



CPT/Inf (2004) 17

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

from 7 to 15 September 2003

The Turkish Government has authorised the publication of the report on the CPT's visit to Turkey from 7 to 15 September 2003 (see CPT/Inf (2004) 16) and of its response. The Government's response is set out in this document.

Strasbourg, 18 June 2004

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

from 7 to 15 September 2003

**RESPONSE BY THE TURKISH GOVERNMENT
TO THE RECOMMENDATIONS AND REQUESTS SET OUT IN THE REPORT
ON THE VISIT TO TURKEY CARRIED OUT BY THE EUROPEAN COMMITTEE
FOR THE PREVENTION OF TORTURE FROM 7 TO 15 SEPTEMBER 2003**

The Turkish Government's views on the points made in the report on the visit to Turkey carried out by the European Committee for the Prevention of Torture (CPT) from 7 to 15 September 2003 are set out below in the order adopted in the report.

Paragraph 9

Steps taken with regard to the allegations of ill-treatment made during interviews with persons taken into custody in various units visited by the CPT:

Intensive human rights training is continuing with a view to informing personnel about the changes made to legislation and regulations governing law enforcement agencies, particularly under the harmonisation legislation, in order to increase their awareness of the need to respect human rights. Accordingly, a human rights course for personnel working in anti-terror departments is also being held on four occasions in 2004. Statutory amendments concerning human rights and the practical impact of these amendments are also covered in the "human rights" classes taught as a separate subject in all the in-service training activities organised by the police force. In addition, at regional meetings held at intervals with the participation of the relevant heads of department from the region's provinces, "human rights practices" are discussed as a separate item together with ways and means of developing them.

As you know, if a suspect or accused person complains of ill-treatment during custody, a judicial and/or administrative investigation can be opened. However, rather than exercise this right, many suspects and accused persons raise allegations of this type with national or international mechanisms or civil society organisations.

Paragraphs 11-12

[Sleep deprivation, blindfolding etc]:

As also stressed in the report, prohibited interrogation procedures are specified in Article 135/a of the Code of Criminal Procedure and Article 23 of the Regulations on Apprehension, Custody and Taking of Statements. These regulations include the provision that persons in custody may not be subjected to physical or psychological intervention that undermines their will, such as ill-treatment preventing the exercise of free will, torture, the forcible administration of medication, the infliction of fatigue, deception, the use of physical force or violence or of certain devices.

Regulations also provide that statements obtained by prohibited methods may not be considered as evidence, even with the suspect's consent. These issues are addressed in training activities and close attention will be paid to them in future work.

The police force is pursuing its work on modernising detention facilities and interview rooms within the limits of available budgetary resources. As a part of this process, it is planned to introduce the electronic recording of statements. It is felt that once this project is implemented, it will on the whole be possible to prevent similar allegations and personnel will behave in a more controlled manner.

In addition, as part of the process of Turkey's application for membership of the European Union (EU), the "Project for the Development of Interview Methods and Interview Rooms" planned under the PHARE-Twinning programme set up through EU economic co-operation pursues the following aims:

- to train a total of 1,000 staff members assigned to statement-taking and interrogation duties in our provincial police headquarters and central units, 200 of them with a view to appointment as trainers,
- to standardise statement-taking and interrogation techniques and, through regional seminars, transmit information on the subject to personnel assigned to statement-taking duties,
- as regards criminal investigation procedures, to develop co-operation between law enforcement agencies, public prosecutors' offices and bar associations and to reorganise the services provided.

In addition, under the "Project for Strengthening Police Forensic Capacity" carried out by the Forensic Laboratories Department and designed to follow up the Twinning project detailed above, it is planned to develop the methods used in criminal investigation procedures, to strengthen forensic capacity with regard to the identification, collection, examination and assessment of evidence and to instil understanding and awareness of the concept of going "from the evidence to the suspect" into personnel at all levels, as a basic philosophy of investigation. Besides this, as part of the "Course on the Analysis of Written Statements" provided by the Canadian police in our country, a "Course on Forensic Interview Techniques" has been held for law and order police since early 2002 to develop statement-taking procedures and ensure that contemporary practices in this area are used in criminal investigation procedures. To date, the course has been held on eight occasions and been attended by 221 police officers.

