

Turkey: Visit 1999
CPT/Inf (2000) | Section: 1/11 | Date: 16/07/1999
Copy of the letter transmitting the CPT's report



CPT/Inf (2000) 17

**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 27 February to 3 March 1999

The Turkish authorities have authorised the publication of this visit report and of their responses. The responses of the Turkish authorities are set out in document CPT/Inf (2000)18.

Strasbourg, 7 December 2000

CONTENTS

COPY OF THE LETTER TRANSMITTING THE CPT'S REPORT3

I. INTRODUCTION.....4

A. Dates of the visit and composition of the delegation4

B. Establishments visited.....5

C. Co-operation with the Turkish authorities5

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED7

A. Police establishments7

1. New evidence of torture and ill-treatment7

2. Action to combat torture and ill-treatment10

3. Conditions of detention14

a. Foreigners' Department at Istanbul Police Headquarters14

b. Passport Police detention area at Istanbul International Airport.....15

c. other police establishments visited.....16

B. Prison on the island of İmralı.....19

APPENDIX:

Basic criteria used by the CPT when assessing high security units.....25

Copy of the letter transmitting the CPT's report

Strasbourg, 16 July 1999

Dear Mr Ünler,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the Government of Turkey drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Turkey from 27 February to 3 March 1999. The report was adopted by the CPT at its 39th meeting, held from 6 to 9 July 1999.

As regards issues concerning the law enforcement agencies, the CPT requests the Turkish authorities to provide **within three months** a response to the recommendations, comments and requests for information set out in bold in Sections I C (paragraph 6) and II A of this report, to the extent that they are not already addressed in the follow-up report in response to the report on the CPT's periodic visit to Turkey in October 1997 (which was received in Turkish on 9 July 1999).

However, the CPT would like to receive **at the earliest opportunity** a response to the requests for information in paragraph 11 of the report, concerning the case of Süleyman YETER.

As regards the prison on the island of İmralı, the CPT requests the Turkish authorities to provide **within six months** a response to the recommendations, comments and requests for information set out in bold in Section II B of this report.

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

Yours sincerely,

Ivan ZAKINE
President of the CPT

Mr Hüsrev ÜNLER
Acting Director
Department for the Council of Europe
and Human Rights
Ministry of Foreign Affairs
ANKARA

I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Turkey from 27 February to 3 March 1999. It was a visit which appeared to the Committee "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention).

The visit was in part of a follow-up nature, designed to assess the progress made since the CPT's periodic visit to Turkey in October 1997¹ as regards the treatment and physical conditions of detention of persons deprived of their liberty by the police.

In addition, the CPT's delegation visited the prison on the island of İmralı and interviewed in private Abdullah ÖCALAN, the establishment's sole inmate. The circumstances of Mr Öcalan's deprivation of liberty displayed a number of highly unusual features raising important issues falling under the CPT's mandate.

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

- Ingrid LYCKE ELLINGSEN, First Vice-President of the CPT (Head of the delegation)
- Davor STRINOVIĆ
- Leopoldo TORRES BOURSAULT.

They were assisted by:

- Jean-Pierre RESTELLINI, Specialist in Forensic Medicine and Internal Medicine, Geneva (expert)
- Zeynep BEKDIK (interpreter)
- Ömer BOZKÜRT (interpreter)
- Verda KIVRAK (interpreter)
- Kudret SUZER (interpreter)

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

- Trevor STEVENS, Secretary of the CPT
- Petya NESTOROVA.

¹ cf. the report on the CPT's visit to Turkey from 5 to 17 October 1997 (CPT/Inf (99) 2) and the interim response of the Turkish authorities (CPT/Inf (99) 3), published on 23 February 1999.

B. Establishments visited

3. The delegation visited the following places of detention:

Police establishments

Istanbul

- Istanbul Police Headquarters:
 - Anti-Terror Department
 - Foreigners Department
 - Department for the Prevention of Smuggling and Organised Crime (Finance, Narcotics and Organised Crime Sections)
- Istanbul Airport Police Station
- Passport Police Detention Area at Istanbul International Airport
- Eyüp District Police Headquarters
- Eyüp District Central Police Station
- Law and Order Department, Eyüp District
- İçerenköy Police Station

Izmir

- Izmir Police Headquarters, Anti-Terror Department

Prisons

- The prison on the island of İmralı.

C. Co-operation with the Turkish authorities

4. The CPT's delegation received, on the whole, excellent co-operation from the Turkish authorities. The CPT particularly appreciates the arrangements made to facilitate the delegation's access to the island of İmralı. The delegation had fruitful discussions with Mrs Hayriye AKTAŞ, Deputy Security Director of Istanbul, Mr Alptekin ILHAN, Acting Chief Prosecutor of Istanbul, and Mr Necip EGÜZ, Head of the Human Rights Department at the Ministry of Foreign Affairs, who also provided valuable assistance in the course of the visit. The delegation is also grateful to Mr Necati NURSAL, Head of Department in the General Directorate of Prisons and Detention at the Ministry of Justice, for his help during the visit to the prison on the island of İmralı.

5. **However, the CPT regrets that despite repeated requests by the delegation, it did not prove possible to arrange a meeting with a specific doctor of Haseki State Hospital.** Following the delegation's visit to the Anti-Terror Department at Istanbul Police Headquarters in the late evening of 27 February 1999, all the 34 persons detained at the Department were medically examined by the doctor in question at Haseki State Hospital in the early hours of 28 February. The delegation had a number of questions which it wished to raise with the doctor concerning his findings in those medical examinations and the precise circumstances under which the examinations took place (cf. also paragraph 10).

6. The CPT was also very concerned to learn that in the course of the visit to the Anti-Terror Department at Istanbul Police Headquarters, a police officer noted down the exact duration of each interview conducted by delegation members with detained persons. When questioned about the purpose of this procedure, the officer in charge of the detention facility indicated that he was simply following instructions from his superiors.

