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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 21 to 28 June 2012

The Turkish Government has requested the publication of this response. The report of the CPT on its June 2012 visit to Turkey is set out in document CPT/Inf (2013) 27.

Strasbourg, 10 October 2013

**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 21 TO 28 JUNE 2012**

INTRODUCTION

1. The views 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 21 to 28 June 2012 are set out below in the order adopted in the report. Extracts from the CPT's report are reproduced in bold typeface with paragraph references.

2. The Turkish Government has given the recommendations of the report serious consideration and has been taking necessary measures to implement them, to the extent possible.

CO-OPERATION BETWEEN THE CPT AND THE TURKISH AUTHORITIES

3. The Turkish Government is pleased to learn that the CPT received very good co-operation at all levels during its visit.

Preliminary remarks

recommendations

the Turkish authorities to take the necessary steps to ensure that the principles of the Child Protection Law referred to in paragraph 8 of the report are effectively implemented and that existing alternatives to the prosecution and detention on remand of juveniles provided for by law are fully exploited in practice (paragraph 10).

Following an amendment made by the Law no. 6352, the judicial control measures laid down in Article 109 of the Code of Criminal Procedure no. 5271 have been redefined, introducing additional measures to the existing ones in the Law as alternatives to detention on remand such as restriction on leaving the domicile or a certain residential region or on travelling to certain places or regions. The upper limit of penalty specified in the Law has been abolished, which enables that these new measures be applied in respect of all types of offences.

Moreover, within the framework of the "Justice for Children" project, which has been prepared with technical support from UNICEF and financial support from the European Union, and launched on 3 January 2012 to be implemented from 2012 to 2014, 850 judges

and public prosecutors who will be in charge of the implementation of the juvenile justice system during the 2013-2014 period are due to receive training to ensure effective implementation of the Child Protection Law.

requests for information

updated information on the construction of new penitentiary establishments for juveniles in different parts of the country (paragraph 9).

With a view to increasing the number of penitentiary establishments for juveniles, within the framework of the 2012-2017 financial investment program, in 2013 İstanbul Ümraniye Juveniles Reformatory, in 2014 İzmir Juveniles Reformatory, Diyarbakır, Hatay and Tarsus Closed Juveniles Prisons, in 2015 Kayseri and Konya Closed Juveniles Prisons, in 2016 Çorlu Closed Juveniles Prison and in 2017 Elazığ Reformatory will be put in service.

Moreover, İzmir Closed Juveniles Prison and Ankara Juveniles Reformatory have been opened in April and August 2012, respectively.

III-treatment

Allegations of ill-treatment and inter-prisoner violence at Pozantı Prison

requests for information

the outcome of the criminal proceedings against 33 juveniles previously held at Pozantı Prison and six members of the prison's staff and, where appropriate, the sanctions subsequently imposed (at the criminal and/or disciplinary level) (paragraph 13);

As regards the incidents allegedly occurred at Pozantı Prison, judicial and administrative investigations in respect of the prison's staff and judicial investigations in respect of juvenile prisoners have been conducted by the Pozantı Chief Public Prosecutor.

Within the context of the judicial investigations carried out in respect of the prison staff, criminal proceedings have been initiated in Pozantı Magistrates' Court against 14 members of the staff, charging them with malicious injury through misuse of authority, malicious injury with a weapon and insult. The proceedings are still pending.

Within the context of administrative investigations, 5 investigations were made by the Pozantı Chief Public Prosecutor in respect of the prison staff. The first investigation resulted in censure punishment for 11, and the second in censure punishment for 6 members of the staff. The remaining investigations did not result in disciplinary penalties.

However, as the appeal process against the censure punishments given in respect of the staff concerned continues, the decisions are not yet final.

Within the context of the 3 separate judicial investigations in respect of the juveniles concerned, criminal proceedings have been launched against:

- 17 juveniles in Pozantı Criminal Court of First Instance, charging them with tormenting children, insult and threatening with a weapon,
- 18 juveniles in Pozantı Criminal Court of First Instance, charging them with tormenting children, sexual abuse of children and malicious injury,
- 28 juveniles in Pozantı Criminal Court of First Instance and Pozantı Magistrates' Court, charging them with tormenting children, simple sexual abuse of children and malicious injury.

