



CPT/Inf (2006) 30

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

from 7 to 14 December 2005

The Turkish Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2006) 31.

Strasbourg, 6 September 2006

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Copy of the letter transmitting the CPT's report

Strasbourg, 12 April 2006

Dear Deputy Director General,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Turkish Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Turkey from 7 to 14 December 2005. The report was adopted by the CPT at its 59th meeting, held from 6 to 10 March 2005.

The various recommendations, comments and requests for information formulated by the CPT are listed in the Appendix to the report. As regards more particularly the CPT's recommendations, the Committee requests the Turkish authorities to provide **within three months** a response giving a full account of the action taken to implement them. The CPT trusts that it will also be possible for the Turkish authorities to provide in the above-mentioned response, reactions to the comments formulated in this report which are summarised in the Appendix as well as replies to the requests for information made.

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

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

Yours faithfully,

Silvia CASALE
President of the European Committee for
the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

Mr Hüsrev ÜNLER
Minister Plenipotentiary
Deputy Director General for the
Council of Europe and Human Rights
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I. INTRODUCTION

A. Dates and objectives of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Turkey from 7 to 14 December 2005. The visit was one which appeared to the CPT "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention).

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

- Marc NÈVE, 2nd Vice-President of the CPT (Head of delegation)
- Aleš BUTALA
- Pétur HAUSSON
- Jean-Pierre RESTELLINI.

They were supported by Trevor STEVENS (Executive Secretary of the CPT), Fabrice KELLENS (Head of Unit), and Elvin ALIYEV of the Committee's Secretariat, and assisted by:

- Timothy HARDING, Director of the University Institute of Forensic Medicine, Geneva, Switzerland (expert)
- Zeynep BEKDİK (interpreter)
- Belgin DÖLAY (interpreter)
- Verda KIVRAK (interpreter)
- Kudret SÜZER (interpreter)
- Şehnaz TAHIR (interpreter)
- Serra YILMAZ (interpreter).

3. During the December 2005 visit, the CPT reviewed once again the situation in practice as regards the treatment of persons held by the law enforcement agencies and assessed the day-to-day operation of the legal safeguards against ill-treatment currently in force. The Committee's delegation focused its attention on the Provinces of Adana, İstanbul and Van.

Attention was also given to developments in F-type (high security) Prisons, in particular as regards out-of-unit activities and individual confinement of certain categories of prisoners. Three F-type establishments were visited, in Adana and Tekirdağ.

The third objective of the visit was to assess the procedures for the administration of electroconvulsive therapy (ECT) in psychiatric establishments. For this purpose, the CPT's delegation visited two mental health hospitals in Adana and İstanbul.

B. Establishments visited and consultations undertaken

4. The delegation visited the following places of detention:

Law enforcement establishments

- Adana Police Headquarters
- İstanbul Police Headquarters
- Beyoğlu District Police Headquarters, İstanbul
- Sirkeci Police Station, Eminönü District, İstanbul
- Van Police Headquarters
- Provincial Gendarmerie Headquarters, Van

Prisons

- Adana F-type Prison
- Tekirdağ F-type Prisons, N° 1 and N° 2.

Psychiatric establishments

- Adana Mental Health Hospital
- Bakırköy Mental and Psychological Health Hospital, İstanbul.

5. The delegation also went to Adana E-type Prison, Bayrampaşa Closed Prison, Bitlis E-type Prison, Ümraniye E-type Prison and Van M-type Prison, with a view to interviewing persons who had recently been in the custody of law enforcement agencies and consulting administrative and medical files.

In addition, the delegation went to health-care facilities where persons in police/gendarmerie custody are medically examined.

6. In the course of the visit, the delegation had a meeting with Mehmet SEYMAN, Vice Governor of İstanbul Province, in order to discuss the activities of the İstanbul Human Rights Board. The delegation also held discussions with prosecutorial authorities in Adana, İstanbul and Van.

Moreover, the delegation met representatives of the Adana and İstanbul Bar Associations as well as of the Adana, İstanbul and Van Branches of the Human Rights Association.

C. Cooperation between the CPT and the Turkish authorities

7. The CPT's delegation received good - and even very good - cooperation from the Turkish authorities throughout the visit. With one exception, ready access was granted to all facilities which the delegation wished to visit, and the delegation was able to speak in private with persons deprived of their liberty. Further, the information necessary for carrying out its task was made available to the delegation.

8. The exception mentioned above concerned one specific unit (Unit H2) at Bakırköy Mental and Psychological Health Hospital. Access to this facility was initially refused by the Head of Department, who was apparently unaware of the CPT's mandate and powers. The matter was subsequently resolved. Nevertheless, **the CPT trusts that additional efforts will be made in the context of future visits, with a view to ensuring that all relevant authorities, including those working in psychiatric establishments, receive detailed information on the Committee's mandate and their obligations vis-à-vis visiting delegations.**

D. End-of-visit talks – immediate observations under Article 8, paragraph 5, of the Convention

9. At the end of the visit, during talks in Ankara, the CPT's delegation provided the Turkish authorities with its preliminary remarks. On this occasion, the delegation made an immediate observation under Article 8, paragraph 5, of the Convention in respect of the deplorable conditions found in the detention unit for immigration detainees at İstanbul Police Headquarters. The delegation called upon the Turkish authorities to give a very high priority to plans to bring into service a much larger facility in the Eminönü District for this category of detainee.

10. By letters of 31 January and 23 February 2006, the Turkish authorities provided comments on the statement made by the CPT's delegation at the end of the visit, including information on the action being taken in response to the above-mentioned immediate observation. That information will be assessed in the relevant section of this report (cf. paragraphs 36 and 37).

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11. Although this was not one of the three issues focussed upon during the visit, certain questions related to the conditions of detention of Abdullah Öcalan were also raised during the end-of-visit talks. The continuing difficulties of access to İmralı Island for the relatives and lawyers of this prisoner (and more specifically the fact that the vessel "Tuzla" has still not entered into service) are a matter of particular concern. This subject will be pursued separately, in the context of the CPT's ongoing dialogue with the Turkish authorities.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Law enforcement agencies

1. Preliminary remarks

12. New Criminal and Criminal Procedure Codes, as well as a revised version of the Regulation on Apprehension, Detention and Statement Taking, entered into force on 1 June 2005. These texts have consolidated improvements which had been made in recent years on matters related to the CPT's mandate. It is more than ever the case that detention by law enforcement agencies (police and gendarmerie) is currently governed by a legislative and regulatory framework capable of combating effectively torture and other forms of ill-treatment by law enforcement officials.

13. Authorised police/ gendarmerie custody periods are now relatively short (24 or, in some cases, 48 hours, with a possible extension to a maximum of four days as regards "collective" offences),¹ and detained persons are entitled to notify a third party of their situation and to have access to a lawyer, as from the outset of their custody. Reference should also be made to the system of medical examinations at the outset and end of police/gendarmerie custody (and when transfers or custody period extensions occur), the detailed custody registers now in use, and the provision made for frequent monitoring visits to law enforcement establishments by public prosecutors.

Further, the penalties provided in the new Criminal Code for the offences of "torture" or "ill-treatment" are of a level which can be considered as dissuasive, and include a minimum sentence of imprisonment.

14. In the previous Criminal Code, amendments were introduced removing the possibility for sentences of imprisonment for the offences of torture or ill-treatment to be converted into a fine or suspended. If the CPT understands correctly, under the new Code it remains the case that a prison sentence for such an offence cannot be replaced by a fine, as this possibility only exists for sentences of up to one year (which is below the minimum sentence set for the offences of torture or ill-treatment). However, it would appear that by virtue of Article 51 of the Code, a prison sentence for the offence of ill-treatment could be suspended if it is set at the minimum level of two years; **the CPT would like to receive the comments of the Turkish authorities on this point.**

15. Amendments were introduced into the previous Code of Criminal Procedure aimed at ensuring the speedy investigation and, if appropriate, prosecution of alleged offences of torture or ill-treatment. As far as the CPT can ascertain, similar provisions have not been included in the new Code. **The CPT would like to receive the comments of the Turkish authorities on this point as well.**

¹ In regions where a state of emergency is in effect, the period of custody of persons apprehended in connection with the offences set out in Article 250 (1) of the Code of Criminal Procedure can be extended up to seven days, at the request of the prosecutor and by decision of the judge (before whom the person concerned must be brought). No region of Turkey is currently under a state of emergency.

