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**Responses 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 18 to 20 September 1996

The Turkish Government has authorised the publication of these responses. The report of the CPT on its September 1996 visit to Turkey is set out in document CPT/Inf (2007) 9.

Strasbourg, 11 January 2007

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**Response by the Turkish Government
to the report by the European Committee for the Prevention of Torture
and Inhuman or Degrading Treatment or Punishment (CPT)
on its visit to Turkey from 18 to 20 September 1996**

Ankara, 16 June 1997
Ministry of Foreign Affairs

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FOREWORD

This report contains the Turkish Government's initial reply to the comments, recommendations and requests for information made in the report submitted to the Turkish Government by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Turkey from 18 to 20 September 1996.

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment was opened for signature on 26 November 1987 and came into force on 1 February 1989; Turkey signed it on 11 January 1988 and ratified it on 26 February 1988. The fact that Turkey signed and ratified the convention a very short time after it was opened for signature is indicative of the Turkish Government's determination to deal fully with human rights problems, which take different forms in each country according to its particular circumstances.

The continuity and regularity of our relations with the Committee under the terms of the convention, and the level at which they are maintained, demonstrate the importance we attach not only to the spirit of constructive co-operation but also to the protection of persons deprived of their liberty, which is the essence of the convention.

Since 1990 the Committee has made eight ad hoc or periodic visits to Turkey. In addition, in August 1996, for the first time in the Committee's history, Turkey invited a CPT delegation to come and help find a solution to incidents occurring in a number of prisons.

The Committee has been provided with the requisite facilities on all its visits to date. Not only have its investigations on the spot been facilitated, but steps have been taken to ensure that the delegation members are received at the highest level and every effort has been made to strengthen the foundations of co-operation.

The reports submitted to the Turkish Government after the visits have been carefully studied by the authorities concerned. Steps have been taken to remedy the defects found and the Committee's recommendations have always been taken into account.

Yet the Committee has made two public statements on Turkey, one in December 1992 and the other in December 1996. As the latest public statement was also included in the Committee's September 1996 report, the text of the Turkish Government's response to it is included in our reply.

Turkey considered these public statements unjustified, unfair and, most important of all, untimely. We reject the criticisms in the public statement which are levelled at a number of state institutions, holding them responsible rather than engaging in constructive co-operation. Our rejection of the criticisms directed at state institutions also applies to the relevant sections of the report.

Turkey is making great progress not only in the protection of persons deprived of their liberty, but also in bringing human rights practices up to the highest standard in every respect. Fresh measures are introduced every day and preparations are under way for further steps forward. Still more importantly, a national awareness of the cardinal values of human rights and fundamental freedoms has developed.

When the issues discussed during the Committee's visits to Turkey since 1990 are viewed together with these developments, the scale of the advances made is still more apparent. From Turkey's point of view the process of improvement is moving fast. Even since the Committee's visit in September 1996 some very important steps have been taken, and their results are such as to entirely alter the nature of the report on the visit.

Our government's determination to combat torture and ill-treatment was once again brought home to the general public by Foreign Affairs Minister and Deputy Prime Minister Tansu Çiller at a press conference on 10 March 1997. It was most clearly expressed in the following terms:

"One of our concerns is torture. This is not something we can accept for our own people. So special emphasis will be placed on tackling the issue of torture. As the Ministry of the Interior has been instructed by me and as I am now telling you here, this will be the responsibility of the governor and security head of each province. No act of torture in any form, in any province, is acceptable. So neither Palestinian hanging, nor electric shocks, nor any treatment that we now consider inhuman may be inflicted in our police stations. Very soon I shall be making a tour of police stations, together with the Minister of the Interior, to put across this message and this principle. But that is not the main point. The main point is that people should take a stand against torture in every province in Turkey. So I now call upon all provincial governors and all heads of security. This is not something that can be accepted in our country, in this day and age, on behalf of our people. Either it must end or the requisite action will be taken."

Information on the legal measures introduced and the steps taken to remedy practical defects is provided in this reply in the order adopted in the report.

I. INTRODUCTION

During its visit to Turkey from 18 to 20 September 1996 the CPT delegation visited Adana, Bursa and Istanbul Police Headquarters and various related units, and Adana E-type Prison, Metris Closed Prison and Sakarya E-type Prison.

As on previous occasions, steps were taken to enable the delegation to gain immediate access to all these places. (A reply to the delegation's finding of "failure to co-operate" in respect of Istanbul and Adana Police Headquarters is given in the relevant section of the report).

The report on the visit was attached to the letter of 13 December 1996 from the President of the CPT.

The report sets out various findings concerning the places visited in September 1996, as well as a number of observations; it submits the Committee's recommendations to the Turkish Government and requests additional information on various points.

The content of the letter of 30 September 1996 already received from the Committee in connection with the delegation's September 1996 visit was carefully studied by the relevant authorities and the units concerned were requested to carry out the necessary inquiries. Subsequently, when the public statement of 6 December 1996 and the report adopted by the Committee on the same date were received, the necessary procedure was set in motion to verify the accuracy of the findings made by the delegation during its visit and to conduct investigations on any points found to be accurate.

The allegations made on an individual basis were initially investigated through administrative channels by the police directorates concerned. The Ministry of the Interior's supervisory machinery was then set in motion and investigations were opened into the alleged incidents. Monitoring was not confined to the units visited by the CPT delegation, but extended to cover a number of other provinces. (Information on this point is provided below in the relevant sections).

At the same time the Ministry of Justice requested the public prosecutors' offices in the places concerned to investigate the allegations.

Clearly, this is a wide-ranging and protracted process. Most of the inquiries and investigations are still in progress. The information provided in the relevant paragraphs on the individual allegations is therefore by way of an interim reply. The Committee will be informed of the results separately once they are known.

A further difficulty encountered in investigating the individual allegations after the event stems from the fact that only medical examinations conducted at the time can best establish whether the alleged acts were actually committed or not. Even if the findings of the medical members of the CPT delegation are accepted as valid, they cannot be confirmed subsequently because medical evidence alters in appearance after a certain time has passed. Under these circumstances, even if the persons referred to in the CPT report are later identified, allegations concerning the past cannot be proved in law.

This report therefore largely constitutes a reply to the CPT report as a whole rather than to findings on specific cases.

II. ALLEGATIONS OF TORTURE AND ILL-TREATMENT

1. It is stated in section II of the report, paragraphs 5 to 15, that some persons interviewed by the CPT delegation at Istanbul Police Headquarters and related units and at Adana Police Headquarters, and some of the persons later interviewed in Sakarya E-type Prison and Metris Prison who had previously been held in the above-mentioned units, complained that they had been ill-treated while in police custody; it is also stated that a sack containing objects which could allegedly be used to inflict ill-treatment was found in Building B of Istanbul Police Headquarters; it is further indicated that none of the 8 persons interviewed at Bursa Police Headquarters made any complaints of ill-treatment.

2. The allegations made in the report have been investigated through administrative and judicial channels.

a. By letter to the chief public prosecutors' offices in Istanbul, Adana, Sakarya and Bakırköy, where the prisons visited by the delegation are located, the Ministry of Justice requested that the remand prisoners interviewed by the delegation be given medical examinations and statements be taken from them with a view to investigating the allegations, and that the alleged "failure to respond to complaints of torture" be investigated as well.

The Chief Public Prosecutor's Office at the Istanbul State Security Court has identified the persons held in the Anti-Terror Department of Istanbul Police Headquarters between 9 and 18 September 1996. Likewise the Istanbul Chief Public Prosecutor's Office has identified 3 persons held in the Theft Section of the Law and Order Department of Istanbul Police Headquarters between 18 and 20 September 1996, the Bakırköy Chief Public Prosecutor's Office has identified the persons interviewed by the CPT delegation in Metris Prison, the Sakarya Chief Public Prosecutor's Office has identified 9 persons held in Sakarya E-type Prison who were detained in the Anti-Terror Department of Istanbul Police Headquarters in September and the Adana Chief Public Prosecutor's Office has identified 7 of the remand prisoners interviewed by the CPT delegation in Adana E-type Prison.

It has been established that some of these persons claimed in the statements they made to the public prosecutor when brought to court that they had been tortured while in custody, and their statements are in the records, while others stated that they had not been ill-treated while in custody; those who claimed to have been tortured were required to receive medical examinations; some of them refused to be examined. The medical findings were recorded together with the persons' statements and their preliminary investigation files were sent to the public prosecutor's office at the place where the ill-treatment was alleged to have been inflicted. The investigations into these allegations are still in progress.

b. As no allegations of ill-treatment were made in the report with regard to Bursa Police Headquarters, this unit was not included in the judicial investigations.

c. From the administrative point of view, two forms of action have been taken: firstly the normal administrative procedure and secondly unannounced inspections. The first of these steps was taken to establish whether the CPT delegation's observations regarding ill-treatment and material conditions of detention were accurate. The second was also designed to investigate the allegations made in the CPT report, but the chief purpose was to determine the causes of any defects and the steps that could be taken to remedy them.

Between 14 April and 30 May 1997, officials of the Ministry of the Interior's inspection bodies carried out special unscheduled and unannounced inspections, on the Minister's instructions, at Istanbul, Adana and Bursa Police Headquarters. (These inspections were also carried out in Ankara, Izmir and Diyarbakır; information on the subject is given below.)

On the basis of the CPT delegation's findings during its visit in September 1996, the inspections covered the interrogation units, holding cells, similar annexes and police stations within the purview of the above-mentioned units; the inspectors investigated the accuracy of the allegations concerning individuals interviewed by the CPT delegation, the state of the equipment alleged to have been used for purposes of ill-treatment, compliance with the custody regulations and material conditions of detention.

Some of the inspectors' findings regarding application of the custody regulations and material conditions of detention are somewhat similar to the CPT delegation's findings. In addition, the persons interviewed by the delegation were identified from the custody registers.

As regards the equipment found under a staircase in the basement of Building B of Istanbul Police Headquarters, and described in the CPT report as objects that "could be used to inflict ill-treatment", the Fatih Chief Public Prosecutor's Office ruled that it lacked jurisdiction, as indicated in our letter of 22 November 1996. Following this decision, the file compiled as a result of the investigation by the Istanbul Regional Headquarters of the Police Inspection Authority was sent to the Directorate of Security on 25 April 1997. The Ministry of the Interior's supervisory bodies investigated the matter on the spot.

3. As indicated above in the relevant paragraph, unannounced inspections were carried out at Istanbul, Adana and Bursa Police Headquarters and in Ankara, Izmir and Diyarbakır on the basis of the CPT delegation's findings. In the light of the results of these inspections, the necessary action was taken on the facts found regarding interrogation, custody registers and material conditions of detention. These unannounced inspections were not confined to the scope of the CPT report; on the basis of findings concerning practices likely to constitute criminal offences, it was decided that criminal and disciplinary investigations should be opened in respect of four police officers of various ranks, one in Istanbul and the other in Adana. Investigations have accordingly been opened in respect of these officers.

4. In the light of the results, the point to be emphasised here is that the Turkish Government is firstly taking the necessary steps to remedy all defects affording scope for ill-treatment and secondly showing its determination to find and punish those responsible for these defects.

As indicated in the foreword to our reply, significant steps have been and are being taken to deal with the root of these problems. Some of them will produce results only in the long term.

