



CPT/Inf (2007) 3

**Report to the Turkish Government  
on the visit to Turkey  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)  
from 29 September to 7 October 1991**

The Turkish Government has authorised the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2007) 4.

Strasbourg, 11 January 2007

Note:

In accordance with Article 11, paragraph 3, of the Convention, certain names have been deleted.

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Copy of the letter transmitting the CPT's report

4 December 1991

Dear Mr Gölcüklü,

In pursuance of Article 10, paragraph 1, of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment, I have the honour to enclose herewith the report to the Turkish Government drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) after its visit to Turkey from 29 September to 7 October 1991. The report was adopted by consensus by the CPT at its 11th meeting, held from 26 to 28 November 1991.

I would draw your attention to paragraph 91 of the report, in which the CPT asks that the different recommendations, comments and requests for information made in this report be addressed in the follow-up report due in February 1992. You will see that in fact many of them are closely linked to recommendations, comments and requests for information made in the CPT's first report.

I should add that the CPT is very grateful to the Turkish authorities for having provided in their six-month interim report a substantial account of action taken on the Committee's first report. It hopes that the follow-up report will inter alia provide further information on a number of outstanding issues (reduction of custody periods, notification of custody, access to a lawyer while in custody, etc), indicate developments in certain investigations in progress (cf. for example, paragraphs 23 and 24 of the six-month interim report), and contain reactions to matters not addressed in the interim report (e.g. the CPT's comments in paragraphs 174 and 175 of its first report concerning co-operation with the Turkish Medical Association).

I am, of course, at your disposal if you have any questions concerning the CPT's report on its second visit to Turkey or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours sincerely,

Antonio CASSESE  
President of the European Committee  
for the prevention of torture and inhuman  
or degrading treatment or punishment

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## **I. INTRODUCTION**

### **A. Dates of the visit and composition of the delegation**

1. In pursuance of Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Turkey from 29 September to 7 October 1991.

2. The delegation consisted of the following Committee members:

- Mr Antonio CASSESE, President of the CPT (Head of delegation)
- Mr Bent SØRENSEN, First Vice-President of the CPT
- Mr Jacques BERNHEIM, Second Vice-President of the CPT
- Ms Astrid HEIBERG
- Mr Michael MELLETT.

The delegation was assisted by:

- Mr Gordon LAKES, former Deputy Director General of the Prison Service of England and Wales (expert)
- Miss Zeynep BEKDIK (interpreter)
- Mrs Belgin DÖLAY (interpreter)
- Miss Canan TOLLU (interpreter)
- Miss Verda KIVRAK (interpreter) (4 and 5 October 1991)

and was accompanied by the following members of the CPT's Secretariat:

- Mr Trevor STEVENS, Secretary of the CPT
- Mr Fabrice KELLENS.

### **B. Nature of the visit to Turkey**

3. The visit to Turkey was one which appeared to the CPT "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention).

4. Since the CPT's first visit to Turkey, from 9 to 21 September 1990, the Turkish authorities have forwarded accounts of action taken to implement the recommendations set out in paragraphs 89 and 122 of the report (see CPT /Inf (2007) 1) drawn up after that visit, as well as an interim report on action taken on the report as a whole. The carrying out of a second visit to Turkey was in part motivated by the CPT's wish to see for itself, on the spot, what progress had been made in implementing its recommendations, and in particular those set out in paragraphs 89 and 122 of its previous report.

5. However, the CPT's decision to carry out a further visit in 1991 was also influenced by the fact that during the twelve months following its first visit, the Committee has continued to receive a considerable number of reports from a variety of sources containing serious allegations of ill-treatment of persons deprived of their liberty in Turkey. These allegations related in particular to the treatment of persons in police custody.

**C. Establishments visited by the delegation**

6. The delegation visited the following places of detention:

**ANKARA**

- Police Headquarters
- Yenimahalle Police Station
- Esenboğa Airport Police Station
- Ankara Central Closed Prison

**DIYARBAKIR**

- Police Headquarters
- Interrogation Centre of the 1st Department of the Diyarbakır Police
- Central Interrogation Centre of the Departmental Command of the Diyarbakır Gendarmerie Regiment
- Çarşı Police Station
- Diyarbakır 1 Prison
- a hospital facility for prisoners adjacent to the State Security Court

**ISTANBUL**

- Police Headquarters
- Beyoğlu District Central Police Station (Beyoğlu Emniyet Amirliği)
- Bayrampaşa Prison.



**D. Meetings**

7. In addition to its meetings with the persons in charge at the places of detention visited, the delegation held discussions in particular with:

- Mr Suat BILGE, Minister of Justice
- Mr Sabahattin ÇAKMAKOĞLU, Minister of the Interior
- Mr Nusret DEMIRAL, Chief Public Prosecutor at the Ankara State Security Court
- Mrs Fügen OK, Deputy Director General for Multilateral Affairs, Ministry of Foreign Affairs
- Mr Erdal GÖLCÜKLÜ, Director of the Department of Human Rights, Ministry of Foreign Affairs.

8. The delegation also had meetings with representatives of the following non governmental organisations:

- Human Rights Association (Ankara branch)
- Human Rights Association (Diyarbakır branch)
- Human Rights Association (Istanbul branch)
- Istanbul Bar Association
- Turkish Human Rights Foundation
- Turkish Medical Association.



## II. COOPERATION WITH THE VISITING DELEGATION

9. The CPT was aware that the imminent parliamentary elections in Turkey ruled out any possibility of in-depth high level consultations with political figures in the course of the second visit. However, the visit went ahead as the holding of such consultations had never been seen as the primary purpose of the visit. It was more in the nature of a fact-finding mission, with a view to establishing a solid basis for discussions at ministerial level at a later stage (see also paragraph 92).

10. Nevertheless, the CPT wishes to express its appreciation of the manner in which it was received by the acting Ministers of Justice and the Interior. The CPT's delegation was particularly impressed by the innovations which Mr Bilge was attempting to introduce during his tenure of office.

11. As the CPT has come to expect, Mrs Ok and her colleagues at the Ministry of Foreign Affairs displayed a willingness to assist the visiting delegation coupled with a forthcoming and frank approach in discussions with it. Further, as was the case during the previous visit, the CPT's delegation received valuable assistance from an official of the Foreign Ministry - on this occasion, Mr Engin Soysal - when it went to the Southeast region.

12. The CPT's delegation had the opportunity to explore with Mr Nusret Demiral the legal issues raised in paragraphs 50 to 54 of the report drawn up by the CPT following the first visit to Turkey. From a strictly legal standpoint there was an "agreement to disagree". However, while not accepting the CPT's legal interpretation, Mr Demiral did say that he would make arrangements for the delegation to meet with detainees held under his authority by the Anti-Terror Department of the Ankara Police<sup>1</sup>. The CPT welcomes the cooperative attitude shown by Mr Demiral.

13. The CPT's delegation had no substantial difficulties in gaining access to any of the places of detention visited by it, which is a significant improvement as compared with the situation during the CPT's first visit (at least insofar as Ankara Police Headquarters is concerned). This held good even for the visits to those places which had not been notified in advance to the Turkish authorities; in this connection, the very satisfactory way in which the delegation was received at the Yenimahalle (Ankara) Police Station and the Çarşı Police Station in Diyarbakır deserves particular mention.

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<sup>1</sup> At the moment that Mr Demiral made this statement (approximately 7.00 p.m. on 1 October 1991), one or more detainees were apparently being held by that department (but see also paragraph 14).

14. Of course, the CPT is not interested in merely gaining access to places of detention; it expects to find within them a real life situation rather than one contrived for the purposes of the CPT's visit.

