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**Preliminary observations made by the delegation
of the European Committee for the Prevention
of Torture and Inhuman or Degrading Treatment
or Punishment (CPT) which visited Turkey**

from 2 to 14 September 2001

and Response of the Turkish authorities

The Turkish authorities have authorised the publication of these preliminary observations and of their response.

Strasbourg, 19 March 2002

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**I. Preliminary observations made on 14 September 2001
by Ms Silvia CASALE (Head of delegation)
on behalf of the CPT's delegation**

Ladies and Gentlemen,

At the outset, I must express the CPT's horror at the appalling acts of terrorism which have occurred this week. As the result of a senseless bomb attack in Taksim Square in Istanbul on Monday, two police officers and a foreign tourist were killed, in addition to the perpetrator of the attack, and many other persons were injured. Please convey to the families of the victims the deeply-felt sympathy of the Committee. On Tuesday, thousands of people were no doubt killed or injured as a result of the unprecedented suicide plane attacks in the United States. Such brutal and depraved acts can only inspire revulsion.

Let me reiterate once again that the CPT abhors terrorism. Terrorist activities must meet with a strong response from State authorities. Further, States facing this destructive phenomenon are entitled to the support of others.

However, the response to terrorism must never be allowed to degenerate into acts of torture and ill treatment. This would be to sink to the level of the terrorist and could only undermine the basic values which are the foundation of our democratic societies.

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As is our custom, I shall present the delegation's first impressions of the visit. Of course, the visit report to be forwarded to you in due course will be far more detailed and may well address additional subjects. I shall proceed by type of institution, beginning with the law enforcement agencies.

1. Law enforcement agencies

Ill-treatment

The information gathered by the delegation has tended to confirm the gradual improvement observed by the CPT in the Istanbul area in July 2000, as regards the treatment of persons in police custody. In particular, resort to methods such as suspension by the arms and the application of electric shocks would appear to be far less frequent than in the past. The general impression gained from discussions with law enforcement officials, with persons who were or had recently been in police custody and with forensic doctors, was that a page was in the process of being turned. This is a welcome development.

However, there are still credible allegations of resort to methods of ill-treatment such as prolonged standing and sleep deprivation, in particular in Headquarters' departments. Further, the delegation received a number of allegations of the infliction of physical ill-treatment, including on occasion of falaka, in district and local police stations in Istanbul.

A number of allegations of physical ill-treatment were received in Elâziğ; however, several persons with past experience of being in custody stated that they had been treated far worse on previous occasions. Serious allegations were received in the Şanlıurfa and Van areas, where resort to methods such as electric shocks and, on occasion, suspension by the arms apparently still occurs. In a few cases, medical evidence consistent with the allegations was gathered by the delegation.

The delegation trusts that the Turkish authorities will continue their efforts to stamp out all forms of ill-treatment by law enforcement officials throughout the country.

In several establishments in the eastern part of the country, the delegation discovered sinister interrogation facilities of the kind criticised by the CPT in the past. This was the case, in particular, in the Anti-Terror Departments of the Police Headquarters in Ağrı, Elâziğ, Erzurum, and Van. **In application of Article 8 (5) of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the delegation calls upon the Turkish authorities to substantially modify the above-mentioned facilities or to withdraw them from service. Such steps should also be taken as regards any similar interrogation facilities elsewhere in Turkey. The CPT would like to receive within three months an account of the action taken in response to this immediate observation.**

Safeguards

The delegation was pleased to note that persons in police custody were for the most part being provided with an information form setting out their rights. However, the situation as regards the actual exercise of those rights appeared to be uneven. For example, although access to a lawyer appeared to be satisfactory in some establishments, this was not the case in others. In particular, the practice of delaying access to a lawyer until the taking of a formal statement appeared to persist in certain establishments. Further, the specific provisions concerning access to a lawyer for juveniles were not adhered to in many cases. As you know, it also remains a serious source of concern to the CPT that persons detained on suspicion of collective offences falling under the jurisdiction of the State Security Courts are still not entitled to access to a lawyer during the first four days of their custody.

The application of the rules concerning the medical examination of persons in custody also appeared to be uneven. Although in some areas the rules were applied in a satisfactory manner, elsewhere the issue of the presence of law enforcement officials during examinations clearly remained a problem (e.g. in certain State hospitals in Istanbul and Van).