III. OTHER ALLEGATIONS AND COMMENTS MADE IN THE REPORT AND PUBLIC STATEMENT

1. Alleged failure to co-operate with the CPT delegation during its visit

The CPT report gives two examples relating to its visits to Istanbul and Adana Police Headquarters and states that "manoeuvres of this kind are incompatible with the principle of co-operation set out in Article 3 of the Convention". On the other hand, it states in the same paragraph that "the delegation was granted rapid access to all of the above-mentioned establishments. In this connection, the CPT is grateful to the Turkish authorities for having provided members of the delegation with official credentials".

The allegation that some units "failed to co-operate" was addressed in the course of the special inspections; the outcome was as follows.

As regards Istanbul Police Headquarters, it was established from the custody registers and the individual procedural files that on 18 September 1996 at 9 am 27 persons whose custody periods had expired were brought before the State Security Court as required by the Code of Criminal Procedure, that when the delegation visited the Police Headquarters 4 persons were being detained, that this number was consistent with that recorded on the custody register and that the delegation was allowed to interview these people.

As regards Adana Police Headquarters, it was established that the CPT delegation arrived there on 19 September at about 10.30 or 11 pm, that it went round the holding cells in the Anti-Terror Department, scrutinising the rooms and cupboards one by one and interviewing in private a person held there; that it then visited the Trafficking Department holding cells and after that the Law and Order Department holding cells, interviewing the 20-25 people held in a large multi-occupancy cell; that after meticulously inspecting everything the delegation left the Police Headquarters by taxi; that the delegation members were taken wherever they asked and allowed to look round everywhere, and that there was no delay. (It is stated in the CPT report that the 24 persons interviewed in this unit said that they had not been ill-treated).

2. Alleged failure of public prosecutors and judges at State Security Courts to respond to complaints of ill-treatment

It is alleged in the report and public statement that some persons interviewed by the CPT delegation were asked "whether they had complained about the treatment received at the hands of the police, when brought before the public prosecutor and judge at the State Security Court. They all replied in the affirmative, but added that neither the public prosecutor nor the judge had displayed any interest in pursuing their complaints". Furthermore, a general comment is made to the effect that the CPT has "detected, amongst some of the public prosecutors whom it has met, a tendency to seek to defend the police rather than to view objectively the matter under consideration".

Comments of this kind exceed the CPT's remit. This is an example of our rejection of the criticisms levelled at state institutions, referred to in the foreword to this report. The fact remains that the information provided in the section of this report on public prosecutors' inquiries into allegations of ill-treatment does not bear out the unjust generalisation made by the CPT, giving persons who make such claims as its sources.

IV. RECOMMENDATIONS MADE IN THE REPORT AND PUBLIC STATEMENT

1. Compliance with instructions issued in circulars

Ensuring compliance with the instructions issued in circulars is the responsibility of the administration. It is inappropriate for the CPT to attempt to remind us of this. The Turkish State, with all its institutions, is aware of all its duties and responsibilities. Nevertheless, as the CPT acknowledged in its public statement, Turkey is currently facing a terrorist campaign on a scale no other Council of Europe member country has experienced, which has claimed more than 20,000 lives in the past twelve years. While some of the state institutions are endeavouring to raise human rights to a standard worthy of the Turkish people, some others are struggling against terrorism, which threatens one of the most basic human rights, the right to life. Ideally, both tasks should be performed together. In practice, however, this desirable aim cannot always be achieved; defects are sometimes observed. What the CPT should know is that with the legal and administrative measures introduced particularly over the past few years, the intention is to reduce those defects to a minimum. Substantial headway has been made in this process. The steps taken are wide-ranging and continuous.

Circulars contain instructions that the administration wishes its subordinate bodies to obey. Turkey has a firmly entrenched state structure and also has the supervisory machinery required in a firmly entrenched state to ensure that instructions are applied. Inspection authorities exist and operate not only in the area of human rights but in all areas when the matter of enforcement arises.

The statement made by the Minister of the Interior on 29 November 1996, which is also referred to in the CPT report, concerns additional inspection measures, and the fact that it was made public at the time is the outcome of the above-mentioned initiatives designed to arouse public awareness of human rights. The practical outcome is the special inspections described in the relevant sections of this report.

2. Forensic medical services

The report and public statement observe that "the present system of detained persons being routinely examined by a forensic doctor at the end of their period of police custody is, in principle, a significant safeguard against ill-treatment", but add that "the forensic doctor must enjoy formal and de facto independence, have been provided with specialised training and been allocated a mandate which is sufficiently broad in scope"; they also state that "further, the necessary resources should be made available in order to allow the training programme for doctors called upon to perform forensic tasks - recently devised by the Ministry of Health - to be implemented throughout Turkey without delay".

As indicated in our letter of 22 November 1996 in reply to the Committee's letter of 30 September 1996, the Ministry of Health developed a standard forensic medical form and instructed those of its subordinate bodies concerned to ensure that medical examinations of detained persons were conducted in private and that if there was no forensic doctor in the province, detained persons should be examined every 48 hours by a health centre doctor; it also requested that forensic medical forms should be drawn up in three copies, the first to be kept by the medical establishment, the second to be transmitted to the appropriate public prosecutor's office by the medical establishment and the third, sealed and stamped, to be sent to the commanding officer of the relevant law enforcement unit.

In Turkey, the task of providing scientific and technical opinions on subjects relating to forensic medicine has been conferred by the law bearing the Institute's name on the Institute of Forensic Medicine placed under the authority of the Ministry of Justice. In specified provinces the units under the Institute's authority accordingly provide forensic medical services in the provincial capitals in which they are located. These services are also provided by those universities that possess a forensic medicine department. However, as these institutions are not structured in such a way as to be able to provide services round the clock throughout the country, a substantial proportion of forensic medical services are provided by the establishments under the authority of the Ministry of Health, under the terms of the Provision of Health Services Act and the Forensic Medicine Act.

As also emphasised in our letter of 22 November 1996, despite all these steps taken in line with the Committee's views and proposals, it is not always possible under the conditions engendered by the struggle against terrorism to bring persons held in custody to a doctor every 48 hours. Special situations of this kind stem from causes such as suspects leaking information to persons outside, or the likelihood that either the suspect or the guards will be attacked during transport to and from the doctor's, or the fact that for security reasons it is not always possible to transport suspects from one place to another at the required time.

The differences in the organisation of forensic medical services from one province to another, due to the differences in the various provinces' resources and characteristics, give rise to a number of defects in the operation of these services. In order to remedy these defects and enable the forensic medical services provided by the establishments under the authority of the Ministry of Health to function smoothly and without wasting resources in all localities, the Ministry of Health has introduced a number of additional rules by circular of 13 March 1997 addressed to all provincial governors' offices. A copy of the circular is appended (Appendix 2). As will be seen from this, the new rules concern the redeployment of the health services' resources in implementing the existing instructions on the issuing of forensic medical certificates. Additional responsibilities are conferred on the establishments under the Ministry's authority.

Furthermore, to speed up the training programme in forensic medicine started in co-operation with the Council of Europe, the Ministry has contacted the Turkish Medical Association and initiated co-operation with a view to completing the project as soon as possible.

The Turkish Medical Association discussed the content of the forensic medicine training programme at two meetings held in January and March 1996, with the participation of Council of Europe experts; the training course notes have been drawn up; the visual aids to be used in the course have been produced and duplicated; and two books on human rights, doctors and medical ethics have been printed.

The content of the courses was finalised on the basis of pilot courses held in Manisa on 4 and 5 May, in Isparta on 11 and 12 May and in Nevşehir on 3 and 4 August 1996. As scheduled the first course was held from 11 to 15 December 1996 and a widely attended general evaluation of the course took place on 25 and 26 January 1997. A further course was held in Manisa from 7 to 11 May 1997. The courses were attended by 201 medical practitioners. The next one will be held in Diyarbakır from 11 to 15 June 1997. It is planned to hold four more courses this year.

3. Response to allegations of torture, punishment of those found responsible

It is stated in the report and public statement that public prosecutors must react expeditiously and effectively when confronted by complaints of torture and ill-treatment; it is further alleged that when cases are brought to court, insufficient penalties are imposed in the event of ill-treatment being proven.

In our view, the CPT is not competent to assess the appropriateness of the decisions given by independent courts in a country party to the convention.

As indicated in the public statement, the Constitution guarantees that "No one shall be subjected to torture or ill-treatment; no one shall be subjected to a penalty or to treatment incompatible with human dignity". Under the Turkish Criminal Code, torture and ill-treatment are offences subject to criminal penalties. The main reason why human rights reforms are considered necessary is the wish to develop an environment in which there will be no need to put these legal provisions into operation. However, as successive Turkish governments have always openly acknowledged, defects arise in practice from time to time and that is when legal safeguards come into play. As the Committee also knows, when circumstances arise in which it is deemed necessary for these provisions of the Criminal Code to be applied, the judicial and administrative authorities undertake the necessary action. In the first four months of 1997 a total of 138 cases were brought to court under Articles 243 and 245 of the Criminal Code. Proceedings were brought in 83 of these cases; 10 led to convictions and 11 to acquittals; one case was joined. In 1996, as regards personnel under the Gendarmerie Central Command, legal action was taken in respect of 5 officers, 89 non-commissioned officers and 67 staff sergeants.

4. Rights of persons in police custody, access to a lawyer and appearance before a judge

The relevant sections of the report and public statement contain a number of recommendations for strengthening the rights of persons in police custody; some criticisms are made of the custody periods and rules applying at the time when the report was drawn up; the information sheet setting out the rights of persons in police custody, which was appended to our letter of 22 November 1996 to the Committee, is praised; attention is drawn to the importance of systematically giving the information sheet to detained persons at the outset of their custody; and it is recommended that a similar information sheet be drawn up for persons suspected of offences falling under the jurisdiction of the State Security Courts.

In our letter of 22 November 1996 to the Committee, we provided detailed information on the preparation of a bill on the reduction of custody periods. The public statement subsequently issued by the Committee stated that suspects could be held incommunicado by the police for up to 15 days, and up to 30 days in the State-of-Emergency Region, and that this situation facilitated the infliction of torture and ill-treatment; it emphasised that if the bill was enacted, these provisions would represent a significant step in the right direction.

The bill in question was adopted by the Turkish Parliament on 6 March 1997 and came into force on 12 March 1997, when it was published in the Official Gazette.

The new Act covers not only custody periods for offences falling under the jurisdiction of the State Security Courts and in the State-of-Emergency Region, but also custody periods for ordinary offences. In preparing this legislation attention was paid both to the views of the Committee and the case-law of the European Court of Human Rights, and to the conditions prevailing in Turkey.

The Act addresses the relevant articles of the Code of Criminal Procedure and the State Security Courts Act from the point of view of the custody periods applied in respect of individual offences, collective offences and the commission of these offences in the State-of-Emergency Region, and substantially reduces those periods, which could previously extend to 30 consecutive days, by comparison with the previous situation. The Act also makes the conditions for extending custody periods subject to a public prosecutor's order and a court decision, and specifies the stage of the interrogation at which a suspect may have access to a lawyer.

The provision that a person in custody may have access to his lawyer after four days applies only to collective offences (committed by several persons acting in concert) falling under the jurisdiction of the State Security Courts. The period for individual offences is 48 hours. The right of access to a lawyer for persons accused of offences falling outside the jurisdiction of the State Security Courts applies from the date at which the person is taken into custody.