However, a circular issued by the Minister of Justice on 1 January 2006 does request that due diligence be paid in order to ensure that investigations into allegations of torture and other forms of ill-treatment are carried out directly by public prosecutors - in no case being entrusted to the police or gendarmerie - in an effective and adequate manner, having in mind the Constitution of Turkey, relevant legislative norms, international treaties to which Turkey is a Party, and the case law of the European Court of Human Rights.

2. Torture and other forms of ill-treatment

16. One of the main purposes of the December 2005 ad hoc visit was to assess whether the favourable legal framework referred to above, combined with the Turkish Government's message of "zero tolerance" of torture and ill-treatment, is having the desired impact on the ground. And it should be stressed at the outset that the facts found during the visit in the Provinces of Adana, İstanbul and Van are encouraging.

17. The CPT's delegation interviewed scores of persons who were, or had recently been (i.e. during the year 2005), in police/gendarmerie custody. The great majority of those persons stated that they had not been physically ill-treated whilst in custody; several of them spontaneously emphasised the contrast with the severe ill-treatment they had experienced during previous periods of custody some years ago. More specifically, the only direct allegation received by the delegation of resort to suspension by the arms and electric shocks dated back to mid 2004 (and concerned the Anti-Terror Department at Adana Police Headquarters).

This positive development was confirmed during the delegation's discussions with various other interlocutors, such as public prosecutors, State doctors entrusted with the medical examination of persons in police/gendarmerie custody, and representatives of Bar Associations and local branches of the Human Rights Association. They all tended to confirm, in their different ways, that torture was now exceptional and that there had been a very significant decrease in recent years in the number of cases of other forms of physical ill-treatment of persons in custody.

18. However, the picture which emerges from the information gathered by the CPT's delegation is not entirely reassuring. The delegation did receive, in each of the three Provinces visited, several allegations of recent physical ill-treatment during police/gendarmerie custody, in a few cases of a serious nature. Further, a number of complaints were heard of physical ill-treatment at the time of apprehension and/or in the context of public demonstrations; indeed, there would appear to be a continuing problem of the disproportionate use of force on such occasions. Medical evidence consistent with some of the above-mentioned allegations was found in the end-of-custody medical reports and/or in medical reports drawn up on entry into prison. Further, in several cases, medical members of the delegation observed themselves injuries consistent with allegations made.

It should also be noted that some persons interviewed alleged ill-treatment of a psychological nature, such as threats of physical ill-treatment or to take into custody other members of the detained person's family, not to mention verbal abuse.

19. The most serious allegations of recent physical ill-treatment received by the delegation concerned the squeezing of genitals, combined with severe beatings, of certain detained persons at Beyoğlu District Police Headquarters (Law & Order Department), the Gayrettepe part of İstanbul Police Headquarters (Robbery Department), and Van Police Headquarters (Theft Department). The ill-treatment allegedly took place in the “identification rooms” or the “detention area” of the police departments concerned. The delegation visited the respective police facilities - the configuration of which fully met the detainees’ description - and was able to verify from the custody registers the presence on the alleged dates of the individuals concerned.

Special reference should be made to a person interviewed by the delegation three days after his custody at Beyoğlu District Police Headquarters. On examination by a medical member of the delegation, he was found to bear the following lesions: pathological mobility of the nose bone, indicative of a fracture; presence of three crusts 0.5 to 1 cm diameter, at the base of the nose; periorbital haematoma to the right eye; partial luxation of an upper incisor; hypersensitivity to palpation of the processus spinosus L4 and L5, indicative of injury. Movement such as walking seemed particularly difficult and painful. These injuries were consistent with the allegations made.

20. The information gathered during the CPT’s December 2005 visit would indicate that the curve of ill-treatment by law enforcement officials remains on the decline. However, there are clearly no grounds for complacency, all the more so as reports continue to appear of ill-treatment by law enforcement officials in different parts of the country. **The CPT trusts that the Turkish authorities will continue to pursue vigorously their efforts to combat all forms of ill-treatment by law enforcement officials.**

As regards more specifically the three police departments in İstanbul and Van referred to in paragraph 19, the CPT recommends that the methods used by police officers belonging to those departments when detaining and questioning suspects be the subject of an independent and impartial inquiry; the Committee looks forward to receiving in due course the results of that inquiry. The CPT also wishes to receive information on the outcome of the investigation into the complaint lodged with the competent prosecutor in respect of the detained person referred to in the second sub-paragraph of paragraph 19.²

It should also be noted that more than one person interviewed by the delegation alleged that they had been taken by law enforcement officials to a forest area and threatened (e.g. a gun pointed to the head); according to certain of the delegation’s interlocutors, there was an increase in such instances of ill-treatment being inflicted outside of law enforcement establishments. The CPT has itself seen a number of reports of persons being apprehended and ill-treated in an isolated place. Needless to say, **care must be taken that the improved legal framework for detention and questioning and the reinforced supervision of law enforcement facilities does not engender illegal practices of the kind described above.**

² The name of the person concerned will be notified to the Turkish authorities.

3. Safeguards against torture and ill-treatment

21. From both the delegation's discussions with detained persons and its own on-site findings, it would appear that progress continues to be made as regards the implementation in practice of the safeguards against ill-treatment provided for by law (notification of custody, access to a lawyer, etc). Further, the time-limits on custody were being respected and, with a few exceptions, custody registers were properly completed (a notable achievement given the amount of data which should now be recorded in those registers).

22. The obligation to notify without delay a relative of the detained person was, as a rule, being complied with. In most cases, the notification was made shortly after deprivation of liberty and, in some cases, the detained person was given the opportunity himself to speak to his relatives. Moreover, the procedures related to the notification were properly recorded in the custody follow-up form (including the name and signature of the official giving the notification, the date and time at which notification was given, and the signature of the detained person confirming the fact that detention had been notified). However, **in a few cases, allegations of delays in notification were received, as well as of absence of feedback to the detainee (whether notification had indeed been made or when).**

23. As already indicated, all criminal suspects have, as from the outset of custody, the right of access to a lawyer (including free legal assistance, private detainee-lawyer consultations and the possibility for lawyers to be present when statements are taken). The appointment of a lawyer has long been obligatory if the suspect is a minor. This obligation to appoint a lawyer has now been extended to all persons detained who are suspected of an offence punishable by a maximum sentence of at least five years imprisonment.

The information gathered during the December 2005 visit confirmed that there had been a significant increase in the number of persons enjoying access to a lawyer whilst in police custody, including in cases where the assistance of a lawyer was not obligatory. In fact, most criminal suspects had received the visit of a lawyer during their period of custody (contrary to the situation observed during earlier visits, when access to a lawyer was the exception, not the rule). Not surprisingly, this had led to an exponential increase in requests for legal aid, which were taken care of by the local Bar Associations.

However, the delegation heard allegations to the effect that law enforcement officials still do on occasion delay access to a lawyer, so as to enable the person detained to be informally questioned without the presence of a lawyer, prior to the taking of a formal statement (in the lawyer's presence). **The CPT must once again recommend that all necessary steps be taken to ensure that the right of access to a lawyer for persons in police/gendarmerie custody, as guaranteed by law, is fully effective in practice as from the outset of custody.**

24. A "Suspects Rights Form" (SRF) reflecting the latest legal situation was in use in the three Provinces visited. However, many detained persons claimed they had been informed of their rights only some time after having been brought to the detention facility, often after an initial "informal" questioning session. It was also clear that a copy of the signed SRF was frequently not given to detained persons, despite the requirement in the Regulation on Apprehension that this be done.

Compliance with the requirement that detained persons are to be given a copy of the SRF at the outset of their custody should be closely monitored.

25. The provisions of the revised Regulation on Apprehension concerning the system for the medical examination of persons in police/gendarmerie custody are consistent with the CPT's previous recommendations on this subject. In particular, it is spelt out that the examination must take place in the absence of law enforcement officials, unless the doctor requests their presence in a particular case; further, emphasis is placed on ensuring the confidentiality of the report sent to the public prosecutor. The CPT also welcomes the stipulation that the doctor should immediately notify the public prosecutor if he makes any findings indicative of the offences of torture or ill-treatment.

26. The December 2005 visit offered another opportunity to review the operation of the system; for this purpose, the delegation heard the accounts of numerous persons who were (or had recently been) in custody, interviewed doctors called upon to examine detainees as well as police/gendarmerie officers, and examined medical reports drawn up following such examinations.