In this regard, the CPT's delegation was satisfied that what it saw in the Law and Order and Narcotics Departments visited represented reality. However, this was certainly not the case in the Anti-Terror Departments visited. For example, on both occasions (separated by several days) that the delegation visited the Anti-Terror Department of the Ankara Police, no one was in custody; neither was anyone in custody at the time of the delegation's visit to the Anti-Terror Department of the Diyarbakır Police. This was most unusual for departments which according to their registers take into custody on average 100 persons per month (Ankara) or more (Diyarbakır). The Central Interrogation Centre of the Departmental Command of the Diyarbakır Gendarmerie Regiment (a centre designed to hold terrorist suspects) was also empty at the time of the delegation's visit.

As regards the delegation's two visits to the Anti-Terror Department of the Istanbul Police, on each occasion two persons were in custody. However, the delegation noted from the department's custody register that a considerable number of detainees (15 or more), some of whom had been held for lengthy periods, had been either released or sent to court just before the delegation's first visit on 30 September 1991. The delegation was particularly struck by the fact that several of the detainees were registered as having been sent to court the day before, namely on a Sunday (29 September 1991). Consultation of the custody register indicated that on no previous occasion during the previous year had any detainees been sent to court on a Sunday by the department. The delegation met some of the detainees in question at a later stage of its visit to Turkey; most of them alleged that they had been tortured while in the custody of the Anti-Terror Department.

It should be added that similar movements of detainees just prior to the delegation's visits were noted in the custody registers of the Anti-Terror Department of the Diyarbakır Police and the Central Interrogation Centre of the Departmental Command of the Diyarbakır Gendarmerie Regiment; for example, 10 detainees left the Anti-Terror Department of the Diyarbakır Police on 2 October 1991 i.e. the day before the delegation's arrival in Diyarbakır. As for the Anti-Terror Department of the Ankara Police, the custody registers indicated that the department's activities had gradually reduced in the days preceding the delegation's arrival in Turkey.

**The CPT considers that the granting of ready access to places that have been emptied of detainees just prior to the visit by a delegation, and are kept empty while the delegation remains in the vicinity, falls short of genuine cooperation.**

15. Specific reference must be made to the extraordinary situation found by the delegation in the Anti-Terror Department of the Ankara Police. CPT delegations are not impressed to find detention areas and interrogation rooms of a busy police department empty of detainees but full of bowls of flowers and potted plants. As for the scene in a shower room for detainees - bathroom slippers and shower curtains, together with two types of scented soap - it was a parody. **The CPT wishes to see real improvements in the manner in which persons deprived of their liberty are treated, not window-dressing.**

**16. The CPT must also report that there was a deliberate attempt to mislead its delegation at the Beyoğlu District Central Police Station in Istanbul.** The delegation visited this establishment in the late evening of 4 October 1991. It was shown the ground and first floors as well as three boys said to be the only persons in custody. The delegation spoke to two of the boys, who said that they had been held in the station for several days; this was denied by the officer in charge, who said that they had been arrested that very day. A custody register shown to the delegation contained an entry indicating that the boys had in fact arrived on 4 October. However, on going back in the register, another entry for the two boys was found a few days earlier; after being held for a short while, they had been transferred to another department. After further questioning it was ascertained that this other department (apparently a criminal investigation section of the Istanbul Police) was situated on the third floor of the same building. On visiting the third floor, the delegation found eight further detainees, who were being held under appalling conditions of detention (see paragraph 69).

**17. In summary, the overall level of cooperation encountered in police and gendarmerie establishments visited was not acceptable.**



### **III. TORTURE AND OTHER FORMS OF SEVERE ILL-TREATMENT BY POLICE OFFICERS**

#### **A. Compliance with the recommendation set out in paragraph 89 of the CPT's first report**

18. In paragraph 89 of the CPT's first report, the CPT concluded that detectives of the Political (now renamed "Anti-Terror") Departments of the Ankara and Diyarbakır Police frequently resort to torture and/or other forms of severe ill-treatment, both physical and psychological, when holding and questioning suspects. It recommended the Turkish authorities (i) to immediately take appropriate steps to remedy the situation in those departments, and (ii) to inform the CPT of the steps so taken.

19. The Turkish authorities subsequently informed the CPT of the measures taken in response to this recommendation, and the CPT commented upon these measures in a letter of 10 July 1991. By letters of 11 and 12 September 1991, the Turkish authorities drew attention to certain additional measures taken i.e. the sending by the Ministry of the Interior of a letter dated 10 June 1991 to the Ankara and Diyarbakır Police Headquarters requesting the latter to initiate an investigation in order to clarify the "torture allegations" made by the CPT, and the introduction of a new code of practice for interrogations, dated 6 August 1991.

20. In the above-mentioned letter of 10 July 1991 the CPT stated inter alia that the mere informing of the Offices of the Governors of the Ankara and Diyarbakır Provinces of the CPT's report (which was done by a letter dated 9 April 1991 from the Ministry of the Interior) fell short of meeting the recommendation set out in paragraph 89, and said that it wished to receive without delay a detailed account of the precise steps taken by those Offices to implement paragraph 89. To date, no such account has been received by the CPT. Moreover, its delegation found no evidence during the recent visit of any concrete steps taken by the Governors' Offices.

21. As regards the letter of 10 June 1991 sent by the Ministry of the Interior to the Ankara and Diyarbakır Police Headquarters, the CPT finds this a most unsatisfactory way of dealing with the recommendation in paragraph 89. It amounts to asking the very police forces which the CPT has concluded are resorting to torture and/or severe ill-treatment to investigate whether the CPT's conclusion is well-founded. The scarcely credible reply to that letter given on behalf of the Ankara Police by Mr Ali Kalkan (see Appendix II), who, incidentally, was the Head of the Anti-Terror Department of the Ankara Police at the time of the CPT's first visit, is all that could be expected. The delegation that carried out the second visit also asked the Diyarbakır Police for the reply they had sent to the letter of 10 June 1991; however, it could not be produced.

22. The wording of paragraph 89 makes it clear that the CPT is more concerned with preventing torture and severe ill-treatment in the future than with righting wrongs committed in the past.

An appropriate response to the recommendation made in paragraph 89 would have been for the Ministry of the Interior immediately to set up a body composed of independent persons (or at least headed by such a person), possessing all necessary powers and charged with carrying out an inquiry into the methods adopted in the Anti-Terror Departments of the Ankara and Diyarbakır Police. In the course of its discussions with the Minister of the Interior, the CPT's delegation detected a clear tendency to shift responsibility for the taking of action onto the shoulders of public prosecutors. However, police forces fall under the ultimate administrative responsibility of the Ministry of the Interior.

Moreover, if the Turkish authorities had wished to pursue the possibility of action against individual police officers, another approach would have been for the Ministry of Justice to place the CPT's report in the hands of the relevant public prosecutors (see also points 6.2 and 6.3 of the memorandum of 1 May 1991 sent by the Minister of Justice to the Offices of Public Prosecutors in Ankara and Diyarbakır).

23. The only tangible step that the CPT's delegation found had been taken concerning the methods employed by detectives of the Anti-Terror Departments of the Ankara and Diyarbakır Police was the posting up on a wall in each of the departments of a copy of the Regulations of 6 August 1991 relating to interrogations and the taking of statements. The Regulations are certainly a useful tool in the fight against torture and other forms of severe ill-treatment. However, they will not by themselves be capable of putting a stop to such practices. More managerial direction, more supervision and more control is needed.

24. The absence of decisive action in response to the recommendation made in paragraph 89 was compounded by fresh allegations of torture and severe ill-treatment made to the CPT's delegation by a number of persons who had recently been in the custody of the Anti-Terror Departments of the Ankara or Diyarbakır Police. On examination by doctors of the delegation, several of the persons concerned were found to display physical marks and/or psychological conditions consistent with their allegations.