The CPT sees no legitimate reason for recording the time spent by delegation members with detained persons, and **would like to be informed of the use to which this information was subsequently put.**

7. Further, in the course of the visit to the Foreigners' Department's detention facility at Istanbul Police Headquarters, it became apparent that two persons had been removed from the facility in an attempt to prevent the delegation from meeting them. As the CPT has had occasion to point out in the past, **such behaviour is not in conformity with the principle of co-operation set out in Article 3 of the Convention.**

8. By letter of 22 March 1999, the Head of the CPT's delegation forwarded to the Turkish authorities some preliminary observations concerning the facts found during the visit. On 4 May 1999, those observations were made public, with the agreement of the Turkish authorities. Subsequently, in letters dated 7 and 10 May 1999, the Turkish authorities provided responses to the delegation's observations. The CPT would like to indicate already at this stage that it welcomes the Turkish authorities' decision to authorise publication of the above-mentioned letter of 22 March 1999, and is grateful for the positive spirit in which the observations made in that letter were examined.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police establishments

1. New evidence of torture and ill-treatment

9. Thirty-four persons were being held in the Anti-Terror Department at Istanbul Police Headquarters when the delegation visited the establishment in the evening of 27 February 1999, a figure which had risen to forty-four when the delegation returned on the following day. Certain of the persons detained were in a palpably terrorised state and declined to make any comments. However, a considerable number of detainees accepted to speak to the delegation, albeit frequently only after much hesitation. Many of the detainees alleged that they had been subjected to various forms of torture and ill-treatment at the hands of police officers. The allegations concerned, in particular, prolonged standing, blows to the body, squeezing of the genitals and suspension by the arms; a few allegations were also heard of the infliction of electric shocks. In other words, the panoply of methods of ill-treatment alleged was much the same as that encountered during previous CPT visits to this police establishment.

Certain of the persons alleging ill-treatment were found on examination by medical members of the delegation to display marks or conditions which were consistent with their allegations. For example:

- a man claimed that, during an interrogation on the previous day, he had been subjected to “palestinian hanging” and that, whilst in this position, police officers had hit him on the head and body and squeezed his testicles. Upon medical examination, the person concerned was found to be incapable of lifting his arms (movement limited to 30 - 40° on both sides). He also displayed bluish developing haematomae around the eyes and, on the internal rim of the lower lip, a bluish haematoma of about 2 cm x 1 cm, excoriated in the centre;
- a woman claimed that a day before the arrival of the delegation, while being interrogated by police officers, she had been punched and kicked on the body and had her hair pulled. Further, the woman complained of reduced hearing in the left ear after having received a slap on the left side of the head. A medical examination revealed that the membrane of the left ear was red and inflamed. The woman also displayed a small ecchymosis, sensitive to palpation, on the spinal apophysis of L5.

10. The delegation learned that following its evening visit to the Anti-Terror Department on 27 February 1999, all the 34 persons detained were taken that very night to be examined by a doctor at the Haseki State Hospital (cf. paragraph 5). At its request, the delegation was provided with the reports drawn up by that doctor. In respect of all but three of the persons, the reports employed the same formula "No complaints. General condition good, conscious, co-operative. No physical marks." However, in three cases, it was recorded that the persons concerned had complained of "beating" and, in one of those cases, of being "hard of hearing". Lesions were recorded in two of the cases, and the third person was found - following a specialist examination - to be suffering from "central perforation of the tympanic membrane of the left ear, with bleeding around the perforated area".

The CPT was struck, on examining all of the medical reports, by the brevity of the examination (two to three minutes), the terse and standardised nature of the description of medical findings, and the absence of any conclusions (including in the cases of the persons who had complained of being beaten). It should also be noted that when the delegation returned to the Anti-Terror Department on 28 February, a number of the detained persons informed the delegation that the presence of police officers in or close to the room where the medical examination had taken place had inhibited them from making any complaints. The CPT will return to these questions later in the report (cf. paragraphs 18 and 19).

11. Reference should also be made to the case of Süleyman YETER, who was taken into the custody of the Anti-Terror Department at Istanbul Police Headquarters shortly after the delegation's visit, namely on 5 March 1999, and died there on 7 March 1999. According to a forensic medical report drawn up at 8.15 p.m. on 5 March 1999, Mr Yeter bore at that time "no traces of violence". According to a written statement signed by three police officers after his death: Mr Yeter "suddenly collapsed" at 7.30 a.m. on 7 March 1999, in the course of being interrogated, and he was immediately taken to the nearest hospital, where he was pronounced dead.

At the CPT's request, the Turkish authorities forwarded to the Committee the report on the autopsy performed on 8 March 1999 on Mr Yeter's body. The external examination revealed numerous (25) skin abrasions and ecchymoses, scattered all over the body. The internal examination revealed, inter alia, a fracture surrounded by an ecchymotic area in the right horn of the hyoid bone and the right horn of the thyroid cartilage, as well as bleeding in the deep cervical muscles. The autopsy report contained no findings pointing to a natural cause of death.

The information set out above indicates clearly that Mr Yeter died as a result of violence inflicted upon him between 5 and 7 March 1999, whilst in the custody of the Anti-Terror Department at Istanbul Police Headquarters. The findings from the internal examination at the autopsy, combined with the absence of external lesions in the neck area, strongly indicate that the immediate cause of death was strangulation.

Somewhat unusually, the three forensic doctors who performed the autopsy refrained from giving an opinion as regards the cause of death, preferring to request that this question be addressed by the 1st Committee of Experts of the Institute of Forensic Medicine. **The CPT wishes to be informed at the earliest opportunity of the conclusion reached by the 1st Committee of Experts and of measures subsequently taken.**

The CPT considers the case of Mr Yeter to be a matter of the utmost seriousness. It is incumbent upon the State to ensure the physical integrity of all persons held on the premises of law enforcement agencies. The death of a person who is in the custody of a law enforcement agency should always be the subject of an immediate and thorough investigation. This is all the more important when - as in the case of Mr Yeter - there is clear evidence that the death was caused by violence inflicted upon the person concerned whilst in custody and, hence, could have been the result of a grave criminal offence and of a failure to respect rights guaranteed by the European Convention on Human Rights. **The CPT requests the Turkish authorities to provide, at the earliest opportunity, full details of all aspects of the investigation into the death of Mr Yeter.**

12. In paragraph 3 of her letter of 22 March 1999, the head of the CPT's delegation drew the Turkish authorities' attention to the information gathered by the delegation in the course of its visit to the Anti-Terror Department of Istanbul Police Headquarters, and stated that "Decisive action must be taken as of now to stamp out, once and for all, resort to torture and ill-treatment by police officers belonging to that Department".