As regards the issue of the confidentiality of the medical examinations, the information gathered indicates that it is still far from being guaranteed. Most detained persons claimed that they had been examined in the presence of law enforcement officials, and such a practice was openly acknowledged by medical staff at Van State Hospital. Similarly, the requirement that the report be transmitted to the prosecutor in a closed and sealed envelope was often not being complied with.

From the information gathered it would also appear that detained persons were still usually medically examined with their clothes on and that, in most cases, the medical findings were limited to "No signs of physical ill-treatment/injuries". The poor quality of the medical reports drawn up after these examinations, and the obstacles this raised in the context of legal proceedings in respect of allegations of ill-treatment, was highlighted by one senior public prosecutor met by the delegation during the visit.

The CPT calls upon the Turkish authorities to redouble their efforts to improve the confidentiality and quality of the medical examinations of persons in police/gendarmerie custody, in the light of the above remarks and the CPT's previous recommendations on this subject. This will require inter alia that suitable, secure rooms are made available for such examinations and that the doctors performing them receive appropriate training.

The CPT also wishes to reiterate its recommendation that the Turkish authorities examine the possibility of designating, in each city, one specific medical facility with primary responsibility for performing these routine medical examinations of persons in police/gendarmerie custody. The fact that the Institute of Forensic Medicine is not organised throughout the country³ in no way prevents the implementation of this recommendation; the specific facility in question could well be located in a hospital under the authority of the Ministry of Health.

³ cf. the response of the Turkish Government to the CPT's report on the 2004 visit to Turkey; CPT/Inf (2005) 19, page 13.

27. The CPT has repeatedly emphasised the importance of maintaining the vitality of procedures for monitoring the situation in law enforcement establishments and, in the report on the March 2004 periodic visit, called for “more robust on-the-spot checks”.

The information gathered by the CPT’s delegation in December 2005 indicates that public prosecutors are carrying out frequent, unannounced, inspection visits to law enforcement facilities, and that on these occasions they do interview detained persons in private. Reports on these visits were sent to both the Provincial Chief Prosecutor and the Ministry of the Interior.

28. The provincial and sub-provincial human rights boards established in 2001 also have as one of their duties to monitor the situation in law enforcement establishments (cf. Article 12 of the 2003 Regulation setting out the board’s duties and working principles), and the CPT had received reports to the effect that certain of the boards had already begun to carry out on-site visits to such establishments. However, the Committee’s delegation did not find any evidence of visits by human rights boards in Adana, İstanbul or Van.

The delegation raised this question with the Vice Governor of the İstanbul Province, to whom the task of chairing the provincial board had been delegated. He confirmed that the İstanbul Provincial Human Rights Board had not carried out any visits to law enforcement establishments during 2005. In this connection, he expressed the view that if the board began to organise such visits, this could be interpreted as a lack of confidence in the work of the public prosecutors and representatives of the Governor’s Office who already visited law enforcement establishments on a regular basis.

The CPT considers such a position to be untenable. Chairmen of human rights boards should see it as their responsibility to ensure the fulfilment of all the duties assigned to the boards by law. **The Committee invites the Turkish authorities to take appropriate steps to encourage human rights boards to monitor, on-site, the situation in law enforcement establishments.**

29. Finally, as the CPT has stressed on many occasions, the best possible safeguard against ill-treatment is for all officials involved in the law enforcement process themselves to reject unambiguously resort to such methods. Only if the progress already made in combating torture and other forms of ill-treatment reflects a real change in mentality (and not just a reluctant compliance with orders from above) will there be a solid basis for further improvement.

The CPT is aware of the intensive efforts in the field of professional training made within the Turkish police service, and has observed on the spot the positive results. The general calibre of police officers in Turkey has risen considerably since the time when the Committee began its activities in the country, in 1990. It is important that a similar development be guaranteed within the Gendarmerie. In their response to the preliminary observations made by the CPT’s delegation at the end of the December 2005 visit, the Turkish authorities emphasise the measures put into practice in recent years by the General Command of the Gendarmerie with a view to strengthening respect for human rights and the rule of law; **the CPT would like to receive a detailed and up-to-date account of those measures.**

4. Detention and interrogation facilities

30. Conditions of detention in the law enforcement establishments visited in December 2005 were on the whole adequate for the periods of custody involved and, in some cases, could be described as very good. Most cells were sufficiently large for the intended level of occupancy, were equipped with a means of rest (plinths or benches), and had adequate artificial lighting; a number of them also benefited from access to natural light. Further, the custody facilities were generally clean and well ventilated. **However, conditions in the cells on the ground floor of Sirkeci Police Station, attached to Eminönü Police Headquarters in İstanbul, were not satisfactory and in particular were poorly lit.**

31. In most of the establishments visited, persons staying overnight in custody were provided with a mattress. However, there were exceptions, for example, the previously-mentioned Sirkeci Police Station (including in the law and order department located upstairs in that station); further, the approach followed in certain establishments of applying a thin felt-type covering to wooden plinths is not satisfactory. **Additional efforts are required to ensure that in all law enforcement establishments, persons obliged to spend the night in custody are provided with a proper mattress, in addition to blankets.**

32. Reference should also be made to a large-scale law enforcement operation that was organised in Van in May 2005, and which led to some 54 demonstrators being detained for 48 hours at the Provincial Gendarmerie Headquarters. This resulted in up to nine persons being held in 6 m² cells. **When operations of this kind are planned, special arrangements should be made in advance to cope with the possible detention of large numbers of persons.**

33. As in the past, persons detained by the police were provided with food (bread, cheese, tomatoes), if necessary free of charge. However, persons could be held for prolonged periods (up to four days) and only receive the same cold food throughout their custody; no hot meals were provided. In addition, many persons met by the delegation alleged that they had not received food or water for hours after their apprehension. On a more positive note, at the Provincial Gendarmerie Headquarters in Van, detained persons were provided with the food prepared by the central kitchen. **The CPT recommends that steps be taken to ensure that detained persons have ready access to drinking water and are provided with food at appropriate times, including at least one full meal every day.**

34. Progress continues to be made as regards improvements to interrogation/identification facilities; no highly intimidating rooms of the kind discovered during earlier visits were seen in December 2005. Certain facilities previously criticised by the CPT had been brought up to an acceptable standard or taken out of service; the radical improvements made to the interrogation facilities in the Anti-Terror Department at Van Police Headquarters deserve a special mention. The delegation was also impressed by the standard of the interview/statement taking rooms of the Anti-Terror Department at İstanbul Police Headquarters.

35. As already indicated (cf. paragraph 9), the situation observed by the CPT's delegation in the detention unit for immigration detainees at İstanbul Police Headquarters was the subject of an immediate observation under Article 8, paragraph 5, of the Convention. With a capacity - according to staff - of 90, the unit was holding more than double that figure (147 men and 43 women) on the day of the delegation's visit. The outrageous overcrowding and general sordidness of the conditions in the facility beggared belief, a state of affairs which is all the more serious in view of the fact that some of the detainees had been held there for more than six months.

The CPT first drew the Turkish authorities' attention to the unacceptable nature of the arrangements for immigration detainees at İstanbul Police Headquarters as long ago as 1997, and has subsequently reemphasised this point, most recently in the report on the September 2001 visit (cf. CPT/Inf (2002) 8, paragraphs 62 to 66). Some minor improvements have been made over the years. However, the facts found during the December 2005 visit have highlighted once again the fundamental inadequacy of the existing detention unit; above all, it is too small.

36. A solution to this long-standing problem might finally be in sight. By letter of 23 February 2006, the Turkish authorities confirmed that a much larger facility for this category of detainee, offering far better conditions, would be brought into service towards the end of 2006, once extensive renovation work at the site concerned (in the Eminönü District) had been completed.

The CPT calls upon the Turkish authorities to give a very high priority to the bringing into service of the above-mentioned facility; every attempt should be made to accelerate the completion of the ongoing renovation work.

As regards the material conditions and regime activities to be offered in the new facility and the staffing arrangements, the CPT recommends the Turkish authorities to take fully into account the standards set out in paragraph 29 of the 7th General Report on the CPT's activities (CPT/Inf (97) 10).

37. The entry into service of the new facility will in any event not occur for some months. In the meantime, steps must be taken to alleviate the intolerable situation in the existing detention unit for immigration detainees at İstanbul Police Headquarters.