Given that the use of modern criminal investigation techniques in investigative procedures is of great importance in terms of effective action against crime and criminals, a "Course on Criminal Analysis and Profiling" has been held on two occasions, in December and March 2003, in order that information on crime and criminals acquired by law and order department personnel assigned to duties in investigative procedures may be assessed in technical terms and be put to the best possible use in investigative procedures. A total of 52 police officers from the provincial police headquarters and central units took part in the courses, which it is planned to pursue in 2004.

Paragraph 16

[Custody extension]:

Under Article 128 of the Code of Criminal Procedure, persons taken into custody are brought before a district judge and questioned within 24 hours, excluding the time required to take them to the nearest district judge; at the apprehended person's request, a lawyer may also be present during questioning.

In the case of collective offences committed jointly by three or more persons, the public prosecutor may give a written order for the custody period to be extended up to a maximum of four days for reasons such as the difficulty of collecting evidence or the large number of offenders. However, in response to the public prosecutor's written order for extension of the custody period or to the apprehension procedure, the apprehended person or his lawyer or his legal representative or a blood relative of the first or second degree or his spouse may apply to the district judge for his immediate release. The district judge must complete his examination of the file within 24 hours.

Article 14 of the Regulations on Apprehension, Custody and Taking of Statements, which deals with this subject, provides that in the case of collective offences the public prosecutor may extend the custody period to no more than four days, by written order, for reasons such as the difficulty of gathering evidence or the large number of offenders; if offences falling under the jurisdiction of the State Security Courts are committed in a region where a state of emergency has been declared, the four-day period may be extended to seven days at the public prosecutor's request and by decision of a judge; the judge shall hear the apprehended or arrested person before taking a decision. This article was drawn up in parallel with Article 128 of the Code of Criminal Procedure and Section 16 of the Law on the Establishment and Trial Procedures of the State Security Courts.

Under Article 136 of the Code of Criminal Procedure and Article 19 of the Regulations on Apprehension, Custody and Taking of Statements, the apprehended person or accused may appoint one or more lawyers at every stage in the investigation and may not be prevented from exercising his right to be accompanied by a lawyer and receive legal assistance from him at every stage in the investigation (during interview, statement-taking and interrogation) including investigations conducted by law enforcement officials.

As the criteria required to enable the public prosecutor to extend the custody period in the case of collective offences are specified, there are no provisions preventing the detained person from being heard by the public prosecutor when the latter decides on the existence or otherwise of these criteria; likewise, under Article 136 of the Code of Criminal Procedure and Article 19 of the Regulations on Apprehension, Custody and Taking of Statements, there are no provisions preventing the lawyer from being present at this interview too. In addition, even if the public prosecutor has given his decision to extend the custody period without hearing the detained person, the latter and the other persons referred to in the third paragraph of Article 128 of the Code of Criminal Procedure may lodge an objection to this decision with the competent judge. The intention here is to make the public prosecutor's decision subject to a judge's supervision and thus to prevent arbitrary practices and ensure that individuals are not wronged. In particular, in cases where the custody period may be extended by decision of a judge, the legislator has introduced the requirement that the person whose custody period is to be extended be heard by the judge.

Paragraph 18

Compliance with the rule that relatives of detained persons must be informed, and principle that those who do not wish to exercise this right fill out the entry in the custody register and add their signature themselves:

Under the revised Regulations on Apprehension, Custody and Taking of Statements dated 3 January 2004, a section entitled “Signature of accused/suspect certifying that the information has been given” has been added to the section of the custody register on procedures concerning the accused/suspect. The person is notified that he has the right to inform his relatives, and he signs to that effect, while the official providing the information indicates the date and time at which the information was given, together with his first name and surname, and signs the register. There are no provisions concerning persons who do not wish to exercise this right.

Paragraph 22

[Access to a lawyer]:

Article 135 of the Code of Criminal Procedure and Article 19 of the Regulations on Apprehension, Custody and Taking of Statements provide that if the accused is not in a position to appoint a lawyer, he may receive legal assistance from a lawyer appointed by the bar association.

The fifth paragraph of the Form on Suspects’ and Accused Persons’ Rights and Section D. of the custody register on “Procedures Concerning the Accused” set out detained persons’ right to request a lawyer; the person is notified of this right and signs to that effect.