All cases are pending.

Findings concerning the establishments visited during the 2012 visit

recommendations

the Turkish authorities to deliver a clear message to prison managers and custodial staff at Sincan and Maltepe Juveniles Prisons and Gaziantep Prison that all forms of ill-treatment are not acceptable and will be punished accordingly. More specifically, prison officers should be reminded that:

- **all forms of physical chastisement are unacceptable and must never be used in practice, in particular as regards juveniles (upon whom they may have a particularly harmful effect). Inmates who misbehave should be dealt with only in accordance with the prescribed disciplinary procedures (*paragraph 20*),**

prison staff at Sincan and Maltepe Prisons to receive the clear message that any kind of threats or intimidating action against a prisoner who has complained of ill-treatment, and attempts to prevent complaints or requests from reaching the relevant supervisory bodies, will not be tolerated and will be subject to sanctions (*paragraph 21*);

The managers and staff of the prisons visited by the Committee have been reminded of the fact that they should display the necessary care and diligence concerning the issues referred to in the recommendations. To this effect, a letter of general instructions is planned to be sent within ten days to all prisons where juveniles are being held.

- **no more force than is strictly necessary should be used to control violent and/or recalcitrant prisoners and that once prisoners have been brought under control, there can be no justification for them being struck. In this context, the authorities should ensure that all prison officers are provided with training in recognized control and restraint techniques (*paragraph 20*);**

It has been clearly laid down in Article 22 § 8 of the Rule on the Administration of Penitentiary Institutions and the Execution of Sentences and Security Measures (“the Rule”) that when the staff are obliged to use force, they are not allowed to use it disproportionately against inmates.

In fact, in pre-service and in-service trainings given in 4 training centers around the country, the personnel of penitentiary institutions are provided with basic human rights and Professional Intervention Methods and Tactics trainings, which ensure proportionate use of force.

A total of 18,234 staff have received such training so far, including the managers and staff of the three establishments mentioned in the report.

the Turkish authorities to take appropriate steps to ensure that all allegations of ill-treatment of juvenile prisoners, whether expressed verbally or in writing, are properly investigated by the relevant prosecuting authorities (paragraph 20);

Thanks to the legislative work realized in the recent years, new provisions which are compatible with international standards have been introduced in the Turkish Criminal Procedure legislation for the effective investigation of judicial cases.

With a view to ensuring the effective and efficient performance of investigations, the knowledge and awareness levels of the professionals are being raised by pre-service and in-service trainings. These trainings are provided by the Justice Academy, which is an autonomous body.

Besides general training activities, reform projects are also being carried out with the financial and technical support of the European Union. Among the projects is the “Justice for Children” project to be launched this year, which includes informing judges and prosecutors on the effective investigation of crimes against children.

steps to be taken to ensure that closed complaints boxes accessible to prisoners (with restricted staff access) are installed in all the prisons visited (paragraph 21);

Article 3 of “Other Provisions” of the Circular no. 45/1 on “the Allocation of Penitentiary Institutions, Transfer Procedures and Other Provisions” issued on 22 January 2007 by the Ministry of Justice, General Directorate of Prisons and Detention Houses reads: “Complaints boxes shall be set up in the appropriate spots of the establishment to enable convicts and detainees to submit their requests and complaints to the relevant authorities. The boxes shall be opened by the responsible chief prison guard and the petitions or envelopes shall be delivered to the highest-ranking officer without prior examination”.

In line with the provisions stated above, there are 3 closed complaints boxes easily accessible at the block entrances of Sincan Closed Juveniles Prison, by which juveniles can always submit their requests and complaints. This system has also been implemented in Maltepe, Diyarbakır and Gaziantep Closed Prisons, where the prisoners' complaints are conveyed to the relevant authorities.

the Turkish authorities to redouble their efforts to combat the phenomenon of inter-prisoner violence and intimidation at Sincan, Maltepe and Gaziantep Prisons (paragraph 24),

immediate steps to be taken at Maltepe Prison to put an end to the practice of using a system of subordination or violence among prisoners to maintain order and control in the establishment. Steps should also be taken to ensure that all detention units of Maltepe Prison are as soon as possible covered by the "Individualised Treatment System" (BİSİS) (paragraph 24),

steps to be taken at Diyarbakır and Gaziantep Prisons and, where appropriate, in other establishments where juvenile prisoners are held, to ensure that no juvenile is put in a position to exercise power over other juveniles (paragraph 25),

In Maltepe and Sincan Prisons, in order to prevent juveniles' infliction of violence and fear on one another, new rooms with toilet and shower facilities have been established, where each juvenile is able to spend the night alone and it has been ensured that a trained officer ("group leader") spends time with juveniles in and out of the room.