In their letter of 23 February 2006, the Turkish authorities state that during the transitional period, immediate measures have been taken to improve conditions at the existing facility, including as regards sanitary conditions and the provision of food. **The CPT would like to receive further details of the measures concerned.**

For so long as the existing detention unit for immigration detainees remains in service, the Committee recommends that every effort be made so that the official capacity of the facility is not exceeded. Further, immediate steps must be taken to ensure that all detainees are offered outdoor exercise on a daily basis; the current situation, in which persons can spend weeks if not months without ever having access to the open air, is inadmissible.

38. The CPT understands that once the immigration detainees have been transferred, sections of the ground floor and the basement of Building B at the Headquarters will be renovated for the purpose of setting up a central detention unit for the departments located in that building (Narcotics, Organised Crime, etc.). This would in principle be a very welcome development, subject to certain conditions; in particular, the central detention unit should be staffed by a distinct corps of police officers specially trained for this custodial function, and those officers should not be placed under the authority of the operational departments making use of the unit. **The CPT trusts that these conditions will be met.**

B. Prison establishments

1. Torture and other forms of ill-treatment

39. Hardly any complaints were received by the CPT's delegation of ill-treatment of prisoners by staff of the three F-type establishments visited, namely Adana F-type Prison and Tekirdağ F-type Prisons Nos 1 and 2.

Some allegations were heard of ill-treatment in the course of the transfer of a number of prisoners from Tekirdağ F-type Prison No 1 to other establishments during the early morning of 30 July 2005. At the delegation's request, the Turkish authorities provided information on this transfer. The CPT welcomes the fact that representatives of the prison monitoring board were invited to be present during this pre-arranged operation, an approach which the Committee has previously recommended in such situations. The Committee notes the assessment report of the five board members concerned, to the effect that proportionate force was used to overcome the resistance put up by the prisoners to their transfer.

40. More generally, the delegation formed an overall positive impression of the quality of the staff assigned to the above-mentioned F-type establishments. However, it was observed that contacts between custodial staff and prisoners were limited in scope. Positive staff-inmate relations are in the interest of both humane treatment of prisoners and security within the establishments concerned. **Consequently, the CPT believes that custodial staff in F-type prisons should receive further encouragement to interact with prisoners.**

41. As previously indicated (cf. paragraph 5), the CPT's delegation also went to a number of other prison establishments in the course of the December 2005 visit, including Adana E-type Prison. The information gathered in relation to this latter establishment is of considerable concern to the Committee.

In contrast to all the other prisons visited in December 2005, the delegation heard numerous allegations of the ill-treatment by staff of inmates at Adana E-type Prison. These allegations emanated from both prisoners at the establishment and from persons who had previously been held there. The ill-treatment alleged related for the most part to slaps, punches and kicks, as well as verbal abuse; however, some allegations of falaka were also received. NGO representatives met by the delegation in Adana, including members of the Bar Association, also expressed concern about the situation in the E-type Prison. The general picture that emerged was of an establishment in which a very strict code of behaviour was enforced, with any breach - no matter how minor - likely to meet with physical chastisement. Such methods are unacceptable; **any prisoner considered to display disobedience should be dealt with only in accordance with prescribed disciplinary procedures.**

Moreover, Adana E-type Prison was grossly overcrowded at the time of the December 2005 visit, with some 950 prisoners for a capacity of 450. To give an example of the practical effects of this situation, in one unit the delegation found 22 prisoners sharing an upstairs dormitory of some 24 m², ten of them sleeping on the floor on mattresses.

This is not the first time that allegations of ill-treatment in this establishment have come to the CPT's attention. In the light of the facts found during the present visit, **the Committee recommends that an independent and impartial inquiry be carried out into the manner in which inmates of Adana E-type Prison are currently being treated by staff; the Committee looks forward to receiving in due course the results of that inquiry.**

Further, the CPT would like the Turkish authorities to provide further details⁴ of the measures taken and/or planned to address the problem of overcrowding in Adana E-type Prison.

42. After the visit, the CPT received reports concerning an ongoing investigation into the death of a soldier in July 2005, which apparently was the result of severe ill-treatment inflicted while he was held in the 6th Army Corps Command Class 1 Military Prison in Adana. The Committee understands that 29 military servicemen have been indicted in relation to this death, and that the investigation file also refers to other cases of alleged ill-treatment in the same prison during 2004 and 2005.

The CPT requests the Turkish authorities to provide detailed information on this subject.

2. F-type (high-security) Prisons

a. out-of-unit activities

43. The CPT has never made any criticism of material conditions of detention in F-type prisons, and the facts found during this most recent visit confirmed that they are of a good standard. However, the Committee has repeatedly stressed the need to develop communal activities for prisoners outside their living units⁵; it is unfortunately very clear from the information gathered in December 2005 that the situation in this regard remains highly unsatisfactory.

In each of the three F-type prisons visited, the considerable potential of the facilities for activities was far from being fully exploited, a state of affairs openly acknowledged by the staff of the establishments. Admittedly, the continuing reluctance on the part of most prisoners to make use of the workshops was largely responsible for the gross underuse of these particular facilities. However, the very limited possibilities for association (conversation) periods and sport - activities in which an increasing number of prisoners wished to engage - must have another explanation.

44. At Adana F-type Prison, the majority of inmates had been seeking to take advantage of association and sport activities in recent months.

According to the relevant regulations, prisoners who so wish can be brought together in groups of up to ten persons for five hours conversation per week. However, this already modest amount of association time was far from being offered in Adana (or elsewhere). Prisoners, in groups of up to nine, had five to six one hour conversation sessions per month.

⁴ The Turkish authorities have already provided some information on this subject in their letter of 31 January 2006.

⁵ cf. most recently the report on the CPT's 2004 visit to Turkey; CPT/Inf (2005) 18, page 59.

As for sport, prisoners wishing to take part in this activity were being offered four sessions per month (two in the gym and two in the outdoor sports facility). The Prison Director indicated that access to sport would amount to some two hours per week; however, from the activity programmes seen by the delegation, most of the sessions lasted one hour.

In contrast, those few prisoners (about a dozen) who went to the two workshops which were operating spent a considerable amount of time engaged in the activities concerned. Those going to the pottery workshop had access to it for up to 10 hours per week, and prisoners attending the drawing workshop could spend there up to 25 hours a week.

The only other regular weekly out-of-unit activities consisted of family visits (one hour), and telephone calls (10 minutes). Apparently, no prisoners requested to go to the library, a state of affairs which the CPT finds difficult to comprehend.

To sum up, a typical prisoner in Adana F-type Prison would spend at best scarcely 5 hours a week outside his living unit.

45. The situation in Tekirdağ F-type Prison No 1 was rather similar, though the groups of prisoners taking part in association and sport tended to be smaller than in Adana. Workshop activity was greater than at Adana, with more than 50 prisoners attending six workshops; certain of these prisoners spent up to 30 hours per week in the workshop concerned. A small number of prisoners attended religious classes on a weekly basis, and access to the library was apparently possible, also on a weekly basis.

46. Out-of-unit time was extremely limited in Tekirdağ F-type Prison No 2, the core programme for the great majority of the prisoners taking part in activities consisting of merely three one-hour sessions per month (two sports sessions and one library attendance, or one sport session, one library attendance and one association period). It should also be noted that as regards prisoners held for offences related to organised crime, the activity groups were small in size, and sometimes consisted of a single person. Taking into account also visits and telephone calls, the Prison Director calculated that average out-of-unit time for a typical prisoner would be in the region of six hours a month.

Once again, those few prisoners (a dozen) taking part in workshop activities were in a much better situation, spending up to 27 hours a week on the activity in question.

47. The Director of each of the F-type prisons visited argued that the limited number of staff at their disposal was a major obstacle in developing activities. The need to keep so many prisoners separate from others for their "life security" (and the large number of activity groups that this tended to generate) was another inhibiting factor.

The CPT does not underestimate these difficulties (though as regards staff resources it remains to be seen whether the problem relates to numbers or is rather one of the manner of deployment of the existing resources). However, the Committee is also convinced that one of the underlying causes of the present situation is a continuing failure on the part of the prison authorities to display a sufficiently proactive, enterprising approach vis-à-vis this subject.

The situation observed to date by the CPT in F-type prisons amounts to a missed opportunity. Capable of being rightly regarded as a model form of penitentiary establishment, they currently remain open to the accusation of perpetuating a system of small-group isolation.

The CPT calls upon the Turkish authorities to take all necessary steps to develop communal activity programmes in F-type prisons. Immediate action should be taken to ensure that there is a significant increase in the amount of association time offered per week, the goal being to reach the maximum permitted by the regulations. Particular attention should be given to improving access to out-of-unit activities for inmates at Tekirdağ F-type Prison No 2.