In their response forwarded by letter of 7 May 1999, the Turkish authorities stated as follows:

"In the light of the Committee delegation's findings, the activities of the Anti-Terror Department of Istanbul Police Headquarters have been placed under closer and stricter supervision. Administrative and judicial controls have been stepped up. Ongoing efforts are being made to provide police officers belonging to this department with additional human rights education (relating to the European Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment) and to take further steps in the matter of supervision and prosecution."

The CPT notes the constructive nature of this response and trusts that no effort will be spared in remedying the situation in the Anti-Terror Department at Istanbul Police Headquarters, the gravity of which has been highlighted on several occasions in the past by the Committee and is well illustrated by the Yeter case. **The CPT wishes to receive further and better particulars concerning the precise steps taken in the matter of supervision, prosecution and training vis-à-vis police officers belonging to this Department.**

13. Most of the persons detained at the time of the visit in the Narcotics Section at Istanbul Police Headquarters indicated that they had no complaints about their treatment. However, certain of the detainees stated that they had been ill-treated, and more specifically suspended by the arms, given electric shocks and hosed with cold water.

Scarcely any allegations of physical ill-treatment were received from persons being detained by the Foreigners Department at Istanbul Police Headquarters. However, one person interviewed at the Department claimed to have been beaten, kicked in the face and strangled earlier on the day of the delegation's visit. Upon medical examination, the person concerned displayed: two bright red excoriations, approximately 9 cm long x 2 cm wide, located on the right side of the neck, 5 cm under the right mandibula; a circular mark, some 2 cm in diameter, under the right mandibula; tenderness on palpation of the back.

The majority of persons in custody at the time of the delegation's visit to the Anti-Terror Department at Izmir Police Headquarters indicated that they had been slapped and verbally abused at the Headquarters, and one of them alleged that before arriving at the Headquarters, he had been hosed with cold water and had had his genitals squeezed at another police station in the city.

Practically no allegations of ill-treatment were received from detained persons interviewed by the delegation at other police establishments visited.

2. Action to combat torture and ill-treatment

14. The different measures required to combat torture and ill-treatment by law enforcement officials have been set out in previous CPT visit reports, and most recently in the report on the periodic visit in October 1997 (cf. CPT/Inf (99) 2, paragraphs 14 to 54). They are the subject of an ongoing dialogue between the Turkish authorities and the CPT; an interim response to the report on the October 1997 visit has already been forwarded by the Turkish authorities, and a follow up response is expected shortly.

Having regard to both the facts found during the visit in February/March 1999 and the information set out in the above-mentioned interim response, certain of the above-mentioned measures should be referred to once again.

15. Persons detained on suspicion of offences falling under the jurisdiction of the State Security Courts are still being denied access to a lawyer during the first four days of their custody.

On this subject, **the CPT trusts that the follow-up response to the report on the Committee's October 1997 visit will address the recommendation set out in paragraph 19 of that report ("all persons deprived of their liberty by the law enforcement agencies - irrespective of the offence of which they are suspected - to be granted, as from the outset of their custody, the right of access to an independent lawyer"), and the comment set out in paragraph 20 of the same report (pending implementation of the recommendation in paragraph 19, "public prosecutors to be encouraged to give favourable consideration to requests that persons suspected of State Security Court offences be authorised access to a lawyer during the first four days of their custody").**

16. Further, the information gathered during the February/March 1999 visit indicated that much still remains to be done to render the right of access to a lawyer fully effective in practice, once it has become de jure applicable.

Certainly, the new form on the rights of suspects (cf. Annex 4 of the interim response) sets out clearly the right of access to a lawyer (and, more generally, is drafted in a satisfactory manner). However, this form is not yet being distributed properly. It was clear that many persons interviewed by the delegation in the course of the February/March 1999 visit had been given the form just before the delegation's arrival, despite having been in custody for some time. Further, it was advanced by police in certain establishments (for example the Organised Crime Section at Istanbul Police Headquarters) that they had not yet received the new form, and consequently were not in a position to distribute it. **Consequently, the CPT trusts that the follow-up response will contain further information on the implementation of the recommendation in paragraph 27 of the report on the October 1997 visit ("the authorities responsible for monitoring the implementation of the Prime Minister's Circular of 3 December 1997 to pay particular attention to compliance with the requirement that persons detained are given a copy of the information sheet at the outset of their custody").**

The CPT is also looking forward to receiving a response to its recommendations in paragraphs 18 ("the relevant provisions of the Code of Criminal Procedure enabling criminal suspects to have a lawyer present when they make a statement to the police and providing for the appointment of a lawyer by the Bar Association in appropriate cases, to be rendered applicable to persons suspected of State Security Court Offences") and 25 ("appropriate steps to be taken to ensure that law enforcement officials do not seek to dissuade detained persons from exercising their right of access to a lawyer") of the report on the October 1997 visit.

Further, **the CPT would like to receive confirmation that meetings between persons suspected of State Security Court Offences and their lawyers, after 4 days of custody, take place in the absence of law enforcement officials** (the statement that "No questions were asked about the inquiry underway" in the reports on such meetings, signed by police officers, provided by the Turkish authorities in Annex 2 of the interim response, would suggest that law enforcement officials were present).

