

## **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 9 to 21 June 2013**

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 (2015) 7.

Strasbourg, 15 January 2015

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**Copy of the letter transmitting the CPT's report**

Ms Kivilcim Kılıç  
Deputy Director General for the  
Council of Europe and Human Rights  
Ministry of Foreign Affairs  
TR - Ankara

Strasbourg, 27 November 2013

Dear Ms Kılıç,

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 Government of Turkey 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 9 to 21 June 2013. The report was adopted by the CPT at its 82<sup>nd</sup> meeting, held from 4 to 8 November 2013.

The recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Turkish authorities to provide **within six months** a response giving a full account of action taken to implement them. The CPT trusts that it will also be possible for the Turkish authorities to provide, in that response, reactions to the comments formulated in this report 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.

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

Yours sincerely,

Latif Hüseyinov  
President of the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

## 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 periodic visit to Turkey from 9 to 21 June 2013. The visit formed part of the CPT’s programme of periodic visits for 2013. It was the Committee’s sixth periodic visit to Turkey.<sup>1</sup>

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

- Jean-Pierre RESTELLINI (Head of delegation)
- Marija DEFINIS-GOJANOVIĆ
- Maïté DE RUE
- Julia KOZMA
- Jan PFEIFFER
- Ana RACU.

They were supported by Michael NEURAUTER (Head of Division) and Elvin ALIYEV of the CPT's Secretariat and assisted by:

- Jurgen VAN POECKE, Director of Bruges Prison, Belgium (expert)
- Zeynep BEKDİK (interpreter)
- Ebru DİRİKER (interpreter)
- Mehmet Ragıp DURAN (interpreter)
- Nilay Güleser ODABAŞ (interpreter)
- Kudret SÜZER (interpreter)
- Canan TOLLU (interpreter).

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<sup>1</sup> Reports on previous visits and related Government responses have been made public and are available on the CPT’s website: <http://www.cpt.coe.int/en/states/tur.htm>

**B. Establishments visited**

3. The CPT's delegation visited the following places of deprivation of liberty:

Law enforcement establishments

Ankara Police Headquarters:

- Anti-Terror Department
- Immigration Department
- Law and Order Department
- Narcotics Department
- Organised Crime Department

Diyarbakır Police Headquarters:

- Anti-Terror Department
- Organised Crime Department

Diyarbakır - Bağlar District Police Station

Istanbul Police Headquarters:

- Anti-Terror Department
- Common Detention Facility

Izmir Police Headquarters:

- Anti-Terror Department (located on premises of Bozyaka Police Station)
- Law and Order Department (located on premises of Bozyaka Police Station)

Şanlıurfa Police Headquarters (Law and Order Department)

Şanlıurfa - Birecik District Police Station

Şanlıurfa - Eyyübiye District Police Station

Şanlıurfa - Siverek District Police Station

Şanlıurfa - Siverek District Gendarmerie Headquarters

Prisons

- Ankara-Sincan Juvenile Prison
- Diyarbakır D-type Prison (remand prisoners)
- Diyarbakır E-type Prison (remand prisoners)
- Gaziantep E-type Prison
- Izmir Juvenile Prison
- Izmir T-type Prison No. 2
- Izmir Prison for Women (unit for aggravated life-sentenced prisoners)
- Şanlıurfa E-type Prison
- Tekirdağ F-type Prison No. 2 (unit for aggravated life-sentenced prisoners).

In addition, the delegation paid a brief visit to Izmir-Buca Prison, in order to interview persons who had recently been in police custody.

Other establishments

Diyarbakır Court House (waiting cells).

**C. Consultations held by the delegation and co-operation encountered**

4. In the course of the visit, the delegation held consultations with Osman GÜNEŞ, Deputy Minister of the Interior, Agah KAFKAS, Deputy Minister of Health, and Birol ERDEM, Undersecretary of the Ministry of Justice, as well as with senior officials from the Ministries of the Interior (including the General Command of the Gendarmerie), Justice, Health, Foreign Affairs and National Defence. In addition, the delegation met Nihat ÖMEROĞLU, Chief Ombudsman, and Naci BOSTANCI, Acting Chairperson of the Human Rights Commission of the Grand National Assembly of Turkey. Meetings were also held with representatives of the Turkish Bar Association as well as of two non-governmental organisations, the Human Rights Association and the Human Rights Foundation of Turkey.

A list of the national authorities and organisations met by the delegation is set out in Appendix II to this report.

5. The co-operation received by the CPT's delegation throughout the visit, from both the national authorities and staff at the establishments visited, was very good. The delegation enjoyed rapid access to all the places it visited (including those which had not been notified in advance), was provided with the information necessary for carrying out its task and was able to speak in private with persons deprived of their liberty.

The CPT would also like to express its appreciation for the assistance provided before and during the visit by its liaison officer, Ms Kivılcım KILIC, from the Ministry of Foreign Affairs.

**D. Immediate observations under Article 8, paragraph 5, of the Convention**

6. During the end-of-visit talks with the Turkish authorities on 21 June 2013, the CPT's delegation outlined the main facts found during the visit and, on that occasion, made an immediate observation under Article 8, paragraph 5, of the Convention concerning the detention centre for foreign nationals at the Ankara Police Headquarters. The delegation called upon the Turkish authorities to take the necessary measures to ensure that all immigration detainees held in this facility are able to benefit from at least one hour of outdoor exercise per day.

The above-mentioned immediate observation was subsequently confirmed by the Executive Secretary of the CPT in a letter dated 11 July 2013.

7. By letter of 4 September 2013, the Turkish authorities provided information on the measures taken in response to the immediate observation. This information has been taken into account in the relevant section of the present report (see paragraph 40).

**E. Monitoring of places of deprivation of liberty and complaints bodies**

8. Since the very outset of its activities, the CPT has been recommending the establishment of independent monitoring mechanisms at national level for all types of places of deprivation of liberty. Provided they possess the necessary knowledge and are adequately resourced and truly independent, such mechanisms can make a significant contribution to the prevention of ill-treatment of persons deprived of their liberty.

In this connection, the Committee considers that Parties to the Convention establishing the CPT should also become Parties to the Optional Protocol to the United Nations Convention against Torture (OPCAT). Indeed, this instrument provides, *inter alia*, for the setting-up of one or several independent monitoring bodies at national level (National Preventive Mechanisms), which should be in a position to carry out visits to places of deprivation of liberty more regularly than any international body.

The CPT notes that Turkey ratified the OPCAT in September 2011 and undertook to establish a national preventive mechanism within one year. However, no such mechanism was in place at the time of the 2013 visit. **The CPT would like to be informed of progress made towards setting up or designating a national preventive mechanism under the OPCAT.**

9. On 29 June 2012, the Law on the Ombudsman Institution entered into force and as of March 2013 the Institution started to consider individual complaints. The Institution consists of six parliamentary ombudsmen (including the chief ombudsman) and is mandated, *inter alia*, to carry out visits to places of deprivation of liberty without prior notification following complaints received from individuals.

**The CPT would like to receive information on the activities carried out to date by the Ombudsman Institution concerning the situation of persons deprived of their liberty.**

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police custody

#### 1. Preliminary remarks

10. One of the main objectives of the visit was to review the treatment of persons deprived of their liberty by law enforcement agencies. For this purpose, the delegation visited some fifteen police establishments and one gendarmerie station. In addition, the delegation carried out targeted visits to several prisons where it interviewed a large number of remand prisoners who had recently been in police custody (mainly in the Izmir area and south-eastern Turkey).

11. The visit took place at a time when public demonstrations happened to be taking place in different parts of the country which led to large-scale crowd control operations and the apprehension of hundreds of demonstrators. The delegation carried out several targeted visits to the Police Headquarters in Ankara and Istanbul, in order to interview many persons who had been taken into custody during those operations (see Section 3).

12. As regards the legal framework, the general provisions on the deprivation of liberty by law enforcement agencies of persons who are suspected of having committed a criminal offence remain unchanged since the 2009 visit.

The maximum authorised period of police/gendarmerie custody is generally 24 hours.<sup>2</sup> In the cases of certain offences specified by law, the custody period can be extended to 48 hours, and in the case of terrorism-related or other “collective” offences, the custody period can be extended to a maximum of four days.<sup>3</sup>

The 24-hour time limit also applies to persons who have been deprived of their liberty for identification purposes or for reasons of public order.<sup>4</sup>

#### 2. Ill-treatment

13. As was the case in 2009, the great majority of persons met by the delegation stated that they had been treated in a correct manner whilst in police/gendarmerie custody.<sup>5</sup>

However, in the Diyarbakır and Şanlıurfa areas, the delegation did receive a number of allegations from detained persons (including juveniles) of recent physical ill-treatment by police officers. Most of these allegations concerned excessive use of force at the time of apprehension or slaps, punches or kicks during police questioning. In some cases, the medical examination of the persons concerned and/or the consultation of medical files by the delegation revealed injuries which were consistent with the allegations of ill-treatment made.

In contrast, hardly any allegations of this nature were received in the Izmir area.

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<sup>2</sup> Section 91, paragraph 1, of the Code of Criminal Procedure (CCP) and Section 13 of the 2005 Regulation on Apprehension, Detention and the Taking of Statements (hereinafter: “Detention Regulation”).

<sup>3</sup> Sections 91, paragraph 3, and 251, paragraph 5, of the CCP and Section 14 of the Detention Regulation.

<sup>4</sup> Section 5 of the Detention Regulation.

<sup>5</sup> As regards the treatment of persons detained in the context of recent public demonstrations, see Section 3.

**The CPT recommends that a formal statement emanating from the relevant authorities be delivered to all law enforcement officials in the Diyarbakır and Şanlıurfa areas, reminding them that they should be respectful of the rights of persons in their custody and that the ill-treatment of such persons will be the subject of severe sanctions.**

14. As stressed in previous visit reports, one of the most effective means of preventing ill-treatment by law enforcement officials lies in the diligent examination by the competent authorities of all relevant information regarding alleged ill-treatment which may come to their attention, whether or not that information takes the form of a formal complaint; failing to do so will contribute to creating a climate of impunity.

15. In this regard, the CPT is concerned about the case of a juvenile held at Diyarbakır E-type Prison. The juvenile had arrived at the prison on 6 May 2013 with visible injuries and, during the initial medical screening, he told the doctor that he had sustained the injuries from “beatings” by police officers at the moment of apprehension. In accordance with the relevant regulations, the medical report was notified by the prison management to the Office of the Chief Prosecutor of Diyarbakır.

In order to find out what action had been taken thereafter by the Prosecutor’s Office, the delegation held consultations with the Deputy Chief Prosecutor of Diyarbakır and the prosecutor in charge of the case<sup>6</sup>. The delegation was shown the statement which was taken by the prosecutor from the juvenile, in which the latter had reiterated his allegations of police ill-treatment and at the same time added that he did not wish to lodge a formal complaint against the police officers involved in his apprehension. The two prosecutors affirmed to the delegation that, in such cases, a preliminary inquiry would nevertheless be initiated and further investigative actions be carried out *ex officio*. However, it became apparent that the file regarding the allegations of ill-treatment made by the juvenile had been closed shortly before the CPT’s visit, with hardly any further investigative steps having been taken. In particular, no forensic medical examination had been requested and neither the police officers involved in the apprehension nor another person who had allegedly witnessed the apprehension had ever been questioned. The delegation was puzzled by the explanation given by the prosecutor in charge of the case that he had not been able to question the police officers because it was impossible to identify the police solely on the basis of their identification numbers.

In the light of the above, it is, in the CPT’s view, obvious that no effective investigation has been carried out. **The CPT considers that the investigation into the above-mentioned case should be re-opened.**

More generally, **the Committee recommends that the Chief Prosecutor of Diyarbakır remind prosecutors under his authority of their obligation to carry out investigations into cases of possible ill-treatment by law enforcement officials in a prompt, thorough and comprehensive manner. Reference should be made in this context to the relevant case-law of the European Court of Human Rights.**<sup>7</sup>

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<sup>6</sup> The handling of cases of possible ill-treatment by law enforcement officials is always allocated to a prosecutor unconnected with the criminal case against the alleged victim of ill-treatment.

<sup>7</sup> See also paragraphs 27 to 36 of the CPT’s 14<sup>th</sup> General Report (CPT/Inf (2004) 28).

16. In order to obtain a more comprehensive and up-to-date picture of the situation regarding the treatment of persons detained by law enforcement agencies, **the CPT would like to receive the following information, in respect of the period from 1 January 2011 to the present time:**

- (a) the number of complaints of ill-treatment made against law enforcement officials per year and the number of criminal/disciplinary proceedings which have been instituted as a result;**
- (b) the number of criminal/disciplinary proceedings which have been instituted *ex officio* (i.e. without a formal complaint) into possible ill-treatment by law enforcement officials;**
- (c) the outcome of the proceedings referred to in (a) and (b), including an account of criminal/disciplinary sanctions imposed on the law enforcement officials concerned.**

### **3. Situation of persons detained in the context of recent public demonstrations**

17. As indicated in paragraph 11, the delegation paid particular attention to police operations carried out in the context of public demonstrations which were ongoing at the time of the visit in different parts of the country. Given its specific mandate, namely the prevention of torture and other forms of ill-treatment of *persons deprived of their liberty*, the CPT will refrain from any remarks about the proportionality of the force used during the police operations for the mere purpose of crowd control.

Its delegation focused on the situation of persons who had been deprived of their liberty during the demonstrations, notably in Ankara and Istanbul. To this end, it interviewed all the demonstrators who were in police custody at the Ankara Police Headquarters on 9 and 10 June 2013 as well as many persons who had been detained after two major police operations in Istanbul (11 and 16 June 2013).

At the time of its first visit to Ankara Police Headquarters (9 June 2013), three demonstrators were being detained in the Anti-Terror-Department<sup>8</sup>; on the following day, twelve demonstrators were being held there (including one under anti-terror legislation).

At the time of the visit to Istanbul Police Headquarters on 12 June 2013, 70 demonstrators were being detained by the Anti-Terror-Department (including 13 juveniles who had immediately been transferred to the juvenile department which is located in another part of Istanbul). After the police had started another major crowd control operation on the evening of 16 June 2013, the delegation decided to travel back to Istanbul in order to carry out a follow-up visit to the Police Headquarters on the following morning. At the moment of the latter visit, 72 demonstrators were being held in the Common Detention Facility and 75 in the Anti-Terror-Department.

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<sup>8</sup> The three persons were not suspected of having committed terrorism-related offences, but they were held in the Anti-Terror-Department for the sole reason that the Security Department does not have any detention facilities of its own.

As far as the delegation could ascertain, no demonstrators were being detained in other law enforcement establishments of the cities on the days when it visited Ankara and Istanbul Police Headquarters.<sup>9</sup> The delegation was informed that the vast majority of persons previously detained at the cities' police headquarters had been released within 24 hours and that hardly anyone had been remanded in custody.

18. In both Ankara and Istanbul, the delegation received many allegations from detained demonstrators that they had been subjected to excessive use of force at the moment of their apprehension (such as kicks, punches and blows with sticks or batons – including on the head or in the face – after having been brought under control), as well as to very tight handcuffing. One person was allegedly even sprayed with tear gas in his face whilst handcuffed.

Further, a number of persons claimed that they were also beaten while being taken to a police van and, in some cases, also during transportation.

Several persons interviewed in Istanbul claimed that police officers had broken the doors to the rooms in which they were hiding (inside a hotel or on the premises of a political party) and, without prior warning, had thrown tear gas cartridges into the room before dragging them under constant beatings first down the stairs to the entrance (where they were handcuffed) and then to the police van.

A significant number of persons interviewed in Ankara and Istanbul displayed visible injuries which were consistent with the allegations made.

Moreover, many persons (including almost all the female detainees) were allegedly severely verbally abused during and/or shortly after their apprehension.

In contrast, virtually all the detained demonstrators interviewed by the delegation indicated that they were treated correctly by police officers during their stay in the relevant police headquarters.

**The CPT recommends that a firm message be delivered to all law enforcement officials throughout Turkey who are involved in crowd control operations, reminding them that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be punished accordingly. It should be made clear to the law enforcement officials concerned that no more force than is strictly necessary is to be used when carrying out an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them (or using tear gas against them).**

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<sup>9</sup> The delegation also paid brief visits to several hospitals where detained demonstrators had undergone treatment. In none of the hospitals were detained persons being hospitalised on the days of the delegation's visits to Ankara and Istanbul Police Headquarters.

19. The delegation was informed that a comprehensive inquiry had been initiated by the relevant authorities with regard to the police operations carried out.