- b. individual confinement of certain categories of prisoners

48. Certain categories of prisoners are placed in single cells in F-type prisons. They include newly-arrived prisoners undergoing an observation period, prisoners subject to a disciplinary sanction, prisoners segregated for reasons related to maintaining good order within the establishment, and prisoners who have requested to be held apart from others. The CPT's delegation paid particular attention to the situation of prisoners sentenced to "aggravated life imprisonment" and held in single cells by virtue of Article 25 of the recently-adopted Law on execution of sentences and security measures (LESSM).

The sentence of "aggravated life imprisonment" is applied to prisoners in respect of whom a death sentence has been commuted to life imprisonment, and is also foreseen in the Penal Code for a certain number of crimes. Article 25 of the LESSM sets out the main conditions of execution of such a sentence, the very first being that the prisoner is to be held in an "individual room".

49. The three F-type prisons visited in December 2005 were accommodating a small number of prisoners serving a sentence of aggravated life imprisonment (two in Adana, six in Tekirdağ No 1, one in Tekirdağ No 2), all of whom were being held in single cells. Their only out-of-cell activity, apart from a visit every 15 days and a fortnightly telephone call, was outdoor exercise in the courtyard adjoining their cell - in Adana for one hour per day, in Tekirdağ for two hours (apparently extended from one hour on the day before the delegation's arrival). The outdoor exercise period was the only time that any contact with another prisoner was allowed; exercise was taken alone, but the prisoner could speak through a window to the prisoner in the cell adjoining the same courtyard. However, the single prisoner serving aggravated life imprisonment in Tekirdağ Prison No 2 was allowed no contact whatsoever with other prisoners, as the Prison Director (unlike his colleague in the No 1 Prison) had understood the law to only permit such a contact with another prisoner serving the same sentence.

The CPT was particularly struck to learn that this very restrictive regime had been applied as from 1 June 2005 (the date of entry into force of the LESSM) to prisoners who had previously been held together with other inmates and enjoyed access to communal activities. The prisoners concerned found this sudden degradation of their situation very difficult to understand and accept, and understandably so.

The Directors of the three prisons each made clear their need for guidance as to the management of these prisoners, which they hoped would be provided in the Regulation on the application of the LESSM due to be issued shortly.

50. The application of an isolation-type regime is a step that can have very harmful consequences for the person concerned and can, in certain circumstances, lead to inhuman and degrading treatment. The CPT is of the firm view that the imposition of such a regime should be based on an individual risk assessment, not the automatic result of the type of sentence imposed. Support for this position is also to be found in Committee of Ministers Recommendation Rec (2003) 23 on the management of life sentence and other long-term prisoners.

The CPT finds it particularly objectionable - and highly debatable from the standpoint of general legal principles - to apply the provisions of Article 25 of the LESSM to prisoners who, prior to 1 June 2005, shared accommodation with other prisoners and had regular access to communal activities. How can it be cogently argued that a prisoner who on 31 May worked in the prison kitchen and was accommodated with several other inmates in the workers dormitory is nevertheless so dangerous as to justify his segregation from other prisoners the following day?

51. Possibilities for a more developed regime for prisoners sentenced to aggravated life imprisonment are foreseen in Article 25.1 c) and d)⁶; **the CPT recommends that the Regulation on the application of the LESSM exploit these possibilities to the full.**

However, beyond this, **the CPT considers that the very philosophy underlying Article 25 of the LESSM should be rethought. The decision whether or not to impose an isolation-type regime should lie with the prison authorities and always be based on an individual risk assessment of the prisoner concerned; further, the regime should be applied for as short a time as possible, which implies that the decision imposing it should be reviewed at regular intervals.**

52. In Tekirdağ F-type Prisons Nos 1 and 2, the CPT's delegation encountered a small number of prisoners who had been placed in single cells on psychiatric grounds. None of them were receiving the care required by their state of health. In this connection it should be noted that neither of the doctors assigned to the establishments had any competence or experience in treating psychiatric disorders, and there were no consultations at the prisons by visiting psychiatrists. The delegation formed the view that the mental state of at least one of the prisoners concerned - held in a single cell in an otherwise completely empty block (C Annex) at Tekirdağ F-type Prison No. 2 - was such that he should be placed in a secure psychiatric establishment.

53. The CPT emphasised in the report on the March 2004 visit that untreated psychiatric illness in a prison setting leads to ad hoc measures which may easily constitute inhuman and degrading treatment, and it made a number of recommendations designed to address this problem. In the light of the information gathered during the December 2005 visit, **the Committee can only reiterate those recommendations, namely that the Turkish authorities:**

⁶ Under subparagraph c), prisoners serving aggravated life imprisonment may have their daily one-hour open-air exercise and sports period extended and may be allowed to engage in limited contact with prisoners accommodated in the same unit, depending on the risk factors, security requirements and the efforts and good behaviour they demonstrate in rehabilitation and educational activities. Under subparagraph d), such prisoners may engage in a trade or occupational activity considered suitable by the administrative board, if conditions in the place where they are held so permit.

- **motivate and train medical staff and psychologists working in prisons to diagnose cases of prisoners with psychiatric disorders and to participate actively in their management;**
- **provide specialist care within prisons for such cases by assigning a psychiatrist to make regular consultations;**
- **ensure that, when necessary, longer term hospital care with an active psychosocial element is possible.**

As regards the specific prisoner at Tekirdağ F-type Prison No 2 referred to in paragraph 52, **the CPT recommends that his mental state be the subject of a thorough psychiatric examination and that the necessary measures be taken in the light of the outcome of that examination for him to be provided with appropriate treatment and care. The Committee wishes to be informed of those measures.**

54. Reference should also be made to a number of allegations received, in particular at Adana F-type Prison, that newly-arrived prisoners were denied access to outdoor exercise during the period of observation spent in a single cell (which could last for several weeks).

The CPT has repeatedly emphasised in previous reports that all prisoners, without exception, must be offered at least one hour of outdoor exercise every day. **The Committee recommends that the Turkish authorities take appropriate steps to ensure that newly-arrived prisoners benefit from daily outdoor exercise throughout the observation period.**

3. Health-care resources in prisons

55. In the same way as during previous visits to Turkey, the information gathered during the December 2005 visit revealed serious problems related to the availability of health-care resources in prisons and the training provided to doctors called upon to work in such establishments.

After having been vacant for some nine months, the post of prison doctor at Tekirdağ F-type Prison No 1 had finally been filled a few weeks before the CPT's visit. However, the doctor concerned had only graduated from medical school in the summer of 2005. Inevitably, she had no experience of the specific features of the provision of health-care in a prison environment and clearly relied heavily on a uniformed prison officer who had held the post of "health officer" for four years. At Tekirdağ F-type Prison No 2, the post of prison doctor had been vacant for six months. To fill the gap, doctors came on temporary rotation from the local State Hospital Emergency Department, the doctor in the establishment at the time of the delegation's visit having been there for three weeks. Obviously, such an unsatisfactory state of affairs can only have very negative consequences for the level of health-care provided to prisoners. Further, as already indicated, neither of these F-type prisons received visits from a psychiatrist, any psychiatric consultations deemed necessary requiring the prisoner concerned to be sent to the local State Hospital.⁷

⁷ The delegation did not have the opportunity to examine the health-care service at Adana F-type Prison. It was informed that the establishment had a full-time doctor in post, but that there were no visits to the prison by a psychiatrist.

Health-care services were if anything even more poorly resourced at other prisons to which the delegation went during the visit. For example, at Adana E-Type Prison, there was only one doctor for almost 1000 prisoners, and at Bayrampaşa Closed Prison only three doctors for more than 3000 prisoners. As for Van M-type Prison (an establishment accommodating 275 prisoners at the time of the visit, but which had held more than 400 in the recent past), it had been without a full-time doctor for almost two years. Responding to an appeal from the Prison Director, the former prison doctor (who had resigned from the prison service) attended the establishment twice a week.

56. Under circumstances such as those described above, a prison health-care service cannot be expected to perform its tasks in an effective manner, and anomalous situations will inevitably arise. For example, at the Bayrampaşa and Van Prisons, the "medical screening" of new arrivals was usually performed by prison officers assigned to the health-care service, in the absence of a doctor. Further, despite the recommendations repeatedly made by the CPT (and the circulars issued on the subject), the Committee's delegation discovered at the Tekirdağ F-type Prisons that all doctor-inmate consultations took place in the presence of custodial staff. This was no doubt due in large part to the inexperience of the doctors working in these establishments and/or their lack of specific training; this point becomes all the more evident when it is noted that the psychologist at Tekirdağ F-type Prison No 1 (like the doctor, a woman) always interviewed prisoners in the absence of custodial staff.