17. The information gathered during the February/March 1999 visit also indicates that the right of detained persons to inform their next of kin of their situation is rarely applied in practice, in particular insofar as persons suspected of State Security Court Offences are concerned.

In this connection, the CPT has noted that by virtue of Article 9 of the 1998 Regulation on Apprehension, Police Custody and Interrogation, relatives will be informed as long as "there is no harm to the investigation" (the same qualification to the right to inform one's relatives being spelt out in the form on the rights of suspects). The Committee fully accepts that the exercise by a detained person of the right to inform a relative or a third party of his choice may have to be made subject to exceptions designed to protect the interests of justice. However, any such exceptions should be well-defined and they should be applied for as short a time as possible. On both those counts, the existing wording of Article 9 of the 1998 Regulation could usefully be developed.

The CPT recommends that the possibility to delay the exercise of the right to have the fact of one's custody notified to a relative or other third party be more closely circumscribed, made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior police officer or public prosecutor) and strictly limited in time.

The CPT would also like to receive confirmation that the right to inform a relative of one's custody also applies to persons suspected of State Security Court Offences, as from the outset of their custody (cf. Article 9 of the 1998 Regulation, as compared to page 7 of the text of the interim response).

18. As regards the medical examination of persons in police custody, the CPT has taken note of the "General Judicial Medical Examination Form" set out in Annex 5 of the interim response. This very complete text more than meets the CPT's recommendations as regards the content of certificates drawn up after the medical examination of persons detained by the law enforcement agencies. However, the delegation which carried out the February/March 1999 visit did not encounter any examples of its use amongst the numerous medical reports seen in the course of the visit. Further, although many examples were found of the use of the standard forensic medical form set out in the Ministry of Health Circulars of 25 January and 13 April 1995, the delegation observed that the old practice of very brief findings set out on a piece of paper without any headings had not entirely disappeared.

The CPT recommends that appropriate steps be taken to ensure the systematic use of the new general judicial medical examination form when persons detained by the law enforcement agencies are medically examined.

Further, the information gathered during the February/March 1999 visit underlines the importance of making clear to doctors that, under the heading "conclusions", they should indicate the degree of consistency between any allegations made and the objective medical findings (cf. also paragraph 37 of the report on the October 1997 visit).

19. The CPT has taken note of the provisions of Article 10 of the 1998 Regulation, which deal with the health control of persons taken into police custody. The Committee welcomes the stipulation that such persons are to be medically examined not only at the beginning and end of police custody but also in the course of that custody, in the event of the detention period being extended.

However, the CPT has serious misgivings about two other provisions of Article 10, namely the vaguely-worded exception to the rule that the doctor and the person examined should be left alone and the stipulation that a copy of the doctor's report is to be kept at the "detention centre". The effectiveness of the system of forensic examination of persons in police custody will be largely dependent on confidence in that system - confidence on the part of the person detained that he can speak freely to the doctor without running the risk of adverse consequences; confidence on the part of the doctor that he will not be subject to pressure either during or after a medical examination. The two provisions referred to above are capable of totally undermining such confidence.

The CPT recommends that Article 10 of the 1998 Regulation be amended so as to stipulate clearly that medical examinations of persons in police custody:

- **must in all cases be conducted out of the hearing of law enforcement officials;**
- **must be conducted out of sight of law enforcement officials, unless the doctor concerned requests otherwise in a particular case.**

Further, the CPT recommends the revocation of the stipulation in Article 10 that a copy of the doctor's report be kept at the detention centre². The Article could stipulate instead that two copies of the report should be forwarded in a sealed envelope to the relevant public prosecutor (one for inclusion in the investigation file - and, if necessary, immediate action by the public prosecutor - and one to be given to the person detained at the end of his police custody) and one copy should be kept at the health institute. Any directions/advice which the doctor might wish to provide to the law enforcement agency concerning the health of a person who remains in police custody should be transmitted separately.

20. Of course, the CPT trusts that the follow-up response to the report on the October 1997 visit will also address other issues raised in that report concerning action to combat torture and ill-treatment.

The CPT is, in particular, keen to learn of action taken to implement the recommendation made in paragraph 30 of the report ("detained persons in respect of whom an extension of police custody is sought to be systematically brought before the judge who examines the request"). The Committee would also like to receive full details of sentences imposed in the course of 1998 and the first half of 1999 under Articles 243 and 245 of the Penal Code (cf. also paragraph 46 of the report on the October 1997 visit).

The CPT would also greatly welcome additional information on action being taken in the field of the training of law enforcement officials. As the Committee has stressed on numerous occasions, a massive investment in this area is indispensable in order to attack the roots of the problem of ill-treatment.

² This amendment of Article 10 should also be reflected in the general judicial medical examination form.

3. Conditions of detention

a. Foreigners' Department at Istanbul Police Headquarters

21. The detention facility of the Foreigners' Department at the new Istanbul Police Headquarters was first visited by the CPT in October 1997 (cf. CPT/Inf (99) 2, paragraphs 55 to 65). The deplorable conditions of detention observed at that time were the subject of an immediate observation under Article 8, paragraph 5, of the Convention. In subsequent correspondence and in their interim report in response to the CPT's report on the October 1997 visit, the Turkish authorities informed the Committee of measures taken to improve the situation. It was found during the 1999 visit that the conditions of detention were somewhat better; however, the fundamental problem - i.e. the inherent inappropriateness of the premises for extended periods of detention - remained unsolved.

22. The cells were less overcrowded than had been the case in October 1997. Further, on the day of the visit, all persons in custody had mattresses and the cell doors were unlocked, thereby enabling detainees to move around the corridor and have ready access to the sanitary facilities and the telephone. However, interviews with detainees indicated that these improvements were of very recent origin; mattresses had apparently been distributed - and doors unlocked - on the day preceding the delegation's visit. This was corroborated by accounts received from foreign nationals met by the delegation at other establishments, who claimed that during their recent stays at the Foreigners' Department they had not been provided with mattresses and that cell doors had been locked during the day.