By letter of 4 September 2013, the Turkish authorities provided the following information:

“With a view to investigating whether there have been any shortcomings in the taking and application of preventive law-enforcement measures prior to the incidents and whether unwarranted or disproportionate force has been used during police operations and where necessary, to conduct a preliminary examination and disciplinary investigation in respect of the personnel identified as responsible, civil administration and police chief investigators have been appointed. The investigations are in progress.

According to the information received from Ankara Chief Public Prosecutor’s Office on 15 July 2013, 83 separate investigations have been launched against the police officers concerning the Gezi Park demonstrations taken place in Ankara in June. One of the investigations is related to killing and a criminal case has been launched against the suspected police officer before Ankara 6<sup>th</sup> Assize Court. The remaining 82 investigations are being conducted on the charge of qualified injury. Within the scope of the investigations, 216 persons are in the victim status.

According to the information received from Istanbul Chief Public Prosecutor’s Office on 16 July 2013, 7 separate investigations have been launched against the police officers and public officers concerning the incidents taken place in Istanbul. The investigations are being conducted on charges of injury, exceeding the power of the use of force and defamation. 308 persons are in the victim status.”

20. The CPT takes note of this information and **would like to receive updated information on all criminal and administrative inquiries which have been initiated so far in relation to formal complaints and other information indicative of ill-treatment and/or excessive use of force during the above-mentioned police operations, as well as on any action subsequently taken.**

21. There are two more specific issues regarding the use of force during police operations in the context of demonstrations which the CPT wishes to raise:

Firstly, the CPT has serious misgivings about the use of tear gas<sup>10</sup> grenades within confined spaces, as was apparently the case on several occasions when demonstrators were apprehended inside buildings. In this regard, the Committee welcomes the fact that a new Circular (No. 2013/28) was issued by the Ministry of the Interior on 26 June 2013 which stipulates that “gas grenades and gas cartridges shall not be used in enclosed areas” and that “gas shall under no circumstances be used against persons or groups who are no longer resisting or attacking”.

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<sup>10</sup> The delegation was informed that both CS and CN gas was being used against violent and/or non-compliant demonstrators (in addition to water cannons).

Secondly, the CPT is concerned by the allegations and reports received during and after the visit that police officers, who intervened in demonstrations and apprehended demonstrators, did not wear any identification numbers (in particular plain clothes officers) or had concealed the identification number displayed on their helmets. In this connection, the Committee notes that, on 22 July 2013, the Ministry of the Interior issued another Circular (No. 2013/33), according to which plain clothes police officers carrying truncheons are henceforth obliged to wear police vests.

**The CPT recommends that the Turkish authorities take the necessary steps to ensure that law enforcement officials who are involved in such operations are identifiable<sup>11</sup> (e.g. by means of a clearly visible number on the uniform or helmet). Law enforcement officials should be reminded that the concealment of identification numbers constitutes a serious offence.**

22. The delegation gained a generally positive impression of the implementation in practice of the fundamental safeguards against ill-treatment during the above-mentioned police operations.

In particular, all detained demonstrators met by the delegation had been informed of their rights upon arrival at the respective police headquarters. Further, the persons concerned were usually able to inform a family member or other trusted person of their custody, and those who expressed the wish to meet a lawyer were usually able to do so within a short time<sup>12</sup>.

In addition, all persons were subjected to a medical examination in a nearby hospital. That said, police officers were frequently present during these medical examinations and the latter were often carried out in a very superficial manner. In this regard, **reference is made to the remarks and recommendation in paragraph 28.**

#### **4. Fundamental safeguards against ill-treatment**

23. Overall, the delegation gained a positive impression of the implementation in practice of the fundamental safeguards against ill-treatment (namely the right to have the fact of one's detention notified to a relative or another trusted person and the rights of access to a lawyer and to a doctor).

24. The vast majority of detained persons met by the delegation confirmed that they had been able to exercise their right of notification of custody to a relative or another trusted person shortly after their apprehension.

That said, the delegation did receive a number of allegations, in particular in south-eastern Turkey, that the exercise of the right of notification of custody had been delayed for several hours or, on occasion, even more. **The CPT reiterates its recommendation that law enforcement officials throughout Turkey be reminded of their legal obligations regarding the implementation of the right of notification of custody.**

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<sup>11</sup> So that they can be held accountable for their actions.

<sup>12</sup> Several lawyers deployed by lawyers' associations were present on the police premises.

25. The right of detained persons to contact and meet a lawyer in private and to have a lawyer present during questioning by law enforcement officials is formally guaranteed as from the outset of custody<sup>13</sup> (see, however, the exception referred to in paragraph 27), and indigent persons are entitled to free legal aid by a lawyer appointed *ex officio* (through the Bar Association).

Further, juveniles can only be questioned by law enforcement officials in the presence of a lawyer and statements can only be taken by a public prosecutor. In addition, the appointment of a lawyer is obligatory in cases where a detained person is suspected of having committed a criminal offence punishable by a maximum of at least five years' imprisonment. It is also noteworthy that statements taken by law enforcement officials in the absence of a lawyer cannot constitute the basis for a judgment unless they are confirmed by the suspect or accused before the court.<sup>14</sup>

26. The information gathered during the visit suggests that the above-mentioned requirements were generally respected in practice.

However, in south-eastern Turkey in particular, a number of allegations were received from juveniles – and from adults who claimed to have expressed the wish to have a lawyer present – that they had been subjected to questioning by law enforcement officials without the presence of a lawyer, prior to the taking of a formal statement (in the lawyer's presence).

Moreover, throughout the country, many detained persons, in respect of whom an *ex officio* lawyer had been appointed, complained that they had only met their lawyer for the first time at the court hearing.

**The CPT recommends that the Turkish authorities take the necessary steps to ensure that the right of detained persons to have a lawyer present during questioning, as well as the obligation of having a lawyer present if the detained person is a juvenile, are fully respected in practice in all police/gendarmerie establishments.<sup>15</sup> Further, steps should be taken in consultation with the relevant Bar Associations to ensure that *ex officio* lawyers appointed to represent persons in police custody perform their functions in a diligent and, more specifically, timely manner.**

27. As indicated in the report on the 2009 visit<sup>16</sup>, the CPT has serious misgivings about certain amendments<sup>17</sup> which were made in 2006 to the 1991 Law on the Prevention of Terrorism (Law No. 3713). According to Section 10 (b), persons who are suspected of having committed a terrorism-related offence may be denied access to a lawyer during the initial 24 hours of custody (by order of a public prosecutor). Further, Section 10 (e) of the law stipulates that, if there is evidence that the defence lawyer might be “liaising” between the detainee and a terrorist organisation, at the request of the prosecutor and following a decision by a judge, an officer can be present during meetings between the suspect and his lawyer.

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<sup>13</sup> Sections 149, 150 and 154 of the CCP; see also Sections 20 and 21 of the Detention Regulation.

<sup>14</sup> Section 148, paragraph 4, of the CCP.

<sup>15</sup> Naturally, this should not prevent the police from immediately starting to question a detained person who has exercised his/her right of access to a lawyer, even before the lawyer arrives, if this is warranted by the extreme urgency of the matter in hand. That said, if such situations arise, the police should subsequently be accountable for their action.

<sup>16</sup> See CPT/Inf (2011) 13, paragraph 22.

<sup>17</sup> Law No. 5532 of 29 June 2006 amending the Law on the Prevention of Terrorism.

The Committee must stress once again that its objective of guaranteeing an effective right of access to a lawyer – from the outset of police/gendarmerie custody – is not linked to issues of due process or the right to a defence; it is aimed at preventing ill-treatment. In the CPT's experience, it is during the period immediately following the deprivation of liberty that the risk of intimidation and ill-treatment is at its greatest.

Admittedly, under Section 10 of the Law on the Prevention of Terrorism, no statement may be taken from persons suspected of terrorism-related offences as long as they are denied access to a lawyer. However, that does not mean that the risk of intimidation and ill-treatment no longer exists. Indeed, most of the allegations of ill-treatment received during this visit from persons suspected of terrorism-related offences related to the moment of apprehension or the period immediately thereafter. In this regard, it should be noted that Section 10 of the above-mentioned law does not appear to prohibit the questioning of suspects (without the taking of a formal statement) during the period during which a ban on lawyers' visits has been imposed on them.

The CPT acknowledges that it may exceptionally be necessary to delay for a certain period during police/gendarmerie custody a detained person's access to a particular lawyer chosen by him/her. However, there can be no reasonable justification for the right to contact and meet a lawyer in private - and to benefit from his/her presence during questioning - being totally denied during the period in question. In such cases, access to another, independent, lawyer who can be trusted not to jeopardise the legitimate interests of the investigation should be arranged.

**The CPT recommends that the Turkish authorities take all necessary steps – including of a legislative nature – to ensure that every person detained by law enforcement agencies under anti-terror legislation has the right to talk in private with a lawyer and to benefit from his/her presence during questioning, as from the very outset of deprivation of liberty, it being understood that whenever there are reasonable doubts about the professional integrity of the lawyer chosen by the detained person, another lawyer will be appointed *ex officio*.**

**Further, whenever the access of a detained person to the lawyer of his/her own choice is delayed/denied, the reasons for the decision should be recorded and a written copy of the decision and the reasoning should be provided to the person concerned.**

28. As regards the right of detained persons to have access to a doctor, mandatory medical examinations of persons detained by law enforcement agencies at the outset and end of police custody (and at the time of any extension of a custody period) were still in place.

In this context, it is a matter of concern that, despite the specific recommendation repeatedly made by the CPT, law enforcement officials apparently continued to be present during such examinations in most cases (with the person concerned having no opportunity to speak with the doctor in private). Clearly, the relevant provision of the Detention Regulation (Section 9)<sup>18</sup> and instructions of the Ministry of the Interior remained to a large extent a dead letter.

Further, the actual physical examination of a detained person was often performed by doctors in a perfunctory manner. The delegation also received a number of allegations from detained persons that they had not been subjected to a medical examination at all; allegedly, they were obliged to wait in the police van outside the hospital, while a police officer went inside to obtain a "signature" from a doctor.

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<sup>18</sup> According to which "[i]t is essential for the doctor and the person being examined to be left alone and that the examination is carried out within the framework of a doctor-patient relationship".

It is recalled that, according to Section 9 of the Detention Regulation, whenever a medical report is drawn up at the end of a person's stay in police custody, "two copies shall be sent to the relevant public prosecutor's office via the fastest way by the relevant issuing health institution, *in a closed and sealed envelope*<sup>19</sup>. (...) When issuing these reports and sending them to the Public Prosecutor's Office, the rules of confidentiality stipulated in Article 157 of the Criminal Procedure Code shall be complied with, and the health institution shall take all necessary measures to this end."

However, from the information gathered during the visit, it transpired that not all hospital doctors concerned were aware of the aforementioned legal requirement. In several police establishments visited, the delegation was informed that such medical reports were usually given by doctors in a closed and sealed envelope to the escorting police officer and the envelope was then forwarded to the competent prosecutor by the police. On several occasions, escorting police officers apparently even received such reports openly.

**The CPT reiterates its recommendation that appropriate steps be taken by the Ministries of the Interior and Health to ensure that medical examinations of persons in police/gendarmerie custody are carried out in full compliance with the requirements set out in Section 9 of the Detention Regulation.**

29. The CPT wishes to stress that, in addition to any mandatory medical examinations, persons in police/gendarmerie custody should also have a formally recognised right of access to a doctor. In other words, if a detained person requests a medical examination, a doctor should always be called (or the person be taken to a medical facility) without delay. Further, the right of access to a doctor should include the right of a person in custody to be examined, if the person concerned so wishes, by a doctor of his/her own choice (in addition to any medical examination carried out by a doctor called by the police).

In this regard, Section 9 of the Detention Regulation stipulates that "[d]etainees whose health conditions deteriorate due to any reason and those whose health condition raises doubts shall be immediately examined by a physician and, if necessary, treated. It shall be ensured that those with chronic illnesses are examined and treated by an official physician, under the supervision of their own physicians, if they so desire. (...) Medical examination, check and treatment shall be conducted by a forensic medical institution or official health institution."

As far as the delegation could ascertain, requests of detained persons to see a doctor were always respected in practice (usually by calling an ambulance). Notwithstanding that, it is a matter of concern that persons taken into custody were not explicitly informed of this particular right. In this regard, reference is made to the recommendation in paragraph 31.

Further, as regards the access of detained persons to a doctor of their own choice, the current wording of Section 9 of the Detention Regulations appears to be too restrictive, since it only applies to persons suffering from a "chronic illness" and limits the involvement of the doctor consulted by the detained person to the "supervision" of the medical examination/treatment performed by the doctor called by the police.

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<sup>19</sup> Emphasis added.

**The CPT recommends that the Turkish authorities take the necessary steps to ensure that all persons in police/gendarmerie custody have the right to be examined, if they so wish, by a doctor of their own choice, in addition to any medical examination carried out by a doctor called by the police (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his/her own expense). To this end, the Detention Regulation should be amended accordingly.**

30. As regards the provision of information on rights, the delegation observed that the Suspects Rights Form (SRF), as reproduced in Annex A to the Detention Regulation, was in use in all the law enforcement establishments visited.

In practice, detained persons were usually informed of their rights orally upon arrival at the law enforcement establishment and were given the opportunity to read the SRF. Further, in most establishments visited, information sheets setting out the rights of detained persons were displayed in the detention area.

That said, it is a matter of concern that the SRF contains no information whatsoever regarding access to a doctor. **The CPT recommends that steps be taken to ensure that the right of persons in police/gendarmerie custody to be examined at any time by a doctor (including by a doctor of their own choice) is incorporated into the SRF.**

31. A number of detained persons met by the delegation claimed that they were informed of their rights only after they had been subjected to informal questioning by police or gendarmerie officers. Further, some allegations were received that detained persons had been compelled to sign the SRF without having been able to read it beforehand or without having understood its contents. Moreover, in several establishments visited, it still seemed to be common practice not to provide detained persons with a copy of the SRF, despite the explicit requirement in the Detention Regulation<sup>20</sup> and despite the fact that law enforcement officials were required to sign a declaration (pre-printed on the SRF) that they had handed a copy of it to the person concerned.

**The CPT reiterates its recommendation that the Turkish authorities take the necessary measures to ensure that all persons detained by law enforcement agencies – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police/gendarmerie). This should be ensured by provision of clear verbal information at the moment of apprehension, to be supplemented at the earliest opportunity (that is, immediately upon the first arrival at a law enforcement establishment) by the provision of the SRF. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights and always be given a copy of the SRF. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police/gendarmerie officers to ascertain that this is the case.**

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<sup>20</sup> Section 6 of the Regulation.

32. The CPT has repeatedly stressed that monitoring and recording of interviews by law enforcement officials represents an important additional safeguard against the ill-treatment of detained persons. Such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated and of law enforcement officials confronted with unfounded allegations that they have engaged in physical ill-treatment or psychological pressure.

It is self-evident that the benefits of monitoring and recording interviews are best assured if a consistent and systematic approach is taken to the subject and that both police officers and prosecutors operate according to set rules.

33. From the information received in the different Anti-Terror Departments visited, it transpired that the practice varied from one establishment to another (as was the case at the time of the 2009 visit). In one anti-terror department, the delegation was told that all interviews of terror suspects were video- but not necessarily audio-recorded, while in another establishment, interviews were always carried out under video- and audio-recording. In another anti-terror department, the police officer on duty stated that audio-recording only took place when a formal statement was taken, but that it was planned to introduce systematic video- and audio-recording for all interviews of terror suspects in the near future.

**The CPT reiterates its recommendation that the Turkish authorities take steps to ensure that all interviews of detained persons in Anti-Terror Departments are electronically recorded (by audio and video recording) and that recordings are kept for a reasonable period and are made available to be viewed by appropriate persons (including those responsible for monitoring and inspecting detention facilities and those charged with investigating allegations of ill-treatment as well as the detained person and/or his/her lawyer).**

Further, **the Committee encourages the Turkish authorities to introduce a system of recording of interviews in other law enforcement departments.**

## **5. Material conditions**

34. Material conditions in the detention facilities of the law enforcement establishments visited were on the whole adequate for short stays in terms of cell size, equipment and state of repair.

However, with the notable exception of the Law and Order Department of Şanlıurfa Police Headquarters, the cells in the detention facilities of all the establishments visited – including various anti-terror departments where suspects may be held for up to four days – had very limited or no access at all to natural light, and were thus not suitable for periods of detention lasting longer than 24 hours. It should be recalled that, according to Section 25 of the Detention Regulation, custody cells are required to have sufficient access to natural light. Moreover, in several custody cells of the Anti-Terror and Law and Order Departments of Izmir Police Headquarters, artificial lighting was insufficient.