The CPT's delegation was not in a position to examine anyone actually in the custody of the Anti-Terror Departments of the Ankara and Diyarbakır Police because, as already indicated (see paragraph 14), no one was in custody at the time of the delegation's visits.

25. To sum up, nothing was found in the course of the CPT's second visit to Turkey that could justify revising the conclusion reached in paragraph 89 of the report drawn up by the CPT after the first visit. On the contrary, the information gathered indicates that torture and other forms of severe ill-treatment continue unabated in the Anti-Terror Departments of the Ankara and Diyarbakır Police.

The only conclusion that can be drawn is that the Turkish authorities have failed to comply with the recommendation set out in paragraph 89 of the CPT's first report.



**B. New evidence of torture and severe ill-treatment**

26. The CPT's delegation that carried out the second visit heard a very large number of allegations of torture and other forms of severe ill-treatment by the police during the previous twelve months. As was the case during the CPT's first visit, these allegations were made by both persons charged with or convicted of ordinary criminal offences and persons charged with or convicted of terrorist offences.

A detailed account of the allegations heard would be practically the same as that given in paragraphs 58 to 60 of the CPT's first report, save that a further form of ill-treatment (reported in particular in Diyarbakır) - namely the insertion of a stick in the victim's anus and then in his mouth - would have to be added to the list in paragraph 59.

27. A number of the persons met by the delegation in prisons visited and who claimed that they had been tortured or otherwise severely ill-treated while in police custody, were found to have physical marks and/or psychological conditions consistent with their allegations. By way of illustration, the CPT would mention the case of a person examined by two doctors of the delegation:

An elderly and frail man complained that, whilst in police custody, he had been physically abused. With considerable reluctance and shame, he alleged that he had been subjected to sessions of vertical hanging by the arms over a period of several days approximately six weeks earlier. He alleged that during this treatment he was beaten with a stick on various parts of his body, most notably his ribs and genital area. He also alleged that the stick was inserted into his anus and then into his mouth.

He complained of pain and tenderness in his left shoulder, reduced feeling in his right hand, numbness in both arms, tenderness of the rib cage, and pain when defecating.

On examination, he was found to have limited movement and sub-scapular muscular wasting in the left shoulder as well as radial numbness in both arms. There were indications of some tenderness of the ribs but no convincing signs of fracture.

A more intimate examination revealed that his scrotum was very swollen - beyond double size - and tender. There was discolouration ranging from pale green to a dark brown, typical of a dissolving traumatic haematoma. The anus was tender by palpation and a small suppurating fissure was apparent.

He had the appearance of someone who had been not only physically but also psychologically traumatised. He was withdrawn, and his speech was hesitant and softly articulated. He was unable to come to terms with his alleged experience and was obviously in a state of psychological shock.

The clinical signs were consistent with his allegations of vertical hanging, of beatings with a hard implement and of a fairly recent forcible penetration.

28. The delegation also had access to a considerable number of reports drawn up by doctors belonging to Forensic Institutes at the end of periods of police custody during the last twelve months. Many of the reports contained medical findings consistent with certain forms of torture and severe ill-treatment, in particular suspension by the arms, falaka and squeezing or beating of the genitals.

29. The delegation met a number of persons actually in police custody, especially in the Law and Order and Narcotics Departments visited. No allegations of torture were made by these persons, though some of them did say that they had been roughly handled (slaps, punches, etc.). Certain of the persons concerned were reluctant to have any contact with the delegation; this was particularly the case in the Narcotics Department of the Ankara Police and the Homicide Section of the Law and Order Department of the Istanbul Police. This reluctance might have been due to any one of a number of reasons.

It should be added that the conditions of detention of certain of the persons in police custody met by the CPT's delegation could fairly be said to amount in themselves to inhuman treatment (see further, section IV).

### **C. Action required**

**30. The CPT recommends the Turkish authorities to set up immediately a body composed of independent persons with terms of reference to carry out a thorough investigation of the methods used by police officers belonging to the Anti-Terror Departments of the Ankara and Diyarbakır Police when holding and questioning suspects.**

Further, in the light of numerous allegations heard, and related information gathered, in Istanbul in the course of the CPT's second visit to Turkey, **it would be appropriate for the terms of reference of the above-mentioned body to include also the Anti-Terror Department of the Istanbul Police.**

31. Aside from the specific issue of the situation in the above-mentioned Anti-Terror Departments, the CPT proposed a series of measures in its first report designed to combat torture and other forms of ill-treatment in police and gendarmerie establishments in general. In the light of both the replies given in the interim reports from the Turkish authorities and the findings of the CPT's delegation in the course of the second visit to Turkey, some additional observations concerning those measures are necessary.

32. The right of a person in police or gendarmerie custody to have access to a lawyer is a fundamental safeguard against ill-treatment (see paragraphs 97 to 99 of the CPT's first report). In the course of the second visit to Turkey, the CPT's delegation found further evidence that this right, although formally provided for in law, is largely inoperative, both for persons suspected of ordinary crimes and suspected terrorists. Moreover, on those rare occasions that a lawyer does obtain access to a client in custody, the meeting apparently takes place in the presence of police or gendarmerie officers.

33. In their six-month interim report, the Turkish authorities stated that the Bill on this subject presented by Mr Gökhan Maraş and others would be supported by the relevant authorities during its discussion in Parliament. The CPT wishes to recall that Mr Maraş's Bill has now been pending before Parliament for more than two years; **the adoption of legal provisions spelling out clearly the right of persons in police or gendarmerie custody to have access to a lawyer is long overdue.**

The CPT would add in this context that if there are reasonable grounds for believing that contact between a person in custody and a lawyer chosen by him could jeopardise the investigation, the lawyer could be appointed ex officio from a list prepared in advance by the relevant Bar Association.

34. As regards the medical examination of detained persons, the CPT would refer to the recommendations made in paragraph 103 of its first report.

The wording of paragraph 3 (d) of the Code of Practice for remand in custody (set out in Appendix IV of the first interim report) would suggest that the first of those recommendations has not been fully understood. **The CPT's recommendation is that a person in the custody of the police or gendarmerie should have the right to be examined by a doctor of his own choice<sup>2</sup> in addition to - not instead of - examinations carried out by a state-employed doctor.**

As regards the second recommendation, the CPT's delegation heard during the second visit to Turkey that it was still extremely rare for detainees to be medically examined **before** they are interrogated. In this regard, the CPT welcomes the action taken by the Turkish authorities on this matter following the visit (cf. Mr Gölcüklü's letter to the President of the CPT of 19 November 1991). Further, it should be recalled that the CPT has recommended that the medical examinations of detainees before and after interrogation be carried out by a **doctor from the relevant Forensic Institute.**

As for the fourth and fifth recommendations, the CPT has noted the remarks in paragraph 6 of the six-month interim report. It wishes to point out that **very few of the recent reports drawn up by Forensic Institute doctors to which the CPT's delegation had access made reference to any statements by the detainee as regards the aetiology of his/her condition.**

35. Following the remarks made in the CPT's letter of 10 July 1991, new Regulations for the conduct of interrogations, dated 6 August 1991, were issued. These new Regulations are a significant improvement on the previous ones; however, further changes will be required before they can be considered as entirely satisfactory. In due course, the CPT intends to take up the invitation from the Turkish authorities to submit additional views on the Regulations. In the meantime, **the CPT recommends that the new Regulations be published (see paragraph 107 of the CPT's first report), a step which will inter alia enable other interested parties to express their views on them.**

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<sup>2</sup> or, if there are reasonable grounds for believing that access to the detainee by the doctor chosen by him might jeopardise the investigation, by a doctor chosen from a list of doctors agreed with the appropriate professional body.