23. Improvements had been made to the sanitary facilities and detainees provided with soap and towels. However, at the time of the visit the shower in the men's bathroom was not functioning, and male detainees complained that they had not been able to take a shower for several days. Other improvements included the installation of an air conditioning system and upgrading of the lighting. Further, two pay-phones had been installed in the corridor of the facility and two small TV sets placed on the wall facing the cells. However, detainees were still not being offered outdoor exercise, despite stays which could last for weeks.

24. As regards food, small sandwich packs were issued to detainees three times a day; however, a number of detainees said that persons without money received nothing. No proper meals were provided.

As for health care, the delegation was informed by police officers that a doctor and a nurse employed by the Department's Medical Unit visited the detention facility twice a week. At other times and in case of emergency, detainees were transported to a hospital. Further, an initial medical examination of new arrivals appeared to have been introduced, at least for female detainees. However, some of the detainees complained that their requests to see a doctor had been acceded to only after delays of several days.

25. **The CPT recommends that the Turkish authorities take steps to ensure:**

- **that the improvements observed as regards the provision of mattresses and the unlocking of cell doors during the day have been maintained;**
- **that the bathroom facilities are maintained in working order;**
- **that detainees without resources are provided with food free of charge and all detainees are given at least one full meal (i.e. something more substantial than a sandwich) every day;**
- **that all detainees are medically screened on their arrival and that a nurse visits the detention facility every day;**
- **that all persons detained under aliens legislation are systematically provided with a document explaining the procedure applicable to them and setting out their rights; this document should be available in the languages most commonly spoken by those concerned and, if necessary, recourse should be had to the services of an interpreter.**

26. As already mentioned, conditions of detention at the Foreigners' Department remained unsuitable for extended periods of detention. The limitations of the current premises are acknowledged by the Turkish authorities themselves, who, in previous correspondence with the CPT, have stated their intention to find other premises for persons detained by the Department. **The CPT very much hopes that the follow-up response to the report on the October 1997 visit will contain information indicating that progress is finally being made on this matter.**

b. **Passport Police detention area at Istanbul International Airport**

27. The delegation visited the Passport Police detention area located in the transit zone of Istanbul International Airport, which is used to hold both foreign nationals refused entry into Turkey and persons awaiting deportation. Conditions of detention there were very unsatisfactory. The detention facility consisted of one long and narrow cell, measuring some 10 m², and a "waiting" room of similar size. The cell did not have access to natural light and was poorly ventilated. Six chairs fixed to the floor constituted the only items of furniture; no arrangements whatsoever (e.g. mattresses, blankets) had been made for sleeping. As regards the adjacent "waiting" room, it had large windows and contained a table and a few chairs; however, like the cell, it was not equipped for sleeping.

28. Although the detention facility was in principle intended for short stays (i.e. the time necessary to put a foreign national on the next return flight available), an examination of the custody register revealed that stays of 7 to 10 days were not infrequent. The Deputy Head of the Airport Police admitted himself that the facility in question was clearly inadequate and too small for the numbers of foreign nationals who could be detained at the airport. In fact, the delegation was told that police officers used their discretion to allow detained foreign nationals "who can be trusted" to circulate freely in the transit passengers waiting area. This policy was apparently followed in particular in the case of families with children, who could spend the night sleeping on the benches in the transit zone.

As regards the provision of food to detained persons, the delegation was told that it was the responsibility of the airline which had transported the person concerned to Turkey; however, in some cases this responsibility was not fulfilled, and police officers themselves had to provide food to detainees.

29. The delegation was informed of plans to create a more appropriate detention facility in the new building of Istanbul International Airport, which was under construction at the time of the visit. **The CPT recommends that the implementation of those plans be accorded a high priority, and that in this connection the Turkish authorities take into account the remarks made in paragraph 26 of the Committee's 7th General Report (cf. document CPT/Inf (97) 10). The Committee would like to be provided with details of the conditions of detention to be offered in the new facility.**

Pending the construction of the new detention facility, **the CPT recommends that the Turkish authorities take immediate steps to ensure appropriate sleeping arrangements for persons detained by the Passport Police at Istanbul International Airport.**

c. other police establishments visited

30. Cell lighting and ventilation remained inadequate in the Anti-Terror Department at Istanbul Police Headquarters. Further, the delegation observed that up to three persons could be held overnight in the 7 to 8 m² cells, and that not all detained persons had a mattress at night. As for conditions of detention in the Narcotics Section, they had reverted to the state observed in September 1996; the cells remained, as always, poorly lit and ventilated, and the mattresses which had been observed in October 1997 were no longer in evidence.

Conditions of detention in the Finance and Organised Crime Sections were similar to those in the Narcotics Section. However, cells in the Finance Section were equipped with mattresses, and lighting and ventilation in some of them bordered on the acceptable. No mattresses were provided to persons detained overnight in the Organised Crime Section, and most of the cells in that Section were very poorly lit and ventilated. Further, there was evidence of serious overcrowding (e.g. up to 8 persons could be held overnight in a cell measuring 15.5 m²).

The detention facilities at Istanbul Airport Police Station were situated in the basement of the building and comprised four bar-fronted cells, equipped with chairs and/or a bench (one of the cells, designated for women, also had a sink and a W.C.). Lighting and ventilation were adequate; however, persons detained overnight were not provided with mattresses and blankets.

Conditions of detention in the police stations visited by the delegation in the Istanbul districts of Eyüp (Central Police Station and Law and Order Department) and İçerenköy were not satisfactory. In particular, the cells were very dimly lit (or even totally dark), dilapidated and poorly equipped. Further, despite occasional overnight stays, no mattresses were available.

31. As regards the Anti-Terror Department at Izmir Police Headquarters, the small cells criticised in the October 1997 report had been enlarged and refurbished. However, sleeping arrangements continued to be unsatisfactory. None of the detainees met by the delegation had been provided with a mattress (despite the presence of a pile of mattresses in the corridor); further, a few blankets seen in the cells had apparently been distributed shortly before the delegation members entered the detention area. It should also be noted that at the time of the visit the temperature in the cells was rather low (12 °C).