I must also inform you that persons whose period of custody it is proposed to extend beyond four days are still not being brought before the judge who must decide on such an extension. The provisions on this subject in the Minister of the Interior's Circular of 24 July 2001 are being ignored, and certain interlocutors made it clear that judges and prosecutors do not feel themselves bound by those provisions. Another legal solution to this problem should be found.

2. Aliens

During the visit, the delegation has paid particular attention to the situation of persons detained under aliens legislation. Two matters should be highlighted today.

Firstly, the delegation gathered clear evidence from official sources of the deportation of such persons to neighbouring countries through "rural areas", that is to say not via recognised border crossings. It is indisputable that this was the fate of some 200 persons of African origin who were deported to Greece in mid-July of this year, and the delegation has reason to believe that the same method was applied to some 420 persons deported to Iran at approximately the same time. The delegation does not contest a State's right to deport foreign nationals who contravene aliens legislation, provided that international obligations such as those related to asylum and non-refoulement are respected. However, deportations should be carried out at official border crossing points. The delegation is deeply concerned by the practice of forcing persons to enter neighbouring countries illegally, across rivers and mountainous areas; such a practice is not acceptable from a legal standpoint and will often be extremely hazardous for the persons concerned, even placing their lives at risk.

Secondly, the conditions of detention of persons held under aliens legislation were frequently found to be inadequate. This was the case in the detention facility of the Aliens Department at Istanbul Police Headquarters, a facility already criticised by the CPT in the past. Conditions also left a lot to be desired in the holding facilities of the Aliens Department at Van Police Headquarters. The delegation was informed in both of the above-mentioned departments that plans were afoot to provide better facilities. **In application of Article 8 (5) of the Convention, the delegation calls upon the Turkish authorities to attach a high priority to the implementation of those plans. It would like to receive within three months an account of the action taken in response to this immediate observation.**

I should also inform you that the detention of persons under aliens legislation was not properly recorded in Ağrı, Elâziğ and Van. This state of affairs should be remedied without delay.

3. Prisons

The delegation encountered delays in gaining access to the Prison and Detention House in Bayrampaşa (Istanbul) and to Sivrice District Prison. These delays were apparently due to a misconception on the part of the local prosecutors that CPT delegations were obliged to give advance notice of visits. As you know, it is common practice for a visiting delegation to notify a prison establishment in advance of its arrival. However, this is not a legal requirement; I trust that this will be made clear to all prosecutors concerned.

F-type prisons

The delegation reviewed the situation in the Sincan and Tekirdağ F-type Prisons as regards communal activity programmes for prisoners, in terms of both the activities on offer and the number of prisoners engaging together in those activities. As you know, this is an issue of the greatest importance to the CPT.

The continuing unwillingness to participate in communal activities displayed by prisoners held under the Law to Fight Terrorism is obviously not facilitating the authorities' task. Nevertheless, the delegation was rather disappointed by what it found. In particular, in neither establishment were the libraries open to access by prisoners (as distinct from the possibility to borrow books). Moreover, although some progress had been made in equipping the workshops in Tekirdağ, they were still not ready for use (in contrast, the delegation was pleased to note that those in Sincan were apparently ready for use).

In both establishments, the core communal activity on offer at the time of the visit remained access to the indoor gymnasium and, on occasion, the outdoor sports field. Further, it was still true that prisoners participated in these activities in very small groups, often consisting only of the inmates of a given three-person living unit; the provision of activities for prisoners who are already in contact with each other in the same living unit or in a shared yard scarcely constitutes communal activities. Moreover, the actual time spent by an individual prisoner on communal activities could be as little as a couple of hours per week.

The delegation must stress once again the need for a proactive, enterprising approach to communal activities in F-type prisons; the credibility of the whole F-type prison project hangs upon this. The workshops in all F-type prisons should be made ready for use without further delay, and all other possibilities for communal activities pursued vigorously. Further, the groups of prisoners engaging in communal activities should be enlarged and the time spent participating in such activities increased. **In this context, and in application of Article 8 (5) of the Convention, the delegation proposes that immediate steps be taken to introduce regular association periods for prisoners in F-Type prisons; these association periods could be organised in the library and, perhaps, the areas for open visits. As a first step, each period could involve nine prisoners for a session of at least one and a half hours. The delegation would like to receive an account of the action taken in response to this immediate observation by 17 October 2001, in conjunction with the reply to the report on the December 2000/January 2001 and April/May 2001 ad hoc visits.**

On a more positive note, the delegation was pleased to observe the progress made concerning access to the telephone and open visits in F-type prisons.