36. In the course of the second visit to Turkey, **the CPT's delegation observed that the new Regulations had not yet been received by all relevant police departments.** For instance, the head of the Anti-Terror Department of the Istanbul Police had only the earlier version of the Regulations in his possession, and the officers in charge of the other police departments and stations visited in Istanbul had received neither the new nor the old Regulations.

**The CPT would add that it assumes that the Regulations on the conduct of interrogations have also been forwarded to gendarmerie establishments.**

37. In its first report (paragraphs 110 to 112) the CPT recommended that a high priority be given to the intensification of human rights education and professional training for law enforcement officials of all ranks and categories. The six-month report from the Turkish authorities contains a considerable amount of information on this subject, which the CPT is in the process of examining.

However, the CPT would like to mention already one issue which was raised on several occasions during the second visit to Turkey and which the Committee considers is of fundamental importance in the context of the prevention of torture, namely the need to develop more advanced methods of crime investigation capable of reducing the considerable reliance currently placed on information, evidence and confessions obtained via interrogations for the purpose of securing convictions<sup>3</sup>. This is a complex issue which has significant financial implications. However, no credible strategy for the prevention of torture can avoid addressing it.

38. The key point which the CPT wishes to drive home in this context is that it is in the interests of both the respect of human dignity and state security that torture should cease. Torture is not only an outrageous violation of human rights but also a hopelessly flawed method of obtaining reliable information and evidence for combating crime.

**39. The CPT would like to receive the comments of the Turkish authorities on this question of the development of more advanced methods of crime investigation as well as information on any planned developments in this area.** Such comments and information could inter alia enable the CPT to clarify what role, if any, it should play in this area.

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<sup>3</sup> In this connection it should be pointed out that the CPT's delegation was informed by several lawyers that notwithstanding the decision of the Court of Cassation of 10 December 1990 (Decision No. 1990/35) - according to which confessions recorded at a police station cannot be used as evidence before a court - statements made by an accused during police interrogations were systematically read out in court, and that this occurred even if the accused alleged that they had been given as a result of torture or other forms of ill-treatment.

40. As regards the length of custody by the police or the gendarmerie (see paragraph 96 of the CPT's first report), the Turkish authorities stated in paragraph 2 of their six-month interim report that the necessary efforts would be made when Parliament resumed to ensure the adoption of the Government Bill on the shortening of periods of custody tabled in 18 September 1989. The CPT hopes that the reduction of periods of custody shall continue to be pursued actively.

Similarly, the CPT presumes that the remarks made by the Turkish authorities in paragraph 4 of their six-month interim report concerning notification of custody (see paragraphs 97 to 99 of the CPT's first report) remain valid.

**On both of the above matters, the CPT is looking forward to receiving further information on progress made in the follow-up report from the Turkish authorities (cf. paragraph 186 (ii) of the CPT's first report).**

**D. Some additional remarks concerning the Law to Fight Terrorism of 12 April 1991**

41. The CPT has taken note of the Law to Fight Terrorism adopted on 12 April 1991. It welcomes certain aspects of the law, in particular the abolition of Articles 141, 142 and 163 of the Penal Code (cf. paragraphs 38 and 39 of report drawn up by the CPT after the first visit to Turkey) and the provisions concerning conditional release, which have resulted in a significant reduction in the prison population (thereby enabling improvements in the conditions of detention of those who remain). However, some other aspects of the law are a cause of concern to the CPT.

In the context of this report, the CPT would point out that it has misgivings concerning, in particular, Articles 1 and 15 (3), misgivings that have been reinforced by the discussions which its delegation had with the national authorities and in other interested circles in the course of the second visit.

42. As regards Article 1, which contains the definition of terrorism, its wording is extremely broad. Consequently, it is capable of being applied to a great many activities that are far removed from what is generally understood by the notion of "terrorist activities". The Minister of Justice himself expressed the view that the definition in Article 1 was not clear. A more precise definition of "terrorism" is required, so as to avoid the special provisions laid down in the law on such matters as length of detention and action against police officers allegedly having committed crimes being applied to an unduly wide field of activities.

43. According to Article 15 (3) of the law:

"In cases where offences are alleged to have arisen from the performance of duties relating to the suppression of terrorism assigned to intelligence officers and their subordinates, police officers and their subordinates and other public servants to whom such duties are assigned, offences caused by negligence and other offences, with the exception of homicide and attempted homicide, shall be covered by the provisions of the Proceedings Against Civil Servants Act."

If the CPT understands correctly, the reference to the Proceedings Against Civil Servants Act means that law enforcement officials in the situation described in Article 15 (3) cannot be prosecuted unless authorisation is given by an administrative authority, though a refusal to give such authorisation could be reviewed by the Council of State.

44. Many persons spoken to by the CPT's delegation advanced that this provision contained a clear message to police officers: "you may ill-treat suspected terrorists provided that you do not kill them".

This proposition was firmly rejected by the national authorities. However, it must be said that although the issue was raised on more than one occasion, the CPT's delegation did not receive a clear explanation of the precise thinking underlying Article 15 (3).

**45. The CPT would therefore like to be informed of the exact reasons for the inclusion of Article 15 (3) in the Law to Fight Terrorism.**

Further, it would like to receive the following information concerning the implementation of Article 15 (3):

- **the number of cases in which authorisation has been sought to prosecute a police or intelligence officer or other public servant for an offence allegedly committed by him while on duty to fight terrorism, together with an indication of the accusations levelled against the officers concerned;**
- **the number of those cases in which authorisation has been given, and the accusations levelled against the officers concerned;**
- **other action, if any, taken in those cases in which authorisation to prosecute has not been given.**

#### IV. CONDITIONS OF DETENTION IN POLICE AND GENDARMERIE ESTABLISHMENTS

##### A. Improvements to conditions of detention in establishments visited in the course of the CPT's first visit to Turkey

46. In paragraph 122 of the CPT's first report, the CPT recommended the Turkish authorities to review immediately the state of cellular accommodation in Ankara Police Headquarters, Diyarbakır Police Headquarters, and the Interrogation Centres of the Political Department of the Diyarbakır Police and the Departmental Command of the Diyarbakır Gendarmerie Regiment, with a view to either its improvement in the light of the remarks made in paragraphs 118 to 121 of the report or its withdrawal from service.

Further, the CPT identified in paragraph 123 certain material facilities to be offered to persons in the custody of the police or gendarmerie.

47. As requested in the CPT's first report (paragraph 185), the Turkish authorities submitted within six months an account of action taken to implement the recommendation set out in paragraph 122. As regards paragraph 123, the Turkish authorities provided with the first interim report a "code of practice for remand in custody", which in its paragraphs 1 and 2 reflects a number of the CPT's recommendations concerning material facilities.

48. In the course of the second visit, the CPT's delegation re-examined the conditions of detention in the places referred to in paragraph 118 of the first report.

49. Cells in the basement area of the old building of Ankara Police Headquarters, belonging to the Anti-Terror Department, had been repainted and provided with a lino floor covering. Further, artificial lighting had been installed/improved, but remained inadequate; it should be sufficient to read by, sleeping periods excluded. Rudimentary attempts had also been made to improve ventilation in certain of the cells. However, no change whatsoever had been made to cell dimensions. The CPT can only repeat that the cells in the old building, in their present form, are not acceptable for use as detainee accommodation for multi-day stays. **It is recommended that the cells be enlarged by removing adjoining walls<sup>4</sup> and that additional efforts be made to improve lighting and ventilation; preferably, the cells should enjoy natural light.**

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<sup>4</sup> For a desirable objective as regards space in detainee accommodation used in police and gendarmerie establishments for multi-day stays, see paragraph 120 of the CPT's first report.