If the detained person does not wish to exercise this right, it is considered appropriate for him to fill out the relevant entry – Sub-section 7 “Signed statement by accused/suspect requesting a lawyer” of Section D. of the custody register on “Procedures concerning the accused” – in his own handwriting, stating “I do not want a lawyer”, and to add his signature.

However, various scientific studies point to a misconception that accepting legal assistance indicates that the apprehended suspect or accused accepts his/her guilt.

A table drawn up by the Ministry of the Interior, Directorate General of Security, showing the number of persons taken into custody for State Security Court offences who had interviews with lawyers in 2003 and up to March 2004 is reproduced in Appendix 1.

Paragraph 25

[Suspects’ Rights Form]:

Article 6, paragraph 5 of the Regulations on Apprehension, Custody and Taking of Statements provides that “during apprehension, irrespective of the nature of the offence, the person shall immediately be informed, in writing in all cases and orally if this is not immediately possible, of the reason for apprehension, the allegations against him and his right to remain silent and to have access to a lawyer”.

Paragraph 8 of the same article provides that suspects shall be given a completed and signed copy of the “Form on Suspects’ and Accused Persons’ Rights” indicating that they have been informed of their rights in writing and have understood them, and assigns law enforcement officials responsibility for this.

The regulations, including these forms, which have been electronically circulated, will be printed in handbook form and distributed to the personnel concerned.

The Suspects’ Rights Form has been translated into 11 languages and the translated texts are to be found in the units concerned. Detained persons are given a copy of the form. In addition, illiterate persons are orally informed of their rights and this is continuously monitored by line managers.

The amendments made to the Regulations on Apprehension, Custody and Taking of Statements on 3 January 2004 were immediately circulated to all units and the necessary instructions were given for their practical application. Furthermore, reprinting of the custody registers, incorporating the latest amendments, has been completed and distribution to the various units has begun.

Paragraph 27

Following Turkey’s ratification in 1995 of the United Nations Convention on the Rights of the Child, and in line with the amendments made to our legislation to enable the principles set out in the Convention to be implemented, Article 18 of the Regulations on Apprehension, Custody and Taking of Statements contains “Special provisions concerning minors”: apprehension and statement-taking powers are restricted and provision is made for minors to benefit from the assistance of a lawyer, even if they do not so request, for their parents or guardians to be able to choose a lawyer and for statements to be taken from under-age suspects on condition that their lawyer is present.

Section 19 of the Law on the Establishment, Duties and Trial Procedures of Juvenile Courts and Article 18 of the Regulations on Apprehension, Custody and Taking of Statements provide that in the case of offences committed by minors, the preliminary investigation shall be conducted by the public prosecutor in person or by assistants appointed by him. It is not considered possible for the juvenile police to complete procedures concerning minors and compile the preliminary investigation file without the public prosecutor’s knowledge. In addition, to remedy any problems and ensure a sensitive approach to the matter, four separate circulars have been issued on the responsibilities of the juvenile police, under the titles “The use of handcuffs”, “Protection of minors”, “Protection of the family” and “The Juvenile Police”. A public prosecutor must be present during all activities and procedures conducted as part of a preliminary investigation concerning minors, including the drawing up of location identification records. When these records and similar documents (placing the minor under an obligation) are drawn up, the minor’s lawyer must clearly be present because the minor makes statements concerning the act to which he is charged. These points are also borne in mind in practice.

Article 29

The last paragraph of Article 10 of the Regulations on Apprehension, Custody and Taking of Statements, published on 3 January 2004, provides as follows:

“The rule shall be that the doctor and the person examined remain alone and that the examination is conducted as part of the doctor/patient relationship. However, the doctor may, on the grounds of concern for his personal safety, request that the examination be conducted under the supervision of law enforcement officials. This request shall be documented and complied with”. Officials follow this practice carefully.

Paragraph 30

[Examination rooms]:

On 15.4.2004 the Ministry of Health issued the circular set out in Appendix 2, in compliance with the above recommendation made in paragraph 30 of report CPT(2004)21. The circular requests that in order to enable remand and sentenced prisoners applying for forensic medical examinations to be examined in secure conditions, the law enforcement agencies instal secure examination rooms designed to facilitate their work, that iron bars be affixed to the windows of the examination rooms and that circular 15168 issued by the Directorate of Basic Health Services on 10.10.2003 be complied with.