Needless to say, the satisfactory operation of F-type prisons will depend in large part on the attitude and quality of their staff. In this connection, the delegation hopes that the staff who have been specially selected and trained to work in such establishments will shortly take up their posts.

Imralı Closed Prison

The delegation reviewed the treatment of Abdullah Öcalan and wishes to make a number of specific remarks in this regard. At the outset, it should be stated that his material conditions of detention remain on the whole very good. However, the delegation proposes that the radio provided to him offer a wider range of wavebands and, in particular, short wave. Further, it would be highly desirable to allow him to acquire a television set. These measures would help to counter the potentially negative effects of the exceptional circumstances of his custody. Like all other prisoners in Turkey, Abdullah Öcalan should also be allowed access to the telephone on a regular basis; given the remote location of Imralı Prison, it would be appropriate for him to have telephone access not only to his relatives but also to his lawyer. In the light of information gathered during the visit, the delegation must also stress that he should be allowed to correspond in confidence with the European Court of Human Rights and with his lawyer.

Further, the delegation would like to reiterate the proposal already made by the CPT that he be allowed to circulate freely between his cell and the room adjoining it during part of the day. The information gathered during the visit confirmed that this would in no way jeopardise security.

The delegation feels that the time has now come, after two years, to review the present medical monitoring procedures. In its view, the current twice-daily stereotyped checks performed by a constantly changing series of doctors should be replaced by regular, in the first instance fortnightly, medical consultations with the same doctor. This would allow the development and continuity of a meaningful doctor/patient relationship. This doctor should, inter alia, co-ordinate the intervention of specialists. Of course, the delegation assumes that there will always be on the island someone able to provide emergency care.

The delegation also wishes to underline that the present, exceptional, custodial arrangements for Abdullah Öcalan cannot be allowed to continue indefinitely. In line with the CPT's standard recommendations, he should at the earliest possible opportunity be integrated into a setting where contact with other prisoners and a wider range of activities are possible.

Other prisons

A few brief remarks should also be made concerning the prisons visited in Elâziğ, Şanlıurfa and Van. In each of the prisons, the medical cover was far from satisfactory (although the provision of dental care at Van was of a high standard). Above all, there was no stability in provision of a doctor. Of the many negative effects which this generated, particular mention should be made of the lack of systematic medical screening of new arrivals.

Further, conditions of detention in the units for juveniles and women were not suitable. These inmates were subject to regimes that were totally unadapted to their needs and, in particular, were not offered any activities worthy of the name. As regards more specifically the female sections, no special provision was made for mothers with babies and small children. As regards the units for juveniles, the delegation wishes to reiterate that it would be far preferable for all juvenile prisoners, whether on remand or convicted, to be held in detention centres specifically designed for persons of this age, offering regimes tailored to their needs and staffed by persons trained in dealing with the young.

Moreover, in the above-mentioned three prisons, prisoners held in cellular isolation/observation cells were for prolonged periods not offered any outdoor exercise. **In application of Article 8 (5) of the Convention, the delegation calls upon the Turkish authorities to remind once again the management of all prison establishments of the provisions according to which such prisoners are to be offered at least 1 ½ hours outdoor exercise per day. The delegation would like to be informed within three months of the action taken in response to this immediate observation.**

4. Reformatories

The delegation heard a number of credible and consistent allegations of ill-treatment of juveniles at Ankara Reformatory, linked to the disciplinary process. It requests that the Turkish authorities take all necessary steps to ensure that inmates of this establishment are under no circumstances physically ill-treated.

Notwithstanding the above remarks, I should stress that at both the Ankara and Elâziğ Reformatories, there was provision of positive activities for juveniles. The physical facilities at Ankara Reformatory were very good. And despite the rather dilapidated physical conditions at Elâziğ Reformatory, the regime there represents an example of good practice in custodial provision for this age group. Under the leadership of the director, the team of staff, including specialists such as the social worker, had achieved a proactive programme tailored to the special needs of the detainees which should serve as a model for other institutions holding juveniles.

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This concludes our preliminary remarks, which as always are made in a constructive spirit. We have noted the changes which you have made and hope that you will continue to build upon them. For our part, we look forward to continuing our work in good co-operation with the Turkish authorities in the future, as in the past. Thank you for your careful attention.