50. The cells of the Narcotics Department located in the new building of Ankara Police Headquarters had been provided with adequate artificial lighting and fitted with floor covering. However, no attempt had been made to increase the size of the cells. Detainees are often held in these cells for a considerable time e.g. one of the persons in the custody of the Narcotics Department at the time of the delegation's visit had already been held for 5 days. As indicated in the CPT's first report, the cells are not of an adequate size for such lengthy stays. **It is recommended that the cells be enlarged by removing adjoining walls.**

51. The state of the cellular accommodation at Diyarbakır Police Headquarters was unchanged. As indicated in the first report, the temporary holding cells in the Headquarters belonging to the Law and Order and Narcotics Departments are too small to be used for detention of even the shortest term (the minute accommodation belonging to the Narcotics Department - 0.82m x 0.66m (0.5 square metres) - are the smallest cells seen anywhere by a CPT delegation). Further, lighting and ventilation in the Headquarters' multi-occupancy holding rooms are totally inadequate.

**The CPT recommends that the temporary holding cells be either enlarged or demolished and, in the former case, provided with lighting and ventilation, and that substantial improvements be made to lighting and ventilation in the multi-occupancy holding rooms.**

52. There had been no detectable change in the cellular accommodation of the Interrogation Centre of the Anti-Terror Department of the Diyarbakır Police, apart from cleaning and a token effort to improve the ventilation. It remains totally unsuitable for the holding of detainees for periods in excess of a few hours. The delegation was shown the plans of an intended transformation of the Centre's cellular accommodation. The main detention block was apparently to be redesigned and equipped with 18 cells each measuring 7 square metres. Assuming that the new cells are provided with adequate lighting (including, preferably, access to natural light) and ventilation, this transformation would represent a significant step forward. **It is recommended that the planned transformation of the Centre's cellular accommodation be implemented immediately.**

**It is also recommended that the above-mentioned transformation result in all of the Centre's smallest cells (1.1 square metres and 1.3 square metres) being either enlarged or taken out of service** (the plans seen by the delegation indicated that 7 of the cells in question would remain unchanged). The CPT's delegation concluded that, despite denials, these cells had recently been used to accommodate detainees for lengthy periods.



53. The cellular accommodation of the Central Interrogation Centre of the Regional Command of the Diyarbakır Gendarmerie had been slightly improved. The Centre (including the cells) was clean and had recently been repainted. Further, efforts had been made to improve ventilation on the ground floor. However, no changes had been made to cell dimensions, and the cells remained without lighting. The delegation was informed that major structural changes to the Centre would be pointless, as an entirely new building for detention purposes was under construction. The delegation visited the site of the new building and was extremely concerned to find that the 10 or so cells it was to contain would be even smaller than those in the existing centre; the new cells would range in size from 1.5 square metres to 3 square metres. As the delegation made clear to the Ministry of Foreign Affairs at the end of the second visit, immediate action is required to remedy this situation.

**The CPT recommends that the plans of the new building presently under construction be revised, taking into account the remarks set out in paragraph 120 of its first report<sup>5</sup>. Further, the possibility of installing cell windows giving access to natural light should be explored (at present, only artificial lighting is envisaged). In view of the very long periods during which persons can be held in custody, the design of the new building should also include facilities for open air exercise for detainees.**

54. With regard to material facilities offered to the persons in custody in the above-mentioned places, it was clear that there is still considerable room for improvement.

55. As was the case at the time of the CPT's previous visit (see paragraph 114 of the CPT's first report), hardly any of the cells seen possessed fittings or furnishings, with the result that a person who wished to sit or lie down had to do so on the floor. The only notable exception was in the Central Interrogation Centre of the Regional Command of the Diyarbakır Gendarmerie, the cells of which had each been equipped with a camp bed.

The CPT approves the stipulation in paragraph 1 (a) of the Code of Practice for remand in custody drawn up by the Turkish authorities, to the effect that remand cells should be fitted with benches. **It invites the Turkish authorities to pursue the implementation of this provision.**

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<sup>5</sup> In this connection, the CPT must refer to a letter sent by the Ministry of the Interior (Gendarmerie Central Command - signed by Mr Erdiñç Aygün) to the Regional Command of the Diyarbakır Gendarmerie on 5 April 1991, which indicates that the remarks in paragraph 120 have been misunderstood. The letter states inter alia: "cell measurements to be altered to at least 2 x 2 x 2.5 m with cell areas of 4-7 square metres". It is stated in paragraph 120 that a desirable objective as regards cell space would be in the order of 7 square metres. The reference to 2 metres or more between walls is designed to avoid excessively narrow cells (e.g. 7 m x 1 m).

56. Further, **the CPT must reiterate its recommendation that persons obliged to stay overnight in the custody of the police or gendarmerie should be provided with both blankets and a mattress.** The CPT's delegation observed, or at least was told, that detainees held overnight in the places referred to in paragraphs 49 to 53 were given blankets, but that no mattresses were provided. The Code of Practice for remand in custody needs to be completed on this point; for the time being, it only refers to the issuing of blankets.

57. As regards toilet and washing facilities, they had been extensively cleaned in several of the above-mentioned places. The CPT also welcomes the provision of shower facilities for detainees in the basement area of the old building of Ankara Police Headquarters and the provision of improved shower facilities in the Anti-Terror Department of the Diyarbakır Police; it hopes that detainees are allowed to use these facilities at appropriate intervals.

The CPT would add that **it would be appropriate for all police and gendarmerie establishments in which persons are frequently held for lengthy periods to be provided with shower facilities for the detainees.** It notes that such facilities are envisaged in the new detention building for the Diyarbakır Gendarmerie (see paragraph 53).

58. The CPT also wishes to recall its recommendation that persons in police or gendarmerie custody should be given at least one full meal every day (cf. paragraph 123 of the Committee's first report). **Specific mention should be made of this requirement in the Code of Practice for remand in custody.**

#### **B. Conditions of detention in other establishments not previously visited by the CPT**

59. As indicated in paragraph 6, the CPT's delegation also visited a number of police establishments for the first time during the second visit to Turkey. Particular reference must be made to the conditions of detention in the various departments of the Istanbul Police Headquarters visited by the delegation (i.e. the Anti-Terror, Law and Order and Narcotics Departments) and on the third floor of the building housing the Beyoğlu District Central Police Station.

60. The Anti-Terror Department of the Istanbul Police possesses a large number of cells (described by the head of the department as "guest houses"), divided into two distinct areas.

The smaller of the two areas consists of 15 cells, varying in size from 2.5 to 3 square metres. None of the cells were equipped with artificial lighting; some of them had access to a certain amount of natural light, others were completely dark when the cell door was closed. Most of the cells had no evident means of ventilation apart from a small flap in the door. Some of the cells were clearly being used for storage purposes, whereas others were empty. It was stated that this area was currently not used for detention purposes. However, the delegation's discussions with persons recently held by the department as well as certain observations made within the area suggested otherwise.

The second area contained a much larger number of cells, some of which had very recently been repainted. These latter cells were equipped with a bed, mattress and blankets. The cells measured 3 square metres; they had no access to natural light and had no artificial lighting. Ventilation - via a small flap in the cell door - was manifestly insufficient.

61. The Anti-Terror Department's custody register showed that it was very common for persons to be held by the department for lengthy periods. The department's existing cellular accommodation is not adequate for such multi-day stays. **The CPT recommends that the cells be enlarged by removing adjoining walls and be provided with adequate lighting and ventilation. Further, all persons held overnight by the department should be provided with a mattress and blankets.**

62. The different sections of the Law and Order department of the Istanbul Police have two types of cellular accommodation: small cells designed in principle for one occupant and holding rooms of varying sizes designed for several occupants. This accommodation is supplemented by a general detention area on the ground floor of the department's premises.

