005

№	Prison	TODAY														NUMBER OF PERSONS USING COMMUNAL AREAS TO DATE	
		POPULATION		WORKSHOPS		SPORT		LIBRARY				ASSOCIATION		TELEPHONE		PERSONS USING COMMUNAL AREAS	
		Terror	4422	Terror	4422	Terror	4422	Terror	BB	GL	4422	BB	GL	Terror	4422	Terror	4422
1	Adana F	177	91	-	-	73	3	10	17	-	3	-	-	-	80	4	115
2	Ankara 1 F	98	112	1	15	1	22	2	2	2	7	14	-	6	22	12	110
3	Ankara 2 F	173	36	48	-	80	-	70	59	1	3	93	5	92	15	96	15
4	Bolu F	97	76	27	24	2	24	7	7	11	26	-	-	7	10	49	110
5	Diyarbakır D	468	-	-	-	76	-	44	-	40	-	-	-	112	-	272	-
6	Edime F	56	151	-	-	-	54	-	-	-	-	-	-	-	-	-	54
7	Izmir 1 F	65	93	8	23	10	46	44	9	65	42	-	-	21	43	21	58
8	Izmir 2 F	147	11	79	9	134	5	143	-	8	-	120	10	130	6	134	10
9	Kocaeli 1 F	172	72	37	47	37	47	-	37	-	47	-	-	45	47	58	48
10	Kocaeli 2 F	141	89	-	-	177	-	-	10	-	-	179	-	184	-	190	-
11	Tekirdağ 1	187	67	14	23	5	30	2	-	2	9	2	5	3	8	23	60
12	Tekirdağ 2	186	51	5	-	-	-	5	19	-	-	-	-	5	4	30	4
Total		1967	849	170	141	595	231	327	160	134	144	394	22	605	155	965	473

Number of remand and sentenced prisoners belonging to profit-oriented criminal organisations who take part in communal activities : 827
Number of remand and sentenced prisoners held for terrorist offences who take part in communal activities : 2251
Number of remand and sentenced prisoners belonging to profit-oriented criminal organisations who take part in association and use the telephone : 177
Number of remand and sentenced prisoners held for terrorist offences who take part in association and use the telephone : 999
TOTAL NUMBER OF PERSONS MAKING USE OF COMMUNAL AREAS TO DATE : 3953
NOTE: The sports offered are basketball, football, tennis and volleyball. The numbers in the columns headed "Persons using communal areas" and "Number of persons using communal areas to date" include the number of remand and sentenced prisoners using the telephone and taking part in association.
Abbreviations: BB (Borrowing books), GL (Going to the library)

NOTE: "Terror" means remand and sentenced prisoners held for terrorist offences;
"4422" means remand and sentenced prisoners held for offences under Law No.4422 on the Fight against Profit-Oriented Criminal Organisations.

**INFORMATION NOTE ON EDUCATIONAL AND
REHABILITATION ACTIVITIES AND REORGANISATION
PROJECTS FOR THE BENEFIT OF JUVENILES IN PRISON
AND PRE-TRIAL ESTABLISHMENTS**

1. Educational and rehabilitation activities for juvenile remand prisoners

Juveniles who have been placed under arrest are held in the juvenile sections of prisons and pre-trial establishments for adults and in Ankara Elmadağ Remand Prison.

The educational activities provided in prison may be summed up as follows:

1. Level one reading/writing and level two educational courses,
2. Preparatory and remedial courses for formal and informal education,
3. Open primary school and open upper secondary school examinations,
4. University entrance examinations,
5. Vocational training courses,
6. Social, cultural and sports activities,
7. Bookstand and library activities,
8. Psycho-social service activities.

Where juveniles are placed under arrest while in formal education, the end-of-year examinations of those whose circumstances so permit are held in the prisons accommodating them by boards set up by the juveniles' schools, in order to avoid their missing a year.

Open education, lower secondary school, university and other examinations are held in prison by boards set up by institutions such as the Ministry of Education and the Student Selection and Allocation Centre.

In closed prisons, health-care services for juveniles are provided by the prison doctors. Juveniles whose health problems cannot be dealt with in prison are transferred to state hospitals.

2. Educational and rehabilitation activities for juvenile sentenced prisoners

Juveniles in the 13-18 age group whose trial ends with the imposition of a prison sentence and whose sentence becomes final are sent to the reformatory nearest to their home, in either Ankara, Elazığ or Izmir.

Girls in the 13-18 age group who receive a prison sentence are transferred to Izmir Reformatory, where there is a special section for girls.

The educational and rehabilitation activities available in closed prisons are also provided in reformatories. In addition, juveniles in reformatories with open-prison status have access to all educational activities available in the community, as do their peers.

Those of the juveniles held in reformatories whose age and other circumstances so permit may attend primary or secondary school or university, the social activities carried out at their schools, sports activities and educational courses for self-development purposes such as foreign language, information technology, university entrance and vocational training courses; they may sit open education, university and similar examinations outside the reformatory; and they may take part in outside social events such as theatre performances, concerts and sports encounters under the supervision of reformatory teaching staff.