57. In the report on the March 2004 visit, the CPT recommended that a full-scale review be carried out of the organisation and resources of prison health-care services in Turkey. In their response, the Turkish authorities merely refer to various Articles of the October 2003 Protocol signed by the Ministries of Justice, the Interior and Health.

The CPT makes recommendations in the light of realities, not the notional situation as described in legal provisions. Consequently, **the Committee calls upon the Turkish authorities to carry out without further delay the above-mentioned full-scale review of prison health-care services. The overall aim should be to ensure that prisoners enjoy a level of medical care equivalent to that provided to persons in the outside community, which implies the greatest possible participation of the Ministry of Health in the field of prison health-care. Particular attention should be given to the principles of the independence of prison doctors in the performance of their duties and of medical confidentiality, as well as to the specific training required by such doctors for them to perform their duties satisfactorily.**

C. ECT and other psychiatry-related issues

1. Preliminary remarks

58. As already mentioned, one of the issues focussed on during the December 2005 ad hoc visit were the procedures for the administration of electroconvulsive therapy (ECT) in psychiatric establishments. This subject had been addressed in some detail in the report on the 1997 visit to Turkey (cf. CPT/Inf (99) 2, paragraphs 178 to 182). However, information recently received from various sources indicated that certain of the CPT's recommendations had not yet been implemented, in particular as regards the discontinuance of the practice of unmodified ECT. For the purpose of examining this question, the CPT's delegation visited two State hospitals, Bakırköy Mental and Psychological Health Hospital in İstanbul (this establishment, the largest psychiatric establishment in Turkey, had previously been visited by the Committee in 1992 and 1997) and Adana Mental Health Hospital.

In addition to the above-mentioned subject, some comments will be made in this report on procedures relating to involuntary civil placement in psychiatric establishments and living conditions for patients at the Adana Hospital.

59. At the outset, the CPT wishes to emphasise that relations between staff and patients in the two psychiatric hospitals visited were on the whole found to be positive and tension-free, and many patients spoke favourably about the manner in which they were treated by staff. This is all the more commendable in the light of the often low staffing levels and the paucity of the resources at the staff's disposal.

However, some complaints were heard of the ill-treatment (notably slaps) of patients by orderlies at the Bakırköy Hospital; allegedly, such acts would occur in the event of a failure to take prescribed medication or of disobedience. Under no circumstances can methods of this kind be tolerated. **The CPT recommends that the management of Bakırköy Mental and Psychological Health Hospital deliver the clear message to all categories of staff at the establishment that any form of ill-treatment of patients is unacceptable and will be the subject of severe sanctions.**

2. Electroconvulsive therapy

60. Electroconvulsive therapy is a recognised form of treatment for psychiatric patients suffering from some particular disorders. However, like certain other forms of therapy, its administration must be accompanied by appropriate safeguards.

The CPT is particularly concerned when it encounters the administration of ECT in its unmodified form (i.e. without anaesthetic and muscle relaxants). As was emphasised in the report on the 1997 visit to Turkey, use of this outdated method entails a heightened risk of untoward medical consequences and can lead to situations which could justifiably be described as degrading.

The Committee also pays attention to whether ECT is being used for the proper indications and to the procedure for obtaining consent to this treatment.

61. In their response to the report on the 1997 visit, the Turkish authorities stated that they were “paying close attention [to] the discontinuation of the practice of unmodified ECT”.⁸ However, in spite of that assurance, the delegation which carried out the December 2005 visit observed a widespread use of unmodified ECT in the two psychiatric establishments in Adana and Bakırköy.

At Adana Mental Health Hospital, ECT is only used in its unmodified form. At the Bakırköy Hospital, there is a single ECT unit with a capacity of 10-15 patients per day, where a part-time anaesthesiologist makes modified ECT possible. However, the great majority of patients to whom ECT is administered at this hospital also receive the therapy in its unmodified form; of the total of 15,877 ECT sessions administered at Bakırköy in 2005, only 512 (i.e. some 3.2 per cent) were modified.

62. Further, the information gathered by the CPT’s delegation at the Bakırköy Hospital indicated that ECT was being used in an even more extensive manner than had been observed during the 1997 visit. In some units, more than 60 per cent of patients had received ECT in 2005, and the therapy had been administered to 26 per cent of all patients admitted to the establishment during that year. In the CPT’s view, these figures indicate excessive resort to ECT.

Although the management of the Adana Mental Health Hospital was unable to provide the CPT’s delegation with precise statistics on the use of ECT for the whole hospital, it was obvious that ECT was also used extensively there. According to information received from the Director of the hospital, nearly 30 per cent of patients in a female unit had received ECT during the year 2004.

63. The CPT wishes to make clear that its delegation did not gain the impression in either of the two establishments visited that ECT was being used in a punitive manner or that the patients perceived the treatment as such or had been threatened with ECT. However, the delegation did note that some patients who had received unmodified ECT developed a fear of the treatment, resulting, on occasion, in it being cancelled.

At Bakırköy, the delegation was repeatedly told that the reason for the extensive reliance on ECT was the lack of beds for the high number of patients in need of admission and treatment. From interviews with both patients and staff, it would appear that ECT was sometimes administered only a few times, until the patient was no longer agitated; such a treatment series could commence on the day of arrival of the patient to the hospital. The CPT is very concerned about any possible resort to ECT as a means of quickly subduing agitated patients; this would constitute an improper use of the therapy.

Neither of the two establishments had written policy guidelines regarding the administration of ECT.

⁸ cf. the follow-up report of the Turkish authorities (CPT/Inf (99) 18), published on 16 December 1999.

64. In both establishments, ECT was administered out of the sight of other patients, in rooms specifically set aside and equipped for this purpose. However, from interviews with patients at Bakırköy, it would appear that a patient about to be treated may see patients who have already been treated and who are lying unconscious or recovering. This is clearly not desirable.

65. At the Bakırköy Hospital, recourse to ECT was, as a rule, recorded in both the patient's medical file and a general ECT book kept on the ward, although at least one of the ECT books only indicated the start of the treatment without mentioning further sessions. At the Adana Hospital, while some wards did have ECT books, in other wards recourse to ECT was only recorded in the patient's file. Moreover, even in those wards which possessed an ECT book, the registration of ECT sessions was incomplete. A specific (and properly completed) ECT register at ward-level will greatly facilitate supervision by hospital management and discussion with staff about practices followed.

66. As regards the procedure for obtaining consent to ECT treatment, no written consent was obtained at the Adana Hospital. Special consent forms were used at the Bakırköy Hospital, often signed on admission by the patient, or, in most cases, by his or her guardian or next of kin. However, these forms were often undated, and in a few cases they were signed by the police transporting the patient to the hospital. Further, the examination of patients' medical files revealed that in several cases no written consent was recorded; the delegation was told by the staff that in certain situations (e.g., in the event of difficulty contacting the patient's family) the ECT consent form could be signed after the treatment had been started, or even after it had been concluded. It is also noteworthy that some patients did not seem to have been informed about the procedure or the possible benefits and risks involved.

In this connection, it must be stressed that all patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment, including ECT. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as automatically authorising treatment without his or her consent. Any derogation from this fundamental principle of consent to treatment should be based upon law and apply only in clearly and strictly defined exceptional circumstances. Of course, consent to treatment can only be qualified as free and informed if it is based on full, accurate and comprehensible information about the patient's condition and the treatment proposed.

67. To sum up, the CPT is seriously concerned by the current procedures for the administration of ECT observed in the Adana and Bakırköy Hospitals, and in particular by the continuing frequent recourse to this treatment in its unmodified form.