**The CPT reiterates its recommendation that the Turkish authorities review the conditions of detention in all law enforcement establishments where persons may be held for 24 hours or more, in order to ensure that the detention facilities have adequate access to natural light. Further, steps should be taken to improve artificial lighting in the custody cells at Izmir Police Headquarters (Anti-Terror and Law and Order Departments).**

35. Further, in several police establishments visited, detained persons held overnight were obliged to sleep on benches which were covered only with a very thin foam mattress or had no cover at all. Although detained persons were provided with (additional) blankets, the CPT wishes to stress that all persons held overnight should be provided with a mattress (in addition to blankets).<sup>21</sup> **The Committee recommends that steps be taken to ensure that persons held overnight in a law enforcement establishment are always provided with a mattress (in addition to blankets).**

36. At the Police Headquarters in Ankara, Istanbul and Izmir, the delegation received conflicting information as regards the official capacity for overnight stay of the custody cells in the various departments, the size of which ranged from some 8 to 33 m<sup>2</sup>. **The CPT would like to receive further clarification on this point.**

37. As was the case in 2009, none of the establishments visited had facilities to enable detained persons to take outdoor exercise.

In their response to the report on the 2009 visit<sup>22</sup>, the Turkish authorities stated that the creation of outdoor exercise facilities would be “taken into consideration by the relevant authorities during the construction of new premises and facilities in the future”.

The CPT is therefore concerned by the fact that there were apparently no plans for an outdoor exercise yard in the new detention facility of the Anti-Terror Department of the Diyarbakır Police Headquarters, which was under construction at the time of the visit.

**The Committee recommends that the Turkish authorities take steps to ensure that persons held for 24 hours or more in a law enforcement establishment are offered outdoor exercise on a daily basis.**

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<sup>21</sup> According to Section 25 of the Detention Regulation, “detainees that will spend the night under detention shall be provided with adequate numbers of blankets and beds”.

<sup>22</sup> See CPT/Inf (2011) 14, page 20.

**B. Detention of foreign nationals under aliens legislation**

38. During its visit to the Ankara Police Headquarters, the delegation paid a brief visit to the detention centre for foreign nationals (“Foreigners Department”), in order to examine the overall conditions of detention. The centre was located on the ground floor of the main building of the police headquarters and had a total capacity of 100 places. At the time of the visit, 19 male and ten female foreign nationals were being held there in two separate dormitories (equipped with bunk beds, a table, chairs and a television set).

39. The CPT must stress that, despite the relatively good state of repair of these facilities, they were not suitable for accommodating foreign nationals for prolonged periods. One of the main deficiencies was the almost total lack of access to natural light. It is also a matter of serious concern that inmates had no access to outdoor exercise for weeks or even months on end.

40. During the end-of-visit talks, the delegation made an immediate observation and called upon the Turkish authorities to take the necessary measures to ensure that all immigration detainees at the Ankara Police Headquarters are able to benefit from at least one hour of outdoor exercise per day.

By letter of 4 September 2013, the Turkish authorities provided the following information:

“As the Centre does not have a separate and independent building, there is no open-air yard which can be used exclusively by the persons held at the institution. Establishing a separate area within the Security Directorate campus where these persons can roam freely is not possible either. Despite all, *foreigners held at the Holding Centre are taken into the open air in small groups, accompanied by an official.*

As per the terms of the Law on Foreigners and International Protection [LFIP], which entered into force on 11 April 2013, the administration of holding centres for foreigners will be transferred to the Ministry of Interior, General Directorate of Immigration Administration, which is to be established in 2014. However, as the Holding Centre in Ankara is currently located within the premises of the Ankara Security Directorate, it will not be transferred as such. *Therefore, the current facility will no longer be used as a holding centre for foreigners.*”

The CPT welcomes the steps taken by the Turkish authorities; **it would like to receive further information on the new detention facilities for foreign nationals in Ankara and an indication of when the existing detention facilities will be withdrawn from service. For as long as the latter facilities remain in service, the Committee recommends that detained persons be offered access to the open air for at least one hour every day.**

41. The CPT notes that the LFIP, which will fully enter into force on 11 April 2014<sup>23</sup>, provides for the creation of a General Directorate of Immigration Administration under the Ministry of the Interior and contains a comprehensive legal framework governing the granting of international protection as well as the detention and deportation of foreign nationals (including judicial legal remedies against detention and expulsion orders).

According to Sections 57 and 58 of the LFIP, foreign nationals may be detained in “removal centres” for a period of up to six months, which, under certain circumstances, may be extended to a maximum period of twelve months.

The delegation was informed that a regulation on the management, operation and supervision of removal centres would be finalised by the Ministry of the Interior in due time before the entry into force of the LFIP. **The CPT would like to receive a copy of the aforementioned regulation once it has been issued.**

42. In their letter of 4 September 2013, the Turkish authorities also informed the Committee that new detention centres for foreign nationals were under construction in different parts of the country and that, progressively, old sub-standard establishments would be closed. **The CPT would like to be informed of the progress made in this regard; in particular, the Committee wishes to receive detailed information on all the new detention centres which have already been brought into service (e.g. capacities for male and female inmates, living space per person, communal activities, number of custodial staff, presence of health-care staff, etc.).**

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<sup>23</sup> Certain provisions of an organisational nature immediately entered into force on the date of the publication of the LFIP (11 April 2013).

## C. Prisons

### 1. Preliminary remarks

43. The CPT's delegation carried out full visits to *Izmir Juvenile Prison*, *Izmir T-type Prison No. 2* and *Şanlıurfa E-type Prison*. Further, the delegation paid targeted visits to a number of establishments: at *Ankara-Sincan Juvenile Prison* it examined once again the treatment and regime of juvenile prisoners, and at *Diyarbakır D- and E-type Prisons* and *Gaziantep E-type Prison* it focused primarily on the situation of remand prisoners (including juveniles). Visits to *Izmir Women's Prison* and *Tekirdağ F-type Prison No. 2* were also of a targeted nature, focussing on the regime of activities offered to prisoners sentenced to aggravated life imprisonment. In addition, a brief visit was paid to *Izmir-Buca Prison*, in order to interview persons who had recently been in police/gendarmerie custody.

44. **Izmir Juvenile Prison** has been in operation since April 2012 as part of a large prison campus located in the Aliğa District of Izmir Province<sup>24</sup>. It consists of three accommodation blocks, each comprising 12 accommodation units for up to ten prisoners. With an official capacity of 360 places, the establishment was accommodating 179 male juveniles (143 on remand and 36 sentenced) and 33 male young adults<sup>25</sup> (17 on remand and 16 sentenced) at the time of the visit.

**Izmir T-type Prison No. 2**, opened in March 2012, is also located on the Aliğa Prison Campus. The bulk of the prisoner accommodation is provided in duplex units for 14 persons (see, however, the last subparagraph of paragraph 46), and there are also a number of single cells<sup>26</sup> and three-bed duplex units. At the time of the visit, the establishment was accommodating 972 adult male prisoners (762 sentenced and 210 on remand) for an official capacity of 864 places.

**Şanlıurfa E-type Prison**, opened in 1965, occupies a three-storey building composed of five parallel blocks linked by a central corridor. Prisoner accommodation is provided in duplex multi-occupancy units with an adjacent courtyard. With an official capacity of 600 places, the establishment was holding 806 prisoners (including 23 adult women and 41 male juveniles) at the time of the visit, of whom 620 were on remand.

**Ankara-Sincan Juvenile Prison** was described in the report on the CPT's 2012 visit<sup>27</sup>. With an official capacity of 324 places, the prison was accommodating 146 male juveniles (107 on remand and 39 sentenced) and 16 male young adults (eleven on remand and five sentenced) at the time of the visit.

**Diyarbakır D-type Prison** is a high-security prison for male adults, mainly holding persons accused or convicted of organised crime or terrorism-related offences. It had an official capacity of 680 places and was accommodating 698 prisoners at the time of the visit (of whom 567 were on remand).

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<sup>24</sup> The campus is composed of four T-type closed prisons for male adults, a prison for women, a prison for juveniles and an open prison.

<sup>25</sup> Under certain circumstances, young adults (aged 18 to 21 years) may also be held in juvenile penitentiary institutions.

<sup>26</sup> Primarily used for aggravated life-sentenced prisoners as well as for prisoners segregated for their protection.

<sup>27</sup> See CPT/Inf (2013) 27, paragraph 31.

**Diyarbakır E-type Prison** was accommodating 1,061 inmates<sup>28</sup> (including 59 adult women and 66 male juveniles) at the time of the visit, for an official capacity of 1,057 places. Some 80 per cent of the inmate population were on remand.

**Gaziantep E-type Prison** was accommodating 1,498 prisoners (including 59 adult women and 40 male juveniles) at the time of the visit, which was more than double its official capacity (700). Some 60 per cent of the prison population were on remand.

As already indicated, the visits to **Izmir Prison for Women** and **Tekirdağ F-type Prison No. 2** focused on the units for prisoners sentenced to aggravated life imprisonment. The two establishments had respectively seven and 51 such inmates at the time of the visit. All of them were being held in single cells, by virtue of Section 25 of the Law on the Execution of Sentences and Security Measures (LESSM).

45. The CPT's delegation observed disturbing levels of overcrowding in some of the establishments visited, in particular at Gaziantep and Şanlıurfa E-type Prisons.

More generally, the increase in the size of the prison population in recent years has continued: at the time of the 2013 visit, the total number of prisoners being held in Turkish prisons was 131,650, compared to some 112,000 at the time of the CPT's previous periodic visit in 2009. The existing official capacity of the prison estate was said to be 147,266; however, it became clear during the visit that this capacity had been reached not only by bringing into service new establishments but also by putting additional beds in existing accommodation units (which often led to extremely cramped conditions).

46. At the outset of the visit, the delegation was briefed by the Turkish authorities on the implementation of the government programme for upgrading and expanding the prison estate. It was indicated that much emphasis had been given in this context to the model of large penitentiary campuses comprising several prison establishments, including institutions for juveniles and women and high-security prisons. Such campuses already existed in Ankara, Istanbul-Silivri, Istanbul-Maltepe, Izmir and Kocaeli, and work was underway to build similar facilities in Diyarbakır, Kayseri, Konya and Tarsus. A considerable number of smaller prison establishments had also been constructed in different regions. According to information provided to the delegation, in total some 60 new prison establishments had been brought into service since 2009, with an overall capacity of about 31,000 places. In parallel, 57 old prisons had been taken out of service and the closure of a further 171 prisons was planned by the end of 2017. Moreover, the authorities planned to bring into service 207 new prisons (with an overall capacity of some 125,000 places) by the end of 2017, thereby increasing the total capacity of the Turkish prison estate to some 245,000 places. It must be noted, however, that the size of the prisoner population too was expected to further increase to 180 - 190,000 (i.e. an incarceration rate of some 250 per 100,000 inhabitants).<sup>29</sup>

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<sup>28</sup> At the time of the 2012 visit, the establishment was accommodating some 1,300 prisoners.

<sup>29</sup> The authorities explained such a forecast by a sharp increase in the crime rate as well as the clearing up by the courts of the longstanding backlog of criminal cases, following recent judicial reforms. See also paragraph 73 of the CPT's report on the 2009 visit (CPT/Inf (2011)13), in particular as regards the increase in the waiting period for conditional release.

Information was also provided on measures taken to develop alternatives to imprisonment. In particular, an amendment was made to the LESSM in 2012, making it possible to release on probation prisoners who demonstrate good behaviour and have less than one year remaining to be served before the date of their eligibility for conditional release. The authorities were also considering the introduction of electronic surveillance outside prison for certain accused and sentenced persons, and the relevant legal provisions had already been adopted.

The CPT welcomes the Turkish authorities' efforts to tackle the problem of prison overcrowding; however, it is clear that the measures taken to date have not been sufficient. In this connection, the Committee must express its grave concern about the actual – but also predicted – rise in the country's inmate population. As the CPT has stressed in the past, constructing new prisons is not likely, in itself, to provide a lasting solution to the problem of overcrowding. Addressing this problem calls for a coherent strategy, covering both admission to and release from prison, to ensure that imprisonment really is the measure of last resort. This implies, in the first place, an emphasis on non-custodial measures and, in the second place, the adoption of measures which facilitate the reintegration into free society of persons who have been deprived of their liberty.

**The CPT recommends that the Turkish authorities redouble their efforts – in consultation with the prosecutorial and judicial authorities – to combat prison overcrowding by adopting policies designed to limit or modulate the number of persons sent to prison. In so doing, the authorities should be guided by, *inter alia*, Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, Recommendation Rec(2008)11 on the European rules for juvenile offenders subject to sanctions or measures, and Recommendation Rec(2010)1 on the Council of Europe Probation Rules.**

In this context, the CPT was concerned to note that duplex accommodation units in a new establishment, such as Izmir T-type Prison No. 2, with an original design capacity of eight inmates were being used to hold up to 17 prisoners.<sup>30</sup> **It would be desirable, once the reduction in prison overcrowding allows, to return to the original design capacity in such units at Izmir T-type Prison No. 2 and, where appropriate, in other T-type prisons in Turkey.**

47. As regards the fire which broke out in one of the accommodation units at Şanlıurfa Prison on 16 June 2012 causing the death of 13 prisoners, the delegation was informed that the criminal investigation was still ongoing. **The CPT would like to be informed of the outcome of this investigation.**

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<sup>30</sup> The typical unit has two levels of some 33 m<sup>2</sup> each, including the kitchenette, sanitary facilities, and the staircase.

## 2. Ill-treatment

48. In the course of the visit, the CPT's delegation interviewed scores of persons in the prisons visited. The great majority of those persons stated that they had been treated by prison officers in a correct manner. Moreover, in certain establishments, such as *Diyarbakır D- and E-type Prisons*, many prisoners spoke positively about staff and the overall atmosphere appeared to be relaxed.

49. That said, at *Sincan Juvenile Prison*, the delegation once again received – though not on the scale of the 2012 visit<sup>31</sup> – a number of allegations of recent physical ill-treatment of juveniles by staff. Most of those allegations concerned slaps, punches, kicks or blows with a plastic pipe on the hands and/or the soles of the feet, as a form of corporal punishment for misbehaviour (usually fights). The place most commonly mentioned by juveniles where such punishment was allegedly inflicted was the office of the “rapid intervention team” (where there was no CCTV coverage). Many juveniles interviewed by the delegation were under the impression that they were certain to receive some form of corporal punishment if they misbehaved.

Further, a large number of allegations of a similar nature were received from juveniles at *Şanlıurfa E-type Prison* (where some of them also claimed to have received so-called “welcome beatings”) and to a lesser extent at *Gaziantep E-type Prison*.

In contrast, only a few allegations of physical ill-treatment by staff were received at *Izmir Juvenile Prison*. Indeed, a number of juveniles who had been transferred from certain adult prisons told the delegation that they felt safe in this prison. The delegation was informed that criminal investigations were pending regarding some complaints of ill-treatment which had been lodged by juveniles and had emerged in the media shortly before the CPT's visit. **The CPT would like to receive updated information on this matter.**

50. As regards adult prisoners, the delegation received many allegations of physical ill-treatment by staff at *Gaziantep and Şanlıurfa E-type Prisons*. Most of those allegations came from sex offenders who referred to “welcome beatings” in the form of slaps, punches and kicks as well as truncheon blows to the hands. Some allegations of physical ill-treatment were also received at *Izmir T-type Prison No. 2* and *Tekirdağ F-type Prison No. 2*.

51. **The CPT recommends that a firm message be delivered at regular intervals to management and staff at Sincan Juvenile Prison, Gaziantep and Şanlıurfa E-type Prisons, Izmir T-type Prison No. 2 and Tekirdağ F-type Prison No. 2 that ill-treatment of prisoners is not acceptable and will be punished accordingly. As part of this message, staff should be reminded in particular that no form of physical chastisement should ever be used against juveniles. Any prisoner who fails to comply with prison rules should be dealt with only in accordance with the prescribed disciplinary procedures.**

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<sup>31</sup> See CPT/Inf (2013) 27, paragraph 14.

52. One of the most effective means of preventing ill-treatment by prison officers lies in the diligent examination of complaints of ill-treatment and, when appropriate, the imposition of suitable penalties. In this regard, the CPT has noted the following statistics provided by the Turkish authorities for the period from 1 January 2011 to 10 June 2013.