The new Act provides for suspects' next of kin to be notified of their detention in all circumstances without exception. It also entitles the suspect and his lawyer, legal representative, spouse or blood relatives of the first or second degree to object to the person's being taken into custody (apprehended) and to decisions to extend the custody periods - the safeguard known as "habeas corpus". Under the previous legislation, offences falling under the jurisdiction of the State Security Courts constituted an exception to the exercise of this right. The new Act removes this exception and extends the "habeas corpus" safeguard to offences falling under the jurisdiction of the State Security Courts. This makes it necessary to notify a suspect's lawyer and next of kin as prescribed by the law of the fact that he has been taken into custody. From this point of view a situation in which a person is held incommunicado cannot arise.

It is apparent that the CPT is mistaken in its view of Articles 135 and 136 of the Code of Criminal Procedure, which provide for the rights of the accused. As regards offences falling outside the jurisdiction of the State Security Courts, under Article 136 of the Code of Criminal Procedure, the apprehended person or the accused has the right to take advantage of the assistance of one or more lawyers at every stage of the investigation procedure and has the right of access to his lawyer at every stage of the police investigation. The provision set out in Article 135 of the Code of Criminal Procedure, to the effect that the accused is entitled to have his lawyer present during interrogation by the police or public prosecutor, has clearly been interpreted by the CPT to mean that the accused does not have the right of access to his lawyer during the preliminary investigation, prior to interrogation. Yet under the terms of Article 136 of the Code of Criminal Procedure, the accused has the right of access to his lawyer at every stage in the investigation. It is pointed out that this is also the case in practice.

5. Human rights education

The report states that the steps taken in the area of human rights education and professional training are required throughout the criminal justice system, and mentions the need to promote awareness of human rights amongst the general public.

The Turkish authorities share the view that it will be possible to remedy the isolated defects which generally arise from the practices of public servants performing their duties at critical points by providing human rights training for personnel at all levels.

Information was provided in the above paragraphs, in the section on forensic medicine, on the training activities being carried out under the authority of the Ministry of Health in co-operation with the Turkish Medical Association. All institutions directly concerned with human rights practices also have training projects which they have put into operation as part of their own networks' in-service training programmes.

A series of "human rights seminars" has been planned as part of the human rights training work being carried out at various levels of the Ministry of the Interior's organisation.

These seminars are intended for senior territorial administrators and senior police and gendarmerie officers, who are jointly responsible for security and law and order in the districts and provinces and are in practice required to co-ordinate the operation of these services. The first of these seminars was held in 1996.

It took place in Mersin from 23 September to 4 October 1996 and was attended by 295 officials: 26 deputy provincial governors and 217 district governors responsible for security on behalf of the provincial governors, holding posts in 26 provinces, most of them in East and South-East Anatolia, and 52 senior law enforcement officers in post in the same provinces.

The topics covered by the seminar included Turkey's obligations under the United Nations and Council of Europe conventions, the OSCE documents, the European Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the effects of these conventions on our domestic law.

The second of the series of seminars was held from 5 to 23 May 1997 at the Gendarmerie Special Training Centre in Kumburgaz, Büyükçekmece, near Istanbul, for three groups in three one-week sessions. This year's seminar was attended by 237 officials: 11 deputy provincial governors and 128 district governors responsible for security on behalf of the provincial governors, and 97 senior law enforcement officers (63 police and 34 gendarmerie officers), in post in the 11 provinces of Istanbul, Balıkesir, Bilecik, Bursa, Çanakkale, Edirne, Kırklareli, Kocaeli, Sakarya, Tekirdağ and Yalova.

The seminar covered topics such as human rights provisions in our domestic law, the shortcomings found in the course of the CPT's visits and investigations, the duties and responsibilities of senior territorial administrators and law enforcement officers with regard to human rights under the international conventions to which Turkey is a party and under our domestic law, the European Convention on Human Rights, Turkey's human rights obligations under the United Nations, Council of Europe and OSCE conventions and documents and Turkey's foreign policy, and the powers and working methods and procedures of the United Nations and Council of Europe committees for the prevention of torture and the European Court of Human Rights.

These seminars have so far covered 37 provinces and 532 officials, and it is planned to hold them with the same scope and content in the remaining 43 provinces in the near future.

The Ministry of the Interior has also held regional meetings in 1996 and 1997, within the purview of the Anti-Terror and Operations Department, to inform members of the police force about terrorism and human rights. Steps have also been taken to provide provincial heads of security and heads of anti-terror departments with awareness training on the subject. In addition, the Anti-Terror and Operations Department invited the President of the Swedish Raoul Wallenberg Institute, Professor Göran Melander, to Turkey with his staff, and they held a seminar on human rights and practices in other countries for provincial heads of security and heads of anti-terror departments.

The Department plans to ensure that activities of this kind benefit not only heads of department, but personnel working in units whose duties bring them into direct contact with the public. The Directorate of Security accordingly intends to systematically provide human rights training courses to the heads and lower ranking personnel of the provincial security directorates' law and order departments, mobile squads, security, traffic and trafficking/organised crime departments as from September 1997 and to continue until all personnel has received awareness training.

Co-operation on police training continues with the relevant departments of the Council of Europe. During the scheduled visit by two members of the Directorate of Human Rights, Ms Anita Hazenberg, in charge of human rights education programmes, and Mr Valenti, in the week of 30 June to 4 July 1997, the Directorate of Security will explore with them the possibility of organising seminars on "training for mobile squad personnel in intervention in social disturbances, in apprehending and interrogating suspects, and in human rights" for the network of the Anti-Terror and Operations Department and the Law and Order Department and related units, on "training in apprehending and interrogating suspects and in human rights" for the network of the Trafficking/Organised Crime Department and related units, and on "public relations and human rights training" for the network of the Traffic Department and related units. The visit is also expected to contribute to the efforts to reorganise detention facilities to comply with European standards in accordance with the "Instructions for Interrogation and Interview in Custody".

Under the authority of the Gendarmerie Central Command, human rights classes are being taught in gendarmerie schools, privates' training units and gendarmerie sections. Human rights seminars and lectures are also being held in various sections, headquarters and institutions.

A significant training activity was conducted under the authority of the Ministry of Justice when the President of the European Commission of Human Rights, Mr Stefan Trechsel, visited Turkey from 16 to 18 February 1997 at the invitation of our Minister of Justice Mr Şevket Kazan, and gave a talk on the Commission's work to Turkish legal practitioners. The lecture, held in Ankara on 17 February 1997, was attended by the chief public prosecutors of the provinces in the State-of-Emergency Region, the presidents of and chief public prosecutors at the State Security Courts, the chief public prosecutors of large cities, the presidents of regional administrative courts and the Turkish lawyers representing Turkey before the European Commission and Court of Human Rights. Mr Trechsel will be visiting Turkey again on 15 June 1997 and will again give a lecture on the Commission's work on 16 June, this time for members of the judiciary and the law faculties' teaching staff.

At a meeting organised by the Ministry of Justice in Diyarbakır with the participation of public prosecutors in the State-of-Emergency Region, the local population's complaints and the current practices were reviewed with the aim of making judicial remedies fully operational.

The Ministry of Justice Training Department has organised a training programme to be attended by 12,830 senior prison officers in 15 training centres in various locations, primarily with a view to improving the human rights situation in prisons. The programme was started on 5 May 1997 and is due to be completed on 19 July 1997.

6. Material conditions of detention

The report contains a number of comments on material conditions of detention, including the statement that "the Committee is fully aware that bringing existing detention facilities up to the required standard will require a considerable amount of time and money".

The CPTs observations were carefully assessed by the authorities concerned and the matter was covered by the special inspections referred to in earlier paragraphs.

The findings on this point deriving from the unannounced inspections conducted by the officials of the Ministry of the Interior's supervisory bodies at Istanbul, Adana and Bursa Police Headquarters are somewhat similar to the CPTs observations. In some detention facilities: the size of individual cells was not in conformity with the standards specified in the instructions; lighting, ventilation and cleanliness were inadequate; sleeping platforms, mattresses and blankets, as well as towels in toilets and bathrooms, were found to be lacking. (As indicated in the relevant sections of this report, the inspections were not confined to the police headquarters visited by the CPT, but were extended to cover other areas).

The work started some time ago by the Ministry of the Interior's Directorate of Security with a view to improving material conditions of detention has been speeded up in line with the Ministry's special inspection reports.

Subsidies of 50,000 million TL each were allocated to the 1996 budgets of the police force and the gendarmerie. The Gendarmerie Central Command spent 16,000 million TL on bringing existing security and holding cells up to the required standard in 1996, and has set aside an appropriation of 30,000 million TL in 1997. To date 97 security and holding cells have been brought up to the required standard, and work continues on extending 13 more. It is planned to bring all security and holding cells in Turkey up to the required standards within 3 or 4 years.

Again to the extent permitted by budgetary resources, detained persons' food and accommodation needs are being met as far as possible. The Committee's recommendations are nevertheless being reviewed once more by the authorities concerned and efforts are being made to eliminate all adverse conditions.

V. OTHER MEASURES INTRODUCED

The most important development since the CPT's latest visit to Turkey is the entry into force on 12 March 1997 of the Act amending the Code of Criminal Procedure and the State Security Courts (Organisation and Procedure) Act. As the CPT's findings concern custody practices, this legislative change, which substantially reduces custody periods, as detailed in the above paragraphs, is such as to alter the whole nature of the report.

Information on the changes introduced by the new Act has been circulated to law enforcement units by the relevant authorities; the information sheets setting out the rights of detained persons have been altered accordingly and likewise sent to the units concerned in place of the old information sheets.

The Gendarmerie Central Command has revised the "instructions on the keeping of custody registers" to ensure that records on all points are meticulously kept during custody. The instructions and a copy of the custody register are appended (Appendix 3).

In a further development since the publication of the report, a meeting was held on 13 March 1997 with the participation of the under-secretaries to the Ministries of Foreign Affairs, Justice and the Interior with a view to setting up a wide-ranging human rights programme between those ministries. The discussions focused on the steps that could be taken regarding allegations of torture, allegations concerning people who have disappeared, modernisation of the police force and structural improvements.

A "Higher Co-ordinating Council for Human Rights" has been set up with the participation of the under-secretaries to the Prime Minister's Office and to the Ministries of Justice, the Interior and Foreign Affairs; it is presided by the Minister of State for Human Rights. At its meetings the council discusses human rights legislation and practices and makes proposals to the government.

VI. REQUESTS FOR INFORMATION

1. Request for information on the unannounced inspections

The report asks for information on the application of the circular issued by the Ministry of the Interior on 29 November 1996.

As Ms Tansu Çiller, Minister of Foreign Affairs and Deputy Prime Minister, emphasised at her press conference on 10 March 1997, an extract of which is quoted in the foreword to this report, the unannounced inspections began on 22 March 1997 with a surprise visit to Anafartalar police station in Ankara, in which Ms Çiller and the Minister of the Interior themselves took part.

Reference is made in the relevant sections of this reply to the unscheduled and unannounced special inspections of interrogation units, detention facilities, similar annexes and police stations within the purview of Ankara, Istanbul, Izmir, Diyarbakır, Bursa and Adana Police Headquarters, conducted between 14 April and 30 May 1997.

A number of shortcomings and defects that emerged from these inspections, concerning interrogation facilities on some detention premises, compliance with instructions, custody registers and forensic medical records, were described in reports; the inspection reports made recommendations on the steps to be taken in order to remedy these defects; the Ministry of the Interior then brought the matter to the attention of the relevant units and requested that the necessary remedial steps be taken. The requisite measures have been taken to ensure that the inspections continue.