Paragraph 33

[Medical reports]:

While Article 10 of the Regulations on Apprehension, Custody and Taking of Statements provides that one copy each of the medical report drawn up in four copies after medical examination of apprehended and detained persons remains with the custody unit and in the investigation file, no rules have been established with regard to the transportation of these copies to the authorities in question. However, in order to avoid any problems in practice, it is considered advisable for the medical reports to be given to the law enforcement officials in a sealed envelope.

Paragraph 35

The requirement that persons held in custody for more than one night be given a mattress as well as a blanket:

Beds, blankets and mattresses are provided in detention facilities at all times, regardless of the number of days for which persons are held in custody. This point was confirmed by CPT President Silvia Casale at the meeting held on 29 March during the CPT delegation’s visit to our country from 16 to 29 March 2004.

Paragraph 38

[Training]:

The prevention of torture and ill-treatment is included in all training activities in schools and law enforcement units, and all personnel are given awareness training in seminars, courses and similar in-service training activities. Orders providing guidance and including warnings on the subject have also been issued.

As regards crime control, the basic principle is that of going from the evidence to the offender. When an incident occurs, the scene-of-the-incident teams/units are therefore systematically assigned to the scene and they identify and collect the evidence with a view to resolving the incident.

When statements are taken, persons are reminded that they may exercise the right to silence, together with their other rights, and if they do not wish to give a statement, this is recorded in writing on the record of their statement.

Paragraph 40

[Supervision]:

Article 25 of the Regulations on Apprehension, Custody and Taking of Statements provides that “Chief public prosecutors or public prosecutors appointed by them shall, as part of their judicial duties, examine and investigate holding cells, interview rooms, the situation of persons taken into custody, the reasons for and duration of custody and all records and procedures relating to custody; they shall record their findings in the custody register”. Consequently, these places are continuously monitored both by all line managers and by public prosecutors, and the necessary steps are taken to remedy any shortcomings found. The recommendations made by the CPT after its visits are transmitted to law enforcement units with a request that they be complied with.

In keeping with the principles set out in the regulations, public prosecutors monitor material conditions of detention and custody procedures in the detention facilities of police/gendarmerie stations in their areas of responsibility, at unspecified intervals, with or without advance warning.

At the same time, groups of inspectors from the central Inspections Department and from the regional and provincial gendarmerie commands inspect all units to determine whether statutory amendments are complied with and whether custody procedures are carried out in a lawful manner. In particular, they check on the spot whether the rules governing custody records and access to a lawyer are complied with, whether detained persons’ rights are exercised and whether investigations are conducted in a lawful manner; they identify any shortcomings and take the necessary steps.

Paragraph 41

[Statistics and assessment]:

In 2003, 32 law enforcement officials were prosecuted on charges of torture, 4 were convicted and 6 were acquitted. In the first 4 months of 2004, 7 officials were prosecuted and 4 were acquitted; 89 officials remain on trial in cases pending from previous years.

In 2003, 58 officials were prosecuted on charges of ill-treatment, 10 were convicted, 10 were acquitted and in 2 cases the proceedings were postponed. In the first 4 months of 2004, 11 officials were prosecuted, 5 were convicted and one was acquitted; 290 officials remain on trial in cases pending from previous years.

The statistics on the subject prepared by the Ministry of the Interior, Directorate General of Security, are set out in Appendix 3.

The circular issued by the Ministry of the Interior, Directorate General of Security, on 20 April 2004, setting out the recommendations made by the CPT in its September 2003 report is reproduced in Appendix 4.

Appendix 1

**TABLE SHOWING THE SITUATION REGARDING ACCESS TO A LAWYER BY
PERSONS DETAINED FOR STATE SECURITY COURT OFFENCES
THROUGHOUT TURKEY IN 2003**

UNITS	NUMBER OF SUSPECTS WHOSE REQUEST FOR ACCESS TO A LAWYER WAS GRANTED	NUMBER OF SUSPECTS WHO DID NOT REQUEST ACCESS TO A LAWYER	NUMBER OF SUSPECTS DETAINED FOR STATE SECURITY COURT OFFENCES
ANTI-TERROR UNITS	1568	2930	4498
UNITS COMBATING SMUGGLING AND ORGANISED CRIME	900	1847	2747
<i>TOTAL NUMBER OF PERSONS</i>	2468	4777	7245