**II. Reply of the Turkish authorities
to the immediate observation set out on page 8
of the preliminary observations made by the CPT's delegation
(8 November 2001)**

Les autorités compétentes turques à la fois au niveau ministériel et au niveau des administrations pénitentiaires concernées attachent une grande importance, depuis la mise en place des prisons de type F, au point soulevé en page 8 des remarques préliminaires du CPT suite à la récente visite périodique en Turquie, en septembre 2001.

C'est précisément en raison de cette sensibilité et préoccupation constantes qu'elles regrettent devoir constater qu'il n'a pas été possible de marquer un progrès significatif dans ce domaine, en dépit des efforts et activités déployés à cet effet.

Les récents amendements législatifs concernant la loi sur la lutte contre le terrorisme, le juge de l'exécution des peines, la loi sur les établissements pénitentiaires et les maisons d'arrêt et les conseils de surveillance ont été largement distribués à toutes les personnes en détention provisoire et condamnées, assortis de la précision qu'elles pouvaient effectivement bénéficier des espaces communs.

Les autorités turques sont à même de savoir qu'un grand nombre de personnes en détention provisoire et condamnées désirent en fait pouvoir réellement bénéficier des nouvelles opportunités offertes. Cependant, la crainte d'être déclaré "traître" et d'être assassiné par l'organisation terroriste à laquelle les détenus appartiennent les empêchent d'accéder aux espaces communs. Ainsi, ils déclarent malgré tous les efforts déployés, qu'ils ne se rendront pas dans les espaces communs tant que la "direction" de ladite organisation située en Belgique ne leur donnera pas l'autorisation. Les autorités compétentes continuent à recueillir, par le biais de procès-verbaux, ces déclarations.

Toutefois, malgré cette situation décourageante, un nombre significatif de condamnés emprunte des livres aux bibliothèques de ce type de prisons.

Par ailleurs, un nombre réduit de condamnés bénéficie des espaces de libre entretien, des ateliers, des espaces réservés aux activités sportives et de la possibilité de téléphoner. Un tableau de statistiques sur ce point est joint aux présentes observations.

**III. Reply of the Turkish authorities to the preliminary observations
of the European Committee for the Prevention of Torture
concerning its periodic visit from 2 to 14 September 2001
(19 December 2001)**

On 14 September 2001, at the end of the periodic visit to Turkey made by the European Committee for the Prevention of Torture (CPT) from 2 to 14 September, an evaluation meeting was held with the participation of representatives of the competent Turkish authorities. Our replies to the assessment made by Silvia Casale, President of the CPT, in her statement at that meeting are set out below in the order of the issues addressed and the paragraphs of the statement.

I. Law enforcement facilities

III-treatment

Assessment made on page 6, paragraph 2 of the CPT's preliminary observations

Chapter 6, Article 24 of the Regulations on Apprehension, Police Custody and Taking of Statements, which came into force on publication in the Official Gazette of 1 October 1998, provides that "No more than five persons may be held simultaneously in a holding cell, except in case of necessity. Holding cells shall contain a sufficient number of solid, fixed seats to enable persons in custody to sit and lie down. In the light of seasonal requirements and of material conditions in the custody facility, persons held overnight shall be furnished with a sufficient number of blankets and mattresses".

These provisions of the regulations are complied with.

Statements from accused persons or suspects held in custody are taken in rooms set aside for the purpose, with the accused or suspect sitting down.

Improvements to 2,296 of 2,871 police holding cells throughout the country have been completed in line with the above-mentioned provisions of the regulations. Improvements to 575 holding cells are being carried out at speed, to the extent permitted by budgetary resources.

In accordance with the Circular of the Prime Minister's Office No.1999/39 of 25 June 1999 entitled "Respect for Human Rights", and with a view to the faultless application of the Regulations on Apprehension, Police Custody and Taking of Statements, all senior officials, starting with provincial and district governors and public prosecutors, conduct frequent checks, both announced and unannounced. Whenever a deficiency is found with regard to the standards of holding cells and interview rooms, works are carried out to remedy it to the extent permitted by budgetary resources.

Allegations of ill-treatment concerning police facilities in Ağrı, Şanlıurfa, Van, Elazığ and Istanbul

It has been established that on the date when the CPT delegation visited Ağrı Police Headquarters, no one was in custody, nor was anyone likely to allege ill-treatment interviewed.

District police units and police stations in Istanbul are subjected to frequent checks, either announced or unannounced, by public prosecutors and by all senior officials, starting with the deputy provincial governors. No instances of falaka, prolonged standing, sleep deprivation or physical ill-treatment have been found in these police facilities.