As indicated in the section of this report on the investigation of torture allegations, criminal and administrative investigations have been opened in respect of a number of police officers of various ranks, regarding practices uncovered by the inspections which may constitute criminal offences.

2. Measures concerning prisons

The report requests further information on the current work on dealing with prison riots and reducing damage to a minimum in circumstances requiring the use of force, and on the efforts to devise new methods for the purpose, referred to in our letter of 22 November 1996 to the Committee.

The Ministry of Justice is responsible for the internal administration of prisons and the Gendarmerie Central Command for their external protection and the transfer and transport of prisoners. In the event of prison riots and disturbances, the gendarmerie force may intervene inside the prison only if the local prison authorities and public prosecutors request the use of force.

Efforts are being made to seek ways of applying modern intervention methods in circumstances requiring the use of force during prison riots.

The Ministry of Justice has accordingly requested the Ministry of the Interior to ensure that in the event of prison disturbances intervention can take place immediately without loss of life, that in such interventions high-pressure water jets and tear gas grenades are readily available and that other modern methods and techniques are also looked into and applied.

The Gendarmerie Central Command has commissioned a demonstration of a weapon shooting plastic bullets, developed by a French firm, and plans to purchase a number of these weapons for testing purposes. The purchase is currently being arranged.

By circular of 24 January 1997 to all police headquarters, the Ministry of the Interior requested that the necessary steps be taken to enable interventions in prison disturbances to take place without loss of life.

By way of example, a riot started in Eskişehir Special-type Prison by remand prisoners belonging to the Aczmendi group in May 1997 was suppressed with the use of high-pressure water jets as indicated in the circular, with no loss of life or injuries.

3. Ministry of State for Human Rights

The report requests information on the role and activities of a Ministry of State for Human Rights and on the means at its disposal.

The Minister of State for Human Rights will be responsible for the Human Rights Organisation whose structure and duties are set out in the bill currently before the Turkish Parliament.

According to the bill, the organisation's main tasks will be to protect, develop and institutionalise human rights, monitor national and international developments in the area of human rights, co-ordinate the work of ministries and public institutions and agencies concerned with human rights, identify human rights violations and propose solutions to them. The bill provides for the possibility of applying to the organisation in connection with human rights violations committed in the course of or as a result of the exercise of public authority and the performance of public duties.

The organisation will be attached to the Prime Minister and will be able to exercise the powers relating to its administration through a Minister of State. It consists of the National Council for Human Rights and the Office of the Under-Secretary to the Human Rights Organisation.

Meetings of the National Council for Human Rights will be presided by the Prime Minister or by the Minister of State appointed by the Prime Minister to head the Human Rights Organisation. The Council will consist of 7 members appointed for 3 years by the Turkish Parliament's Human Rights Inquiry Commission, the Cabinet, the Ministry of Justice and the Universities Board. Its main duties will be to examine the admissibility of applications concerning human rights violations, look into allegations of human rights violations and propose solutions to them.

The Under-Secretary to the Human Rights Organisation will be responsible for securing co-operation and co-ordination between other public institutions and agencies on matters falling within the Under-Secretary's sphere of activity.

The bill also provides for the establishment of a Human Rights Council which will meet at least once a year, with the Prime Minister or the relevant Minister of State in the Chair and with the participation of representatives of the ministries, the universities, public-law professional organisations, associations of local authorities and provincial assemblies, workers' and employers' confederations and voluntary organisations possessing legal personality active in the human rights field, as well as experts known for their work on human rights. The Council will put forward proposals in the form of a report and these will be taken into account in the Human Rights Organisation's work and in policy-making in this area.

CONCLUSION

It is essential both to prevent torture and ill-treatment, which are prohibited by Turkish law and, if practised, indisputably constitute criminal offences, and to investigate allegations of [human rights] violations and punish those found responsible.

As the information supplied in this report demonstrates, unremitting efforts to improve both legislation and practice are continuing.

As a result of the action taken, awareness of the need to prevent and combat torture and ill-treatment is steadily growing among the administration, law enforcement officials and the general public.

By nature, the struggle against torture and ill-treatment and the process of educating society about this issue are a matter of material resources, training and time. Objective indications show that Turkey is moving in the right direction.

In becoming a party to the Convention for the Prevention of Torture, Turkey agreed in advance to co-operate with the machinery provided for by the convention. This co-operation means acting in accordance with the provisions of the convention and being constructive.

The Turkish Government stated that it would authorise the publication of the Committee's report on its September 1996 visit once the necessary investigations into the matters raised in the report had been completed and the measures considered necessary in the light of the investigation results had been taken. The Turkish Government will therefore authorise the publication of the Committee's report together with this initial reply and the replies we shall be giving the Committee on the developments in and results of the work and investigations being conducted on the issues raised in the report.

APPENDIX 1

Ministry of Foreign Affairs
Information Department

6 December 1996

STATEMENT

The Committee for the Prevention of Torture (CPT) which is established in accordance with the European Convention on Prevention of Torture made a 'public statement' on Turkey on December 6, 1996.

The Committee acts within the framework of cooperation required for the solution of the problems observed in the protection of persons deprived of their liberties in member countries of the Council of Europe parties to the Convention.

The Committee has visited our country several times in recent years and has performed its activities in accordance with the Convention, without any impediment and duly received assistance from the authorities.

The Committee, in its statement, criticizes various institutions of the state by holding them responsible, while indicating that the persons deprived of their liberties have been subjected to ill-treatment. These allegations, attempting to a certain extent to indict the state mechanism as a whole, are not acceptable.

Turkey has made continuous efforts, on the one hand, for furthering the respect for human rights up to the highest level, whereas on the other, struggling seriously against terrorism while respecting democracy, the rule of law and human rights. The recent efforts of the last several months and the draft laws submitted to the Turkish Grand National Assembly constitute examples of this endeavor. In addition, we are striving to ensure that the provisions laid down in our legislation are applied also in practice. We are always open to constructive criticism, dialogue and cooperation for the elimination of our deficiencies. However, the criticism directed to Turkey in this respect just at a time when Turkey is in this endeavour, can only be considered as an international move, with a consciously selected timing.

The expressions used in the text of the public statement are not constructive, and they are out of context and unfair. The fact that the public statement bears similarities with those allegations of certain circles who have particular intentions against Turkey, requires some further thinking. It should be stated that the conclusions reached in the statement do not reflect realities, moreover they are contradictory to the letter and spirit of the Convention. Turkey, in the context of the Convention, has so far attached importance to cooperation with the CPT and to comply with its recommendations. For this reason it is not correct for the CPT to make a public statement.

The CPT while making a one-sided public statement on the one hand, opts on the other, for the continuation of the dialogue. This indicates the contradiction within which the CPT finds itself. We do not share the assessments of the CPT in its statement. Turkey shall carry on to advance in the direction which it deems correct and its relations with the CPT will be shaped accordingly.

APPENDIX 2

**MINISTRY OF HEALTH
Basic Health Services Directorate**

No.: B100TSH0140000/6090
Subject: Forensic medical services

13 March 1997

**CIRCULAR
1997 - 2**

Ref.: a. our circular no. 6058 of 25.01.1995
b. our circular no. 6065 of 13.04.1995
c. our circular no. 6068 of 13.07.1995
d. our circular no. 6070 of 05.12.1995

In Turkey the task of providing scientific and technical opinions on subjects relating to forensic medicine is conferred by Act No 2659 establishing the Institute of Forensic Medicine on the Institute of Forensic Medicine placed under the authority of the Ministry of Justice. In certain provinces the forensic institutes and groups of forensic institutes placed under the Institute's authority provide forensic medical services in the provincial capitals in which they are located. These services are also provided by those universities that possess a forensic medicine department.

However, as these institutions cannot be structured in such a way as to be able to operate round the clock throughout the country, a substantial proportion of forensic medical services are provided by the establishments under the authority of this Ministry, under the terms of Health Services (Provision) Act No. 224 and Forensic Medicine Act No. 38.

The forensic medical services performed by the ministry establishments concern the issuing of forensic medical certificates and the performance of autopsies. The certificates issued cover matters such as alcohol, assault and battery, determining whether a person is of sound mind and capable of discernment, sodomy and virginity certificates after sexual offences, and certificates requested of doctors by the courts after incidents entailing judicial proceedings, on matters such as weakness/loss of limbs, permanent facial scars, determining a person's age and establishing degrees of disability. These services are performed by the doctor in the actual medical establishment. Forensic autopsy-related services are requested by the appropriate public prosecutor and normally performed by the doctor elsewhere than in his own medical establishment.

The fact that forensic medical services are organised along different lines in each province because of the different characteristics listed above and the differences in the provinces' resources gives rise to serious operational deficiencies and to wastage of resources.

To enable forensic medical services to operate smoothly and without wastage of resources in all localities, it is deemed necessary for the forensic medical services provided by establishments under the authority of this Ministry in your province to operate as follows.

1. In provincial capitals where a forensic institute or group of forensic institutes has been established under the authority of the Institute of Forensic Medicine, and where there is a university possessing a forensic medicine department, forensic medical services are to be provided by those establishments if their forensic medical facilities are adequate.
2. In provincial capitals where a forensic institute or group of forensic institutes has been established under the authority of the Institute of Forensic Medicine, and where there is a university possessing a forensic medicine department, if these establishments' forensic medical facilities are inadequate, forensic medical services are to be reinforced:
 - a. in working hours, by requiring the health centres to perform all such services,
 - b. outside working hours, by requiring a voluntary health centre doctor to perform autopsies which fall within the scope of forensic medical services and requiring the state hospital department determined by the hospital head consultant's office to issue forensic medical certificates.
3. In provincial capitals and district centres where there is no forensic institute or group of forensic institutes under the authority of the Institute of Forensic Medicine and no university possessing a forensic medicine department, but where there is a state hospital, forensic medical services are to be performed as follows:
 - a. in working hours, by requiring the health centres to perform all such services,
 - b. outside working hours, by requiring a voluntary health centre doctor to perform autopsies falling within the scope of forensic medical services and requiring the state hospital department determined by the hospital head consultant's office to issue forensic medical certificates.
4. In district centres and smaller localities where there is neither a forensic institute or group of forensic institutes under the authority of the Institute of Forensic Medicine, nor a university possessing a forensic medicine department, nor a state hospital, forensic medical services are to be performed by the health centres in working hours and at all other times.

To enable the arrangements specified above according to the characteristics of the locality in which forensic medical services are provided to function smoothly:

- Before the arrangements in paragraphs 1. and 2. are put into operation, the above-mentioned establishments primarily responsible for the provision of forensic medical services in your province must be contacted and their forensic medical facilities assessed,
- Before the arrangements in paragraphs 2. and 3. are put into operation, the workforce of the state hospitals in your province must be assessed and, if necessary, reinforced in the short term by secondments from primary health care establishments and in the medium and long term by appointments to existing vacant posts.
- Before the arrangement in paragraph 4. is put into operation, general practitioners working in health centres must in all cases, when issuing forensic medical certificates, perform this task in the health centre and in the presence of health care staff other than a doctor.

The examination of corpses and the issuing of death certificates, which fall outside the scope of forensic medical services but in localities where there is no local government medical officer are performed by doctors serving in establishments under the authority of this Ministry, must be conducted by the doctor specified under the above arrangements with regard to autopsies.

The arrangements introduced by this circular and by the circulars and letters referred to above (and appended hereto) are intended to enable forensic medical services to function smoothly and without wastage of resources in all localities, and to reduce to a minimum the problems experienced with regard to the quality of these services, particularly in relation to national and international judicial bodies and other organisations, and any unfair criticisms on the subject that may be levelled at doctors by the public. The management and staff of all institutions and organisations responsible for providing forensic medical services are accordingly requested to take note of these arrangements and take the requisite steps to implement them with appropriate speed and care.