**TABLE SHOWING THE SITUATION REGARDING ACCESS TO A
LAWYER BY PERSONS DETAINED FOR STATE SECURITY COURT OFFENCES
THROUGHOUT TURKEY IN 2003**

DATE	UNITS	NUMBER OF SUSPECTS WHOSE REQUEST FOR ACCESS TO A LAWYER WAS GRANTED	NUMBER OF SUSPECTS WHO DID NOT REQUEST ACCESS TO A LAWYER	NUMBER OF SUSPECTS DETAINED FOR STATE SECURITY COURT OFFENCES
JANUARY 03	Anti-terror	173	392	565
	Smuggling	127	256	383
	Total	300	648	948
FEBRUARY 03	Anti-terror	174	617	791
	Smuggling	48	171	219
	Total	222	788	1010
MARCH 03	Anti-terror	142	321	463
	Smuggling	70	204	274
	Total	212	525	737
APRIL 03	Anti-terror	114	251	365
	Smuggling	65	151	216
	Total	179	402	581
MAY 03	Anti-terror	125	198	323
	Smuggling	81	121	202
	Total	206	319	525
JUNE 03	Anti-terror	41	105	146
	Smuggling	86	179	265
	Total	127	284	411
JULY 03	Anti-terror	65	95	160
	Smuggling	45	57	102
	Total	110	152	262
AUGUST 03	Anti-terror	64	93	157
	Smuggling	72	113	185
	Total	136	206	342
SEPTEMBER 03	Anti-terror	112	134	246
	Smuggling	68	132	200
	Total	180	266	446
OCTOBER 03	Anti-terror	177	214	391
	Smuggling	74	106	180
	Total	251	320	571
NOVEMBER 03	Anti-terror	226	268	494
	Smuggling	74	189	263
	Total	300	457	757
DECEMBER 03	Anti-terror	155	242	397
	Smuggling	90	168	258
	Total	245	410	655
OVERALL TOTAL	ANTI-TERROR	1568	2930	4498
	SMUGGLING	900	1847	2747
	TOTAL	2468	4777	7245

**TABLE SHOWING THE SITUATION REGARDING ACCESS
TO A LAWYER BY PERSONS DETAINED FOR STATE SECURITY COURT OFFENCES
THROUGHOUT TURKEY FROM 01.01.2004 TO 31.03.2004**

UNITS	NUMBER OF SUSPECTS WHOSE REQUEST FOR ACCESS TO A LAWYER WAS GRANTED	NUMBER OF SUSPECTS WHO DID NOT REQUEST ACCESS TO A LAWYER	NUMBER OF SUSPECTS DETAINED FOR STATE SECURITY COURT OFFENCES
ANTI-TERROR UNITS	504	452	956
UNITS COMBATING SMUGGLING AND ORGANISED CRIME	351	507	858
<i>TOTAL NUMBER OF PERSONS</i>	855	959	<u>1814</u>

**TABLE SHOWING THE SITUATION REGARDING ACCESS TO A
LAWYER BY PERSONS DETAINED FOR STATE SECURITY COURT
OFFENCES THROUGHOUT TURKEY IN 2004**

DATE	UNITS	NUMBER OF SUSPECTS WHOSE REQUEST FOR ACCESS TO A LAWYER WAS GRANTED	NUMBER OF SUSPECTS WHO DID NOT REQUEST ACCESS TO A LAWYER	NUMBER OF SUSPECTS DETAINED FOR STATE SECURITY COURT OFFENCES
JANUARY 04	Anti-terror	155	182	337
	Smuggling	109	197	306
	Total	264	379	643
FEBRUARY 04	Anti-terror	172	120	292
	Smuggling	83	157	240
	Total	255	277	532
MARCH 04	Anti-terror	177	150	327
	Smuggling	159	153	312
	Total	336	303	639
APRIL 04	Anti-terror			
	Smuggling			
	Total	0	0	0
MAY 04	Anti-terror			
	Smuggling			
	Total	0	0	0
JUNE 04	Anti-terror			
	Smuggling			
	Total	0	0	0
JULY 04	Anti-terror			
	Smuggling			
	Total	0	0	0
AUGUST 04	Anti-terror			
	Smuggling			
	Total	0	0	0
SEPTEMBER 04	Anti-terror			
	Smuggling			
	Total	0	0	0
OCTOBER 04	Anti-terror			
	Smuggling			
	Total	0	0	0
NOVEMBER 04	Anti-terror			
	Smuggling			
	Total	0	0	0
DECEMBER 04	Anti-terror			
	Smuggling			
	Total	0	0	0
OVERALL TOTAL	ANTI-TERROR	504	452	956
	SMUGGLING	351	507	858
	TOTAL	855	959	1814