Both criminal and disciplinary inquiries were carried out in respect of 906 prison officers in connection with allegations of ill-treatment. As a result of the criminal procedures, six persons received prison terms and five persons were fined, while judicial proceedings and preliminary inquiries were still ongoing in respect of 54 and 329 persons respectively. On the disciplinary level, 20 persons received various sanctions, and proceedings were still underway in respect of 299 persons. **The CPT would like to receive similar information covering the period up to the end of 2013.**

53. At both Izmir and Sincan Juvenile Prisons where the “group leader” system was being implemented and all the accommodation units were supervised by a designated prison officer<sup>32</sup>, the delegation gained the distinct impression that it had been possible to effectively prevent major incidents of inter-prisoner violence. It transpired that the internal hierarchies among juveniles had mostly been abolished and the juveniles were without exception assigned diverse tasks (such as cleaning) on a rota basis. However, the delegation noted that certain units in Sincan Juvenile Prison still had informal leaders “elected” from among the juveniles (in particular, to act as the liaison between them and the group leader, i.e. a prison officer)<sup>33</sup>. Allegations were heard that some juveniles were subject to extortion by that inmate.

As regards the juvenile units at Diyarbakır, Gaziantep and Şanlıurfa E-type Prisons, there was a clear internal hierarchy, each unit having an informal “leader”, or a “representative”, who was accepted – and sometimes even appointed – by staff. Some juveniles met by the delegation complained about intimidation, extortion and violence from the side of their “leader”.

54. The CPT is very much in favour of the application of the “group leader” system vis-à-vis juvenile inmates applied in new establishments. More generally, parallel internal hierarchies among juveniles should not be tolerated as they often lead to favouritism, inequalities, and possibly extortion and violence. Consequently, prison staff should stop accepting unit representatives among juvenile prisoners. **The Committee reiterates its recommendation that steps be taken in all the prison establishments where juveniles are held to ensure that no prisoner is put in a position to exercise power over other juveniles.**

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<sup>32</sup> For more details on the “group leader” system, see CPT/Inf (2013) 27, paragraph 27.

<sup>33</sup> The informal leader allegedly did not carry out any of the housework tasks within the unit.

### 3. Conditions of detention of the general prison population

#### a. material conditions

55. Material conditions were generally of a very good standard in *Izmir T-type Prison No. 2*. The great majority of prisoners were held in duplex accommodation units, consisting of a living area on the lower level and a sleeping area upstairs. From the living area, there was direct access to a courtyard. The units were clean, well lit and adequately equipped (and included a sanitary annexe with a toilet and a shower). Depending on the resources at the prisoners' disposal, many of the units had additional amenities, such as refrigerators, television sets and other electrical or electronic appliances.

Nevertheless, some degree of overcrowding was observed, certain of the accommodation units holding up to 17 inmates<sup>34</sup>. Adverse effects of this state of affairs were in evidence (such as prisoners sleeping on mattresses on the floor, insufficient numbers of chairs, etc.).

56. The main prisoner accommodation at *Diyarbakır D-type Prison* consisted of single-storey units for three persons, with living and sleeping areas and an adjacent courtyard. Material conditions of detention in the units were satisfactory: they were in an adequate state of repair, reasonably furnished, bright and airy and offered sufficient living space for the number of persons held<sup>35</sup>.

57. In contrast, most of the accommodation units – and indeed the premises in their entirety – at the *E-type prisons in Diyarbakır, Gaziantep and Şanlıurfa* were generally in a poor state of repair<sup>36</sup>. The level of hygiene, including in the sanitary facilities, also often left much to be desired. Further, the majority of prisoners lived in very cramped multi-occupancy units (holding more than 30 persons), subject to a constant lack of privacy. The effects of overcrowding were accentuated after the locking of the courtyard door (usually at sunset).

The situation was particularly problematic at Gaziantep and Şanlıurfa E-type Prisons<sup>37</sup>, where a number of accommodation units were found to be holding more prisoners than the number of beds available. As a result, inmates had to share beds or sleep on mattresses (and some just on blankets) placed on the floor. Other furniture, such as tables and chairs, was also insufficient in number and many prisoners had to take their meals sitting on the floor.

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<sup>34</sup> As already mentioned, these units had initially been designed to hold up to eight prisoners, but it was later decided to install an additional six beds.

<sup>35</sup> Including the units which had been equipped with an additional bed in order to address the slight overpopulation (see paragraph 44).

<sup>36</sup> With the exception of Block E at Şanlıurfa Prison, which was of relatively recent construction.

<sup>37</sup> At Şanlıurfa, for example, in a unit with 13 prisoners, the living and sleeping areas measured respectively 16 m<sup>2</sup> and 13 m<sup>2</sup> (with an adjoining courtyard of some 30 m<sup>2</sup>).

In some of the units at Gaziantep Prison, the overcrowding reached outrageous levels. For example, the delegation visited a duplex unit with 29 prisoners, where the upstairs sleeping area measured some 17 m<sup>2</sup> and was equipped with only five double bunk beds. The ground-level living area was of about the same size, including the sanitary annexe. The prisoners had been given five additional mattresses which were laid out on the floors of both levels during the night, making it difficult for inmates to make their way to the toilet area when needed. In the CPT's view, holding prisoners under such conditions could be considered to be inhuman or degrading.

58. As already mentioned (see paragraph 46), the construction of a new prison campus in the Diyarbakır area is currently underway. The delegation was informed that, while the entry into service of the entire campus was scheduled for the end of 2015, some of the prisons would be commissioned already in the course of 2014, which would lead to the closure of Diyarbakır E-type Prison. This would be a welcome development.

Further, at Gaziantep Prison, a 300-place annexe to the existing building was under construction at the time of the visit; it was due to be commissioned in August 2013. However, this is far from sufficient to tackle the problem of overcrowding in this establishment.

**The CPT recommends that the Turkish authorities take resolute action to address the problem of overcrowding at Gaziantep and Şanlıurfa E-type Prisons; the objective should be to ensure that accommodation units offer at least 4 m<sup>2</sup> of living space per prisoner. Further, steps should be taken in these establishments to ensure that all accommodation units are kept in a satisfactory state of repair.**

**The Committee also recommends that immediate steps be taken at Izmir T-type Prison No. 2 and Gaziantep and Şanlıurfa E-type Prisons to ensure that:**

- **all prisoners have their own bed, equipped with a clean mattress and clean bedding;**
- **the units are suitably equipped with tables/chairs for the number of prisoners they accommodate.**

59. While the great majority of inmates in the prisons visited purchased basic hygiene items, cleaning products and bed linen in prison shops, a number of them who were apparently indigent complained to the delegation that they had not been supplied with these necessities by the prison administration.<sup>38</sup> **Steps should be taken to ensure that all prisoners have adequate quantities of essential personal hygiene items and products to clean their accommodation units.**

60. At *Diyarbakır D-type Prison*, numerous complaints were heard from prisoners about insufficient heating during the winter months. The prison director acknowledged the problem, and indicated that it was due to the structural deficiencies of the building. **The CPT recommends that measures be taken to ensure that all prisoner accommodation (and staff premises) at Diyarbakır D-type Prison is adequately heated.**

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<sup>38</sup> At Şanlıurfa Prison, the delegation saw a unit with a group of foreign inmates who had no hygiene items whatsoever and slept on bare (and for the most part dirty) mattresses.

b. regime

61. Despite efforts by the establishment's management, only a limited number of inmates at *Izmir T-type Prison No. 2* were offered organised activities. This is of particular concern as most of the prison population were sentenced inmates; indeed, purposeful activities are essential to render meaningful a term of imprisonment.

Some 40 prisoners had remunerated jobs, either in the establishment's general services (cleaning duties, maintenance, etc.) or in a small silverware workshop. Several vocational workshops were also in operation<sup>39</sup>, attended by a total of some 30 inmates; however, they occupied only a small part of the prisoners' day (usually two to three hours a day, three to four days a week). In addition, a limited number of prisoners were involved in literacy courses or vocational training (English language, computer studies, hairdressing, etc.). However, for the rest of the prisoners, the only regular out-of-unit activity was a one-hour sports session every two weeks. It was thus evident that the vast majority of the inmate population spent almost all of their time in their accommodation units, the principal sources of distraction being going to the courtyard<sup>40</sup> (which was accessible throughout the day) and watching television.

The regime offered to prisoners suspected or convicted of sexual offences<sup>41</sup> was particularly impoverished. With the exception of a few of them who had access to a workshop, the only regular out-of-unit activities available to these prisoners were fortnightly sports sessions and the "family education" courses which lasted fourteen weeks (two hours a week).

62. It should be stressed once again that the provision of appropriate work to sentenced prisoners is a fundamental part of a constructive regime capable of having a rehabilitative effect. Further, in the interest of their psychological well-being, remand prisoners should, as far as possible, also be offered work or other purposeful activities. In this regard, the absence of fully-fledged production workshops on the premises of the *Aliğa Prison Campus*, which is of very recent construction, is regrettable. It is also a matter of concern that in an establishment such as *Izmir T-type Prison No. 2* with a capacity of 864, there is only one outdoor and one indoor sports facility, and a given inmate was able to make use of either facility not more than twice a month.

**The CPT recommends that the prison building programme be reviewed so as to ensure that all new establishments will have the necessary facilities capable of providing a range of purposeful out-of-unit activities (including work) to prisoners.**

63. The situation observed at *Şanlıurfa E-type Prison* as regards regime was much the same as at *Izmir*; only a small proportion of adult inmates were being offered some form of activity programmes (as regards juveniles, see paragraph 73). According to data provided to the delegation, at the time of the visit, 130 male prisoners were enrolled in various vocational workshops (such as tailoring, plating, repairing the air conditioning system, hairdressing, arts, computer studies) and a further 30 in literacy courses, which reportedly took place every weekday for up to five hours.<sup>42</sup>

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<sup>39</sup> Such as wood- and metal-work, serigraphy and calligraphy.

<sup>40</sup> The courtyard of a standard accommodation unit at *Izmir T-type Prison No. 2* measured some 33 m<sup>2</sup>.

<sup>41</sup> In all the establishments visited, adult prisoners in this category were accommodated in separate units for their own protection.

<sup>42</sup> Statistics provided also indicated that some 50 prisoners followed secondary and high school education programmes (studying by themselves).

Further, employment opportunities were available to some 25 inmates in the prison's general services. As for female prisoners, seven of them attended literacy classes every weekday for two hours, which, however, took place in their own units.

The great majority of prisoners interviewed by the delegation had no regular out-of-unit activity whatsoever, being confined to their accommodation units for 24 hours a day. It is also a matter of concern that the prison did not possess a sports facility.

64. As regards Diyarbakır and Gaziantep E-type Prisons, there was an almost total lack of organised activities for adult remand prisoners.<sup>43</sup> At *Diyarbakır E-type Prison*, the only regular out-of-unit activity for these prisoners was one hour of sport once a week (either indoor or outdoor). At *Gaziantep Prison*, with the exception of several inmates who attended computer courses, the programme of out-of-unit activities for remand prisoners was limited to monthly football matches and occasional film sessions.

65. At *Diyarbakır D-type Prison*, where prisoner accommodation was provided in much smaller units (see paragraph 56), the situation was somewhat better. Inmates could normally benefit from association (conversation) sessions in groups of up to ten persons for one to two hours several times a week, totalling up to six hours.<sup>44</sup> In addition, they could play football once or twice a month, and some of them attended three-month computer courses (three times a week).

66. Whilst acknowledging the fact that, in all the establishments visited, prisoners had unrestricted access to an outdoor yard throughout the day, the delegation found that the overwhelming majority of prisoners in the establishments visited were not being offered a regime worthy of the name; the regime provided to remand prisoners was particularly underdeveloped.

**The CPT calls upon the Turkish authorities to take steps at Diyarbakır, Gaziantep and Şanlıurfa E-type Prisons, Diyarbakır D-type Prison and İzmir T-type Prison No. 2 to improve facilities for organised activities (such as work, education, and sport) and to significantly increase the number of prisoners who benefit from such activities on a regular basis.**

67. At Gaziantep and Şanlıurfa E-type Prisons, many credible allegations were heard to the effect that adult sex offenders and juveniles – including those on remand – were obliged to regularly perform work duties inside the prison (for example, mopping the corridors, carrying water containers, etc.) but received no remuneration for their work and were not compensated in any other way. **This would be contrary to Rule 26.10 of the European Prison Rules (EPR), which provides that “[i]n all instances there shall be equitable remuneration of the work of prisoners”. It should also be noted that obliging remand prisoners to work is equally contrary to the EPR.**<sup>45</sup>

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<sup>43</sup> Given the targeted nature of the visits to these establishments, the delegation did not examine the activities offered to sentenced prisoners.

<sup>44</sup> Association sessions took place during three weeks in a given month as no such sessions were organised during the week of open visits.

<sup>45</sup> Rule 100.1: “Untried prisoners shall be offered the opportunity to work but shall not be required to work.”

#### 4. Conditions of detention of juvenile prisoners

68. In the course of the 2013 visit, the CPT's delegation returned to *Ankara-Sincan Juvenile Prison* and *Gaziantep E-type Prison*, in order to assess progress made in implementing the Committee's recommendations made after the 2012 visit. Further, *Izmir Juvenile Prison* and the juvenile units at *Sanliurfa E-type Prison* were visited for the first time.

##### a. juvenile prisons

69. Material conditions of detention were very good at *Izmir Juvenile Prison*. The prison consisted of three accommodation blocks, each comprising 12 duplex units with a large living area, leading to a courtyard (which was accessible throughout the day), and nine mostly single-occupancy cells located on the ground and upper floors. The accommodation units, including the cells, offered sufficient living space to inmates, had good lighting (including access to natural light) and ventilation, and were well-equipped. Notably, the units' living areas were equipped with a television set, tables and chairs, a fridge and a washing machine.

Material conditions at *Sincan Juvenile Prison* had remained basically the same as those described in the report on the 2012 visit<sup>46</sup> and could be described as generally very good.

70. The delegation gained a particularly positive impression of the regime offered at *Izmir Juvenile Prison*. Genuine efforts were being made to involve as many juveniles as possible in a range of educational/vocational and recreational activities (such as literacy, computer studies, diction, glass painting, arts, pastry-making, chess, music, etc.) in the mornings and afternoons on weekdays. In addition, sports activities (football, table tennis, etc.) were organised in the establishment's indoor and outdoor facilities two to three times a week, and many inmates also visited the library which was accessible for one hour per week.

At *Sincan Prison*, some one hundred juveniles were enrolled in vocational courses (woodwork, cooking, tailoring, hairdressing, computer studies, arts, etc.) and some ten inmates attended literacy classes, which was an improvement compared to the situation found during the 2012 visit. Further, one-hour sports sessions (both indoor and outdoor) usually every second day<sup>47</sup> and some recreational activities (e.g. library, handicrafts) were also on offer.

That said, the schooling opportunities being offered in the two prisons were rather limited. For example, at *Sincan*, some 50 juveniles reportedly followed primary and secondary level school education programmes. However, it appeared that the classes took place on an irregular basis and were basically limited to English and mathematics. **The CPT recommends that steps be taken at Izmir and Sincan Juvenile Prisons to enhance the schooling programme for inmates, the objective being to align it, as far as possible, with schooling programmes generally available in the outside community.**

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<sup>46</sup> See CPT/Inf (2013) 27, paragraph 31.

<sup>47</sup> The delegation was told that work was underway to divide the prison's large football pitch into two fields, and that, once the work was completed, it would be possible to double this period.

71. At the time of the 2013 visit, the “group leader” system had been fully introduced at Izmir and Sincan Juvenile Prisons<sup>48</sup>. In both establishments, the delegation had an opportunity to observe directly the functioning of this system.

The delegation gained a generally positive impression of how the system worked. It transpired from the information gathered and the delegation’s own observations that, in both prisons, “group leaders” were indeed present in their respective units for most of the day and had managed to build a positive relationship with prisoners; they interacted with juveniles (including during sports games), tried to accommodate their needs, and directed them to the psycho-social or health-care services when needed. Indeed, most of the juveniles interviewed spoke highly of their “group leaders”. Further, the management of the two establishments were convinced that the application of the “group leader” system played a major role in preventing negative behaviours among the juveniles and, in general, made an important contribution to their rehabilitation (see also paragraph 53).

Nevertheless, there is still room for improvement in this respect. More specifically, it appeared that some of the group leaders failed to display a proactive approach vis-à-vis the inmates of their unit and did not engage themselves in regular interaction with juveniles.