Between 1995 and 2000 Elazığ Police Department took action against 61 employees for ill-treatment and assault. In 2001 no action was taken against any officials for those offences.

Allegations that the practices of electric shocks and suspension by the arms still occur in Şanlıurfa and Van police facilities

As regards Şanlıurfa, it has been ascertained that the medical evidence which the CPT delegation claims to have received, probably according to the statements of the inmates it interviewed in prison, has not been received by the Chief Public Prosecutor's Office, the Provincial Human Rights Commission or Şanlıurfa Police Headquarters. If a complaint is lodged in this connection, the statutory administrative and legal action will be taken against officials found to be at fault.

As regards Van, it has been ascertained that no suspects or accused persons were held in the custody facility of the Anti-Terror Department in Van Police Headquarters between 2 and 15 September 2001, the dates of the CPT delegation's visit.

It has been established that B.O. and A.B. (*), who were among the persons held in the Law and Order Department of Van Police Headquarters, were apprehended by the Theft Division of Van Police Headquarters for thefts committed on various occasions and were taken into custody after notification of the duty public prosecutor. B.O. was brought before the authorities and arrested. The apprehension, detention and statement taking procedures were conducted in accordance with the Regulations on Apprehension, Police Custody and Taking of Statements and the apprehended persons' state of health was certified by medical certificates on admission and on departure. The relevant documents are appended.

(*) Having regard to Article 11, paragraph 3, of the Convention, only the initials of these persons are given.

Unsuitable interrogation facilities said to have been discovered in the Anti-Terror Departments of the police headquarters in Ağrı, Elazığ, Erzurum and Van

The holding cells used by the Anti-Terror Department in Elazığ are in sufficient number and are all up to standard. They contain electric water heaters and lighting and ventilation facilities for the use of persons held in custody.

Erzurum Police Headquarters has four holding cells, two of them measuring 7m², one 12.76m² and one 8.26m². They are 2.53m high. The interrogation room measures 20.68m² and is 2.50m high. Its ceiling and walls are coated with black vinyl and the floor is covered with thin wall-to-wall carpeting. The interrogation room contains two projectors, both of them out of order, one normal fluorescent light and one 1,000-watt bulb. There is also a monitoring room equipped with a video camera for monitoring of interrogations and for identification purposes.

The interrogation room used in Ağrı Police Headquarters has lino flooring. The walls are coated with black vinyl. It has no ventilator; for ventilation purposes, there is a window fronted by iron bars with a rail system to open it. The chairs on which the interrogating officer and the interrogated person sit are not fixed to the floor. The room contains a telephone to enable persons outside the room to communicate questions they wish to have asked to the interrogating officer and a video camera system for monitoring and if necessary recording the interrogation.

Holding cells

To ensure the full application of the Regulations on Apprehension, Police Custody and Taking of Statements in connection with persons apprehended and taken into custody, the staff of the Ministry of the Interior are receiving training on the subject of the regulations. To ensure the fullest possible application of the regulations and of other laws, regulations and circulars, these are included in in-service training programmes so that staff are made aware of them. Frequent checks are carried out to ascertain whether or not procedures are being carried out in accordance with these texts. The inspections conducted to date have yielded satisfactory results in particular with regard to the application of the Regulations on Apprehension, Police Custody and Taking of Statements.

Persons in custody are given a form informing them of their rights and the points set out on the form are applied in practice. Persons in custody are granted access to a lawyer not only from the point of view of the investigation, but also from that of legal assistance.

Medical examination of persons in custody

Procedures comply with the provisions of the last paragraph of Article 10 of the “Regulations on Apprehension, Police Custody and Taking of Statements”, entitled “Health checks”, to the effect that “where this is not detrimental to the soundness of the investigation and the security of the doctor, suspect or accused, the doctor and the person being examined shall be left alone together”.

Article 4 of Circular No.1829 issued by the Ministry of the Interior on 24 July 2001 states that the medical certificates to be provided in order to determine the state of health of persons taken into custody must be issued in accordance with the provisions of the Regulations on Apprehension, Police Custody and Taking of Statements. It adds that as the term “soundness of the investigation” in Article 10 of the regulations gives very broad discretionary powers, the principle that the doctor and the person examined are left alone together should be departed from only in cases of absolute necessity from the point of view of the doctor or the suspect.