**TABLE SHOWING THE SITUATION REGARDING ACCESS
TO A LAWYER BY PERSONS DETAINED FOR STATE SECURITY COURT OFFENCES
THROUGHOUT TURKEY IN JANUARY 2004**

UNITS	NUMBER OF SUSPECTS WHOSE REQUEST FOR ACCESS TO A LAWYER WAS GRANTED	NUMBER OF SUSPECTS WHO DID NOT REQUEST ACCESS TO A LAWYER	NUMBER OF SUSPECTS DETAINED FOR STATE SECURITY COURT OFFENCES
ANTI-TERROR UNITS	155	182	337
UNITS COMBATING SMUGGLING AND ORGANISED CRIME	109	197	306
TOTAL NUMBER OF PERSONS	264	379	<u>643</u>

**TABLE SHOWING THE SITUATION REGARDING ACCESS
TO A LAWYER BY PERSONS DETAINED FOR STATE SECURITY COURT OFFENCES
THROUGHOUT TURKEY IN FEBRUARY 2004**

UNITS	NUMBER OF SUSPECTS WHOSE REQUEST FOR ACCESS TO A LAWYER WAS GRANTED	NUMBER OF SUSPECTS WHO DID NOT REQUEST ACCESS TO A LAWYER	NUMBER OF SUSPECTS DETAINED FOR STATE SECURITY COURT OFFENCES
ANTI-TERROR UNITS	172	120	292
UNITS COMBATING SMUGGLING AND ORGANISED CRIME	83	157	240
TOTAL NUMBER OF PERSONS	255	277	<u>532</u>

**TABLE SHOWING THE SITUATION REGARDING ACCESS
TO A LAWYER BY PERSONS DETAINED FOR STATE SECURITY COURT OFFENCES
THROUGHOUT TURKEY IN MARCH 2004**

UNITS	NUMBER OF SUSPECTS WHOSE REQUEST FOR ACCESS TO A LAWYER WAS GRANTED	NUMBER OF SUSPECTS WHO DID NOT REQUEST ACCESS TO A LAWYER	NUMBER OF SUSPECTS DETAINED FOR STATE SECURITY COURT OFFENCES
ANTI-TERROR UNITS	177	150	327
UNITS COMBATING SMUGGLING AND ORGANISED CRIME	159	153	312
TOTAL NUMBER OF PERSONS	336	303	<u>639</u>

Appendix 2

558.11.1
September 2003 visit

CONFIDENTIAL

REPUBLIC OF TURKEY

MINISTRY OF HEALTH

Directorate General of Care Services

NO.: B100THG0100002-3120

SUBJECT: Report on CPT's September 2003 visit

15.04.04*6191

TO THE ... PROVINCIAL GOVERNOR'S OFFICE
(Provincial Health Directorate)

In its confidential report dated 7-15 September 2003 (CPT (2004)21), the European Committee for the Prevention of Torture (CPT) requests that the requisite importance should be assigned to the change introduced by the Ministry of Health in its circular of 10.10.2003 concerning the installation of suitable examination rooms designed to allay law enforcement officials' security concerns.

As required by the above-mentioned report, please ensure that secure examination rooms designed to facilitate law enforcement officials' work are provided in order to enable remand and sentenced prisoners applying for forensic medical examinations to be examined in secure conditions; please ensure that iron bars are affixed to the windows of the examination rooms and that the provisions of Circular No 15168 issued by the Directorate General of Basic Health Services on 10.10.2003 are complied with.