32. As regards the provision of food to persons detained by the police, no improvements were observed at Istanbul Police Headquarters. As in the past, detainees either paid for their food or, if destitute, relied on the generosity of police officers or other detainees. However, at Izmir the delegation was told that a specific food budget had been established, providing for two meals a day at a cost of TL 900,000 per person. Detainees interviewed by the delegation confirmed that they had been provided with food (bread, cheese, tomatoes) free of charge.

33. The CPT recommends that steps be taken to remedy the shortcomings, as regards conditions of detention, identified in the above-mentioned police establishments and referred to in paragraphs 30 to 32. More generally, the CPT trusts that the Turkish authorities will persevere in their efforts to improve conditions of detention in police establishments, in compliance with the directive set out in point 1 (e) of the Prime Minister's Circular of 3 December 1997.

34. The CPT has noted the terms of Article 24 of the Regulation on Apprehension, Police Custody and Interrogation of August 1998, which addresses the subject of physical conditions of detention. This provision stipulates that cells should be at least 7 m² in size and that no more than 5 people should be held together. In this connection, the CPT must stress that although a 7 m² cell is sufficiently large to accommodate several people for a few hours, it is certainly not of a suitable size to accommodate five persons overnight. **The CPT recommends that instructions be issued to the effect that no more than two persons should be held overnight in cells measuring 7 m², and that preferably cells of such a size should be reserved for individual occupancy in the event of multi-day stays (cf. also paragraph 120 of the report on the September 1990 visit to Turkey; CPT (91) 1).**

In the light of the facts found during the 1999 visit, **the CPT also recommends that Article 24 of the above-mentioned Regulation be amended so as to make clear that anyone held overnight in custody is to be provided with a mattress.**

Further, the CPT has noted with concern that, unlike the earlier Custody and Interrogation Instructions of 1995, Article 24 of the 1998 Regulation makes no reference whatsoever to the provision of food to persons in police custody. **The Committee recommends that clear instructions be issued to the effect that persons in police custody are to be supplied with food every day at appropriate times, and that all police establishments have a specific food budget to cover the cost of providing food to persons detained who have no resources.**

35. Finally, the CPT was disappointed to learn that the interrogation facilities of the Anti-Terror Department at Izmir Police Headquarters, the design and equipment of which were criticised by the Committee in its report on the October 1997 visit, continued to be used in their original form. Further, the small, black and sound-proofed "identification room" in the Narcotics Section at Istanbul Police Headquarters was still in use, and an identical room was found in the Finance Section.

The CPT must re-iterate its recommendation that facilities of this kind be withdrawn from service.

B. Prison on the island of İmralı

36. The Turkish authorities informed the delegation that, following the apprehension of Abdullah Öcalan, it had been decided for security reasons - including the need to guarantee Mr Öcalan's safety - that he should be held at the prison on the island of İmralı. For this purpose, all the previous inmates of the establishment had been transferred to the mainland and one of its buildings had been converted into a high security prison.

The severe custodial situation to which Mr Öcalan had been subjected explains the very specific nature of the recommendations, comments and requests for information made by the CPT in the following paragraphs of this report.

37. For the first nine days of his custody, Mr Öcalan had been held in the premises used in the past as the establishment's disciplinary unit, which were located in the basement of the previously-mentioned building. On the 10th day (i.e. 2 to 3 days after his remand in custody) he had been moved to an upper floor of the building. Shortly before the delegation's arrival, he had been placed in the custody unit specially built for him on the ground floor, which had just been completed.

38. The former disciplinary unit was undergoing transformation work at the time of the visit, but the cell in which Mr Öcalan had been held was still basically intact. The cell measured 9 m², was well lit (including access to natural light) and was equipped with a seatless toilet; further, Mr Öcalan had been provided with a bed. Such conditions might be considered as adequate for custody periods lasting a few days. However, as might be expected in a disciplinary unit, the overall custodial environment was austere. It would have been preferable to have had Mr Öcalan moved to another part of the building at an earlier stage, and certainly no later than the date of his remand in custody (i.e. after 7 days).

Conditions in the room which had been used to accommodate Mr Öcalan for several days as from the 10th day of his custody were satisfactory.

39. In the letter of 22 March 1999 sent by the head of the CPT's delegation to the Turkish authorities (cf. paragraph 8), the facts found by the delegation concerning the treatment, conditions of detention and state of health of Mr Öcalan were described in some detail. For ease of reference, the relevant paragraphs of that letter are reproduced below.

"4. During its visit to the **prison on the island of İmralı** on 2 March 1999, the delegation examined the treatment of Abdullah ÖCALAN, currently the establishment's sole inmate. In the light of the information gathered - and, in particular, Mr Öcalan's statements about his treatment to date, the medical reports drawn up in respect of him as from the time of his arrival on the island, the ongoing medical supervision of his situation, and the fact that his custody is now the responsibility of prison officers - the delegation was satisfied that, at present, Mr Öcalan is not at risk of physical ill treatment. Further, from its interviews with Mr Öcalan and the three doctors attending him (a general practitioner, a cardiologist and a specialist in internal medicine), and after consulting his medical file, the delegation was satisfied that his somatic health is good.

However, at the time of the delegation's visit, Mr Öcalan's psychological state was not good. The delegation made it clear to the prison authorities on the island that, if left unattended, his state of mind could lead to unfortunate consequences. According to information subsequently forwarded by the Turkish authorities, Mr Öcalan has since been seen regularly by a psychiatrist; the delegation welcomes this development. Nevertheless, additional measures are required to counter the potentially negative effects on Mr Öcalan's mental health of being held on his own in a remote location under a high security regime. Those measures relate inter alia to his possibilities for contact with the outside world (cf. paragraph 5) and the precise nature of the regime applied to him (cf. paragraphs 7 and 8).