The Committee's delegation was informed by the management of the Bakırköy Hospital that two new fully-fledged ECT units would be set up within the establishment in a few months. The Committee takes note of this development. **The CPT would like to receive full information concerning these units (in particular, a detailed description of their equipment and staff resources) and to be informed of the planned date of their entry into service.**

More generally, **the CPT recommends that the Turkish authorities accord a high priority to ensuring that all psychiatric establishments in which ECT is used are provided with the necessary staff, equipment and facilities so that this treatment can be administered in its modified form (i.e. with both anaesthetic and muscle relaxants) and in an effective manner (preferably with the aid of an electroencephalogram).**

Further, with a view to ensuring that ECT is only used for the proper indications and is carried out in an appropriate manner, **the CPT recommends that a clear written policy on recourse to ECT be elaborated and distributed to each establishment where this treatment is used and that ECT be administered only by staff who have been specifically trained to provide it. As with other psychiatric treatment, recourse to ECT should be part of a written individualised treatment plan, included in the patient's medical record.**

68. In the light of the other facts found during the visit, **the CPT also recommends that:**

- **the practical arrangements made for the use of ECT ensure not only that it is administered out of the sight of other patients but also that patients waiting to be given ECT do not have sight of patients who have just received the treatment;**
- **the indications for using ECT, the conditions under which it is administered and the outcome of each treatment session be set out in detail in a special register;**
- **the written informed consent of the patient (or of the guardian, if the person concerned is declared incompetent by a court) to the use of ECT, based on full and comprehensible information, be sought and kept in the patient's file and that, save for exceptional circumstances clearly and strictly defined by law, the treatment not be administered until such time as written consent has been obtained.**

3. Other issues

a. civil commitment to a psychiatric hospital

69. It is axiomatic that involuntary placement in a psychiatric establishment should be surrounded by appropriate safeguards. More specifically, the procedure by which involuntary placement is decided should offer guarantees of independence and impartiality as well as of objective medical expertise. Further, if involuntary placement is decided by a non-judicial authority, there must be a clearly-defined right to bring proceedings to have the lawfulness of the detention decided speedily by court.

70. Turkey still lacks a specific mental health law. Nevertheless, the Turkish Civil Code contains a limited number of provisions regulating involuntary hospitalisation of a civil nature.

By virtue of section 405, any individual who, due to mental illness or mental retardation, is incompetent or needs continuous assistance for his/her protection and care or endangers the safety of others can be placed under guardianship by the decision of a magistrate's court. Such a decision is to be made on the basis of a report from an official health institution. Section 462 specifies that only a magistrate's court can authorise committal of a person under guardianship to a health institution.

Further, sections 432-437 of the Civil Code govern involuntary hospitalisation of adults who constitute a danger to the public due to their mental illness or mental retardation. Such a decision is taken by a magistrate's court on the basis of the report of an official health institution.

71. Notwithstanding the above-mentioned provisions of the Turkish Civil Code,⁹ as far as the CPT's delegation could ascertain, most involuntary patients in the Adana and Bakırköy hospitals had been hospitalised *without any judicial intervention*.

According to the procedure currently in use at the Bakırköy Hospital, recently-arrived involuntary patients are admitted on the basis of a decision taken by three psychiatrists of the establishment. Upon admission, a special form entitled "Approval for involuntary placement" is signed by the patient's next of kin or a public official escorting the patient, as well as by the three psychiatrists, who thereby confirm that the placement in the hospital is required "for your [the patient's] own health and the well-being of your circle".

The above-mentioned state of affairs appeared to stem from ignorance of or disregard for the requirements of the law on the part of the administration of the two hospitals. **The CPT would like to receive the Turkish authorities' comments on this matter.**

72. It is also important that the placement of patients admitted involuntarily to a hospital be subject to an automatic review procedure on a regular basis, to establish whether placement remains necessary. Similarly, the CPT places a premium on patients having access to formal machinery enabling them to lodge complaints with a clearly identified body. In addition, it is desirable for there to be regular visits to psychiatric institutions by an independent external body, with responsibility for examining the treatment received by patients and authority to discuss matters with them in confidence and make any appropriate recommendations.

As far as the delegation could ascertain, there was no automatic review of the placement of patients committed to the Adana and Bakırköy Hospitals. Further, despite discussions with medical staff, the CPT's delegation was not able to obtain a clear picture of the complaints and inspection procedures applied in the two establishments. **The CPT would like to receive clarification of these subjects.**

73. The continuing absence of a specific mental health law in Turkey is a matter of serious concern. In their response to the CPT's report on the 1997 visit to Turkey, the Turkish authorities maintained that this lacuna was due to inadequacy of draft mental health legislation drawn up in 1993, but assured the Committee that they were planning "to take a more comprehensive approach to the Mental Health Bill and complete work on it in the near future."¹⁰ At the time of the December 2005 visit, that work was still ongoing.

⁹ And a recent Ministry of Health Circular (No. 10311 dated 13.10.2005), which indicated that the majority of psychiatric patients in Turkey should fall under the ambit of the provisions of the Turkish Civil Code concerning guardianship.

¹⁰ cf. the follow-up report of the Turkish authorities (CPT/Inf (99) 18).

The CPT recommends that the Turkish authorities take, as a matter of urgency, appropriate measures to ensure the enactment of a comprehensive mental health law governing, inter alia, the procedure for involuntary hospitalisation of psychiatric patients, patients' rights of appeal against involuntary hospitalisation and procedures for the review at regular intervals of whether involuntary hospitalisation remains necessary, provision of legal aid, and safeguards during involuntary hospitalisation, in particular, as regards consent to treatment, the use of restraints, complaints procedures and external supervision of psychiatric establishments.¹¹

b. patients' living conditions at Adana Mental Health Hospital

74. The CPT must express concern about the patients' living conditions observed by its delegation in certain parts of Adana Mental Health Hospital. There was considerable overcrowding in several of the units, with patients sleeping on the floor, with or without mattresses, or sharing beds with other patients. The overall ward design and atmosphere was custodial, with prison-style bar doors at the entrances to the units. Due to the lack of available space, isolation cells were occasionally used as ordinary accommodation. However, they were also of an unacceptable standard, with broken or dilapidated beds and inadequate bedding.

75. In any psychiatric establishment, the aim should be to offer material conditions which are conducive to the treatment and well-being of patients; in psychiatric terms, a positive therapeutic environment. Creating such an environment involves, first of all, providing sufficient living space per patient as well as adequate living conditions. These requirements were not being met in at least certain parts of Adana Mental Health Hospital at the time of the December 2005 visit.

The Turkish authorities subsequently informed the CPT that the Adana Governorship had been instructed to conduct an investigation concerning living conditions in the Adana Hospital. **The CPT would like to receive, at the earliest opportunity, the results of that investigation and a full account of the measures being taken to improve living conditions at Adana Mental Health Hospital.**

¹¹ In this context, account should be taken of Recommendation Rec (2004) 10 of the Council of Europe's Committee of Ministers to Member States concerning the protection of the human rights and dignity of persons with mental disorder.

APPENDIX

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

Cooperation between the CPT and the Turkish authorities

comments

- the CPT trusts that additional efforts will be made in the context of future visits, with a view to ensuring that all relevant authorities, including those in psychiatric establishments, receive detailed information on the Committee's mandate and their obligations vis-à-vis visiting delegations (paragraph 8).

Law enforcement agencies

Preliminary remarks

requests for information

- comments of the Turkish authorities on the possibility for a sentence of imprisonment for the offence of ill-treatment to be suspended (paragraph 14);
- comments of the Turkish authorities on the absence in the new Code of Criminal Procedure of provisions of the previous Code aimed at ensuring the speedy investigation and prosecution of alleged offences of torture or ill-treatment (paragraph 15).

Torture and other forms of ill-treatment

recommendations

- the methods used by police officers belonging to the three police departments in İstanbul and Van referred to in paragraph 19 when detaining and questioning suspects to be the subject of an independent and impartial inquiry (paragraph 20);

comments

- the CPT trusts that the Turkish authorities will continue to pursue vigorously their efforts to combat all forms of ill-treatment by law enforcement officials (paragraph 20);
- care must be taken that the improved legal framework for detention and questioning and the reinforced supervision of law enforcement facilities does not engender illegal practices of the kind described in the third sub-paragraph of paragraph 20 (paragraph 20).

requests for information

- the results of the inquiry referred to in the second sub-paragraph of paragraph 20 (paragraph 20);
- the outcome of the investigation into the complaint lodged in respect of the detained person referred to in the second sub-paragraph of paragraph 19 (paragraph 20).