(signed)
Spec. Dr İsmail DEMİRTAŞ
pp the Minister
Director General

DISTRIBUTION/FOR ACTION:
81 Provincial Governors offices

APPENDIX 3

PERSONNEL IN RESPECT OF WHOM JUDICIAL PROCEEDINGS HAVE BEEN BROUGHT UNDER ARTICLE 245 OF THE TURKISH CRIMINAL CODE (ILL-TREATMENT) FOR OFFENCES COMMITTED BETWEEN 1 JANUARY 1995 AND 31 MARCH 2004			
	ANTI-TERROR PERS.	OTHER PERS.	TOTAL
DECISION TO DROP CHARGES	136	1630	1766
DECISION NOT TO PROSECUTE	207	1757	1964
TRIAL PENDING	79	947	1026
ACQUITTAL	288	1436	1724
CONVICTION	14	350	364
POSTPONEMENT UNDER LAW NO 4616	113	1094	1207
TOTAL NUMBER OF PERSONNEL SUBJECT TO PROCEEDINGS	837	7223	8060

PERSONNEL IN RESPECT OF WHOM JUDICIAL PROCEEDINGS HAVE BEEN BROUGHT UNDER ARTICLE 243 (TORTURE) OF THE TURKISH CRIMINAL CODE FOR OFFENCES COMMITTED BETWEEN 1 JANUARY 1995 AND 31 MARCH 2004			
	ANTI-TERROR PERS.	OTHER PERS.	TOTAL
DECISION TO DROP CHARGES	32	40	72
DECISION NOT TO PROSECUTE	109	367	476
TRIAL PENDING	74	168	242
ACQUITTAL	114	361	475
CONVICTION	26	58	84
POSTPONEMENT UNDER LAW NO 4616	1	16	17
TOTAL NUMBER OF PERSONNEL SUBJECT TO PROCEEDINGS	356	1010	1366

NOTE: AS NO INFORMATION HAS REACHED THE PERSONNEL DEPARTMENT CONCERNING OFFICIALS IN RESPECT OF WHOM PRELIMINARY INVESTIGATION IS UNDER WAY, THIS SECTION HAS BEEN INCLUDED IN THE SECTION "TRIAL PENDING".

APPENDIX 3 CONTD.

ADMINISTRATIVE PROCEEDINGS IN RESPECT OF PERSONNEL AGAINST WHOM JUDICIAL PROCEEDINGS HAVE BEEN BROUGHT UNDER ARTICLE 245 (ILL-TREATMENT) OF THE TURKISH CRIMINAL CODE FOR OFFENCES COMMITTED BETWEEN 1 JANUARY 1995 AND 31 MARCH 2004				ADMINISTRATIVE PROCEEDINGS IN RESPECT OF PERSONNEL AGAINST WHOM JUDICIAL PROCEEDINGS HAVE BEEN BROUGHT UNDER ARTICLE 243 (TORTURE) OF THE TURKISH CRIMINAL CODE FOR OFFENCES COMMITTED BETWEEN 1 JANUARY 1995 AND 31 MARCH 2004			
	ANTI-TERROR PERS.	OTHER PERS.	TOTAL		ANTI-TERROR PERS.	OTHER PERS.	TOTAL
NOT NECESSARY TO INITIATE PUNITIVE PROCEDURE	622	5403	6025	NOT NECESSARY TO INITIATE PUNITIVE PROCEDURE	188	747	935
WARNING		11	11	WARNING			
REPRIMAND		14	14	REPRIMAND		2	2
DEDUCTION FROM SALARY	5	34	39	DEDUCTION FROM SALARY		1	1
SHORT-TERM SUSPENSION	5	178	183	SHORT-TERM SUSPENSION		1	1
LONG-TERM SUSPENSION		69	69	LONG-TERM SUSPENSION		8	8
DISMISSAL FROM THE FORCE				DISMISSAL FROM THE FORCE		3	3
DISMISSAL FROM THE CIVIL SERVICE				DISMISSAL FROM THE CIVIL SERVICE			
TOTAL NUMBER OF PERSONNEL SUBJECT TO PROCEEDINGS	632	5709	6341	TOTAL NUMBER OF PERSONNEL SUBJECT TO PROCEEDINGS	188	762	950

CONSISTENT WITH OUR COMPUTER RECORDS
(SIGNED)
06.04.2004
HÜSEYİN BALTACI

APPENDIX 4

CONFIDENTIAL

REPUBLIC OF TURKEY
MINISTRY OF THE INTERIOR
Directorate General of Security

NO.: B.05.1.EGM.0.14.03.03/
189-1666-3370-5001

20/04/2004

SUBJECT: Shortcomings observed

RE: Circular No B.05.1.EGM.0.14.03.03./321-1722-3265/0100 OF 23.05.2002

As is known, Turkey has become a party to many international conventions, first and foremost the European Convention on Human Rights and the European Convention for the Prevention of Torture, and has undertaken to fulfil certain responsibilities under these conventions and to implement the recommendations of the bodies set up under them. To date, the **European Committee for the Prevention of Torture (CPT)** set up under the European Convention for the Prevention of Torture has made 23 visits to our country and observed the functioning of various police units.