**The CPT encourages the Turkish authorities to pursue their efforts to ensure the effective implementation of the “group leader” system in all existing and future detention facilities specifically designed for juveniles. In particular, “group leaders” assigned to juvenile units must be carefully chosen and, more specifically, be people capable of guiding and motivating juveniles. It is also essential that they receive appropriate training and ongoing support (with the involvement of the prisons’ psychosocial services).**

b. juvenile units in adult prisons

72. In both *Gaziantep* and *Şanlıurfa E-type Prisons*, the juvenile inmates were held in quite distinct accommodation units. As for their material conditions of detention, they were comparable to those of adult inmates; in other words, they were poor.

In both prisons, conditions in several of the juvenile units were cramped, with the units accommodating more prisoners than the number of beds. For example, at Şanlıurfa Prison the delegation visited a unit with 19 juveniles, where an upstairs dormitory of some 20 m<sup>2</sup> was equipped with eight double bunk beds<sup>49</sup>; as a result, three juveniles had to sleep on mattresses placed directly on the floor. Further, it was not uncommon for the number of chairs to be insufficient, and in some units there were broken chairs and tables. The delegation was also concerned to learn that the juveniles had – in the same way as adult prisoners – to buy themselves basic hygiene items, cleaning products, rubbish bags, and even missing chairs.<sup>50</sup>

**The recommendations made in paragraph 58 apply equally to the juvenile units at Gaziantep and Şanlıurfa E-type Prisons.**

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<sup>48</sup> At Sincan, the “group leader” system was operational in all the units in two of the three detention blocks, namely Blocks A and C. Block B was under reconstruction and the delegation was told that the system would also be introduced in that block by the end of summer 2013.

<sup>49</sup> The ground-level living area was of about the same size.

<sup>50</sup> That said, unlike for adult prisoners, bed linen was provided to juveniles by the administration free of charge.

73. The delegation noted that the regime offered to juvenile inmates at *Gaziantep Prison* had considerably improved in comparison with the situation found in this establishment in 2012. The majority of juvenile inmates were involved in training courses in hairdressing (for 2½ hours, three times a week) and/or computer studies (for two to three hours, twice a week). Several juveniles attended literacy courses. Further, the prison now possessed a football pitch to which juveniles had access two to three times per month. In addition, film screening was organised twice a month.

In contrast, hardly any structured out-of-unit activities were offered to juveniles at *Şanlıurfa Prison*. With the exception of courses in religion which were attended by a small group of inmates, there was apparently no effort to engage juveniles in education, sports or vocational activities. The vast majority of them thus remained in their units 24 hours per day, their activities being limited to watching television and spending time in the small courtyards adjacent to their units.

Given that juveniles could be held in the establishment for months on end (sometimes up to a year, or even more), the almost total absence of out-of-unit activities for them is totally unacceptable.

74. The CPT has repeatedly expressed its misgivings about the policy of having juveniles placed in prisons for adults. In this context, the delegation learned that the construction of new juvenile prisons was underway in Diyarbakır, Kayseri, Konya and Tarsus. It is expected that, once these facilities enter into service (in 2014-2015), the total capacity of the prison estate for juveniles will reach some 2,000 places.<sup>51</sup> **The Committee trusts that this will enable the authorities to put a definitive end to the practice of accommodating juveniles in prisons for adults and that the new prisons will offer both a suitable material environment and activities adapted to the specific needs of juveniles (education, sports and other recreational activities).**

In the meantime, **the CPT recommends that immediate steps be taken to provide structured out-of-unit activities for juveniles at Şanlıurfa E-type Prison.**

c. food

75. In several prisons, the delegation received a number of complaints from juveniles that the food provided to them was not sufficient, in particular in terms of quantity. In this connection, the delegation was told by the authorities that it was planned to increase the food budget for the prisoner population as a whole by 25 per cent as of July 2013.<sup>52</sup> **The CPT would like to receive confirmation that this has taken place.**

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<sup>51</sup> The total number of imprisoned juveniles was 1,850 at the time of the visit (some 75% on remand).

<sup>52</sup> The daily food budget for a juvenile prisoner was around 5 TL at the time of the visit.

## 5. Prisoners sentenced to aggravated life imprisonment

76. In the course of the visit, the delegation paid particular attention to the situation of prisoners sentenced to aggravated life imprisonment. To this end, it carried out targeted visits to Izmir Prison for Women and Tekirdağ F-type Prison No. 2 and interviewed a number of prisoners sentenced to aggravated life imprisonment at Izmir T-type Prison No. 2. At the time of the visit, seven prisoners of this category were being held at Izmir Prison for Women, 15 at Izmir T-type Prison No. 2 and 51 at Tekirdağ F-type Prison No. 2.

77. In all three establishments visited, material conditions of detention in the units for prisoners sentenced to aggravated life imprisonment were generally of a good standard. It is noteworthy that indigent prisoners were usually provided with a refrigerator and a television set free of charge and that all cells were connected to a central radio broadcast system. However, given that they were held in single cells, prisoners sentenced to aggravated life imprisonment had no opportunity to have the cost of electricity consumed by refrigerators or television sets shared (unlike inmates held in multi-occupancy units). Indeed, some of them were not able to use these appliances due to a lack of financial means. **Steps should be taken to address this situation.**

Further, at Tekirdağ F-type Prison No. 2, several cells were very humid, and a number of prisoners interviewed by the delegation complained about insufficient heating in the winter. **The CPT recommends that these shortcomings be remedied.**

78. In the Turkish prison system, prisoners sentenced to “normal” life imprisonment are usually not segregated from the general prison population and in principle have access to the same regime activities as prisoners who are serving a fixed prison term. However, prisoners sentenced to aggravated life imprisonment<sup>53</sup> are subjected to a special regime which is more restrictive than the one generally applied to prisoners held in F-type or other high-security prisons.

It is recalled that prisoners held in high-security prisons are as a rule accommodated in groups of three persons in two-storey accommodation units and have unrestricted access throughout the day to an outdoor exercise yard which is attached to every unit. Further, pursuant to Chapter 3, paragraph 1, of Ministry of Justice Circular No. 45/1 of 22 January 2007, the prisoners concerned may participate in various regime activities (such as work, vocational training, education and sports) and associate with prisoners of other units in conversation sessions, in groups of up to ten persons and for a maximum of ten hours per week.

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<sup>53</sup> See Section 47 and the relevant special provisions of the Penal Code.

The regime applied to prisoners sentenced to aggravated life imprisonment is governed by Section 25, paragraph 1, of the LESSM. This provision contains a number of severe restrictions<sup>54</sup>. In particular, the prisoners concerned are in principle accommodated in single cells and in effect subjected to a solitary confinement regime, the only guaranteed out-of-cell activity being one hour of outdoor exercise per day (see Section 25, paragraphs (1) (a) and (b), of the LESSM). Under Section 25, paragraph (1) (c), prisoners may have their daily one-hour outdoor exercise and sports period extended and may be allowed to engage in *limited*<sup>55</sup> 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 Section 25, paragraph (1) (d), prisoners may also engage in a professional or occupational activity considered suitable by the administrative board, if conditions in the place where they are held so permit.

79. From the information gathered during the visit, it transpired that the implementation in practice of the above-mentioned legal provisions varied from one establishment to another.

The most favourable situation was observed at *Izmir Prison for Women*<sup>56</sup>. All seven women sentenced to aggravated life imprisonment were offered two hours of outdoor exercise per day, during which they could associate in groups of two and five persons respectively. Further, they could all participate together in courses (such as sewing) three times a week for a total of some eight hours and sports activities (one hour per week). In addition, they were allowed to go to the library together once a week.

In contrast, both at Izmir T-type Prison No. 2 and Tekirdağ F-Type Prison No. 2, prisoners sentenced to aggravated life imprisonment were subjected to a very impoverished regime. Until the end of 2012, many of them had been held in a solitary confinement-type regime for months or even years on end.

80. The CPT acknowledges that, in the course of 2013, steps had been taken by the management in the T-and F-type establishments at Izmir and Tekirdağ to attenuate to some extent the regime applied to prisoners sentenced to aggravated life imprisonment. In particular, the outdoor exercise entitlement had been increased for *all* such prisoners from one to two hours per day (and in some cases, to three hours), and most prisoners were allowed to associate with one or two fellow inmates during daily outdoor exercise.

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<sup>54</sup> See also Chapter 3, paragraph 11, of Ministry of Justice Circular No. 45/1 which stipulates that “prisoners serving sentences of aggravated life imprisonment in high-security prisons may be allowed to take part in [activity and rehabilitation] programmes on a limited basis, exclusively with the sentenced prisoners accommodated in their unit.”

<sup>55</sup> Emphasis added.

<sup>56</sup> The delegation learned that the regime applied to the women sentenced to aggravated life imprisonment had improved a few months previously.

Further, at Izmir F-type Prison No. 2, the regime activities for prisoners sentenced to aggravated life imprisonment had been extended, in accordance with a decision taken by the establishment's Administrative Board on 27 May 2013. *All* such prisoners were offered sports activities twice a month for one hour (previously one hour per month) and were allowed to watch a film (DVD) in the establishment's cinema room once a month<sup>57</sup>. In addition, the Board decided that prisoners sentenced for ordinary crimes could go to the cinema room as a group at a time and participate in sports activities in groups of four persons (previously two persons) at a time<sup>58</sup>. On the other hand, the participation in the above-mentioned activities of prisoners sentenced under anti-terrorism legislation continued to be limited to "groups" of two persons at a time (usually the same two prisoners who associated during daily outdoor exercise).

At Tekirdağ F-Type Prison No. 2, prisoners sentenced to aggravated life imprisonment were usually allowed to participate in sports activities twice a month for one hour (one hour indoors and one hour outdoors) and could go to the establishment's library twice a month for one hour. Following a recent decision of the establishment's Administrative Board, prisoners could participate in out-of-cell activities in groups of up to seven persons (previously, association was only allowed with the one or two fellow inmates with whom daily outdoor exercise was taken).

However, in neither of the establishments did prisoners sentenced to aggravated life imprisonment have access to workshops, educational activities or conversation sessions. Further, providing access to sports facilities twice a month for one hour is clearly insufficient. It is of all the more concern that, at Tekirdağ F-Type Prison No. 2, a number of prisoners were still being held in a solitary confinement-type regime for months or even years.

81. Whilst acknowledging the improvements referred to in paragraph 80, it is clear that much remains to be done at Izmir T-type Prison No. 2 and Tekirdağ F-Type Prison No. 2 to render the situation acceptable.

Indeed, the contrast with the situation observed by the Committee at Kırıkkale F-type Prison during the 2009 visit is striking. It is recalled that in the latter establishment, most of the prisoners sentenced to aggravated life imprisonment were able to share an outdoor exercise yard with other inmates of the same category (where they could converse throughout the day) and/or could associate together, in groups of five to ten, during weekly sports sessions. Further, several of them were authorised, by decision of the establishment's Administrative Board, to take part in vocational courses and to attend a workshop and to visit the library.

**The CPT recommends that steps be taken at Izmir T-type Prison No. 2 and Tekirdağ F-type Prison No. 2 and, where appropriate, in other high-security prisons, to develop communal activity programmes (including workshop and educational activities) for prisoners sentenced to aggravated life imprisonment. As a first step, conversation sessions should be organised and the possibilities for sports activities increased (the goal being to reach the maximum duration of conversation periods provided for in the Ministry of Justice Circular No. 45/1).**

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<sup>57</sup> In addition, prisoners could borrow a book from the establishment's library once every two weeks.

<sup>58</sup> The delegation was informed that, depending on the number of prisoners, multiple sports sessions would be organised so that every prisoner could participate in two sessions per month.

82. More generally, the CPT considers the underlying concept of the detention regime as defined in Section 25 of the LESSM (and, in particular, the restriction to “limited” contacts with fellow inmates) to be fundamentally flawed. As a matter of principle, the imposition of such a regime should lie with the *prison authorities* and always be based on an *individual* risk assessment, and not be the automatic result of the type of sentence imposed. In this regard, the Committee wishes to recall that:

- life-sentenced prisoners – as indeed all prisoners – are sent to prison as a punishment and not to receive punishment;
- life-sentenced prisoners (including those sentenced to aggravated life imprisonment) are not necessarily more dangerous than other prisoners;
- life-imprisonment can have a number of desocialising effects upon prisoners. In addition to becoming institutionalised, the prisoners concerned may experience a range of psychological problems;
- the provision of a regime of purposeful activities (including group association) and constructive staff/inmate relations will reinforce “dynamic security”<sup>59</sup> within the prison.

83. The above-mentioned precepts are embodied in the European Prison Rules<sup>60</sup> and Recommendation Rec (2003) 23 on the management by prison administrations of life sentence and other long-term prisoners<sup>61</sup>.

In particular, Rule 6 of the European Prison Rules defines as one of the basic principles that “all detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty”, and Rule 102.2 makes it clear that “imprisonment is by the deprivation of liberty a punishment in itself and therefore the regime for sentenced prisoners shall not aggravate the suffering inherent in imprisonment”.

Recommendation (2003) 23 provides that the aims of the management of life sentence and other long-term prisoners should *inter alia* be to counteract the damaging effects of life and long-term imprisonment and to increase and improve the possibilities for these prisoners to be successfully resettled in society and to lead a law-abiding life following their release (Paragraph 2).

Further, Recommendation (2003) 23 sets out the following general principles for the management of life sentence and other long-term prisoners:

- (i) *individualisation principle* – consideration should be given to the diversity of personal characteristics to be found among life sentence and long-term prisoners and account taken of them to make individual plans for the implementation of the sentence (Paragraph 3);
- (ii) *normalisation principle* – prison life should be arranged so as to approximate as closely as possible to the realities of life in the community (Paragraph 4);

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<sup>59</sup> “That is the development by staff of positive relationships with prisoners based on firmness and fairness, in combination with an understanding of their personal situation and any risk posed by individual prisoners” (Paragraph 18.a of Recommendation Rec (2003) 23 on the management by prison administrations of life sentence and other long-term prisoners).

<sup>60</sup> Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules.

<sup>61</sup> Adopted by the Committee of Ministers on 9 October 2003.

- (iii) *responsibility principle* – prisoners should be given opportunities to exercise personal responsibility in daily prison (Paragraph 5);
- (iv) *security and safety principle* – a clear distinction should be made between any risks posed by life sentence and other long-term prisoners to the external community, to themselves, to other prisoners and to those working in or visiting the prison (Paragraph 6);
- (v) *non-segregation principle* – consideration should be given to not segregating life sentence and other long-term prisoners on the sole ground of their sentence (Paragraph 7);<sup>62</sup>
- (vi) *progression principle* – individual planning for the management of the prisoner’s life or long-term sentence should aim at securing progressive movement through the prison system (Paragraph 8).

84. In order to achieve the general objectives and comply with the above-mentioned principles, Recommendation (2003) 23 specifies that comprehensive sentence plans should be developed for each individual prisoner (Paragraph 9). According to Paragraph 10, these sentence plans should be used to provide a systematic approach *inter alia* to “participation in work, education, training and other activities that provide for a purposeful use of time spent in prison and increase the chances of a successful resettlement after release” and to “participation in leisure and other activities to prevent or counteract the damaging effects of long terms of imprisonment”.<sup>63</sup>

**85. The CPT calls upon the Turkish authorities to carry out a complete overhaul of the detention regime applied to prisoners sentenced to aggravated life imprisonment, in the light of the precepts set out in paragraphs 82 to 84. To this end, the relevant legislation should be amended accordingly.**

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<sup>62</sup> The Explanatory Report of Recommendation (2003) 23 further states that:  
“41. [t]he special segregation of life-sentenced or long-term prisoners cannot be justified by an unexamined characterisation of such prisoners as dangerous. As a general rule, the experience of many prison administrations is that many such prisoners present no risks to themselves or others. And if they do present such risks, they may only do so for relatively limited periods or in particular situations. In consequence, while it is fully recognised that time and resources are needed to implement this principle; these prisoners should only be segregated if, and for as long as, clear and present risks exist.

42. Life-sentenced and long-term prisoners are thought in some countries to pose serious safety and security problems in the prison. The violence and dangerousness manifested in the criminal act is considered to carry over to their lives in prison. Offenders who, for example, have committed murder are among those most likely to receive life or long sentences. This does not necessarily mean that they are violent or dangerous prisoners. Indeed, prison authorities can refer to individual murderers with a life or long sentence as “good prisoners”. They exhibit stable and reliable behaviour and are unlikely to repeat their offence. The likelihood of an offender engaging in violent or dangerous behaviour frequently depends not only on personality characteristics but also on the typical situations that permit or provoke the emergence of such behaviour.