The Ministry of the Interior has approved the proposal for amending the last paragraph of Article 10 of the Regulations on Apprehension, Police Custody and Taking of Statements.

Custody periods

The Regulations on Apprehension, Police Custody and Taking of Statements contain provisions relating to custody periods, the extension of custody periods and the bringing of suspects before the judicial authorities. The procedure followed is that set out in these provisions.

Article 19, paragraph 5 of the Constitution has been amended as follows by Act No.4709 of 3 October 2001 Amending certain Provisions of the Turkish Constitution: “Persons arrested or detained shall be brought before a court within 48 hours, or in the case of collective offences within four days, excluding the time required to convey them to the court nearest to their place of detention”. It is believed that this problem will be solved by the amendments to be made to the relevant laws, starting with the Code of Criminal Procedure, in parallel to the amendment made to the Constitution.

II. Aliens

Deportation and refusal of entry

The deportation of foreigners through areas without border crossings takes the form of refusing entry to persons who attempt to enter the country illegally or sending them in the direction from which they came in order to prevent them from reaching areas further inside the country.

In cases where foreigners entering the country cannot prove that they have entered legally, the manner in which they entered the country is determined on the basis of their statements. As a rule, it is impossible for most of these persons to obtain travel documents from the delegations of the countries of which they are citizens. This can give rise to undesirable situations from the point of view of public order, public health and general security.

When such returns take place, care is taken to establish co-ordination with the authorities of the relevant country.

On the basis of Circular No.276908 of 2 October 2001 and Consolidated Circulars No.158, foreigners illegally entering our country are released after completion of the judicial procedures concerning them; administrative procedures are then carried out and they are deported as follows: Iraqi nationals are deported via Habur Kara border crossing in Silopi district, Şırnak province; Iranian nationals are deported via the Özalp Kapıköy railway border crossing; and nationals of third countries who are found to have entered the country illegally across the borders of Van province and do not request asylum are deported by suitable means of transport after the delegations in Turkey of the countries of which they are nationals have been contacted.

Conditions of detention in Aliens Departments

As part of the works started on the Aliens Department detention facility at Istanbul Police Headquarters, two rooms and four partitioned holding cells belonging to the Scene-of-the-Incident Investigation and Security Departments have been assigned to the Aliens Department; at the same time as this enlargement of the available area, refurbishment has started with a view to raising the standards of the holding cells.

Foreign nationals apprehended by law enforcement officials throughout Van province are released at the end of the judicial process and handed over to Van Police Headquarters for the conduct of administrative procedures. Van Police Headquarters does not have a centre or detention facility to accommodate these foreigners. As a result, pending their transfer, they are temporarily handed over to police stations and accommodated there. Work is in progress on setting up an "Aliens Admission and Return Centre" in Van province.

Registration of persons held under aliens legislation in Ağrı, Elazığ and Van

Foreigners in respect of whom procedures are being conducted by Elazığ Police Headquarters are held in police station detention facilities because the Passports and Aliens Department has no holding cells. The formalities concerning detention, recording in the custody register and completion of the custody forms are conducted by the police stations for each person taken into custody, while the procedures concerning deportation and appearance before the courts are dealt with by the Passports Department.

It has been ascertained that deportation procedures regarding foreigners illegally entering the country are carried out by Ağrı Police Headquarters in accordance with Ministry of the Interior Circular No.276908 of 2 December 2000, that foreign nationals apprehended in an illegal situation by the security forces are held in police stations in Ağrı province pending deportation, and that they are not recorded in the custody registers because they cannot be considered to be in custody as provided for by the Regulations on Apprehension, Police Custody and Taking of statements.

Foreigners released as a result of judicial procedures after being brought before a court by Van Police Headquarters are kept under guard pending their transfer. As they are not in custody, they are not recorded in the custody register, but on computer.

Work has started on setting up large new modern centres to accommodate foreigners illegally entering Turkey pending their deportation from the country.

The facilities in which foreigners are held pending completion of their deportation procedures must not be regarded as straightforward custody facilities. The current holding procedures are carried out under Section 23 of Act No.5683 on Aliens' Residence and Travel in Turkey. This section provides that "those whom it has been decided to deport, but who cannot leave Turkey because they are unable to obtain passports or for other reasons, shall reside in the accommodation indicated by the Ministry of the Interior". Consequently, as the foreigners in question are held as guests in police station facilities pending deportation, they are not assessed under the concepts of guarding and detention referred to in the Regulations on Apprehension, Police Custody and Taking of Statements, and do not therefore have to be recorded in the custody registers.