Dr Ayten Q..RAY
pp the Minister

Appendices: circulars referred to above

DISTRIBUTION:

For action

80 provincial governors' offices

For information

Ministry of Foreign Affairs

Ministry of Justice

Ministry of the Interior

Turkish Medical Association

APPENDIX 3

INSTRUCTIONS FOR THE USE OF CUSTODY REGISTERS

1. PURPOSE

The purpose of these instructions is to set out the rules for the proper use of the "Custody Registers" in which are recorded the particulars of persons apprehended and taken into custody under the provisions of the legislation conferring the power of apprehension and detention on the gendarmerie (Code of Criminal Procedure, National Service Act, Act 2803 and Regulations, Police (Duties and Powers) Act etc).

2. SCOPE

- a. These instructions apply to all gendarmerie commands in whose area of authority detention facilities are located.
- b. Under the terms of these instructions the particulars of each person entering a holding cell shall be recorded on a separate page with a number.

3. DEFINITIONS

a. APPREHENSION:

This means restricting the personal freedom of a suspect in accordance with the rules prescribed by law, before an order for their arrest is given and with a view to allowing their arrest.

b. CUSTODY:

This means the period for which the apprehended person's freedom is restricted, from the time when they are apprehended until their arrest or release.

4. GENERAL RULES

- a. Custody registers shall be delivered to officials responsible for property in exchange for a distribution certificate and to others in exchange for a receipt.
- b. The Gendarmerie Central Command printing house shall number each custody register and its pages. The numbers of custody registers and their pages may not be altered.
- c. The pages of custody registers shall be stamped and certified by a commanding officer, who shall indicate on the last page how many pages the register contains.
- d. The particulars of all persons detained in holding cells shall be entered without fail in the custody register.
- e. When all the pages of a custody register have been filled, the register shall be preserved for at least 10 years in accordance with Archives Directive JGY:213-1.

f. Custody registers shall be legibly completed either by the gendarmerie official designated by the authorised official issuing the custody order, or by the official conducting the preliminary investigation.

g. Errors made in entering information on the register may not be erased or scratched out; they shall be legibly crossed out, the correct information shall be entered and the correction shall be initialled to show who made it.

5. RULES GOVERNING THE USE OF THE CUSTODY REGISTER

A. PARTICULARS OF THE PERSON'S IDENTITY

Sections 1, 2, 3, 4, 5, 6, 7 and 8 shall be completed on the basis of valid documents such as the detained person's identity card, driving licence or passport. Information concerning persons who have no identity papers and are unable to prove their identity shall be entered on the basis of their own statements and shall be corroborated subsequently.

Section 9 shall be completed in respect of foreigners. If they have no passport the fact shall be recorded.

Section 10 shall be completed on the basis of the person's own statement and corroborated if necessary.

B. INFORMATION ON CUSTODY

The relevant sections shall be completed as follows:

Section 1: reason for taking the person into custody, or offence committed.

Section 2: date and place of commission of the offence.

Section 3: name of the competent authority ordering the person to be apprehended or taken into custody.

If there is a warrant requiring coercion in respect of the accused, sections 1, 2 and 3 shall be completed on the basis of the warrant.

Sections 4 and 5: first name and surname of the public prosecutor notified of the person's detention, and date and time of the notification.

Section 6: any other offence committed by this person; [illegible¹] (*) record of whether or not they are wanted and whether or not their identity card, passport, driving licence, weapon or vehicle is stolen.

¹ Virtually illegible initials unknown to translator.

C. ADMISSION PROCEDURE

Section 1: if the person was apprehended, place, date and time of their apprehension (the date and time of apprehension are the date and time of the statutory start of the custody period).

Section 2: date and time at which the person was placed in the holding cell.

Section 3: before the detained person is placed in the holding cell they shall be examined by a forensic doctor or, if there is none, by a doctor authorised to issue medical certificates; this section shall indicate from whom the certificate was obtained (e.g. name of forensic institute, state hospital, health centre or private doctor) and the date and number of the certificate; in the summary of the certificate it shall be stated whether there is a risk attendant on placing the person in the holding cell.

Section 4: nature, amount and brand of any objects, clothing, valuables, money etc. which are not needed in the holding cell and may constitute an ingredient of an offence, or may be used by the person to inflict harm on themselves or others or to facilitate escape, and which were found on the person when they were searched by the official carrying out the custody procedure.

Section 5: the first name, surname and rank of the gendarmerie official carrying out the admission procedure.

D. PROCEDURE CONCERNING ACCUSED PERSONS

This section shall be completed without fail if the person has been taken into custody as an accused person. In other cases (eg where the person is a suspect, a vagrant, arrested under a warrant, a deserter or a draft evader) it shall not be completed.

Section 1: the first name, surname and telephone number of the relative or next-of-kin whom the person wishes to have informed of their detention; if the relative or next-of-kin lives elsewhere, the authority designated as intermediary; if it has not been possible to notify them, the reason for this.

Section 2: to be completed in respect of foreigners. The name and telephone number of the diplomatic representation indicated by the detained person.

Section 3: this section shall indicate whether the person requests a lawyer or not. They shall be so asked, and informed that if they have no lawyer they may request legal aid from the bar association. Their reply shall be recorded ("I request a lawyer" or "I do not request a lawyer") and they shall sign it.

Section 4: if the person requests a lawyer, name of the bar association to which the request was forwarded or first name and surname of the lawyer requested by the detained person.

Section 5: first name, surname, serial number and time of arrival of the lawyer, to be signed by the lawyer. If the lawyer does not come, the reason for this if known.

Section 6: if it is decided to extend the custody period in respect of the accused, length of the extended period² (e.g. 4 days, 48 hours), name of the authority giving the order, and date and number of the decision.

² (*) Translator's note: it is not fully clear from the original whether this means the extension or the whole period including the extension.

E. DISCHARGE PROCEDURE

Section 1: date and time when the person is taken from the holding cell.

Section 2: on leaving the holding cell the person shall be examined by a forensic doctor or, if there is none, by a doctor authorised to issue medical certificates; this section shall indicate from whom the certificate was obtained, together with the date, number and summary of the certificate.

Section 3: depending on the authority to which the detained person is to be handed over (e.g. public prosecutor's office, local draft office, own unit, police headquarters), name of the authority and unit to which they are transferred.

Section 4: if a document is drawn up at the end of the discharge procedure, date and number of the document.

Section 5: first name, surname, rank and duty of the official to whom the person is handed over, to be signed by the official.

Section 6: those of the objects confiscated at the outset of the custody period which do not constitute an ingredient of an offence or are not considered objectionable shall be returned to the person against their signature. Those which constitute an ingredient of an offence shall be delivered to the official to whom the person is handed over against the official's signature.

Section 7: additional steps taken in respect of the person and steps taken on their discharge from custody (e.g. admitted to hospital, arrested, released).

Section 8: to be signed by the official taking the detained person from the holding cell.

Section 9: to be signed by the senior officer verifying the custody register.

6. RESPONSIBILITY

a. Gendarmerie commands in whose area of authority detention facilities are located shall be responsible for keeping the registers in accordance with the rules and for safeguarding them.

b. Commanding officers and the Inspections Department shall be responsible for monitoring and supervising compliance with these instructions.

7. ENTRY INTO FORCE

a. These instructions shall come into force when the new custody registers are distributed to the units concerned.

b. When these instructions come into force, the registers numbered "KITAP BASED NO: 4-02-02003" shall be withdrawn from use and shall be preserved for 10 years.

Follow-up response
(Received on 23 March 1998)

I INTRODUCTION

**II LES SUITES DONNEES AUX ALLEGATIONS INDIVIDUELLES FIGURANT
DANS LE RAPPORT CONCERNANT LA VISITE DU CPT EN TURQUIE EN 1996**

**III LES RECOMMANDATIONS FIGURANT DANS LE RAPPORT ET LA
DECLARATION PUBLIQUE. LES MESURES PRISES PAR LE GOUVERNEMENT
TURC ET LES AMENDEMENTS LEGISLATIFS ADOPTES**

- i) Raccourcissement du délai de garde à vue
- ii) Le Haut Conseil de Coordination des Droits de l'Homme
- iii) L'enseignement des droits de l'homme
- iv) Autres développements

IV LA CIRCULAIRE DU PREMIER MINISTRE EMISE LE 3 DECEMBRE 1997

CONCLUSION

I - INTRODUCTION

Nos observations générales concernant le rapport soumis au Gouvernement turc suite à la visite rendue par le Comité pour la prévention de la torture (CPT) les 18-20 septembre 1996 en Turquie, ainsi que notre réponse intérimaire sur les commentaires, recommandations et demandes d'informations contenus dans ce rapport, ont été soumis au Comité le 16 juin 1997. Dans le présent rapport de réponse des informations complémentaires sont présentées concernant les suites données aux allégations figurant dans le rapport du Comité, ainsi que les mesures réglementaires et législatives adoptées depuis cette date.

En ce qui concerne les points relevés dans le présent rapport, les objectifs ci-dessous ont été précisés au programme du 55e Gouvernement de la République de Turquie formé par la coalition du Parti de la Mère Patrie et du Parti de la Turquie Démocrate en juillet 1997.

"Le respect des droits de l'homme constitue un idéal humaniste exprimé à la fois dans notre Constitution et les conventions internationales auxquelles la Turquie est Partie. Notre Gouvernement prendra les mesures nécessaires afin de réaliser cet idéal, de protéger et de promouvoir les droits de l'homme en Turquie conformément aux standards universels contemporains et de ne pas donner lieu à des pratiques incompatibles avec ces droits. Il sera procédé aux réglementations nécessaires afin de parer aux déficiences de notre démocratie. La Turquie sera promue parmi les pays les plus haut placés du point de vue des droits de l'homme et cela est ressenti comme une obligation envers toutes les personnes qui relèvent de notre juridiction."

"Dans l'administration publique le principe de la publicité remplacera la règle de la confidentialité des actes administratifs et des projets de loi seront élaborés pour que les citoyens aient la possibilité d'exercer pleinement le droit de recevoir des informations."

"Toutes les réglementations nécessaires seront effectuées afin d'assurer l'indépendance du judiciaire et son contrôle efficace."

"Afin de réduire les litiges entre les citoyens et l'administration et protéger les citoyens à l'encontre des pouvoirs, des institutions de contrôle extra-judiciaires telles que celles existant dans les démocraties modernes seront mises en place."

"L'installation et gestion des établissements d'exécution des peines et des maisons d'arrêt seront réaménagées, la sécurité et la discipline seront entièrement assurées."

"Tout en poursuivant la lutte efficace contre le terrorisme séparatiste au sud-est anatolien, le respect intégral des principes de l'Etat de Droit démocratique sera garanti. Conformément à cette conception, la question de la sécurité de la région sera évaluée d'une manière globale et conjointement avec les solutions des problèmes sociaux et économiques et cette approche sera appliquée avec détermination."

"L'éducation et l'équipement de nos forces de sécurité seront élevés au niveau des pays développés, une partie des gardes ruraux qui assurent d'importantes fonctions dans la lutte contre le terrorisme seront intégrés dans les forces de l'ordre, des possibilités d'emploi seront assurées aux autres, les Forces Spéciales seront réglementées de manière plus appropriée."