As regards its two latest visits from 7 to 15 September 2003 and 16 to 29 March 2004, in particular, the committee has spoken of the positive developments that have followed the adoption of the EU harmonisation legislation, and these positive comments include frequent references to the police force. However, together with this positive approach, it has drawn attention to the need to take greater care with regard to the points listed below:

- To avoid attitudes and behaviour that may engender allegations of ill-treatment of detained persons,
- To take the necessary steps to prevent allegations of ill-treatment such as sleep deprivation, prolonged standing and threats, and in this connection to take care with regard to other prohibited methods of taking statements as set out in Article 135/a of the Code of Criminal Procedure and Article 23 of the Regulations on Apprehension, Custody and Taking of Statements,
- Although it is known that this is not practised, to take care not to blindfold detained persons while taking their statements, in order that such allegations may be dismissed immediately,
- To fill in the custody register meticulously and at the appropriate time,

- Where a suspect does not wish his relatives to be informed of his detention, to ensure that he himself fills out, in his own handwriting, the section of the custody register entitled “Signature of accused/suspect certifying that the information has been given”, and if he refuses to fill it out, to ensure that this fact is recorded in writing,
- To remind detained persons of their rights concerning access to a lawyer, as set out in the “Form on Suspects’ and Accused Persons’ Rights”, and of the fact that they may exercise this right free of charge,
- To ensure that the suspect himself fills out, in his own handwriting, the section of the custody register indicating whether or not he requests a lawyer, and if he refrains from signing or refuses to fill it out, to record this fact in writing,
- To ensure that copies of the “Form on Suspects’ and Accused Persons’ Rights” are available in all units in the other languages into which they have been translated as well as in Turkish,
- To comply with the provision of Article 10 of the Regulations on Apprehension, Custody and Taking of Statements to the effect that “*the rule shall be that the doctor and the person examined remain alone and that the examination is conducted as part of the doctor/patient relationship*”,
- To speed up work on bringing detention facilities and interview rooms up to standard, as far as possible, and take care to ensure that mattresses and blankets are provided in all detention facilities,
- To remove any spotlights and projectors from interview rooms,
- To emphasise inspections by the provincial directors of security in person and their assistants regarding the points listed above and similar practices,
- To inform personnel of these matters through training activities,
- As regards juvenile suspects, to comply strictly with the provisions of Article 18 of the Regulations on Apprehension, Custody and Taking of Statements, and in particular to ensure that the following points are known:
 - Minors who are under the age of 11 at the time of the offence and deaf/mute minors who are under the age of 15 at the time of the offence may not be apprehended for any offence; however, if the offence carries a statutory sentence of more than one year’s imprisonment, they may be apprehended to establish their identity and the nature of the offence. As soon as their identity has been established, such minors shall be released. The public prosecutor’s office shall immediately be informed of the minor’s identity and offence. Minors shall not on any account be used in establishing the nature of an offence.

- Minors between the ages of 11 and 18 may be apprehended for an offence. Their relatives and lawyers shall be informed of their apprehension and they shall immediately be brought before the public prosecutor. The preliminary investigation shall be conducted by the chief public prosecutor in person or a public prosecutor appointed by him.

I request that together with the points listed in the previous circular (referred to at the start of this circular), the necessary care be taken with regard to the above matters, which are frequently raised as part of the process of joining the European Union and are thought likely to be raised in future. Please ensure that all personnel of the relevant departments in particular (Law and Order, Anti-Terror, Smuggling and Organised Crime, Foreigners, Security), right down to the lowest ranks, are notified of these matters and that there is no cause for shortcomings to occur.

(signed)

Ramazan ER
1st Class Director of Security
pp the Director General of Security
Deputy Director General of Security

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