63. The small cells are located in particular in the Homicide Section. They measure 1.7m x 1.25m (2.2 square metres), enjoy no natural or artificial light, have inadequate ventilation and are devoid of any fittings. The delegation was informed that persons detained by the Homicide Section would be accommodated in such cells throughout their period of custody (unlike persons held by other sections, who might be placed in the general detention area at night).

The above-mentioned cells are totally unacceptable to the CPT. **It is recommended that steps be taken immediately to provide the Homicide Section with larger and better equipped cells.**

64. The delegation also found three cells, with precisely the same characteristics as those referred to in paragraph 63, in the Theft Section, alongside the Section's holding room. These cells were equipped with listening devices and the delegation was told that they might contain up to three detainees, the idea being to obtain information by monitoring their conversations.

The CPT would stress that the cells are not large enough for one detainee, let alone three. If the police wish to monitor the conversations of a group of detainees, other arrangements should be made for this purpose. **It is recommended that the above-mentioned cells of the Theft Section be withdrawn from service.**

65. As for the holding rooms used by the different sections of the Law and Order Department, most of them were completely dark, poorly ventilated, dirty and devoid of any means of rest for detainees.

**It is recommended that steps be taken immediately to improve conditions of detention in the holding rooms.**

66. The general detention area on the ground floor of the Law and Order Department's premises consisted of several medium sized holding rooms and a very large and poorly lit area resembling a garage. 31 persons were being held in the latter area at the time of the delegation's visit; several of them had been there for more than a week, and one person had been held for 20 days. The detainees did not have any means of rest (eg benches) at their disposal; they were simply provided with blankets at night. Toilets and washbasins were situated some distance away from the area.

**Steps should be taken immediately to improve lighting in the detention area, to provide detainees with means of rest during the day and with mattresses at night, to install a shower facility for detainees, and to ensure regular access to the adjacent open courtyard for persons held in the area (in particular those held for lengthy periods).**

It should be added that to have large numbers of detainees camping out on the floor of a garage-type facility is not an acceptable way of accommodating persons deprived of their liberty. **It is therefore recommended that the police authorities in Istanbul explore the possibility of introducing properly equipped cellular accommodation in the detention area.**

67. Finally, mention should be made of three metal bar cages situated at the end of a corridor in the Pickpocketing and Fraud Section. The cages each measured 0.80 m x 0.70 m (0.56 square metres). No means of rest was provided, with the result that a confined person had to either stand or crumple up on the floor. Police officers told the delegation that the cages were used for holding aggressive or disturbed prisoners, including persons suffering from withdrawal symptoms, and that a prisoner might be held in one of them for a maximum of a few hours. The great advantage of these cages from the police officers' standpoint was apparently that they made it easy to keep the prisoners concerned under constant supervision.

The placing of an aggressive or disturbed prisoner in such a cage could often exacerbate rather than alleviate the prisoner's psychological state. **It is recommended that immediate steps be taken to ensure that aggressive or disturbed prisoners be placed instead in a room which is of a reasonable size, properly lit and ventilated, and free of objects which could be used to cause injury. Such prisoners should be kept under constant and adequate custodial surveillance or medical supervision, as the case may be. It is also recommended that the above-mentioned cages be dismantled forthwith.**

68. Conditions in the cells of the Narcotics Department of the Istanbul Police were also unsatisfactory. The cells were small (3 square metres), devoid of fittings and any form of light, and poorly ventilated.

**Once again, it is recommended that these deficiencies be remedied.**

69. The situation discovered on the third floor of the building housing the Beyoğlu District Central Police Station is also a matter of serious concern to the CPT. Its delegation found eight detainees sleeping on folded newspapers and without blankets on the floor of a cell measuring approximately 11 square metres. The cell had no artificial lighting and, as far as could be judged, would benefit from little or no natural light during the day. Further, the cell was extremely dirty, and the ventilation was clearly inadequate for such a number of occupants. This situation was all the more unacceptable in view of the fact that the conditions of detention could have been improved slightly if another cell that was standing empty had been used to accommodate some of the detainees.

**The CPT recommends that steps be taken immediately to ensure that the police service in question ceases to hold detainees in such deplorable conditions.**



## **V. IMPROVEMENTS TO CONDITIONS IN ANKARA CENTRAL CLOSED PRISON AND DIYARBAKIR 1 PRISON**

70. As stated at the outset of this report (see paragraph 4), the primary purpose of the CPT's second visit to Turkey was to examine what progress had been made in complying with the recommendations set out in paragraphs 89 and 122 of the Committee's first report. Nevertheless, as this involved visiting again Ankara Central Closed Prison and Diyarbakır 1 Prison in order to interview prisoners recently detained by the police, the opportunity was taken to review improvements made to the conditions in these establishments in the light of the recommendations and comments made in the CPT's first report. In this regard, the relevant sections of the six-month interim report from the Turkish authorities were taken into account.

### **A. Ankara Central Closed Prison**

71. The CPT's delegation noted that certain improvements had been made since the Committee's previous visit. In particular, a new building had been erected in the central courtyard of the prison, the ground floor of which contained a reception area for newly arrived prisoners, and the first floor, an open plan visiting unit.

72. The reception area offers much better facilities than those in use at the time of the previous visit and can be regarded as providing satisfactory short-term accommodation for new arrivals.

73. The delegation was also reasonably impressed by the facilities in the new visiting unit; certainly, they are a vast improvement on the conditions in the closed visiting boxes. However, the delegation was surprised to learn that the new unit is only used four or five times a year (e.g. for family visits on national holidays) and that the bulk of the visits still take place in the old visiting area. The authorities advanced that security deficiencies in the new visiting area ruled out it being used more frequently. The CPT's delegation was not convinced by that argument.

**It is recommended that much greater use be made of the new visiting area.** The small booths in the old visiting area might be retained for visits to prisoners representing an exceptional security risk or who have previously abused in some way the privileges of open visits. However, **if they remain in use for such exceptional situations, they should be cleaned and refurbished.**

74. Conditions in the women's ward, which were criticised in the CPT's first report, remain totally unsatisfactory. The toilet above the kitchen still overflows and leaks down the kitchen wall. Further, there are no proper shower facilities available in the ward; instead, the women have to make do with cubicles which have a tap with cold water and a container, which they use for throwing the water over themselves. The visiting arrangements for female prisoners also leave a great deal to be desired. The prisoners assemble for visits in a courtyard and talk to their visitors through a very thick wire mesh barrier; it is almost impossible to see who is on the other side of the barrier. In addition, many complaints were heard about the quality of the packaged food provided, and the delegation saw for itself that much of it was past the "sell by" date. The arrangements for communications at night between the women's ward and the main prison should also be reviewed. The delegation was not convinced that the existing arrangements guaranteed that the ward could be unlocked quickly in an emergency.

75. In their six-month interim report, the Turkish authorities stated that the women's ward had undergone both internal and external repairs and that work on it was continuing. The delegation found little evidence of such repairs or ongoing work. **The CPT recommends that the matters referred to in paragraph 74 be addressed as a matter of urgency.**

76. The prison's segregation unit (Ward 14) was the subject of several recommendations and comments in the CPT's first report.

The delegation noted that, as recommended by the CPT, the lower floor of the building housing the unit had remained out of use and that a limit of two prisoners per cell had been set on the upper floor. It also learned that there are plans to refurbish the whole of Ward 14; **such a refurbishment is long overdue.**

77. In its previous report the CPT recommended that Ward 14 should not be used to accommodate mentally ill prisoners. In their six-month interim report the Turkish authorities stated that Ward 14 was no longer used to accommodate such prisoners, and that instead they were held in the new reception area, pending their transfer to a hospital. The facts found by the delegation belied that statement; of the 17 prisoners held in Ward 14 at the time of the visit, 12 were regarded by the prison staff as suffering from some form of mental disorder.