Those of the juveniles held in reformatories who are over the age of 15 and are unable to pursue formal education are offered guidance on an occupation suited to their circumstances under Law No 3308 on Vocational Training, and are thus able to attend vocational training centres. The practical training of juveniles attending vocational training centres takes place in workplaces in the community.

Health-care services for juveniles are provided by the reformatory doctors. Juveniles whose health problems cannot be dealt with in the reformatory are sent to university hospitals.

3. Protection and assistance after release (aftercare)

One of the basic aims of educational and rehabilitation activities in prisons and reformatories is to secure juveniles' integration into society. Detention in an institution makes it essential to provide aftercare activities that will facilitate juveniles' adjustment to the normal world.

Since 1986 the Prisons Directorate of the Ministry of Justice has been carrying out a scheme in this area: juveniles who have nowhere to go after release, or whose return to their families is considered inadvisable for reasons such as conflictual relations, or who would be unable to pursue their education with their families, are provided with accommodation through the assistance and support of official, private or voluntary individuals, institutions or organisations.

Aftercare includes providing juveniles who returned to their families with help and guidance in settling into a school or workplace and resolving problems encountered in the community.

4. Re-organisation effort

a. Project for improving the criminal justice system for juveniles in Turkey

Various activities are being carried out in co-operation with national and international institutions and organisations in order to develop and improve services for juveniles placed under the supervision of the Prisons Directorate of the Ministry of Justice.

Since 1988 the Turkish government and the Turkish branch of UNICEF, one of the international organisations with which co-operation has been established in this area, have been implementing joint 5-year national programmes for the survival, development and protection of children. After approval, the national programmes drawn up by the institutions and organisations concerned are published in the Official Gazette and brought into effect.

The Project for improving services for juveniles placed under the supervision of the Prisons Directorate was drawn up in 2003, with the following headings:

1. Preparation of the institution's work plans,
2. Management skills development for the institution's managers
3. Training for prison and reformatory officers,
4. Preparation of psycho-social support and intervention programmes and training of staff.

The project involves co-operation with the Foundation for Return to Health and Education on the psycho-social support and intervention programmes and co-operation with the Xperteyes Training and Consultancy Centre on staff training.

According to the arrangements made by the Prison Directorate with regard to institutions accommodating juveniles, Ankara, Elazığ and Izmir reformatories, Elmadağ Juvenile Remand Prison and Istanbul H-type, Diyarbakır E-type, Bergama M-type, Gaziantep E-type, Elazığ E-type and Adana E-type prisons have been selected as pilot institutions.

Once the project has been completed and found successful, it will be extended to all institutions accommodating juveniles.

b. Improving material conditions in the institutions

One of the most important problems to be resolved as part of the reorganisation effort is the state of the institutions accommodating juveniles, especially those held on remand. Efforts are in progress to improve material conditions in these institutions in order to bring them into line with juveniles' needs and with the requirements of the educational and rehabilitation activities it is intended to carry out.

To resolve the problems connected with juveniles accommodated in separate sections of adult institutions, work is in progress on setting up juvenile institutions in Ankara, Istanbul and Izmir. Efforts are also being made to improve material conditions for juveniles accommodated in adult institutions.

c. Staff issues and in-service training activities

If services for juveniles held in prisons and pre-trial establishments are to be brought up to the required standard and reach the intended targets, in-service training for the staff caring for these juveniles is naturally of great importance. Initial and in-service training programmes for all staff working in juvenile institutions are therefore being developed.

d. *Reorganisation of educational and rehabilitation activities*

As it would be unrealistic to expect juveniles who have been completely cut off from society to become easily integrated into the community on returning to normal life, care is being taken to:

- open up closed institutions accommodating juvenile remand prisoners to official and private institutions and civil society organisations, under specified conditions, so as to ensure that juveniles establish healthy ties with the community,
- educate juveniles accommodated in reformatories in the community, making use of outside training and educational facilities,
- plan the training and educational activities provided in institutions in such a way that they may be pursued after the juveniles' release.

e. *Legal advisers project*

Surveys have shown that one of the areas in which juveniles placed under the supervision of the Prisons Directorate of the Minister of Justice feel the greatest need for information is legal advice. To remedy this shortcoming, agreements have been signed with 13 presidents of bar associations.

Under the terms of these agreements, the bar associations will carry out activities in areas such as informing juveniles held in or released from prison or pre-trial establishments about their rights and responsibilities, and protecting their rights.

f. *Formal and informal educational activities*

As it is uncertain how long juveniles held on remand will remain in the institution to which they have been transferred, and as they cannot make use of outside training and educational facilities, educational programmes for juveniles in this category pose problems. To resolve them, it is planned to organise educational and rehabilitation activities for juvenile remand prisoners in the form of short-term and long-term programmes.

Since the educational facilities available to them in the earlier part of their lives, before they were detained in the institution, were generally limited, juveniles' basic education is of a poor standard. It is therefore necessary to open continuous remedial courses in these institutions. However, it is proving difficult to recruit teachers to teach these remedial courses. Efforts are being made to remedy the shortage of teachers for training and educational activities, and to resolve the other problems, in co-operation with the Ministry of Education.

Open primary school and open secondary school education is of great importance in enabling juveniles held in closed institutions, in particular, to pursue their education. Procedures relating to these schools are conducted under agreements with the Ministry of Education.