Dans les parties ultérieures de notre rapport, nous présentons les modalités selon lesquelles ce cadre défini dans le programme gouvernemental sera réalisé.

II - LES SUITES DONNEES AUX ALLEGATIONS INDIVIDUELLES FIGURANT DANS LE RAPPORT CONCERNANT LA VISITE DU CPT EN TURQUIE EN 1996

A - En Général

La délégation du CPT, lors de sa visite du 18 au 20 septembre 1996 en Turquie a visité les Directions de Sûreté d'Adana, Bursa et Istanbul et certaines unités connexes, la prison de Type E d'Adana, la prison de Metris et la prison de Type E de Sakarya.

Dans le cadre du Rapport concernant la visite adressé au Gouvernement turc le 13 décembre 1996 par le CPT, les actions nécessaires ont été entreprises afin de vérifier les indications relevées par la délégation au cours de la visite et de procéder le cas échéant aux poursuites requises pour des allégations fondées.

Tout d'abord, des informations ont été demandées sur l'intégralité des allégations aux unités concernées du Ministère de l'Intérieur, ensuite ces allégations ont été examinées par les inspecteurs du Ministère de l'Intérieur. Par ailleurs, sur instruction du Ministère les inspecteurs préfectoraux ont procédé à une inspection spéciale subite et inopinée des Directions de Sûreté d'Istanbul, Adana et Bursa.

Lors des contrôles, partant des indications de la délégation du CPT lors de sa visite en septembre 1996, l'inspection a porté sur les unités d'interrogatoire, les locaux de garde à vue et autres annexes similaires ainsi que les postes de police relevant des autorités susmentionnées. Les personnes avec lesquelles la délégation s'est entretenue ont été identifiées sur la base des registres de la garde à vue ; la véracité des allégations concernant ces personnes, la question de la présence des instruments prétendument utilisés pour les mauvais traitements, l'observation ou non du règlement de garde à vue, ainsi que les conditions physiques de ce régime ont été examinés.

Il a été constaté que certaines indications de la délégation du CPT concernant l'application des règlements de garde à vue, ainsi que les conditions physiques de la garde à vue présentaient des similitudes avec celles des inspecteurs dans les mêmes domaines.

Le champ territorial des inspections, outre les départements susmentionnés et indépendamment du rapport du CPT, a été élargi de manière à couvrir également Ankara, Izmir et Diyarbakır. A partir du 11 août 1997, 13 départements au total ont été inclus dans le nombre des visites d'inspections spéciales, subites et sans notification préalable.

Parallèlement aux enquêtes administratives menées par le Ministère de l'Intérieur, le Ministère de la Justice de son côté, afin de procéder aux investigations nécessaires des allégations, a demandé par écrit aux Procureurs Généraux Principaux d'Istanbul, Adana, Sakarya et Bakırköy dont relèvent les établissements pénitentiaires visités par la délégation, d'envoyer à l'examen médical les détenus avec lesquels s'est entretenue la délégation, de recueillir leurs dépositions et par ailleurs de vérifier si leurs plaintes de tortures avaient été ou non prises en considération.

B - Informations concernant les actes judiciaires effectués

Les actions auxquelles des informations sont soumises dans les paragraphes qui suivent étant actuellement en litispendance et n'ayant pas atteint le stade d'un jugement, nous avons procédé à l'effacement des identités des accusés et des plaignants figurant sur les actes d'accusation au présent rapport (Annexes 1-3). Cependant il n'a pas été procédé de la même façon s'agissant de l'annexe 4, le jugement y figurant ayant acquis la force de la chose jugée.

i) Les dépositions recueillies le 18 septembre 1996 par le Procureur de la Cour de Sûreté de l'Etat d'Istanbul auprès des 12 personnes placées en garde à la Section de la Lutte contre le Terrorisme à la Direction de la Sûreté d'Istanbul aux dates du 9 septembre - 18 septembre 1996, font ressortir que celles-ci allèguent avoir subi des tortures pendant la durée de leur garde à vue. Ces personnes ont été transférées à l'hôpital et à l'institut médico-légal ; le dossier établi sur la base de leur examen médical a été transmis le 14 octobre 1996 au Procureur de la République de Fatih. A l'issue de l'interrogatoire, par l'acte d'accusation (Annexe 1) établi le 7 mai 1997 no. 1997/8995, le Procureur de la République d'Istanbul demandait l'ouverture d'une action pénale en application de l'article 243 du Code Pénal turc, sanctionnant les mauvais traitements à l'encontre de 7 fonctionnaires de la Section de la Lutte contre le Terrorisme de la Direction de la Sûreté d'Istanbul. Cette action pénale a été introduite auprès de la 7e Chambre du Tribunal Criminel d'Istanbul avec numéro Fond 1997/117. Jusqu'à ces jours il y a eu trois audiences.

ii) De même, suite aux investigations menées concernant les allégations de torture de 6 personnes pendant leur séjour en garde à vue du 1er au 11 septembre 1996 à la Section de la Lutte contre le Terrorisme de la Direction de la Sûreté d'Istanbul et qui ont été transférées à la prison de Type E de Sakarya, le Procureur Général de la République d'Istanbul a établi l'acte d'accusation (Annexe 2) no. 1997/19343 Fond, le 6 octobre 1997 sur la base des rapports médicaux concernant lesdites personnes ; une action pénale (no. Fond 1997/232) a été introduite par la 3e Chambre de la Cour Criminelle d'Istanbul à l'encontre d'un commissaire-adjoint et 5 policiers de la Section de la Lutte contre le Terrorisme de la Direction de la Sûreté d'Istanbul sous le grief de mauvais traitements, en vertu de l'article 243 du Code Pénal turc.

iii) Le Procureur Général de la République de Bakırköy a établi l'identité des personnes avec lesquelles le CPT s'est entretenu.

Le dossier concernant l'une de ces personnes préparé sur la base d'un examen médical effectué le 30 octobre 1996, prenant en considération le lieu des faits, a été transmis au Procureur Général de la République d'Istanbul ; une enquête a été menée au sujet de deux policiers relevant du Bureau des Attaques à main armée de la Section de l'Ordre Public de la Direction de la Sûreté ; aucun résultat n'ayant été obtenu au cours de l'instruction préliminaire, une ordonnance de non-lieu a été émise le 5 février 1997. Cependant lors de son audition le 9 septembre 1997 la personne concernée ayant persisté dans ses déclarations initiales selon lesquelles elle aurait subi des mauvais traitements pendant sa garde à vue, l'enquête a été réouverte ; l'acte d'accusation (Annexe 3) du 7 novembre 1997 du Procureur Général de la République d'Istanbul demande la condamnation des deux policiers du bureau des attaques à main armée de la Section de l'Ordre Public d'Istanbul sur la base de l'article 243/1 sanctionnant les mauvais traitements ; une action pénale a été introduite (Fond 1997/299) à la 4e Chambre du Tribunal Criminel d'Istanbul. Deux audiences ont eu lieu jusqu'à présent.

Dans leurs dépositions recueillies par le Procureur Général, les autres détenus identifiés ont déclaré qu'ils n'avaient pas de plaintes concernant la torture et qu'ils ne voulaient pas être examinés par un médecin.

iv) Les deux personnes qui se trouvaient en garde à vue au Bureau des vols de la Section de l'Ordre Public d'Istanbul au cours des dates de visite du CPT les 18-20 septembre 1996 ont été identifiées par le Procureur Général de la République d'Istanbul. L'examen médical auquel celles-ci ont été soumises le 20 septembre 1996 à la Médecine Judiciaire de Beyoğlu n'a diagnostiqué aucune trace de coups ou de violence. Ces deux personnes ont déclaré plus tard, au cours de leur audition par le Procureur, qu'elles n'avaient pas été soumises à de mauvais traitements.

v) Le sac trouvé par la délégation du CPT le 18 septembre 1996 au sous-sol de la Direction de la Sûreté d'Istanbul et qui contiendrait des instruments de torture

Sur demande des membres de la délégation le jour même, le Procureur Général de la République de Fatih convoqué sur place a dressé un procès-verbal de constat. L'ordonnance de non-lieu du 19 septembre no. 1996/2671 a été transmise à la Sous-Préfecture de Fatih accompagnée de "procès-verbal et annexes établi sur les lieux des faits afin de procéder à une enquête administrative à l'encontre des responsables de la Direction de la Sûreté détenant dans les locaux de la Direction des instruments prétendument de torture". Cette issue a été communiquée par lettre du 30 septembre 1996 de la Sous-Préfecture de Fatih à la Préfecture d'Istanbul et par lettre du 8 octobre 1996 de la Préfecture d'Istanbul à la Présidence du Conseil d'Inspection du Ministère de l'Intérieur.

La question a été incluse dans le champ d'application des contrôles des inspecteurs préfectoraux. L'enquête administrative est en cours.

vi) Par ailleurs, suite aux inspections inopinées effectuées dans le cadre de l'élargissement du champ d'application des inspections indépendamment du rapport au CPT, et tenant compte du fait que certaines pratiques pouvaient constituer des infractions, il a été conclu qu'au total 4 fonctionnaires de la Sûreté de niveaux différents, dont l'un à Istanbul et l'autre à Ankara, devraient faire l'objet d'une enquête pénale et administrative. Les enquêtes concernant ces personnes sont en cours.

C - Approche générale dans la lutte contre la torture

La Constitution de la République de Turquie garantit le droit de toute personne à ne pas subir des tortures et des mauvais traitements ; la torture et les mauvais traitements constituent des infractions impliquant des sanctions pénales. Lorsque des situations faisant sentir le besoin d'appliquer ces dispositions du Code Pénal turc surgissent, les autorités judiciaires et administratives procèdent aux actes nécessaires.

Dans notre réponse intérimaire du 16 juin 1997, il était marqué que le nombre total d'affaires déférées à la justice en application des articles 243 et 245 s'élevait à 138 ; que 83 de ces affaires avaient fait l'objet d'une action pénale et que parmi celles-ci 10 s'étaient achevées par une condamnation et 11 par acquittement. Toujours dans le même rapport intérimaire il était précisé que, s'agissant du personnel de la gendarmerie, au cours de l'année 1996 des poursuites légales avaient été diligentées à l'encontre de 5 officiers, 89 sous-officiers et 67 sergents-experts de gendarmerie.

Au cours de la période juin-août 1997, 127 affaires ont été déférées à la justice en application des articles 243 et 245 du Code Pénal turc dont 50 ont fait l'objet d'une action pénale, parmi lesquelles 10 se sont achevées par une condamnation et 14 par un acquittement. Par rapport au personnel du commandement général de la gendarmerie des poursuites légales ont été exercées à l'encontre de 2 officiers, 4 sous-officiers et 10 sergents-experts de gendarmerie.

Constituant un exemple représentatif le jugement no. 1997/200 et no. 1998/37 Fond de la 1ère Chambre de la Cour Criminelle de Beyoğlu est soumis à l'examen du Comité (Annexe 4). Les faits de la cause dans le jugement en question, tout en se situant en dehors du cadre du rapport du CPT, ayant entraîné la condamnation à l'exclusion à vie du fonctionnariat de deux policiers en raison du traitement qu'ils avaient fait subir à un suspect lors de l'interrogatoire, a été considéré comme un exemple pertinent dans le cadre présent.

Cet exemple jurisprudentiel et les statistiques figurant plus haut font ressortir que les expressions du rapport et de la déclaration publique selon lesquels "les procureurs et les juges ne tiennent pas compte des plaintes de torture" et que "les peines infligées n'étaient pas suffisantes" ne reflètent pas les réalités.