Our country does not have return centres designed to accommodate foreigners pending deportation. However, steps have been taken, and international cooperation initiated, with a view to both establishing the legal infrastructure and carrying out the technical work on the setting up of these facilities.

III. Prisons

We learned with regret of the difficulties encountered by the CPT delegation in gaining access to Bayrampaşa and Sivrice closed prisons. The matter has been brought to the attention of the governors of the prisons concerned.

F-type prisons

The F-type prisons brought into service in Turkey are high-security prisons built in accordance with Council of Europe and United Nations minimum prison standards. The libraries, prison shops, barbers'/hairdressers' shops, indoor gymnasias, outdoor sports grounds, workshops in 8 different occupational branches and telephones provided in these prisons are available to prisoners. These facilities are used by ordinary prisoners in the F-type prisons at specified times of the day and for reasonable periods. However, as a result of instructions and harassment from the terrorist organisations, the great majority of prisoners held for terrorist offences refuse to make use of these facilities, despite all the prison administration's efforts. Those who visit the communal facilities, for example the library, prefer to take out a book and return to their rooms. The terrorist organisations brand those of their members who use the communal facilities traitors and threaten to kill their families outside. In spite of this, a few members of terrorist organisations have broken off from their organisations and are making use of the communal facilities. A list on the subject is appended.

A leaflet has been distributed to all remand and sentenced prisoners in F-type prisons showing that they are free to use the communal facilities and giving detailed information on the prison reforms. A copy of the leaflet is also appended.

As the committee knows, F-type prisons are high-security prisons assigned to dangerous offenders. Special attention is paid to the security of inmates and staff in these prisons. The activity programmes in F-type prisons are carried out in accordance with Recommendation R(82)17 of the Committee of Ministers of the Council of Europe and with the principles set out in paragraphs 34, 35, 36, 37, 38 and 39 of its explanatory memorandum.

In determining the number of prisoners to take part in communal activities together, rather than a fixed number such as the nine persons recommended by the committee, it is preferable to form groups of prisoners of a size that will not jeopardise security, in the light of the considerations set out in paragraph 37 of the explanatory memorandum. These may be groups of nine persons, but if the prisoners in question carry a very high security risk, the number may be smaller where some prisoners are concerned, on the basis of paragraph 37 of the explanatory memorandum.

We believe that achieving more satisfactory results in F-type prisons depends on the quality of the staff. 200 staff members have completed their training in the Prison Staff Training Centre in Ankara and have taken up their duties in F-type prisons. 210 staff members employed in these prisons have started their training in the centre.

İmralı Closed Prison

Abdullah Öcalan, the inmate of İmralı Closed Prison, is an extremely dangerous international terrorist responsible for the widespread violence and terrorist acts that caused almost 30,000 deaths in our country between 1984 and 2000. He has the right to read daily newspapers and books, to write applications, to receive visitors, to see his lawyer, to benefit from health care and psycho-social welfare services, to take open-air exercise and to use a radio offering FM broadcasts, as well as the other basic rights conferred on prisoners by international rules, and he exercises these rights.

Neither the European Prison Rules nor the United Nations Minimum Standard Rules contain a requirement such as the provision of a television set to prisoner Öcalan. Nor does our domestic law contain any provisions requiring prisoners to be supplied with television sets. Article 8.2 (d) of the European Convention for the Prevention of Torture requires the committee to have regard to our national law. A further consideration to be borne in mind is the reaction of the general public and of other prisoners in the same situation if the prisoner who has caused such damage to the community were to be given a right not embodied in national or international standards. This is entirely a matter for the discretion of the prison administration. Prisoners of the same type in many west European countries are known not to be allowed television sets.

The prisoner is free to receive visits from his lawyers in the prison and to receive and impart information in confidence. He has made no request for telephone access to his lawyers or relatives.

The necessary instructions have been given to the relevant chief public prosecutor's office for the twice-daily medical checks on prisoner Öcalan to be reduced to one daily check.

The committee's recommendation that the prisoner be able to circulate freely between his room and the visiting area adjoining it has already been discussed in previous reports. However, we are not in favour of this recommendation for reasons relating both to the security of the prison and staff and to the prisoner's safety. The possibility of a fight taking place between the prisoner and prison staff in this area comes to mind. Prisoners are not allowed to circulate freely between their rooms and the visiting area in any prisons in the world. Visiting areas are used only for receiving visitors. This prisoner is free to take open-air exercise twice a day for reasonable periods in the yard provided for his use. He cannot be granted a luxury beyond that. It would amount to privileged treatment distinguishing him from other dangerous prisoners holding the same status.