43. Descriptions in terms of violence and dangerousness should, therefore, always be considered in relation to the specific environments or situations in which these characteristics may – or may not – be exhibited. In the management of long-term and life prisoners, a clear distinction should be drawn between safety and security risks arising within the prison and those that may arise with escape into the community. The classification and allocation of long-term and life-sentenced prisoners should take account of these differing kinds of risks (...)

<sup>63</sup> See also Rules 103.8 (“Particular attention should be paid to providing appropriate sentence plans and regimes for life sentenced and other long-term prisoners”) and 103.4 of the European Prison Rules (“Such plans shall as far as is practicable include (a) work, (b) education, (c) other activities, and (d) preparation for release”).

## 6. Health-care services

### a. introduction

86. The CPT recalls that the task of prison health-care services should not be limited to treating sick prisoners. They should also be entrusted with responsibility for social and preventive medicine. In particular, a prison health-care service should ensure that information about transmittable diseases is regularly circulated, to both prisoners and prison staff. Suicide prevention is another matter falling within the purview of a prison's health-care service. Further, it lies with prison health-care services to supervise catering arrangements (quantity, quality, preparation and distribution of food) and conditions of hygiene. Provision in terms of medical, nursing and technical staff, as well as premises, installations and equipment, should be geared accordingly.

87. During the ad hoc visit of 2012 to Turkey, the CPT observed that the transfer of responsibility for health-care services in prisons from the Ministry of Justice to the Ministry of Health had brought about improvements, with the recruitment on a permanent basis of a doctor and a full-time qualified nurse in all the prisons visited.

However, it is clear from the information gathered during the 2013 visit that major problems remain as regards the availability of health-care resources in prisons. Further, doctors were carrying out their functions despite having had no prior experience or training in working in a prison setting.

It should also be noted that the above-mentioned transfer had still not been completed at the time of the current visit. In particular, the Ministry of Justice continued to employ health-care officers working in prisons and, in some cases, even qualified nurses<sup>64</sup>. Further, it remained the case that prison health-care services were not connected with the electronic database of the Ministry of Health. Instead, inmates' personal medical data continued to be entered into the UYAP<sup>65</sup> system which is run by the Ministry of Justice (and to which the management and administrative staff of prisons have unrestricted access).

**The CPT recommends that the Ministry of Health develop a coherent health-care service for prisons and provide prison health-care staff with appropriate training and support.**

**Further, the CPT recommends that the connection of prison health-care services to the Ministry of Health database be established without further delay. The Committee would like to receive confirmation that, once this connection is established, all medical information on prisoners stored in the UYAP system will be removed and that non-medical prison staff will not have access to the Ministry of Health database.**

88. During the 2013 visit, the CPT's delegation conducted a full evaluation of the health-care services at Izmir Juvenile Prison, Izmir T-type Prison No. 2 and Şanlıurfa E-type Prison. It also examined certain health-care issues in the other establishments visited, in particular as regards staffing levels, medical screening and recording of injuries.

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<sup>64</sup> For example, at Izmir Juvenile Prison.

<sup>65</sup> The National Judiciary Informatics System.

b. staff and treatment

89. The health-care teams in all the prisons visited were seriously under-resourced. The situation was particularly problematic at the *Izmir-Aliğa Prison Campus*<sup>66</sup> which had only four doctors to care for a prison population of some 5,000 prisoners. Moreover, it beggars belief that, in such a large prison complex, not a single doctor or nurse was present during weekdays outside daytime working hours or during weekends.<sup>67</sup>

90. At *Izmir Juvenile Prison*, a doctor<sup>68</sup> was present three times per week, for a total of 7½ hours. He was assisted by one full-time nurse and one full-time health-care officer; the latter had been assigned by the Ministry of Justice and received some medical training<sup>69</sup>. In addition, the establishment employed several prison officers who acted as medical orderlies, their main duty being to transport patients to the hospital of the prison campus or to an outside hospital.

In the CPT's view, with its current population of more than 200 inmates, *Izmir Juvenile Prison* should have the equivalent of at least one half-time doctor and three full-time qualified nurses. And additional health-care resources will be required if the establishment were to operate at its official capacity of 360.

*Izmir T-type Prison No. 2* was visited by a doctor for up to four hours every day. The health-care team included one nurse and one health-care officer (both on a full-time basis), supported by five prison officers acting as medical orderlies. Some orderlies also worked at night-time and during weekends, when no health-care staff were present in the establishment.

Given its current inmate population of almost one thousand, this establishment should have the equivalent of two full-time doctors and the number of qualified nurses should be substantially increased.

*Şanlıurfa E-type Prison* had one doctor who was present from Monday to Thursday throughout the day. Further, there was one full-time health-care officer who was assisted by three prison officers. As regards qualified nursing staff, the prison had one nurse's post, which was vacant.

This establishment, which has a population of some 800 inmates, should have the equivalent of 1½ full-time doctors. Further, the vacant nurse's post should be filled without delay and additional qualified nurses should be recruited.

Health-care services were also poorly resourced in the other prisons visited. For example, at *Gaziantep E-type Prison* there was only one doctor and one nurse for almost 1,500 prisoners, and at *Diyarbakır E-type Prison* only one doctor and one nurse for more than 1,000 prisoners. Further, as in 2012, the presence of a doctor at *Sincan Juvenile Prison* was limited to two hours per day.

91. Obviously, under circumstances such as those described above, a prison health-care service cannot be expected to perform its tasks in an effective manner. Indeed, the delegation received many complaints in the establishments visited regarding considerable delays in gaining access to the prison doctor or an outside specialist and the inadequate quality of treatment and care provided.

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<sup>66</sup> Which included the Juvenile Prison and the T-type Prison No. 2.

<sup>67</sup> In cases of emergency, an ambulance was called.

<sup>68</sup> In all the establishments visited, the doctors were employed by the Ministry of Health.

<sup>69</sup> Health-care officers carried out various tasks, such as managing the pharmacy and distributing medicines.

92. **The CPT recommends that urgent steps be taken to increase the health-care staffing levels in all the establishments visited, in the light of the above remarks. It is also essential that all major prison campuses benefit from the permanent presence – on a 24-hour, seven-days-per-week, basis – of health-care staff (this was the case at Sincan Prison Campus but not yet at Aliğa Prison Campus). The Committee trusts that the recruitment of additional qualified nurses will make it possible to abolish the practice of employing health-care officers.**

Further, **someone competent to provide first aid should always be present on the premises of all prison establishments.**

93. The health-care facilities and equipment were generally satisfactory and the supply of medication did not seem to pose any particular problems in the establishments visited. However, at Şanlıurfa Prison, the medical unit lacked appropriate equipment, such as a defibrillator and an ECG. **The CPT recommends that steps be taken to remedy this deficiency.**

94. Dental care was provided either by dentists employed by the establishment (e.g. at Diyarbakır D-type Prison, Şanlıurfa and Gaziantep Prisons) or at the prison campus hospital (e.g. at Sincan and İzmir Juvenile Prisons, İzmir T-type Prison No. 2).

However, the delegation received allegations from some prisoners at İzmir T-type Prison No. 2 that they had been handcuffed at the request of the dentist during dental interventions. In the CPT's view, to apply handcuffs to a prisoner undergoing a medical intervention would be unacceptable from the standpoint of medical ethics and human dignity. **The Committee recommends that steps be taken to put a stop to any such practice.**

95. As regards the provision of psychiatric care to prisoners, it is a matter of concern that Diyarbakır D-type Prison, Gaziantep and Şanlıurfa E-type Prisons and Tekirdağ F-type Prison No. 2 were not visited by a psychiatrist. As a result, prisoners in need of psychiatric care had to be transferred to an outside hospital, which often involved considerable delay. **The CPT recommends that urgent steps be taken to arrange for regular visits by a psychiatrist to the above-mentioned prisons.**

96. During the visit, the delegation was informed by representatives of the Ministry of Justice that there were about 200 seriously-ill inmates in Turkish prisons. The Ministry's intention was to transfer these prisoners to Metris R-type Prison in Istanbul, which is a specialised institution for the treatment of prisoners who require special care or have mental health problems (but who do not need to be hospitalised). **The CPT would like to receive detailed information on this prison (capacity, categories of inmates, staff complement, etc.).**

97. The CPT notes that, according to an amendment made to the LESSM in January 2013, prisoners who are unable, due to a serious illness or disability, to continue to stay in prison on their own and who are considered not to represent a threat to public safety may have the execution of their sentence postponed until such time as their health condition improves. **The Committee would like to receive detailed information about the implementation of this provision.**

c. medical screening and recording of injuries

98. The situation observed at Diyarbakır D-type Prison, İzmir T-type Prison No. 2 and İzmir and Sincan Juvenile Prisons as regards the medical examination of new arrivals was on the whole satisfactory. Such examination was usually conducted by a doctor within 48 hours of admission and entailed physical examination of the body.

However, in the other prison establishments visited, entry medical examinations were often limited to asking questions about the inmate's state of health, without carrying out a proper physical examination. Further, at Gaziantep and Şanlıurfa Prisons, such examinations were sometimes conducted with considerable delays (several days, or even weeks).

Moreover, in none of the establishments visited were newly-arrived prisoners screened for transmissible diseases.

99. As was the case during all previous visits, the recording and reporting of injuries (on admission or during imprisonment) often left a lot to be desired; in many cases, injuries were not described in sufficient detail. Further, prisoners' statements were not always recorded, and there were no doctor's conclusions on the consistency of the injuries with any statements that were recorded. Moreover, injuries observed on newly-arrived prisoners were not systematically reported to the relevant prosecutor.

**100. The CPT once again calls upon the relevant Turkish authorities to take the necessary steps (including through the issuance of instructions and the provision of training to relevant staff) to ensure that in all the establishments visited as well as in other prisons in Turkey:**

- **all newly-arrived prisoners are subject to a comprehensive medical examination, including screening for transmissible diseases, by a doctor (or a fully qualified nurse reporting to a doctor) as soon as possible after their admission and that prisoners are provided with information regarding the prevention of transmissible diseases;**
- **the record drawn up after the medical examination of a prisoner contains: i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), ii) a full account of objective medical findings based on a thorough examination, and iii) the health-care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings. The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed.**

**Recording of the medical examination in cases of traumatic lesions should be made on a special form provided for this purpose, with "body charts" for marking traumatic lesions that will be kept in the medical file of the prisoner. Further, it would be desirable for photographs to be taken of the injuries; these photographs should also be placed in the medical file. In addition, a special trauma register should be kept in which all types of injury observed should be recorded.**

**Whenever injuries are recorded by a health-care professional which are consistent with allegations of ill-treatment made by the prisoner (or which, even in the absence of the allegations, are indicative of ill-treatment), the record should be systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. Further, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the prisoner and his/her lawyer.**

d. medical confidentiality

101. The CPT is very concerned by the almost total lack of medical confidentiality in the prisons visited. Despite the repeated assurances by the Turkish authorities after previous visits, it remains the case that non-medical staff and, in particular prison directors, usually had access to medical files (see paragraph 87). Further, in some of the establishments visited, requests by prisoners to see a doctor or transfers to an outside hospital or the purchase of medication for prisoners had to be authorised by the prison management.

It is also a matter of concern that, with the notable exception of Diyarbakır D-type Prison, doctor-inmate consultations in all the establishments visited took place in the presence of custodial officers, despite the specific recommendation repeatedly made by the Committee. 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.

102. In their response to the report on the CPT's 2012 visit, the Turkish authorities indicated that, according to relevant regulations, "unless the doctor has issued written permission, security personnel shall wait outside examination rooms". However, the delegation found no trace of such "written permissions" in prisons visited.

**The CPT once again calls upon the Ministry of Justice to take immediate steps – in cooperation with the Ministry of Health – to ensure that the principle of medical confidentiality is fully respected in the establishments visited, as well as in all other prisons in Turkey. More specifically, steps should be taken to ensure that:**

- **all medical examinations of prisoners (whether upon arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers;**
- **medical data are, as a rule, not accessible to non-medical staff (it being understood that custodial staff may have access to the medical information necessary to carry out their duties).**

## 7. Other issues

### a. prison staff

103. The CPT welcomes the efforts made by the Turkish authorities in recent years to improve prison staff training. According to information provided to the delegation, all new recruits at prison officer level received training in one of the four training centres of the Ministry of Justice (in Ankara, Istanbul, Erzurum and Kahramanmaraş)<sup>70</sup>. The training course comprised a three-week theoretical module, followed by work as a trainee in a prison establishment. The delegation was also informed that prison officers who were assigned to work with juveniles (either in juvenile prisons or juvenile units of adult prisons) had undertaken a specific training programme adapted to the particular characteristics of working with young offenders.

However, the delegation received conflicting information as to whether any in-service training was offered to prison officers working with the general prison population. **The CPT would like to receive detailed information on the in-service training received by prison officers.**

104. Some of the allegations of physical ill-treatment received by the delegation during the visit concerned members of so-called "rapid intervention teams" (for example, at Gaziantep Prison, Izmir T-type Prison No. 2 and Sincan Juvenile Prison).

The delegation was informed that every closed prison in Turkey possessed such a team, composed of selected staff members, as well as special equipment to be employed during "interventions". **The CPT would like to receive detailed information about any written policy on the functioning of rapid intervention teams and any specific training received by members of these teams.**

### b. contact with the outside world

105. As a rule, remand and sentenced prisoners (including juveniles) are entitled to one ten-minute telephone call per week.<sup>71</sup> Further, they are allowed to have four short-term visits per month.<sup>72</sup>

106. In January 2013, several amendments were made to the LESSM which, *inter alia*, introduced certain changes regarding prisoners' contact with the outside world. First of all, the CPT is pleased to note that the duration of weekly short-term visits for juveniles has been increased to up to three hours (the minimum period being one hour).

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<sup>70</sup> Another training centre was due to enter into service in September 2013 in Denizli.

<sup>71</sup> Section 66 of the LESSM and Section 88(f) of the Prison Regulations.

<sup>72</sup> Section 83 of the LESSM and Section 5(d) of the Regulation on Visits to Sentenced and Remand Prisoners.

Another important development is the introduction of an incentive scheme for juvenile and adult prisoners. According to a recently-adopted regulation, prisoners who demonstrate good behaviour may receive various rewards, including conjugal visits for married prisoners for a period of up to 24 hours every three months (as well as parental visits for juveniles), accumulation of three consecutive unused visit entitlements, prolongation of the duration of weekly visits (to up to two hours), doubling the number or duration of weekly telephone calls, etc.

The delegation was informed that, at Sincan Prison, some 90 juveniles had been rewarded in different ways under the new incentive scheme since 1 April 2013 (when the amendment entered into force). It is also noteworthy that the establishment had set up three designated rooms for extended family visits.

107. As regards prisoners sentenced to aggravated life imprisonment, the relevant legal provisions<sup>73</sup> stipulate that they shall be allowed to have only two short-term visits per month, one being an open visit (so-called “table visit”) and the other one taking place under closed conditions (i.e. with a glass partition). It is also noteworthy that during these visits such prisoners are allowed to meet with a maximum of one visitor at a time. Further, prisoners sentenced to aggravated life imprisonment are entitled to only two telephone calls per month.

As already indicated in paragraphs 82 and 83, prisoners sentenced to aggravated life imprisonment should not be discriminated against on the sole ground of their sentence and should therefore benefit from the same entitlements regarding contact with the outside world as other sentenced prisoners.<sup>74</sup> **The CPT recommends that the Turkish authorities amend the existing legislation concerning sentenced prisoners’ visits and telephone calls, in the light of these remarks.**

108. The CPT is concerned to note that, according to the Regulation on Visits to Sentenced and Remand Prisoners, only one out of the four short-term visits per month to which prisoners (including juveniles) are entitled is open, while the three others have to take place in closed conditions. The Committee accepts that, in exceptional cases, it may be justified, for security-related reasons, to prevent physical contact between prisoners and their visitors. However, open visits should be the rule and closed visits the exception.

**The CPT recommends that all prisoners be, as a rule, able to receive short-term visits from their family members without physical separation; visits with a partition should be the exception and applied in individual cases where there is a clear security concern.**

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<sup>73</sup> Section 25(1)(f) of the LESSM and Section 5(e) of the Regulation on Visits to Sentenced and Remand Prisoners.