**The CPT wishes to reiterate its recommendation that mentally ill prisoners should not be held in the segregation unit and that instead they should be kept and cared for in a secure hospital facility that is adequately equipped and possesses appropriately trained staff.**

78. Although conditions in the central kitchen and the Turkish baths were not referred to in the CPT's first report, the six-month interim report from the Turkish authorities stated that these facilities had been renovated. On inspecting the kitchen and baths, the delegation found **that there remained considerable room for improvement of the conditions in both of these facilities.**



**B. Diyarbakır 1 Prison**

79. The six-month interim report from the Turkish authorities mentioned various matters on which improvements had been or were in the process of being made at Diyarbakır 1 Prison. The delegation's observations confirmed on the whole what was stated in the interim report, though little progress had been made on renovating the prison's wards and cells.

80. The CPT remains concerned by the segregation cells in Block E. In the six-month interim report it is stated that all the cells had been provided with lighting. The delegation found that this was not the case. Strip lighting had been installed in the corridors of Block E, but it had not improved the situation inside the cells. Cell lighting and ventilation remains totally inadequate. **It is recommended that the cells should not be used until substantial improvements have been made. In this connection, consideration should be given to installing a secure cell window in the outer wall of each cell.**

81. The delegation also took the opportunity of its visit to look into the circumstances of the transfer of prisoners that took place shortly after the CPT's visit to the prison in 1990 (cf. paragraph 127 of the CPT's first report and paragraph 24 of the six-month interim report from the Turkish authorities). The CPT is now reasonably satisfied that there was no link between the transfer and the CPT's visit in 1990.

82. The delegation discussed the incident with the prison governor, the prison doctor and prisoners who were held in the establishment at the time. Versions of exactly what happened varied quite considerably. However, it is clear that during the night of 7 to 8 October 1990 an unusually high number (86) of prisoners were removed from the establishment, that several hundred prison and gendarmerie officers were deployed for the operation, and that several scores of persons sustained injuries on this occasion.

83. The delegation was particularly struck by the fact that neither the prison governor nor the prison doctor considered it necessary to prepare a written report following such a significant operational incident.

**It is recommended that appropriate steps be taken to ensure the contemporaneous documenting by relevant prison staff of important events that occur in their establishments.**

84. The CPT would also like to be informed in due course of the outcome of the investigations into complaints lodged by certain prisoners concerning their treatment in the course of the transfer on 7 to 8 October 1990 (cf. paragraph 24 of the six-month interim report).



## **VI. SUMMING-UP**

85. Torture and other forms of severe ill-treatment continue unabated in the Anti-Terror Departments of the Ankara and Diyarbakır Police. The CPT has therefore reached the conclusion that the Turkish authorities have failed to comply with the recommendation set out in paragraph 89 of its first report. The Committee sincerely hopes that in the light of this second report, those authorities will now take decisive action to put a stop to these practices. In this regard, the CPT has recommended that a body composed of independent persons be set up immediately with terms of reference to carry out a thorough investigation of the methods used by police officers belonging to the Anti-Terror Departments of the Ankara and Diyarbakır Police when holding and questioning suspects (cf. paragraph 30). This should be without prejudice to the taking of any additional measures of a legal or administrative nature that might appear appropriate to the Turkish authorities.

86. Terrorism is a despicable crime under any circumstances and is all the more unacceptable in a democratic country such as Turkey. Terrorist violence rightly meets with a strong response from state institutions. However, that response must not be allowed to degenerate into acts of torture and other forms of severe ill-treatment by public officials. Article 15 (2) of the European Convention on Human Rights establishes the absolute prohibition of acts of torture or inhuman or degrading treatment or punishment even in time of war or other public emergency threatening the life of the nation. Reference should also be made here to Article 2 (2) of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (which Turkey has also ratified): "2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."

87. As a matter of general policy, the CPT intends to use sparingly the power given to it by Article 10, paragraph 2, of the Convention. However, the failure of the Turkish authorities to comply with the CPT's recommendation in paragraph 89 of its first report as well as the lack of genuine cooperation in police and gendarmerie establishments during the CPT's second visit could be regarded as justifying resort to Article 10, paragraph 2, by the Committee. The CPT calls upon the Turkish Government to take without delay action rendering unnecessary the exercise of the above-mentioned power.

88. During the second visit to Turkey the CPT's delegation found persuasive evidence of the continuation of acts of torture and other forms of severe ill-treatment by the police against both persons suspected of ordinary crimes and suspected terrorists. Consequently, the CPT hopes that it will soon receive a clear indication of significant progress towards the introduction or reinforcement of various basic safeguards against torture and severe ill-treatment.

89. Some steps of an essentially superficial nature have been taken in response to the recommendation set out in paragraph 122 of the CPT's first report. Much remains to be done before that recommendation can be considered to have been implemented. The present report contains a number of indications as regards the steps required. The need to revise the plans of the new gendarmerie detention centre presently under construction in Diyarbakır (cf. paragraph 53 of this report) is a matter of particular concern to the CPT.

90. Looking beyond the places referred to in paragraph 122, the findings made by the CPT's delegation, in particular in Istanbul, suggest that persons detained by the police in other places in Turkey may be held under extremely poor conditions, and more specifically in cramped accommodation, in total darkness and without adequate ventilation. As indicated in paragraph 118 of the Committee's first report, the effect of such conditions on the persons detained may in itself amount to torture or inhuman or degrading treatment.

Remedying this situation will call for a major and sustained effort on the part of the Turkish authorities.

91. The various recommendations, comments and requests for information formulated by the CPT in this report are listed in Appendix I. The CPT trusts that they will be addressed in the follow-up report due in February 1992 (cf. paragraph 186 (ii) of the CPT's first report).

92. After receipt of that follow-up report, the CPT proposes to return to Turkey for meetings with Ministers and senior officials directly concerned by the Committee's activities. These meetings would provide an opportunity to review at political level the results of 18 months of cooperation and dialogue between the Turkish authorities and the CPT since the Committee's first visit to Turkey in September 1990, and to address areas of particular concern.

## **APPENDIX I**

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

#### **A. Torture and other forms of severe ill-treatment by police officers**

##### **1. Recommendations**

- a body composed of independent persons to be set up immediately with terms of reference to carry out a thorough investigation of the methods used by police officers belonging to the Anti-Terror Departments of the Ankara and Diyarbakır Police when holding and questioning suspects (paragraph 30);
- the Regulations for the conduct of interrogations to be published (paragraph 35).

##### **2. Comments**

- it would be appropriate for the terms of reference of the above-mentioned body of independent persons to include also the Anti-Terror Department of the Istanbul Police (paragraph 30);
- the adoption of legal provisions spelling out clearly the right of persons in police or gendarmerie custody to have access to a lawyer is long overdue (paragraph 33);
- in its first report the CPT recommended:
  - . that a person in the custody of the police or gendarmerie should have the right to be examined by a doctor of his own choice in addition to - not instead of - examinations carried out by a state-employed doctor (paragraph 34, and paragraph 103 (first indent) of the CPT's first report);
  - . that the medical examinations of detainees before and after interrogation be carried out by a doctor from the relevant Forensic Institute (paragraph 34, and paragraph 103 (second indent) of the CPT's first report);
- very few of the recent reports drawn up by Forensic Institute doctors to which the CPT's delegation had access during the second visit made reference to any statements by the detainee as regards the aetiology of his/her condition (paragraph 34 and paragraph 103 (fifth indent) of the CPT's first report);
- the new Regulations for the conduct of interrogations have not yet been received by all relevant police departments (paragraph 36);
- it is assumed that the above-mentioned Regulations have also been forwarded to gendarmerie establishments (paragraph 36).