We are doubtful about the committee's view that prisoner Öcalan cannot be held indefinitely in this prison. We believe that in view of his position and status, risks to his safety, the public's attitude towards him and other factors, it is necessary, for his own good, for him to remain in the prison where he is currently held. At a time and in an atmosphere when his safety can be fully ensured and the above-mentioned other concerns dispelled, the possibility of transferring him to another high-security prison may be considered.

Other prisons

Elazığ E-type Closed Prison has one permanent doctor, one dentist and two permanent health officers. It also has several staff members with health care training. The dental care unit has been equipped and brought into service.

There are sometimes hitches in the activities in the women's and juveniles' dormitories as a result of budgetary restrictions. The juveniles' dormitories accommodate eight to ten persons and are up to standard in terms of ventilation and hygiene. As the juveniles in the prison are not sentenced prisoners, they remain there for short periods on remand, then are released by the courts or, if sentenced, transferred to reformatories. That is why a limited activity programme is in operation under the remand prison regime. Our legislation does not compel remand prisoners to take part in these activities.

Women in the prison are given training in "educational motherhood".

A new ministerial circular has been drawn up on the basis of Article 98 of the Prison Regulations, requiring new arrivals to be given systematic medical examinations and the medical reports to be kept in their files.

The great majority of prisoners in the observation unit are persons sent to Elazığ E-type Closed Prison for transfer to the mental hospital in Elazığ and persons returned to the prison from that hospital. They cannot be let out for open-air exercise with the other prisoners on account of their mental and psychological state. Refurbishment of the prison's observation units has therefore started. The prison administration has nevertheless been reminded that prisoners in the observation unit must be offered at least one and a half hours' open-air exercise per day and has been requested to find a solution to this situation.

Van E-type Closed Prison has a permanent doctor; however, it has been established that at the time of the committee's visit he was on annual leave and was being replaced for that period by a doctor from the Provincial Health Directorate.

The women's dormitory is up to international standards in terms of physical structure and has bathroom, toilet and ventilation facilities. Continuous liaison is maintained with the Social Services Directorate, and the necessary assistance is obtained, with regard to two children, aged 5 and 6, of prison inmates. These children have been admitted to the Directorate's day nursery.

The prison officers on duty in the juveniles' dormitory are chosen from among officers with children of their own, who like children and show them fatherly affection.

Prisoners in the observation unit spend a very short time there (one or two days) and are then transferred to their dormitories. They are offered more than one and a half hours' open-air exercise every day.

As there is no permanent prison doctor or dentist in Şanlıurfa E-type Closed Prison, a doctor appointed by the Provincial Health Directorate holds a surgery in the prison every weekday afternoon. Harran University Medical Faculty Hospital is used for further examination and treatment of prisoners. A permanent doctor has been appointed to the prison by the Ministry of Justice, but has not yet taken up his duties. Juveniles held on remand in the prison's juveniles dormitory are transferred to Elazığ reformatory when sentenced. Juveniles held on remand in the prison for short periods are offered sports activities.

In keeping with the culture of the area, women with children do not wish to send them to the day nurseries run by the Provincial Social Services Directorate, but prefer to keep their children with them. Steps are being taken with the Community Education Centres Directorate to open dressmaking and embroidery classes for the women. They are also offered literacy classes. The needs of children living with their mothers are met by the prison.

Prisoners held in the observation rooms are offered regular open-air exercise every day.

Reformatories

A new director has been appointed to Ankara Reformatory and has taken up his duties. At the first meeting with the institution's staff the new director dwelt with great care on the issue of alleged ill-treatment. To ensure that the allegation was meticulously examined, the director also held a meeting with the juveniles, but no evidence of the truth of the allegation made in the committee's report was found. However, both the staff and the juveniles in the institution have been informed once again that ill-treatment is prohibited in the reformatory and must be reported.

A new director has also taken up his duties at Elazığ Reformatory. As the committee knows, a project for modernising this reformatory has been submitted to the European Union. A delegation consisting of a head of division from the Ministry of Justice Prisons Directorate, an engineer and an architect has identified the modernisation works to be carried out in the institution and work has started on physically modernising the facilities.