<sup>74</sup> See also the judgment *Trosin v. Ukraine* (Application no. 39758/05, 23 February 2012), in which the European Court of Human Rights ruled that an automatic restriction on the frequency of visits imposed on life-sentenced prisoners constituted a violation of the European Convention on Human Rights since it did not offer any degree of flexibility for determining whether such severe limitations were appropriate or indeed necessary in each individual case.

c. discipline and segregation

109. The types and range of disciplinary sanctions<sup>75</sup> were described in the report on the 2009 periodic visit and remain unchanged. It is recalled that the most severe disciplinary sanction is cellular confinement for up to twenty days for adult prisoners and confinement to a room (alone) for up to five days for juveniles.<sup>76</sup>

The delegation found that it was not at all uncommon for adult prisoners to be placed in a disciplinary cell as a punishment for the maximum period. The delegation also noted that several sanctions of placement in a disciplinary cell could in practice be applied with no interruption. The delegation came across cases of prisoners having served a series of consecutive disciplinary sanctions of placement in a disciplinary cell, thus being kept in solitary confinement for periods beyond the maximum time limit of 20 days.

110. Solitary confinement can have a damaging effect on the mental, somatic and social health of those concerned. Therefore, it should only be imposed as a disciplinary sanction in exceptional cases and as a last resort, and for the shortest possible period of time. In the CPT's view, a period of 20 days of solitary confinement as a punishment is excessive. The Committee considers that the maximum period of solitary confinement as a punishment should be no more than 14 days for a given offence, and preferably lower.<sup>77</sup> Further, there should be a prohibition of sequential disciplinary sentences resulting in an uninterrupted period of solitary confinement in excess of the maximum period. If a prisoner has been sanctioned to solitary confinement for a total of more than 14 days in relation to two or more offences, there should be an interruption of several days in the punishment at the 14-day stage.

As regards more specifically juveniles, as the CPT pointed out in the report on its 2012 visit<sup>78</sup>, it would be far preferable for them not to be subjected to the sanction of room confinement for a period exceeding three days. Further, whenever juveniles are subject to such a sanction, they must be guaranteed appropriate human contact throughout the duration of the measure.<sup>79</sup>

**The CPT recommends that the relevant provisions of the LESSM be revised in the light of the above remarks.**

111. It is a matter of concern that, despite a specific recommendation made by the CPT after the 2009 visit, the sanction of cellular confinement still entails a total prohibition on contact with the outside world (except with a lawyer). Further, it remains the case that the sanction of prohibition on visits for up to three months may be applied for disciplinary offences not related at all to visits (e.g. refusing a search or headcount, gambling, etc.). **The CPT reiterates its recommendation that steps be taken to ensure that disciplinary punishment of prisoners does not include a total prohibition on family contacts and that any restrictions on family contacts as a form of punishment are applied only when the offence relates to such contacts.**<sup>80</sup>

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<sup>75</sup> The full list of possible sanctions is set out in Section 38 (adults) and Section 45 (juveniles) of the LESSM.

<sup>76</sup> Sections 44 and 46 of the LESSM.

<sup>77</sup> See also the 21st General Report of the CPT's activities (CPT/Inf (2011) 28), paragraph 56 (b)).

<sup>78</sup> CPT/Inf (2013) 27, paragraph 56.

<sup>79</sup> See also the 18th General Report on the CPT's activities (CPT/Inf (2008)25), paragraph 26.

<sup>80</sup> See also Rule 60(4) of the European Prison Rules and the Commentary on that Rule.

112. As far as the delegation could ascertain, disciplinary procedures were generally carried out in accordance with the legal framework.<sup>81</sup> Prisoners facing disciplinary charges were informed in writing of the charges against them (including the relevant facts), had the possibility to present their views on the matter and received a copy of the decision of the disciplinary board. However, as had been the case at the time of the 2009 visit, the prisoners concerned were usually not heard in person by the disciplinary board before the latter took a decision on the matter (as this is not required by law).

**The Committee reiterates its recommendation that the Turkish authorities review the procedure for placement in disciplinary confinement in order to ensure that the prisoners concerned are accorded the right to be heard by the disciplinary board. They should also have the right to call witnesses on their own behalf and to cross-examine evidence given against them.**

113. Before a prisoner is placed in a disciplinary cell, a prison doctor is still required, in accordance with the law<sup>82</sup>, to certify that the prisoner concerned is able to sustain the measure.

The CPT wishes to stress once again that medical practitioners in prisons act as the personal doctors of prisoners, and ensuring that there is a positive doctor-patient relationship between them is a major factor in safeguarding the health and well-being of prisoners. The practice of prison doctors certifying that a prisoner is fit to undergo punishment is scarcely likely to promote that relationship. Medical personnel should never participate in any part of the decision-making process resulting in any type of solitary confinement, except where the measure is applied for medical reasons.<sup>83</sup>

On the other hand, health-care staff should be very attentive to the situation of prisoners placed in disciplinary cells (or any other prisoner held under conditions of solitary confinement). The health-care staff should be informed of every such placement and should visit the prisoner immediately after placement and thereafter, on a regular basis, at least once per day,<sup>84</sup> and provide them with prompt medical assistance and treatment as required. They should report to the prison director whenever a prisoner's health is being put seriously at risk by being held in disciplinary confinement.

**The CPT therefore reiterates its recommendation that the role of health-care staff in relation to disciplinary matters be reviewed, in the light of the above remarks. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the Committee in its 21st General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28).**

114. In the course of the visit, the delegation examined material conditions of detention in the so-called "observation rooms" (*müşahede odaları*) at Gaziantep and Şanlıurfa E-type Prisons, which served as disciplinary punishment cells.

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<sup>81</sup> Section 47 of the LESSM and Section 152 of the Regulation on the Execution of Sentences.

<sup>82</sup> Section 48(3)(c) of the LESSM.

<sup>83</sup> See also the 21<sup>st</sup> General Report on the CPT's activities (CPT/Inf (2011) 28), paragraphs 62 and 63.

<sup>84</sup> With the exception of Izmir and Sincan Juvenile Prisons, no such arrangement existed in any of the prisons visited.

In both establishments, the cells in question were of a similar design. They were all for single occupancy and measured some 7 m<sup>2</sup>. Each cell was equipped with a washbasin with running cold water and a floor-level toilet with a half-height partition. Artificial lighting in the cells was adequate. At Şanlıurfa, there was no window in these cells, but some daylight came from the corridor through the grille cell doors.

However, at Gaziantep, access to natural light in the cells was very limited, the windows being covered with perforated metal plates. Further, in most of the disciplinary cells of both prisons, the toilet and washbasin were in a dirty condition, as were the blankets and mattresses provided to prisoners.

**The CPT recommends that the material conditions of the disciplinary/observation cells at Gaziantep and Şanlıurfa E-type Prisons be reviewed, in the light of the above remarks.**

115. Unlike at Sincan Prison where a juvenile subject to the sanction of room confinement was segregated from other prisoners in one of the observation rooms<sup>85</sup>, at Izmir Juvenile Prison this sanction was executed in an ordinary accommodation unit with a group leader. **The CPT welcomes this approach as it allows for specific attention to be given to challenging juveniles instead of subjecting them to an isolation-type regime.**

116. The CPT notes with concern that at Gaziantep and Şanlıurfa Prisons, inmates held in discipline/observation cells (as either a disciplinary or security/protection measure) had no access to outdoor exercise. Some of the prisoners had been held in these cells for weeks without having any possibility of going to the open air.<sup>86</sup> At the end of the visit, the delegation called upon the Turkish authorities to take urgent measures in both establishments to ensure that all prisoners are offered outdoor exercise of at least one hour on a daily basis.

In their letter of 4 September 2013, the Turkish authorities indicated that “[t]he Directorate General of Prisons and Detention House of the Ministry of Justice sent a letter to all Chief Public Prosecutors attached to Assize Courts on 6 August 2013, instructing that, for the sake of protecting and improving the human rights of those prisoners who are held in rooms without an open-air yard, measures be taken to offer outdoor exercise of at least one hour per day.”

**The CPT would like to receive confirmation that all prisoners placed in disciplinary/observation cells at Gaziantep and Şanlıurfa E-type Prisons are now able to benefit from at least one hour of outdoor exercise every day.**

117. As regards segregation, the delegation noted that a specific register had been introduced at Sincan Juvenile Prison for recording placements in observation rooms, in line with a recommendation made by the Committee in the report on the 2012 visit. However, **the register should contain more details, in particular the reasons for the measure, the precise location where the prisoner subject to segregation is being accommodated and the time of the daily checks by health-care staff.**

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<sup>85</sup> See CPT/Inf (2013) 27, paragraph 62.

<sup>86</sup> At Gaziantep, the prisoners concerned were allowed to walk up and down a narrow corridor every day for about one hour.

118. Reference should be made to the two padded rooms at Sincan Prison, which had been criticised by the CPT after its 2012 visit on account of their poor material conditions. The delegation noted that, as recommended by the Committee, the rooms had recently been taken out of service pending refurbishment and a separate register had been introduced on their use. Further, both rooms had been equipped with CCTV cameras.

d. complaints and inspection procedures

119. Effective complaints and inspection procedures are basic safeguards against ill-treatment in prisons. The CPT attaches particular importance to regular visits to all prison establishments by an independent body with the authority to inspect the premises, to interview prisoners in private and to receive (and, if necessary, take action on) complaints.

120. Many prisoners interviewed by the delegation in the establishments visited expressed a lack of trust in the existing complaints procedures, especially concerning the confidentiality of the complaints sent to outside bodies. In particular, it appeared that all correspondence – even the letters addressed to state institutions (prosecutors, enforcement judges, etc.) – had to be handed over to custodial staff in open envelopes. There was a widespread perception amongst inmates that all letters addressed to competent outside bodies were read by prison officers and any letters which contained complaints against staff were not dispatched. Such a practice would be in violation of Section 68(4) of the LESSM, which provides that letters addressed by prisoners to official authorities shall not be censored.

**The Committee recommends that the existing arrangements be reviewed in all prisons in order to ensure that inmates are able to contact competent outside bodies on a confidential basis.**

121. At Şanlıurfa E-type and Sincan Juvenile Prisons, the delegation saw sealed boxes in corridors for internal complaints to the prison director, which were regularly emptied by designated staff members. The CPT welcomes this initiative; **it recommends that such boxes be installed in every prison establishment, with access restricted to authorised personnel.**

122. Regular inspections were being carried out by the competent prosecutors in all the establishments visited. Further, the respective prison monitoring boards visited the prisons several times a year; during these visits, the boards' members usually went to prisoner accommodation units and held interviews with prisoners in private.

However, it became clear from the information gathered that visits by the relevant prison monitoring boards to several of the prisons visited by the delegation (such as those in Gaziantep, Sincan and Şanlıurfa) were not carried out as frequently as is required by law, i.e. at least once every two months.<sup>87</sup> **The CPT would like to receive the observations of the Turkish authorities on this matter.**

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<sup>87</sup> See Section 7 of the Law on Prison Monitoring Boards.

**D. Other establishments**

123. The delegation paid a brief visit to the Diyarbakır Court House in order to examine the material conditions in the waiting cells in which detained persons were kept (on occasion, for several hours) before the beginning of court sessions. All these cells (equipped with wooden benches) were in an advanced state of dilapidation and in appalling hygienic conditions.

**The CPT recommends that immediate steps be taken to remedy these shortcomings.**

## **APPENDIX I**

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

#### **Monitoring of places of deprivation of liberty and complaints bodies**

##### requests for information

- progress made towards setting up or designating a national preventive mechanism under the Optional Protocol to the United Nations Convention against Torture (paragraph 8);
- the activities carried out to date by the Ombudsman Institution concerning the situation of persons deprived of their liberty (paragraph 9).

#### **Police custody**

##### **Ill-treatment**

##### recommendations

- a formal statement emanating from the relevant authorities to be delivered to all law enforcement officials in the Diyarbakır and Şanlıurfa areas, reminding them that they should be respectful of the rights of persons in their custody and that the ill-treatment of such persons will be the subject of severe sanctions (paragraph 13);
- the Chief Prosecutor of Diyarbakır to remind prosecutors under his authority of their obligation to carry out investigations into cases of possible ill-treatment by law enforcement officials in a prompt, thorough and comprehensive manner. Reference should be made in this context to the relevant case-law of the European Court of Human Rights (paragraph 15).

##### comments

- the CPT considers that the investigation into the case referred to in paragraph 15 should be re-opened (paragraph 15).

##### requests for information

- in respect of the period from 1 January 2011 to the present time:
  - (a) the number of complaints of ill-treatment made against law enforcement officials per year and the number of criminal/disciplinary proceedings which have been instituted as a result;
  - (b) the number of criminal/disciplinary proceedings which have been instituted *ex officio* (i.e. without a formal complaint) into possible ill-treatment by law enforcement officials;
  - (c) the outcome of the proceedings referred to in (a) and (b), including an account of criminal/disciplinary sanctions imposed on the law enforcement officials concerned (paragraph 16).

## **Situation of persons detained in the context of recent public demonstrations**

### recommendations

- a firm message to be delivered to all law enforcement officials throughout Turkey who are involved in crowd control operations, reminding them that all forms of ill-treatment (including verbal abuse) of persons deprived of their liberty are not acceptable and will be punished accordingly. It should be made clear to the law enforcement officials concerned that no more force than is strictly necessary is to be used when carrying out an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them (or using tear gas against them) (paragraph 18);
- the Turkish authorities to take the necessary steps to ensure that law enforcement officials who are involved in police operations in the context of public demonstrations are identifiable (e.g. by means of a clearly visible number on the uniform or helmet). Law enforcement officials should be reminded that the concealment of identification numbers constitutes a serious offence (paragraph 21).

### requests for information

- updated information on all criminal and administrative inquiries which have been initiated so far in relation to formal complaints and other information indicative of ill-treatment and/or excessive use of force during the police operations in Ankara and Istanbul referred to in paragraphs 17 to 19, as well as on any action subsequently taken (paragraph 20).

## **Fundamental safeguards against ill-treatment**

### recommendations

- law enforcement officials throughout Turkey to be reminded of their legal obligations regarding the implementation of the right of notification of custody (paragraph 24);
- the Turkish authorities to take the necessary steps to ensure that the right of detained persons to have a lawyer present during questioning, as well as the obligation of having a lawyer present if the detained person is a juvenile, are fully respected in practice in all police/gendarmerie establishments (paragraph 26);
- steps to be taken in consultation with the relevant Bar Associations to ensure that *ex officio* lawyers appointed to represent persons in police custody perform their functions in a diligent and, more specifically, timely manner (paragraph 26);
- the Turkish authorities to take all necessary steps – including of a legislative nature – to ensure that every person detained by law enforcement agencies under anti-terror legislation has the right to talk in private with a lawyer and to benefit from his/her presence during questioning, as from the very outset of deprivation of liberty, it being understood that whenever there are reasonable doubts about the professional integrity of the lawyer chosen by the detained person, another lawyer will be appointed *ex officio* (paragraph 27);

- whenever the access of a detained person to the lawyer of his/her own choice is delayed/denied, the reasons for the decision to be recorded and a written copy of the decision and the reasoning to be provided to the person concerned (paragraph 27);
- appropriate steps to be taken by the Ministries of the Interior and Health to ensure that medical examinations of persons in police/gendarmerie custody are carried out in full compliance with the requirements set out in Section 9 of the Regulation on Apprehension, Detention and the Taking of Statements (paragraphs 22 and 28);
- the Turkish authorities to take the necessary steps to ensure that all persons in police/gendarmerie custody have the right to be examined, if they so wish, by a doctor of their own choice, in addition to any medical examination carried out by a doctor called by the police (it being understood that an examination by a doctor of the detained person's own choice may be carried out at his/her own expense). To this end, the Regulation on Apprehension, Detention and the Taking of Statements should be amended accordingly (paragraph 29);
- steps to be taken to ensure that the right of persons in police/gendarmerie custody to be examined at any time by a doctor (including by a doctor of their own choice) is incorporated into the Suspects Rights Form (SRF) (paragraph 30);
- the Turkish authorities to take the necessary measures to ensure that all persons detained by law enforcement agencies – for whatever reason – are fully informed of their fundamental rights as from the very outset of their deprivation of liberty (that is, from the moment when they are obliged to remain with the police/gendarmerie). This should be ensured by provision of clear verbal information at the moment of apprehension, to be supplemented at the earliest opportunity (that is, immediately upon the first arrival at a law enforcement establishment) by the provision of the SRF. Further, the persons concerned should be asked to sign a statement attesting that they have been informed of their rights and always be given a copy of the SRF. Particular care should be taken to ensure that detained persons are actually able to understand their rights; it is incumbent on police/gendarmerie officers to ascertain that this is the case (paragraph 31);
- the Turkish authorities to take steps to ensure that all interviews of detained persons in Anti-Terror Departments are electronically recorded (by audio and video recording) and that recordings are kept for a reasonable period and are made available to be viewed by appropriate persons (including those responsible for monitoring and inspecting detention facilities and those charged with investigating allegations of ill-treatment as well as the detained person and/or his/her lawyer) (paragraph 33).

comments

- the Turkish authorities are encouraged to introduce a system of recording of interviews in other law enforcement departments, in addition to Anti-Terror Departments (paragraph 33).