3. Requests for information

- comments of the Turkish authorities on the question of the development of more advanced methods of crime investigation, and information on any planned developments in this area (paragraph 39);
- information on progress made towards the adoption of legislative measures concerning the length of custody by the police or the gendarmerie and the notification of custody (paragraph 40);
- the exact reasons for the inclusion of Article 15 (3) in the Law to Fight Terrorism (paragraph 45);
- the following information concerning the implementation of Article 15 (3):
  - . the number of cases in which authorisation has been sought to prosecute a police or intelligence officer or other public servant for an offence allegedly committed by him while on duty to fight terrorism, together with an indication of the accusations levelled against the officers concerned,
  - . the number of those cases in which authorisation has been given, and the accusations levelled against the officers concerned,
  - . other action, if any, taken in those cases in which authorisation to prosecute has not been given (paragraph 45).

**B. Conditions of detention in police and gendarmerie establishments**

1. Recommendations

a) concerning specific places

- the cells in the basement area of the old building of Ankara Police Headquarters to be enlarged by removing adjoining walls, and additional efforts to be made to improve lighting and ventilation (preferably, the cells should enjoy natural light) (paragraph 49);
- the cells of the Narcotics Department located in the new building of Ankara Police Headquarters to be enlarged by removing adjoining walls (paragraph 50);
- the temporary holding cells at Diyarbakır Police Headquarters to be either enlarged or demolished and, in the former case, to be provided with lighting and ventilation (paragraph 51);
- substantial improvements to be made to lighting and ventilation in the multi-occupancy holding rooms at Diyarbakır Police Headquarters (paragraph 51);
- the planned transformation of the cellular accommodation in the Interrogation Centre of the Anti-Terror Department of the Diyarbakır Police to be implemented immediately (paragraph 52);

- the above-mentioned transformation to result also in all of the Centre's smallest cells being either enlarged or taken out of service (paragraph 52);
- as regards the new building presently under construction to replace the existing cellular accommodation of the Central Interrogation Centre of the Regional Command of the Diyarbakır Gendarmerie:
  - . the building's plans to be revised, taking into account the remarks set out in paragraph 120 of the CPT's first report,
  - . the possibility of installing cell windows giving access to natural light to be explored,
  - . facilities for open air exercise for detainees to be provided (paragraph 53);
- the cells of the Anti-Terror Department of the Istanbul Police to be enlarged by removing adjoining walls and provided with adequate lighting and ventilation, and all persons held overnight by the department to be provided with a mattress and blankets (paragraph 61);
- as regards the Law and Order Department of the Istanbul Police:
  - . steps to be taken immediately to provide the Homicide Section with larger and better equipped cells (paragraph 63);
  - . the three small cells used in the Theft Section for monitoring detainees' conversations to be withdrawn from service (paragraph 64);
  - . steps to be taken immediately to improve conditions of detention in the multi-occupancy holding rooms belonging to the different sections of the department (paragraph 65);
  - . concerning the department's general detention area, steps to be taken immediately to improve lighting in the area, to provide detainees with means of rest during the day and with mattresses at night, to install a shower facility for detainees, and to ensure regular access to the adjacent open courtyard for persons held in the area (in particular those held for lengthy periods) (paragraph 66);
  - . the police authorities in Istanbul to explore the possibility of introducing properly equipped cellular accommodation in the department's general detention area (paragraph 66);
  - . the three metal bar cages in the corridor of the Pickpocketing and Fraud Section to be dismantled forthwith and immediate steps to be taken to ensure that aggressive or disturbed prisoners are placed instead in a room which is of a reasonable size, properly lit and ventilated, and free of objects which could be used to cause injury. Such prisoners to be kept under constant and adequate custodial surveillance or medical supervision, as the case may be (paragraph 67);

- deficiencies (as regards space, lighting, ventilation and fittings) in the cells of the Narcotics Department of the Istanbul Police to be remedied (paragraph 68);
- steps to be taken immediately to improve conditions of detention on the third floor of the building housing the Beyoğlu District Central Police Station in Istanbul (paragraph 69).

b) general

- persons obliged to stay overnight in the custody of the police or gendarmerie to be provided with both blankets and a mattress (paragraph 56, and paragraph 123 (first indent) of the CPT's first report);
- the Code of Practice for remand in custody to specify that persons in police or gendarmerie custody should be given at least one full meal every day (paragraph 58, and paragraph 123 (third indent) of the CPT's first report).

2. Comments

- the Turkish authorities are invited to pursue the implementation of the provision in the Code of Practice for remand in custody stipulating that remand cells should be fitted with benches (paragraph 55);
- it would be appropriate for all police and gendarmerie establishments in which persons are frequently held for lengthy periods to be provided with shower facilities for the detainees (paragraph 57).

**C. Improvements to conditions in Ankara Central Closed Prison and Diyarbakır 1 Prison**

1. Recommendations

a) Ankara Central Closed Prison

- much greater use to be made of the new visiting area (paragraph 73);
- the small booths in the old visiting area, if they remain in use for exceptional situations, to be cleaned and refurbished (paragraph 73);
- the failings in the Womens' ward identified in paragraph 74 to be addressed as a matter of urgency (paragraph 75);
- mentally ill prisoners not to be held in the segregation unit and instead to be kept and cared for in a secure hospital facility that is adequately equipped and possesses appropriately trained staff (paragraph 77, and paragraphs 140 and 167 of the CPT's first report);



b) Diyarbakır 1 Prison

- the segregation cells in Block E not to be used until substantial improvements (as regards lighting and ventilation) have been made; in this connection, consideration to be given to installing a secure cell window in the outer wall of each cell (paragraph 80);

c) general

- appropriate steps to be taken to ensure the contemporaneous documenting by relevant prison staff of important events that occur in their establishments (paragraph 83).

2. Comments

- refurbishment of the segregation unit of Ankara Central Closed Prison is long overdue (paragraph 76);
- there remains considerable room for improvement of the conditions in the central kitchen and the Turkish baths at Ankara Central Closed Prison (paragraph 78).

3. Requests for information

- the outcome of the investigations into complaints lodged by certain prisoners concerning their transfer in the course of the transfer at Diyarbakır 1 Prison on 7 to 8 October 1990 (paragraph 84).



**APPENDIX II**

REPUBLIC OF TURKEY  
PROVINCE OF ANKARA  
POLICE HEADQUARTERS

Section: 1

ANKARA

Office: Administration

13 August 1991

No: 10702115994

Subject: CPT report

To: Directorate of Security

- Ref. a. Order No. TEM.D.A.5.081267 of 1 April 1991  
b. Order No. TEM.D.A.5.088790 of 9 April 1991  
c. Order No. TEM.D.A.5.140000 of 10 June 1991

It is stated in the above-mentioned orders that persons remanded in custody in Ankara and Diyarbakır were subjected to both physical and psychological torture and ill-treatment during the visit to Turkey carried out between 9 and 21 September 1990 by a delegation of the European Committee for the Prevention of Torture (CPT), which recommended that this practice be stopped immediately. It is stated in above-mentioned order (c) that, if torture has been committed, those responsible are to be identified and action is to be taken against them under Section 15 of the Suppression of Terrorism Act.

The persons detained in Section 1 of Ankara Police Headquarters between 9 and 21 September 1990 have been sought repeatedly at the addresses given in their statements, but have not been found. It has therefore proved impossible to contact them. However, efforts are being made to contact persons who know them or know their whereabouts and identify their latest addresses in order to interview them. In that event, they will again be requested to make statements and, if they state that the offence in question was indeed committed, the appropriate action will be taken against the officers concerned under Section 15 of the Suppression of Terrorism Act and you will be informed of the outcome.

For the Director of Security

(signed)

Ali KALKAN  
Deputy Director of Security