Safeguards against torture and ill-treatment

recommendations

- all necessary steps to be taken to ensure that the right of access to a lawyer for persons in police/gendarmerie custody, as guaranteed by law, is fully effective in practice as from the outset of custody (paragraph 23);
- the Turkish authorities to redouble their efforts to improve the confidentiality and quality of the medical examinations of persons in police/gendarmerie custody, in the light of the remarks made in paragraph 26 and the CPT's previous recommendations on this subject. This will require inter alia that suitable, secure rooms are made available for such examinations and that the doctors performing them receive appropriate training (paragraph 26);
- the Turkish authorities to examine the possibility of designating, in each city, one specific medical facility with primary responsibility for performing the routine medical examinations of persons in police/gendarmerie custody (paragraph 26).

comments

- in a few cases, allegations of delays in notification of a relative were received, as well as of absence of feedback to the detained person (whether notification had indeed been made or when) (paragraph 22);
- compliance with the requirement that detained persons are to be given a copy of the "Suspects Rights Form" at the outset of their custody should be closely monitored (paragraph 24);
- the Turkish authorities are invited to take appropriate steps to encourage human rights boards to monitor, on-site, the situation in law enforcement establishments (paragraph 28).

requests for information

- a detailed and up-to-date account of the measures put into practice in recent years by the General Command of the Gendarmerie with a view to strengthening respect for human rights and the rule of law (paragraph 29).

Detention and interrogation facilities

recommendations

- steps to be taken to ensure that detained persons have ready access to drinking water and are provided with food at appropriate times, including at least one full meal every day (paragraph 33);
- the Turkish authorities to give a very high priority to the bringing into service of the new facility in İstanbul for immigration detainees referred to in paragraph 36, and to make every attempt to accelerate the completion of the ongoing renovation work (paragraph 36);
- the standards set out in paragraph 29 of the 7th General Report on the CPT's activities (CPT/Inf (97) 10) to be taken fully into account as regards the material conditions and regime activities to be offered in the facility referred to in paragraph 36 and the staffing arrangements therein (paragraph 36);
- every effort to be made so that the official capacity of the existing detention unit for immigration detainees at İstanbul Police Headquarters is not exceeded, as long as the facility remains in service. Immediate steps to be taken to ensure that all detainees are offered outdoor exercise on a daily basis (paragraph 37).

comments

- conditions in the cells on the ground floor of Sirkeci Police Station, attached to Eminönü Police Headquarters in İstanbul, were not satisfactory and in particular were poorly lit (paragraph 30);
- additional efforts are required to ensure that in all law enforcement establishments, persons obliged to spend the night in custody are provided with a proper mattress, in addition to blankets (paragraph 31);
- special arrangements should be made in advance to cope with the possible detention of large numbers of persons, when large-scale law enforcement operations are planned (paragraph 32);
- the CPT trusts that the conditions referred to in paragraph 38 as regards the central detention unit to be set up in building B at İstanbul Police Headquarters will be met (paragraph 38).

requests for information

- further details of the measures taken to improve conditions in the existing detention unit for immigration detainees at İstanbul Police Headquarters (paragraph 37).

Prisons

Torture and other forms of ill-treatment

recommendations

- an independent and impartial inquiry to be carried out into the manner in which inmates of Adana E-type Prison are currently being treated by staff (paragraph 41).

comments

- the CPT believes that custodial staff in F-type prisons should receive further encouragement to interact with prisoners (paragraph 40);
- any prisoner considered to display disobedience should be dealt with only in accordance with prescribed disciplinary procedures (paragraph 41).

requests for information

- results of the inquiry concerning Adana E-type Prison referred to in paragraph 41 (paragraph 41);
- further details of the measures taken and/or planned to address the problem of overcrowding in Adana E-type Prison (paragraph 41);
- detailed information on the investigation into the death in July 2005 of a soldier who had been held in the 6th Army Corps Command Class 1 Military Prison in Adana (paragraph 42).

F-type (high-security) Prisons

recommendations

- all necessary steps to be taken to develop communal activity programmes in F-type prisons. Immediate action should be taken to ensure that there is a significant increase in the amount of association time offered per week, the goal being to reach the maximum permitted by the regulations. Particular attention should be given to improving access to out-of-unit activities for inmates at Tekirdağ F-type Prison No 2 (paragraph 47);
- the Regulation on the application of the Law on execution of sentences and security measures (LESSM) to exploit to the full the possibilities for a more developed regime for prisoners serving aggravated life imprisonment (paragraph 51);

- the Turkish authorities:
 - to motivate and train medical staff and psychologists working in prisons to diagnose cases of prisoners with psychiatric disorders and to participate actively in their management;
 - to provide specialist care within prisons for such cases by assigning a psychiatrist to make regular consultations;
 - to ensure that, when necessary, longer term hospital care with an active psychosocial element is possible (paragraph 53);
- the mental state of the prisoner referred to in paragraph 52 to be the subject of a thorough psychiatric examination and the necessary measures to be taken in the light of the outcome of that examination for him to be provided with appropriate treatment and care (paragraph 53);
- appropriate steps to be taken to ensure that newly-arrived prisoners benefit from daily outdoor exercise throughout the observation period (paragraph 54).

comments

- the very philosophy underlying Article 25 of the LESSM should be rethought. The decision whether or not to impose an isolation-type regime should lie with the prison authorities and always be based on an individual risk assessment of the prisoner concerned; further, the regime should be applied for as short a time as possible, which implies that the decision imposing it should be reviewed at regular intervals (paragraph 51).

requests for information

- information on the measures taken to provide the prisoner referred to in paragraph 52 with appropriate treatment and care (paragraph 53).

Health-care resources in prisons

recommendations

- a full-scale review to be carried out, without further delay, of the organisation and resources of prison health-care services. The overall aim should be to ensure that prisoners enjoy a level of medical care equivalent to that provided to persons in the outside community, which implies the greatest possible participation of the Ministry of Health in the field of prison health-care. Particular attention should be given to the principles of the independence of prison doctors in the performance of their duties and of medical confidentiality, as well as to the specific training required by such doctors for them to perform their duties satisfactorily (paragraph 57).

C. ECT and other psychiatry-related issues

Preliminary remarks

recommendations

- the clear message to be delivered to all categories of staff at Bakırköy Mental and Psychological Health Hospital that any form of ill-treatment of patients is unacceptable and will be the subject of severe sanctions (paragraph 59).

Electroconvulsive therapy

recommendations

- the Turkish authorities to accord a high priority to ensuring that all psychiatric establishments in which electroconvulsive therapy (ECT) is used are provided with the necessary staff, equipment and facilities so that this treatment can be administered in its modified form (i.e. with both anaesthetic and muscle relaxants) and in an effective manner (preferably with the aid of an electroencephalogram) (paragraph 67);
- a clear written policy on recourse to ECT to be elaborated and distributed to each establishment where this treatment is used and ECT to be administered only by staff who have been specifically trained to provide it. As with other psychiatric treatment, recourse to ECT should be part of a written individualised treatment plan, included in the patient's medical record (paragraph 67);
- the practical arrangements made for the use of ECT to ensure not only that it is administered out of the sight of other patients but also that patients waiting to be given ECT do not have sight of patients who have just received the treatment (paragraph 68);
- the indications for using ECT, the conditions under which it is administered and the outcome of each treatment session to be set out in detail in a special register (paragraph 68);
- the written informed consent of the patient (or of the guardian, if the person concerned is declared incompetent by a court) to the use of ECT, based on full and comprehensible information, to be sought and kept in the patient's file and that, save for exceptional circumstances clearly and strictly defined by law, the treatment not to be administered until such time as written consent has been obtained (paragraph 68).

requests for information

- full information concerning two new ECT units to be set up at the Bakırköy Hospital (in particular, a detailed description of their equipment and staff resources) and the planned date of their entry into service (paragraph 67).

Other issues

recommendations

- appropriate measures to be taken, as a matter of urgency, to ensure the enactment of a comprehensive mental health law governing, inter alia, the procedure for involuntary hospitalisation of psychiatric patients, patients' rights of appeal against involuntary hospitalisation and procedures for the review at regular intervals of whether involuntary hospitalisation remains necessary, provision of legal aid, and safeguards during involuntary hospitalisation, in particular, as regards consent to treatment, the use of restraints, complaints procedures and external supervision of psychiatric establishments (paragraph 73).

requests for information

- comments of the Turkish authorities on the remarks made in paragraph 71 concerning involuntary hospitalisation without judicial intervention (paragraph 71);
- clarification of the situation as regards procedures for automatic review of the placement of patients and complaints and inspection procedures (paragraph 72);
- results of the investigation concerning living conditions at Adana Mental Health Hospital referred to in paragraph 75 and a full account of the measures being taken to improve material conditions in that establishment (paragraph 75).