5. Ensuring that Mr Öcalan has access to a radio, newspapers and books is one requirement which should be met. The delegation was informed that, according to the relevant regulations, he did have a right of access to such items; however, given the very particular circumstances of Mr Öcalan's detention, rendering that right effective may well require the Turkish authorities to provide him with a radio, newspapers and books. The delegation would like to be informed whether Mr Öcalan does now have such items in his possession. Similarly, positive action on the part of the Turkish authorities may be necessary to ensure that relatives of Mr Öcalan who wish to visit him are able to do so in safety and without excessive delay. Of course, it is also of crucial importance, from a number of standpoints, that Mr Öcalan be guaranteed adequate access to a lawyer. However, the CPT does not intend to pursue this matter, given that the European Court of Human Rights has adopted interim measures on the subject.

6. Material conditions of detention in Mr Öcalan's cell were of a high standard. The cell was of a good size (13 m²), well lit (including adequate access to natural light), and suitably equipped (bed, bedside table, chair, shower, toilet and washbasin, heater/air conditioning system - all of very good quality). The delegation was informed that a waist-level screen would shortly be fitted around the shower and toilet and the cell's furniture supplemented by a desk; further, the cell window was to be adjusted so that it could be opened to some degree, thereby providing access to fresh air. The delegation would like to receive confirmation that these improvements have now been made.

7. At the time of the visit, the regime applicable to Mr Öcalan was in the process of being introduced, following his remand in custody. The delegation was informed that he would be offered two hours of outdoor exercise per day (one hour in the morning, one hour in the afternoon), in a yard situated alongside the unit accommodating him; the first such exercise period occurred on the day of the visit. Mr Öcalan was to remain in his cell at all other times, save for when he went to the nearby infirmary for a medical interview or to the room adjoining his cell to receive visits from a lawyer or relative.

8. The basic criteria used by the CPT when assessing the regime in a high security unit are summarised in the Appendix to this letter [cf. Appendix to this report]. The delegation trusts that the Turkish authorities will take these criteria into account in the course of developing the regime to be applied to Mr Öcalan.

In this connection, the delegation considers that, in the interests of safeguarding Mr Öcalan's mental health, the regime described in paragraph 7 should gradually be rendered less restrictive. In particular, during part of the day, Mr Öcalan should be allowed to circulate freely between his cell and the room adjoining it, and he should be offered more frequent access to the unit's outdoor exercise facility. Neither of those measures would jeopardise security.

Further, in addition to ensuring access to a radio, newspapers and books, positive efforts should be made to provide Mr Öcalan with other purposeful activities (hobbies, etc.). Similarly, with a view to ensuring that Mr Öcalan benefits from appropriate human contact, certain suitably-skilled staff members could be designated to converse with him on a regular basis.

9. The delegation would add that the outdoor exercise facility currently used by Mr Öcalan - a 45 m² yard surrounded by a 4 m high wall and topped with a grill - is of a rather claustrophobic design, and that its limited size and sandy surface do not facilitate real physical exertion.

The possibility of allowing Mr Öcalan access to a less confined outdoor exercise facility was raised by the delegation at the time of the visit. However, the prison authorities on the island expressed strong opposition to such a measure. Whilst appreciating their concerns on this matter, the delegation remains of the view that it should be possible from time to time for Mr Öcalan to be allowed access to a larger outdoor area. As far as the delegation could ascertain, all the necessary means exist on and around the island of İmralı to ensure that the measure proposed does not compromise security."

40. Following the visit, the Turkish authorities have kept the CPT informed of the results of the daily medical examinations of Mr Öcalan and the regular specialist examinations by a cardiologist and psychiatrist, as well as of any treatment (including medication) prescribed for him. The CPT is grateful to the Turkish authorities for having proceeded in this manner, **and requests that such information continue to be provided to the Committee.**

With reference to observations made by the delegation in the course of the visit, **the CPT would also like to receive confirmation that medical staff on the island now have resuscitation equipment (in particular, an intubation set and a defibrillator) at their disposal, and have been fully trained in its use.**

41. By letters of 7 and 10 May 1999, the Turkish authorities responded to the observations made by the delegation in the letter of 22 March 1999. The CPT is pleased to note that positive measures have been taken on a number of the points raised by the delegation.

42. It is stated, in particular, that Mr Öcalan has been provided with a radio, newspapers and books, as well as with writing material. Further, in addition to regular examinations by a psychiatrist, the prison authorities have designated staff members skilled in human relations to converse with Mr Öcalan for a certain time on a daily basis. **The CPT would like to receive further details concerning the application of these measures e.g. characteristics of the radio provided; frequency with which newspapers/books can be changed; modalities of the regular conversations conducted with Mr Öcalan by staff members (timing, location, etc.).**

43. As regards visits to Mr Öcalan by his relatives and lawyers, the CPT has taken note of the information provided on 6 and 7 May 1999 by the Turkish authorities concerning the authorised frequency of such visits, the visits which have actually taken place, and the measures taken to ensure that relatives and lawyers are able to visit Mr Öcalan in safety and without excessive delay. **The CPT would like to receive updated information on these questions.**

44. With reference to paragraphs 5 and 6 of the letter of 7 May 1999, the CPT welcomes the steps taken to improve further material conditions inside Mr Öcalan's cell, and to render the exercise area adjoining the custodial unit somewhat less oppressive by replacing the metal grill top with a lighter structure.

However, the CPT notes with regret that the delegation's proposal that Mr Öcalan be allowed to circulate freely between his cell and the room adjoining it during part of the day has apparently not yet been acted upon. Such a modest extension of Mr Öcalan's living space would be fully in line with the situation found in many high security units in Europe, and could do much to safeguard his mental health. Given the configuration of the premises and the staffing arrangements, it cannot seriously be maintained that implementation of this measure would jeopardise security. Consequently, **the CPT recommends that the Turkish authorities reconsider their position on this subject.**

45. In paragraphs 6, 7 and 9 of their letter of 7 May 1999, the Turkish authorities contest the observations made by the delegation as regards the size and design of the exercise area, and the delegation's proposals concerning the frequency of access to that area and the possibility of allowing Mr Öcalan access from time to time to a larger outdoor area. Reference is made in this context to national rules, international standards and the situation prevailing in certain other countries.