III - LES RECOMMANDATIONS FIGURANT DANS LE RAPPORT ET LA DECLARATION PUBLIQUE. LES MESURES PRISES PAR LE GOUVERNEMENT TURC ET LES AMENDEMENTS LEGISLATIFS ADOPTES

i) Le raccourcissement des délais de garde à vue

L'amélioration la plus substantielle depuis la visite du CPT en Turquie en septembre 1996 c'est l'entrée en vigueur le 12 mars 1997 de l'amendement modifiant le Code de Procédure Pénale et la Loi sur l'Institution et les Procédures de Cours de Sûreté de l'Etat. Dans la mesure où les constatations du CPT concernent le régime de la garde à vue, lesdits amendements législatifs revêtent une grande importance, ainsi qu'il a été énoncé dans notre rapport intérimaire du 16 juin 1997 s'agissant des indications contenues dans le rapport du CPT.

En résumé, avec ledit amendement législatif les délais de garde à vue qui, auparavant, pouvaient s'étendre jusqu'à 30 jours dans le cas des infractions commises collectivement et dans la région de l'état d'urgence et étaient du ressort des Cours de Sûreté de l'Etat, ont été réduites de façon très substantielle. Ce qui est encore plus important c'est que la prolongation des délais de garde à vue est soumise à la demande du Procureur et l'ordonnance du juge ; le placement en garde à vue de tout suspect sera communiqué dans tous les cas et sans exception à ses proches familiaux ; le droit à l'opposition à la mesure de la garde à vue ou à sa prolongation a été reconnu au suspect, à son avocat, à son représentant légal, son conjoint ou ses parents consanguins du premier ou du second degré ; autrement dit, la garantie du "habeas corpus" a été étendue aux infractions relevant de la Cour de Sûreté de l'Etat. En ce qui concerne l'entretien avec un avocat, s'agissant des infractions ne relevant pas de la Cour de Sûreté de l'Etat ce droit est reconnu à partir du début de la garde à vue.

La remarque du rapport du CPT selon laquelle le suspect placé en garde à vue ne pourrait s'entretenir qu'après les quatre premiers jours n'est valable que pour les infractions relevant des Cours de Sûreté de l'Etat et collectivement (infractions de réseau) commises. Par contre, ce délai n'est que de 48 heures s'agissant des infractions individuelles relevant des Cours de Sûreté de l'Etat. Et par ailleurs en tout état de cause l'avocat et les proches du suspect sont prévenus de son placement en garde à vue. De ce point de vue il ne subsiste plus une garde à vue de type "incomunicado".

Les amendements législatifs récents ont été communiqués par les autorités compétentes aux unités d'application et en outre, de nouveaux formulaires des droits des suspects en garde à vue, révisés conformément aux nouvelles dispositions, ont été envoyés aux unités concernées pour remplacer les anciens formulaires.

ii) Le Haut Conseil de Coordination des Droits de l'Homme

Notre réponse intérimaire du 16 juin 1997 contenait des informations détaillées sur les attributions et compétences du Ministère d'Etat responsable des droits de l'homme.

Un "Haut Conseil de Coordination des Droits de l'Homme" a été mis en place sous la présidence du Ministre d'Etat responsable des droits de l'homme et composé des sous-secrétaires d'Etat des Ministères de la Justice, de l'Intérieur, des Affaires Etrangères, de l'Education Nationale et de la Santé. Le Haut Conseil traite de la législation et réglementation ainsi que des pratiques concernant les droits de l'homme et formule des propositions au Gouvernement.

Suite à l'investiture du nouveau Gouvernement en juillet 1997, le Haut Conseil a effectivement démarré ses activités. Au cours des réunions hebdomadaires de haut niveau, toute question concernant les droits de l'homme et les libertés fondamentales est examinée suivant le plan d'action établi. Jusqu'à février 1998 le Haut Conseil a tenu 27 réunions et a pris 95 décisions concernant des aménagements en partie législatifs et en partie administratifs dans le domaine de la protection et le développement des droits de l'homme. Par ailleurs, le Haut Conseil de Coordination des Droits de l'Homme a obtenu les avis d'associations civiles actives dans ce domaine en Turquie, des universités et d'experts indépendants qu'il a invités à participer à ses différentes réunions.

Les paragraphes ci-dessous contiennent des informations sur les activités du Haut Conseil relevant du mandat du CPT :

- Un porte-parole ministériel a été mis en place au sein du Ministère de l'Intérieur afin de répondre aux allégations de violation des droits de l'homme.
- L'élaboration d'un projet de loi en vue de mettre en place une institution d'ombudsman dans notre pays est en cours ; afin de bénéficier de leurs expériences deux ombudsmen suédois, ainsi que les ombudsmen de l'Irlande, de la Finlande, de la République Turque de Chypre du Nord ainsi que deux experts en ombudsmen ont été invités en Turquie. Les ombudsmen se sont entretenus en Turquie avec les membres de la Commission chargée de préparer le projet de loi, ainsi que nos autorités compétentes et ont présenté des informations détaillées sur l'institution au cours de conférences organisées à cet effet.
- Des décisions ont été prises en vue de prendre les mesures destinées à résoudre les problèmes surgissant lors de l'application du Règlement de la Garde à Vue, de l'Interrogatoire et des Dépositions et au cours du fonctionnement des unités de garde à vue.
- Le Ministère de la Justice a fourni de manière régulière au Haut Conseil des informations sur les poursuites judiciaires introduites en vertu des articles 243 et 245 du Code Pénal turc qui sanctionnent respectivement la torture et les mauvais traitements infligés aux individus par les agents publics ainsi que l'usage abusif de la force par ces derniers.
- Des études ont été menées afin de développer et généraliser la mise en place des laboratoires criminalistiques de la police et de la gendarmerie dans le cadre de la modernisation des forces de sécurité.

- Les domaines dans lesquels une coopération en matière de formation et une coopération technique allait être mise en place entre les Ministères de l'Intérieur et la Justice avec les pays étrangers ont été identifiés, et en vue de concrétiser cette coopération des démarches ont été entreprises conjointement avec les Représentations concernées situées à l'étranger.
- Les mesures ayant pour objectif d'améliorer les conditions de vie dans les prisons et les maisons d'arrêt ont été définies et il a été décidé de passer à leur mise en oeuvre.
- Une banque de données centralisée est en train d'être créée au sein de la présidence du Conseil des Ministres en vue d'assurer la transmission d'informations concernant la protection et le développement des droits de l'homme. Les mesures nécessaires ont été prises afin d'assurer dans les établissements et institutions publiques la formation interne dans le domaine des droits de l'homme.
- Une circulaire ayant pour objectif la prévention de la torture et des mauvais traitements a été émise par le Premier Ministre le 3 décembre 1997.
- Une question supplémentaire concernant l'observation par le fonctionnaire des droits de l'homme a été ajoutée au rapport de notation des fonctionnaires de l'Etat.
- Il a été décidé également qu'un rapport médico-légal soit soumis au juge qui décidera de la prolongation de la garde à vue au delà des 4 jours.
- Les mesures nécessaires ont été prises afin de renforcer les garanties des juges et des procureurs.
- Un groupe de travail commun est en train d'évaluer le programme et les méthodes d'enseignement du cours "Démocratie et Droits de l'Homme" enseigné dans les établissements scolaires du secondaire dans le cadre des activités menées par le Ministère de l'Education Nationale dans le domaine des droits de l'homme. Les possibilités de coopération et de coordination entre les Ministères ayant mis en place des programmes de formation interne en matière des droits de l'homme et le Ministère de l'Education Nationale sont actuellement à l'étude. Il a été décidé par ailleurs que le Ministère de l'Education Nationale publie une série intitulée "Série des Droits de l'Homme" couvrant des ouvrages utiles pour les droits de l'homme et pour son enseignement.
- Le programme relatif au 50e anniversaire de la Déclaration Universelle des Droits de l'Homme a été préparé. Un protocole entré en vigueur depuis le 1er janvier 1998 a été signé afin d'assurer la transmission par l'Office de la Radio Télévision des programmes concernant les droits de l'homme.
- Il a été décidé que les autorités compétentes procédant aux recherches nécessaires sur les demandes nationales et internationales, ainsi que les nouvelles et éditoriaux publiés dans la presse concernant les allégations de violations des droits de l'homme en Turquie. Il a été décidé d'informer périodiquement l'opinion publique sur les conclusions de ces enquêtes.

Les travaux en cours

- Les travaux d'amendement de la Loi sur les Procédures Judiciaires contre les Fonctionnaires tenant compte des conditions actuelles se poursuivent.
- Des mesures supplémentaires sont en train d'être actuellement définies afin de surmonter les problèmes relatifs à l'application des circulaires concernant les rapports médico-légaux du Ministère de la Santé.
- Les instructions et les directives de la Direction Générale de la Sûreté et du Commandement Général de la Gendarmerie concernant l'interpellation, la garde à vue et la prise des dépositions sont en train d'être révisées conformément aux conditions actuelles.
- Jusqu'à ce que la police judiciaire soit instituée, des efforts seront déployés afin de parvenir à la spécialisation au sein des services de police générale.
- Par ailleurs, afin de prévenir la torture et les mauvais traitements, il a été décidé de :
 - a) augmenter la fréquence et la portée territoriale des inspections spéciales des Inspecteurs préfectoraux et des supérieurs hiérarchiques territoriaux sur les forces de sécurité (police et gendarmerie).
 - b) Procéder aux actes administratifs et poursuites pénales sans retard à l'encontre des fonctionnaires fautifs.
 - c) Suivre et évaluer par le biais de rapports périodiques trimestriels les conclusions de ces inspections sur l'ensemble du territoire et en tenir informé le Haut Conseil.
 - d) Prendre les mesures qui assureront la tenue régulière des registres de la garde à vue.
 - e) Poursuivre scrupuleusement et rapidement les allégations de torture et de mauvais traitements.
- Il a été décidé de procéder au recouvrement auprès des responsables des sommes payées par l'Etat suite à une satisfaction équitable prononcée par les arrêts de la Cour européenne des Droits de l'Homme pour motifs de torture, mauvais traitements ou autres causes.

iii) L'enseignement des droits de l'homme

Nous avons déjà présenté des informations détaillées dans notre réponse intérimaire du 16 juin 1997 au sujet des activités d'éducation organisées par les Ministères de la Justice, de l'Intérieur et de la Santé depuis 1996.

Les séminaires, cours et autres activités éducatives ont porté sur les législations nationales en matière des droits de l'homme, les défaillances relevées par le CPT au cours de ses visites et ses examens, les attributions et responsabilités par rapport aux droits de l'homme des responsables administratifs préfectoraux et des membres des forces de sécurité en vertu des conventions internationales auxquelles la Turquie est partie et en vertu de notre législation nationale, les engagements conventionnels de la Turquie en vertu de la Convention européenne des Droits de l'Homme et au sein des Nations Unies, du Conseil de l'Europe et de l'OSCE et la politique étrangère de la Turquie, sur les compétences, principes de fonctionnement et procédure observés dans le cadre des Commissions et Comités des Nations Unies et du Conseil de l'Europe, ainsi que de la Cour européenne des Droits de l'Homme en vue de la prévention contre la torture.

Les activités de formation en matière de médecine légale du Ministère de la Santé ont été menées en coopération avec l'Union des Médecins Turcs.