## **Material conditions**

### recommendations

- the Turkish authorities to review the conditions of detention in all law enforcement establishments where persons may be held for 24 hours or more, in order to ensure that the detention facilities have adequate access to natural light (paragraph 34);
- steps to be taken to improve artificial lighting in the custody cells at Izmir Police Headquarters (Anti-Terror and Law and Order Departments) (paragraph 34);
- steps to be taken to ensure that persons held overnight in a law enforcement establishment are always provided with a mattress (in addition to blankets) (paragraph 35);
- the Turkish authorities to take steps to ensure that persons held for 24 hours or more in a law enforcement establishment are offered outdoor exercise on a daily basis (paragraph 37).

### requests for information

- clarification of the official capacity for overnight stay of the custody cells in the various departments at the Police Headquarters in Ankara, Istanbul and Izmir (paragraph 36).

## **Detention of foreign nationals under aliens legislation**

### recommendations

- for as long as the detention facility for foreign nationals at the Ankara Police Headquarters remains in service, detained persons to be offered access to the open air for at least one hour every day (paragraph 40).

### requests for information

- further information on the new detention facilities for foreign nationals in Ankara and an indication of when the existing detention facilities will be withdrawn from service (paragraph 40);
- a copy of the regulation, mentioned in paragraph 41, on the management, operation and supervision of removal centres once it has been issued (paragraph 41);
- progress made in constructing new detention centres for foreign nationals and closing old sub-standard establishments; in particular, detailed information on all the new detention centres which have already been brought into service (e.g. capacities for male and female inmates, living space per person, communal activities, number of custodial staff, presence of health-care staff, etc.) (paragraph 42).

## **Prisons**

### **Preliminary remarks**

#### recommendations

- the Turkish authorities to redouble their efforts – in consultation with the prosecutorial and judicial authorities – to combat prison overcrowding by adopting policies designed to limit or modulate the number of persons sent to prison. In so doing, the authorities should be guided by, inter alia, Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures, Recommendation Rec(2003)22 on conditional release (parole), Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, Recommendation Rec(2008)11 on the European rules for juvenile offenders subject to sanctions or measures, and Recommendation Rec(2010)1 on the Council of Europe Probation Rules (paragraph 46).

#### comments

- it would be desirable, once the reduction in prison overcrowding allows, to return to the original design capacity of eight inmates in the duplex accommodation units at Izmir T-type Prison No. 2 and, where appropriate, in other T-type prisons in Turkey (paragraph 46).

#### requests for information

- outcome of the criminal investigation into the fire which broke out in one of the accommodation units at Şanlıurfa E-type Prison on 16 June 2012 (paragraph 47).

## **Ill-treatment**

#### recommendations

- a firm message to be delivered at regular intervals to management and staff at Sincan Juvenile Prison, Gaziantep and Şanlıurfa E-type Prisons, Izmir T-type Prison No. 2 and Tekirdağ F-type Prison No. 2 that ill-treatment of prisoners is not acceptable and will be punished accordingly. As part of this message, staff should be reminded in particular that no form of physical chastisement should ever be used against juveniles. Any prisoner who fails to comply with prison rules should be dealt with only in accordance with the prescribed disciplinary procedures (paragraph 51);
- steps to be taken in all the prison establishments where juveniles are held to ensure that no prisoner is put in a position to exercise power over other juveniles (paragraph 54).

requests for information

- updated information on criminal investigations into the complaints of ill-treatment which had been lodged by juveniles held at Izmir Juvenile Prison and had emerged in the media shortly before the CPT's visit (paragraph 49);
- information on criminal and disciplinary inquiries into allegations of ill-treatment by prison staff covering the period up to the end of 2013 (paragraph 52).

**Conditions of detention of the general prison population**

recommendations

- the Turkish authorities to take resolute action to address the problem of overcrowding at Gaziantep and Şanlıurfa E-type Prisons; the objective should be to ensure that accommodation units offer at least 4 m<sup>2</sup> of living space per prisoner (paragraph 58);
- steps to be taken at Gaziantep and Şanlıurfa E-type Prisons to ensure that all accommodation units are kept in a satisfactory state of repair (paragraph 58);
- immediate steps to be taken at Izmir T-type Prison No. 2 and Gaziantep and Şanlıurfa E-type Prisons to ensure that:
  - all prisoners have their own bed, equipped with a clean mattress and clean bedding;
  - the units are suitably equipped with tables/chairs for the number of prisoners they accommodate(paragraph 58);
- steps to be taken to ensure that all prisoners have adequate quantities of essential personal hygiene items and products to clean their accommodation units (paragraph 59);
- measures to be taken to ensure that all prisoner accommodation (and staff premises) at Diyarbakır D-type Prison is adequately heated (paragraph 60);
- the prison building programme to be reviewed so as to ensure that all new establishments will have the necessary facilities capable of providing a range of purposeful out-of-unit activities (including work) to prisoners (paragraph 62);
- the Turkish authorities to take steps at Diyarbakır, Gaziantep and Şanlıurfa E-type Prisons, Diyarbakır D-type Prison and Izmir T-type Prison No. 2 to improve facilities for organised activities (such as work, education, and sport) and to significantly increase the number of prisoners who benefit from such activities on a regular basis (paragraph 66).

comments

- obliging sentenced prisoners to work without any remuneration would be contrary to Rule 26.10 of the European Prison Rules (which provides that “[i]n all instances there shall be equitable remuneration of the work of prisoners”). Obliging remand prisoners to work is equally contrary to the European Prison Rules (paragraph 67).

## **Conditions of detention of juvenile prisoners**

### recommendations

- steps to be taken at Izmir and Sincan Juvenile Prisons to enhance the schooling programme for inmates, the objective being to align it, as far as possible, with schooling programmes generally available in the outside community (paragraph 70);
- the recommendations made in paragraph 58 concerning material conditions of detention at Gaziantep and Şanlıurfa E-type Prisons to apply equally to the juvenile units in these establishments (paragraph 72);
- immediate steps to be taken to provide structured out-of-unit activities for juveniles at Şanlıurfa E-type Prison (paragraph 74).

### comments

- the Turkish authorities are encouraged to pursue their efforts to ensure the effective implementation of the “group leader” system in all existing and future detention facilities specifically designed for juveniles. In particular, “group leaders” assigned to juvenile units must be carefully chosen and, more specifically, be people capable of guiding and motivating juveniles. It is also essential that they receive appropriate training and ongoing support (with the involvement of the prisons’ psychosocial services) (paragraph 71);
- the CPT trusts that the entering into service of new juvenile prisons will enable the Turkish authorities to put a definitive end to the practice of accommodating juveniles in prisons for adults and that the new prisons will offer both a suitable material environment and activities adapted to the specific needs of juveniles (education, sports and other recreational activities) (paragraph 74).

### requests for information

- confirmation that the food budget for the prisoner population as a whole has been increased by 25 per cent (paragraph 75).

## **Prisoners sentenced to aggravated life imprisonment**

### recommendations

- the shortcomings described in the second subparagraph of paragraph 77 concerning material conditions of detention at Tekirdağ F-type Prison No. 2 to be remedied (paragraph 77);
- steps to be taken at Izmir T-type Prison No. 2 and Tekirdağ F-type Prison No. 2 and, where appropriate, in other high-security prisons, to develop communal activity programmes (including workshop and educational activities) for prisoners sentenced to aggravated life imprisonment. As a first step, conversation sessions should be organised and the possibilities for sports activities increased (the goal being to reach the maximum duration of conversation periods provided for in the Ministry of Justice Circular No. 45/1) (paragraph 81);

- the Turkish authorities to carry out a complete overhaul of the detention regime applied to prisoners sentenced to aggravated life imprisonment, in the light of the precepts set out in paragraphs 82 to 84. To this end, the relevant legislation should be amended accordingly (paragraph 85).

comments

- steps should be taken to address the situation of prisoners sentenced to aggravated life imprisonment who are not able to use refrigerators or television sets due to a lack of financial means (paragraph 77).

**Health-care services**

recommendations

- the Ministry of Health to develop a coherent health-care service for prisons and provide prison health-care staff with appropriate training and support (paragraph 87);
- the connection of prison health-care services to the Ministry of Health database to be established without further delay (paragraph 87);
- urgent steps to be taken to increase the health-care staffing levels in all the establishments visited, in the light of the remarks in paragraphs 89 to 91. It is also essential that all major prison campuses benefit from the permanent presence – on a 24-hour, seven-days-per-week, basis – of health-care staff (paragraph 92);
- steps to be taken to ensure that the medical unit at Şanlıurfa E-type Prison is properly equipped (paragraph 93);
- steps to be taken at Izmir T-type Prison No. 2 to put a stop to any practice of handcuffing prisoners during dental interventions (paragraph 94);
- urgent steps to be taken to arrange for regular visits by a psychiatrist to Diyarbakır D-type Prison, Gaziantep and Şanlıurfa E-type Prisons and Tekirdağ F-type Prison No. 2 (paragraph 95);

- the relevant Turkish authorities to take the necessary steps (including through the issuance of instructions and the provision of training to relevant staff) to ensure that in all the establishments visited as well as in other prisons in Turkey:
  - all newly-arrived prisoners are subject to a comprehensive medical examination, including screening for transmissible diseases, by a doctor (or a fully qualified nurse reporting to a doctor) as soon as possible after their admission and that prisoners are provided with information regarding the prevention of transmissible diseases;
  - the record drawn up after the medical examination of a prisoner contains: i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), ii) a full account of objective medical findings based on a thorough examination, and iii) the health-care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings. The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed (paragraph 100);
- recording of the medical examination of a prisoner in cases of traumatic lesions to be made on a special form provided for this purpose, with "body charts" for marking traumatic lesions that will be kept in the medical file of the prisoner. In addition, a special trauma register should be kept in which all types of injury observed should be recorded (paragraph 100);
- whenever injuries are recorded by a health-care professional which are consistent with allegations of ill-treatment made by the prisoner (or which, even in the absence of the allegations, are indicative of ill-treatment), the record to be systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned. Further, the results of every medical examination, including the statements made by the prisoner which are relevant to the examination and the doctor's conclusions, should be made available to the prisoner and his/her lawyer (paragraph 100);
- the Ministry of Justice to take immediate steps – in co-operation with the Ministry of Health – to ensure that the principle of medical confidentiality is fully respected in the establishments visited, as well as in all other prisons in Turkey. More specifically, steps should be taken to ensure that:
  - all medical examinations of prisoners (whether upon arrival or at a later stage) are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers;
  - medical data are, as a rule, not accessible to non-medical staff (paragraph 102).

comments

- the CPT trusts that the recruitment of additional qualified nurses will make it possible to abolish the practice of employing health-care officers (paragraph 92);
- someone competent to provide first aid should always be present on the premises of all prison establishments (paragraph 92);
- it would be desirable for photographs to be taken of traumatic lesions displayed by prisoners; these photographs should be placed in the medical file (paragraph 100).

requests for information

- confirmation that, once the connection of prison health-care services to the Ministry of Health database is established, all medical information on prisoners stored in the UYAP system will be removed and that non-medical prison staff will not have access to the Ministry of Health database (paragraph 87);
- detailed information on Metris R-type Prison (capacity, categories of inmates, staff complement, etc.) (paragraph 96);
- detailed information about the implementation of the new legal provision referred to in paragraph 97 concerning postponement of the execution of a prison sentence on the grounds of serious illness or disability (paragraph 97).

**Other issues**

recommendations

- the Turkish authorities to amend the existing legislation concerning sentenced prisoners' visits and telephone calls so as to ensure that prisoners sentenced to aggravated life imprisonment benefit from the same entitlements regarding contact with the outside world as other sentenced prisoners (paragraph 107);
- all prisoners to be able, as a rule, to receive short-term visits from their family members without physical separation; visits with a partition should be the exception and applied in individual cases where there is a clear security concern (paragraph 108);
- the relevant provisions of the Law on the Execution of Sentences and Security Measures regarding solitary/room confinement to be revised, in the light of the remarks in paragraph 110 (paragraph 110);
- steps to be taken to ensure that disciplinary punishment of prisoners does not include a total prohibition on family contacts and that any restrictions on family contacts as a form of punishment are applied only when the offence relates to such contacts (paragraph 111);
- the Turkish authorities to review the procedure for placement in disciplinary confinement in order to ensure that the prisoners concerned are accorded the right to be heard by the disciplinary board. They should also have the right to call witnesses on their own behalf and to cross-examine evidence given against them (paragraph 112);

- the role of health-care staff in relation to disciplinary matters to be reviewed, in the light of the remarks in paragraph 113. In so doing, regard should be had to the European Prison Rules (in particular, Rule 43.2) and the comments made by the CPT in its 21st General Report (see paragraphs 62 and 63 of CPT/Inf (2011) 28) (paragraph 113);
- the material conditions of the disciplinary/observation cells at Gaziantep and Şanlıurfa E-type Prisons to be reviewed, in the light of the remarks in the third subparagraph of paragraph 114 (paragraph 114);
- the existing arrangements to be reviewed in all prisons in order to ensure that inmates are able to contact competent outside bodies on a confidential basis (paragraph 120);
- complaints boxes to be installed in every prison establishment, with access restricted to authorised personnel (paragraph 121).

#### comments

- the CPT welcomes the approach followed at Izmir Juvenile Prison whereby the sanction of room confinement is executed in an ordinary accommodation unit with a group leader, as it allows for specific attention to be given to challenging juveniles instead of subjecting them to an isolation-type regime (paragraph 115);
- the register for recording placements in observation rooms at Sincan Juvenile Prison should contain more details, in particular the reasons for the measure, the precise location where the prisoner subject to segregation is being accommodated and the time of the daily checks by health-care staff (paragraph 117).

#### requests for information

- detailed information on the in-service training received by prison officers (paragraph 103);
- detailed information about any written policy on the functioning of rapid intervention teams and any specific training received by members of these teams (paragraph 104);
- confirmation that all prisoners placed in disciplinary/observation cells at Gaziantep and Şanlıurfa E-type Prisons are now able to benefit from at least one hour of outdoor exercise every day (paragraph 116);
- the observations of the Turkish authorities on the fact that visits by the relevant prison monitoring boards to several of the prisons visited by the CPT's delegation (such as those in Gaziantep, Sincan and Şanlıurfa) were not carried out as frequently as is required by law (paragraph 122).

### **Other establishments**

#### recommendations

- immediate steps to be taken to ensure that the waiting cells of the Diyarbakır Court House are maintained in a satisfactory state of repair and hygiene (paragraph 123).

**APPENDIX II**

**LIST OF THE NATIONAL AUTHORITIES AND ORGANISATIONS  
MET BY THE CPT'S DELEGATION**

**A. National authorities**

**Ministry of the Interior**

Osman GÜNEŞ	Deputy Minister of the Interior
Göksel AKAR	Chief Inspector, Department of Foreigners, Borders and Asylum
Mustafa MERT	Deputy Inspector, Department of Public Order
Ahmet ÇALIŞKAN	Chief Superintendent

**General Command of the Gendarmerie**

Güray ALPAR	Brigadier General, Head of General Planning and Principles
Kemal TIMUROĞLU	Judge Captain, Chief of Human Rights Section

**Ministry of Justice**

Birol ERDEM	Undersecretary
Selami CANDEMİR	Acting Director General of Prisons and Detention Centres
Hakan UMUT	Investigation Judge, Department of Foreign Affairs
Yasin AKDENİZ	Judge Captain, Branch Director

**Ministry of Health**

Agah KAFKAS	Deputy Minister of Health
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**Ministry of National Defence**

Akif VURUCU	Brigadier General, Deputy Undersecretary for Military Justice
Mehmet Emin TEKPİNAR	Judge Colonel, Branch Director

**Grand National Assembly of Turkey**

Naci BOSTANCI

Acting Chairperson of the Human Rights Commission

**Office of the Ombudsman**

Nihat ÖMEROĞLU

Chief Ombudsman

**B. Non-governmental organisations**

Human Rights Association

Human Rights Foundation of Turkey

Union of Turkish Bar Associations