The CPT recognises that access to the open air poses particular problems in the context of a high security unit. The overriding needs to prevent escapes or contacts with other prisoners not held in the unit can place severe restrictions on the design and size of the outdoor exercise facility for prisoners placed in the unit. However, one should compare what is comparable. Mr Öcalan is not being held in a prison accommodating other inmates, located in a town or city on the mainland; he is the only prisoner on an island situated in the Sea of Marmara, and is guarded by a large-scale security force stationed both on and around the island. Under these circumstances, the CPT is convinced that it would be possible - without jeopardising security in any respect - to offer Mr Öcalan better outdoor exercise arrangements, and in this way to help to compensate his very severe custodial situation.

Consequently, the CPT invites the Turkish authorities to reflect further upon the possibility of giving effect to its delegation's proposals on the subject of outdoor exercise.

46. On 29 June 1999, the Ankara State Security Court found Mr Öcalan guilty and sentenced him to death.

In this connection, the CPT would recall that the Council of Europe has a clear policy against the death penalty, which was most recently reaffirmed in the Declaration adopted by the Committee of Ministers on 10 December 1998, on the occasion of the 50th Anniversary of the Universal Declaration of Human Rights. In Part IV of that Declaration, the Governments of the Member States of the Council of Europe "URGE ALL STATES to abolish the death penalty as soon as possible, to maintain a moratorium on executions pending complete abolition or to refrain from re-introducing the death penalty".

The CPT trusts that the Turkish State will continue to adhere to the approach followed by it over the last 15 years and refrain from carrying out any death sentence passed by the courts.

47. In anticipation of Mr Öcalan's conviction, plans were already being made to build a new, high-security, prison on the island, which might in due course have a capacity of up to 100 prisoners. From drawings shown to the delegation, it appeared that material conditions in the 1 or 3 person cells would be of a good standard.

However, the draft internal regulations for the new prison provided to the delegation indicate that the regime will be impoverished. Contact between prisoners in different rooms and dormitories will not be permitted (Article 10). Further, little is foreseen in the way of organised activities for prisoners (save outdoor exercise); Article 8 of the draft regulations stipulates that "prisoners may be provided by the prison administration, on request, with the material required for such manual pastimes as the administration does not consider objectionable", and there is a vague reference in Article 20 to "training by a teacher, social worker or religious instructor at the prisoner's request".

48. The CPT has already indicated the basic elements of a satisfactory regime in a high security unit (cf. the Appendix to this report). As regards, more particularly, prisoners serving long sentences, the CPT would recall that long-term imprisonment is widely acknowledged to have a number of de-socialising effects. In addition to becoming "institutionalised", prisoners serving long sentences may experience a range of psychological problems (including loss of self-esteem and impairment of social skills); the regimes which are offered to them should seek to compensate for these effects in a positive and proactive way.

Access to a **wide range of purposeful activities** is one requirement. Further, additional steps should be taken to lend **meaning** to the period of imprisonment; in particular, the provision of individualised custody plans and appropriate psycho-social support are important elements in assisting long-term prisoners to come to terms with their period of incarceration. Further, the negative effects of institutionalisation upon prisoners serving long sentences will be less pronounced if they are able effectively to maintain **contact with the outside world**.

The CPT recommends that the Turkish authorities devise a regime for Mr Öcalan which takes fully into account the above remarks. The Committee also recommends that the possibility be explored of transferring to İmralı one or more other prisoners, and that Mr Öcalan be allowed to associate with the prisoner(s) concerned. If necessary, existing regulations/legal provisions should be amended so as to enable these recommendations to be implemented.

*

* *

49. Finally, the CPT must raise an issue concerning the manner in which Mr Öcalan was treated at the time of his apprehension. Pictures taken of Mr Öcalan in the course of his transport by plane to Turkey following his apprehension in Kenya and, on his arrival in Turkey, of him handcuffed and both blindfolded and without a blindfold, were made available to the media.

To have displayed Mr Öcalan to the outside world in this way runs contrary to fundamental principles of criminal procedure and, more specifically, constitutes a flagrant violation of Article 26 of the Regulation on apprehension, police custody and interrogation of 21 August 1998, according to which "... during the investigation period, a person in custody cannot be shown to the public ...".

APPENDIX

BASIC CRITERIA USED BY THE CPT WHEN ASSESSING HIGH SECURITY UNITS

In every country there will be a certain number of prisoners considered to present a particularly high security risk and hence to require special conditions of detention. This group of prisoners will (or at least should, if the classification system is operating satisfactorily) represent a very small proportion of the overall prison population. However, it is a group that is of particular concern to the CPT, as the need to take exceptional measures vis-à-vis such prisoners brings with it a greater risk of inhuman treatment than is the case with the average prisoner.

Prisoners who present a particularly high security risk should, within the confines of their special unit, enjoy a relatively relaxed regime (able to mix freely with fellow prisoners in the unit; allowed to move without restriction within what is likely to be a relatively small physical space; granted a good deal of choice about activities, etc.) by way of compensation for their severe custodial situation.

Special efforts should be made to develop a good internal atmosphere within such units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety. Success in this area requires that the staff assigned to work in such units be very carefully chosen. They should be appropriately trained, possess highly developed communication skills and have a genuine commitment to the exercise of their skills in a more than usually challenging environment.

The existence of a satisfactory programme of activities is just as important - if not more so - in a special unit than on normal location. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.). As regards, in particular, work activities, it is clear that security considerations may preclude many types of work activities which are found on normal prison location. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners. In this respect, reference might be made to the suggestions set out in paragraph 87 of the Explanatory Memorandum to Recommendation (No. R (82) 17) on the custody and treatment of dangerous prisoners, adopted by the Committee of Ministers of the Council of Europe on 24 September 1982.