Fruit de la collaboration de l'Union des Médecins Turcs et de l'Association des Experts Médico-légaux, le premier cours de formation dans le domaine de la médecine légale a eu lieu à Istanbul, le deuxième à Manisa, le troisième à Diyarbakır les 11-15 juin 1997 avec la contribution également de l'Ordre des Médecins de Diyarbakır. A ce cours ont participé au total 53 personnes venant du chef-lieu et des sous-préfectures de Diyarbakır, Batman, Hakkari, Şırnak, Siirt, Urfa et Mardin. A l'issue du cours, les participants ont été soumis à une évaluation portant sur 20 questions avant et après le cours. Un sondage a également été organisé.

Le cours a traité des questions de médecine légale auxquelles sont confrontés les médecins généralistes et les difficultés que ceux-ci rencontrent lors de l'exercice de leurs fonctions. Des copies de la brochure élaborée conjointement par l'Union des Médecins Turcs et l'Association des Experts Médico-légaux ont été distribuées afin de servir comme guide au programme éducatif enseigné aux participants. Pendant les cours, les discussions avec les participants ont porté sur la communication adéquate ou non aux unités concernées des circulaires émises à différentes dates par le Ministère de la Santé en vue de réglementer les services médico-légaux, les déficiences des services médicaux dispensés dans les services d'urgence des hôpitaux, l'établissement de formulaires pour les rapports médico-légaux et la transmission adéquate de ces rapports aux procureurs, la nécessité de modifier le contenu de ces formulaires (p.ex. réserver plus de place à la partie du rapport consacrée aux indices relevés lors de l'examen physiologique, les principes éthiques à observer lors des examens).

Le Ministère de la Santé a commencé l'examen nécessaire afin de parer aux déficiences du rapport type médico-légal actuellement utilisé. Un travail analogue est mené par l'Association des Experts Médico-légaux et l'Union des Médecins Turcs. Actuellement, il est envisagé de passer à la pratique de rapports médico-légaux établis en 3 exemplaires et même en 4 afin qu'un exemplaire soit envoyé à l'Ordre des Médecins dont relève le département.

Ces cours éducatifs organisés par l'Union des Médecins Turcs et l'Association des Experts Médico-légaux à partir du mois de septembre se poursuivent dans les départements de Balıkesir, Mersin, Samsun et Istanbul. Il est projeté de publier sous la forme d'un volume les notes de cours pendant la prochaine session.

Un groupe de travail a été formé au sein de la Direction Générale de la Sûreté et l'élaboration des projets a commencé dans le cadre du projet "Les Droits de l'Homme et la Police 1997-2000", projet élaboré au sein du Conseil de l'Europe suite à la coopération entre le Ministère de l'Intérieur et les unités concernées du Conseil de l'Europe sur la formation des policiers.

Au cours intitulé "Cours intensif de formation interne" démarré depuis le 5 mai 1997 dans 15 centres de formation situés à différents endroits de la Turquie en vue d'améliorer la situation des droits de l'homme en milieu pénitentiaire et carcéral (maisons d'arrêt) ont participé 11.467 fonctionnaires d'exécution de peines. Le cours s'est achevé le 19 juillet 1997. Les cours de formation interne organisés à Eskişehir, Bursa, Üsküdar et Istanbul ont été directement couverts par la Direction générale et il s'est avéré que ces activités éducatives se poursuivaient de manière sérieuse et qu'elle seraient fructueuses.

Le programme des droits de l'homme enseigné pendant le cours intensif a couvert les notions d'infraction/peine dans le cadre de la dimension universelle des droits de l'homme et la fonctionnalité des structures pénitentiaires, l'importance et les modalités d'une formation professionnelle, la Convention européenne des Droits de l'Homme et le contenu de la Convention, les règles minimales des Nations Unies à appliquer aux détenus et aux condamnés, l'interdiction de la torture, des mauvais traitements et autres actes similaires, la Convention des Nations Unies contre la Torture, la Convention Européenne pour la Prévention de la Torture, le terrorisme, les terroristes et les droits de l'homme, l'importance du point de vue des droits de l'homme dans la préparation de l'après-libération.

Par ailleurs, le Ministère de la Justice a préparé le "Manuel du Personnel Pénitentiaire" pour le personnel administratif des prisons, le "Manuel du Détenu et du Condamné" qui énumère les droits des détenus et des condamnés ainsi que les règles pénitentiaires qu'ils doivent observer, ainsi que "Protection après la Libération" (des condamnés) qui traite des problèmes d'adaptation à la vie sociale après la libération. La publication de ces opuscules est en cours.

En dehors de ces activités, les travaux de réparation se poursuivent dans les prisons de type E et de type spécial afin de ramener les prisons à une conception contemporaine d'exécution des peines et des efforts sont déployées pour identifier et résoudre à travers des inspections continues les problèmes pénitentiaires. De même, des activités de formation sont poursuivies pour la réinsertion sociale des condamnés et des détenus de nos établissements pénitentiaires et ceux-ci sont tenus informés sur les droits dont ils disposent.

iv) Autres développements

Depuis le 1er janvier 1998, le règlement - dont une copie était annexée à notre réponse intérimaire envoyée au Comité le 16 juin 1997 - sur la tenue des "registres des locaux de garde à vue" élaboré par le Commandement général de la Gendarmerie, afin que toutes les écritures concernant les gardes à vue soient tenues sans lacunes.

Une autre loi prévoyant la création d'ateliers de travail dans les prisons et les maisons d'arrêt a été envoyée à la Grande Assemblée Nationale de Turquie et ayant été adoptée le 6 août elle est entrée en vigueur. Cette loi prévoit la création de nouveaux ateliers pour les détenus et les condamnés et assure de nouvelles ressources financières aux établissements pénitentiaires.

Au cours de sa réunion du 30 septembre 1997, le Conseil des Ministres a décidé de mettre fin à l'état d'urgence à partir du 6 octobre 1997 dans les départements de Bitlis, Batman et Bingöl. Ainsi en Turquie actuellement l'état d'urgence n'est maintenu que dans 6 départements au total, à savoir Diyarbakır, Tunceli, Hakkari, Van, Şırnak et Muş.

IV - LA CIRCULAIRE DU PREMIER MINISTRE EMISE LE 3 DECEMBRE 1997

La circulaire que le Premier Ministre Mesut YILMAZ a envoyée en date du 3 décembre 1997 à toutes les unités administratives, y compris les forces de sécurité dans le domaine du respect des droits de l'homme et de la loi, la prévention de la torture et des mauvais traitements, précisait que la Turquie devait assurer la protection et le développement des droits de l'homme et les libertés avant tout en raison des principes constitutionnels de l'Etat respectueux des droits de l'homme, démocratique, laïque, social et de droit ainsi qu'en tant qu'exigence des droits et libertés fondamentaux, souligne qu'à la lumière de circulaires précédentes publiées dans le même domaine, les violations des droits de l'homme constituent une honte humaine, donne l'instruction d'application stricte du "Règlement de la Garde à Vue, de l'Interrogatoire et des Dépositions" et dispose que la mise en oeuvre de cette circulaire se fera sous le contrôle des responsables hiérarchiques.

La circulaire dispose que quelle que soit l'infraction incriminée, en aucun cas des tortures et des mauvais traitements ne seront infligés aux suspects, que les enquêtes concernant les allégations de torture et de mauvais traitements seront déclenchées sans retard, que les poursuites légales seront immédiatement introduites à l'encontre des fonctionnaires ayant commis des tortures et des mauvais traitements et que les enquêtes seront conclues dans le délai le plus bref, qu'aussi bien dans les prisons qu'au cours des interventions et les transferts des mauvais traitements ou des traitements dégradants n'allaient pas être infligés aux détenus et aux condamnés, que dans la mise en oeuvre sans faille de la circulaire les préfets et les sous-préfets pour les unités de police et de gendarmerie placées sous leurs ordres et les procureurs de la République pour les établissements pénitentiaires, sont chargés de procéder à des inspections continues et de tenir informés les ministères concernés.

Le Professeur Hikmet Sami Türk, Ministre d'Etat responsable des droits de l'homme, a organisé une conférence de presse le 4 décembre 1997 au cours de laquelle il a déclaré qu'en accord avec la volonté du Gouvernement de protéger et promouvoir les droits de l'homme en harmonie avec les standards universels modernes, la circulaire préparée par le Haut Conseil de Coordination des Droits de l'Homme avait été signée par le Premier Ministre le 3 décembre 1997 et qu'elle avait été transmise à tous les établissements publics et aux forces de l'ordre, afin qu'elle soit mise en oeuvre et portée à la connaissance de l'opinion publique.

Le Ministre d'Etat a également déclaré au cours de la conférence de presse que le Haut Conseil de Coordination des Droits de l'Homme avait pris une décision prévoyant le financement supplémentaire, que le renforcement de la formation interne en matière des droits de l'homme du personnel des unités administratives territoriales, la Direction Générale de la Sûreté et le Commandement Général de la Gendarmerie exigeraient, allait être assuré par le Programme d'Assistance Urgente et que le Premier Ministre le 3 décembre 1997 avait affecté à cet objectif 20 milliards de LT puisées audit Programme.

CONCLUSION

La circulaire émise au plus haut niveau, à savoir à celui du Premier Ministre, démontre la détermination de notre Gouvernement à faire progresser les normes des droits de l'homme en Turquie jusqu'au rang le plus élevé, y compris les droits des personnes privées de leurs libertés qui relèvent du mandat du CPT.

Ainsi qu'il ressort des précisions détaillées fournies dans les différentes parties de notre rapport de réponse, aussi bien les aménagements concernant la législation que les efforts déployés pour l'amélioration de la pratique évoluent sans discontinuité.

Ainsi qu'il a été souligné dans notre réponse intérimaire du 16 juin 1997, la lutte contre la torture et les mauvais traitements et la conscientisation de la société sur ce point est une question de moyens matériels, d'éducation et de temps. Une observation objective montre que la Turquie est sur la bonne voie.

En ratifiant la Convention pour la Prévention de la Torture, la Turquie a accepté d'emblée de coopérer avec les mécanismes prévus par la Convention. L'objectif de cette coopération consiste à se conformer aux dispositions de la Convention et être constructif. Le point sur lequel l'on estime devoir insister c'est que la situation de "coopération" doit être évaluée non seulement sur la base de situations isolées, mais en tenant compte de la continuité du sérieux et du niveau des rapports que le Gouvernement turc a instaurés avec le Comité depuis 1990.

La Turquie perçoit le concept de la "coopération" non seulement au sens d'expectations unilatérales mais également au sens d'une obligation à concrétiser réciproquement et avec égard en vue d'assurer les valeurs qui constituent l'essence de la Convention. C'est pour cette raison que pour la première fois dans l'historique du Comité, elle a invité le CPT de sa propre initiative lorsque de son point de vue elle s'est trouvée dans une période difficile et cela constitue une première. On ressent le besoin de préciser que malgré cette attitude positive et de bonne foi, le fait d'avoir procédé à deux reprises à une déclaration publique en invoquant le manquement à la "coopération" a eu des effets décourageants sur les efforts d'amélioration des droits de l'homme déployés par le Gouvernement turc. Nous souhaitons et nous espérons qu'au cours de la session prochaine le Comité aura une perception analogue à celle de la Turquie de la notion de "coopération" et qu'il partagera la même approche perceptive et constructive.

Note:

Les annexes mentionnées dans cette réponse (en langue turque) sont disponibles sur le site Internet du CPT's (www.cpt.coe.int).