In establishments where this system is not yet implemented, juveniles are accommodated in separate sections of adult penitentiary establishments. In the event that incidents of violence and intimidation occur among juveniles, the required decisions and measures are promptly taken by the board of administration and observation, and the inmates concerned are transferred to another room or establishment, where necessary.

Physical infrastructure works are underway to include the four detention units of Maltepe Prison into the BİSİS project, where the system had not yet been implemented during the Committee's visit.

requests for information

as regards the allegations of ill-treatment received by the delegation at Sincan Prison, a copy of the report on the investigation and of the decision by the Sincan Public Prosecutor's Office referred to in the Turkish authorities' letter of 22 August 2012 (paragraph 19);

Sincan Chief Public Prosecutor conducted a judicial investigation into allegations of physical ill-treatment of juveniles by some prison officers, which resulted in a decision of non-prosecution due to the lack of concrete evidence (**Annex 1**).

In addition, an administrative investigation was carried out by the Ankara Chief Public Prosecutor in respect of the personnel allegedly involved in incidents of physical ill-treatment, as a result of which no disciplinary actions were required in respect of the officers concerned (**Annex 2**).

Management of juvenile prisoners and conditions of detention

Ongoing reforms

recommendations

the Turkish authorities to vigorously pursue their efforts to develop a comprehensive programme for the management of juvenile prisoners, on the basis of the “Group Leader Model” and the “Individualised Treatment System” (BİSİS), and to implement it progressively in all penitentiary establishments for juveniles in Turkey (*paragraph 29*),

steps to be taken to ensure that designated officers in charge of a living unit (“group leaders”) adopt a more educational approach and engage themselves more frequently in communication and regime activities with the inmates of their unit (*paragraph 29*),

the Turkish authorities to ensure that all staff called upon to work in direct contact with juveniles receive specific training in this field, both initial and ongoing (*paragraph 29*);

Within the framework of the “Justice for Children” project, plans are afoot to implement the BİSİS system in every separate juvenile prison and in 20 prisons where juvenile population is high (including Diyarbakır and Gaziantep). The application guidelines for this system has been prepared and the relevant personnel is due to receive training within the first quarter of 2013.

Among the components of BİSİS are the activities to be carried out in a rehabilitative environment by group leaders chosen from the custodial staff. Such personnel who are selected to take part in the project will be provided with group leadership training. Group leaders are expected to carry out a number of tasks such as; daily observations, identifying juveniles with eating and sleeping disorders, observing their behaviors and physical and mental states, monitoring visits, maintaining a room register, ensuring cleanliness and area control, spending the day with inmates, supervising meal service and organizing daily sports activities and various in-room activities such as conversations.

Furthermore, within the framework of the *Ardıç* program, which has been developed to ensure an institutional environment maintaining quality in the services provided for juveniles, an Executive and Personnel Training Program has been prepared for directors of establishments, custodial staff and other personnel, which has been implemented since 2005. 1,413 custodial staff received training so far. The topics of communication methods, teamwork, adolescence period, national and international legislation, crisis management, negligence and abuse and conflict management are being taught within the scope of the program.

the Turkish authorities to review the staffing levels of psychologists and social workers in all the establishments visited, in the light of the remarks in paragraph 30 (paragraph 30);

Particular diligence is shown in the recruitment of personnel in juvenile prisons, taking into account the candidates' age, level of education, ensuring that they have no disciplinary record and that they have received Psychosocial Support Programs Training and Executive and Personnel Training Program (the *Ardıç* program).

Currently at Sincan Closed Juveniles Prison 2 psychologists, 3 social workers and 3 teachers, at Maltepe Closed Juveniles Prison 2 psychologists, 1 social worker and 2 teachers, at Diyarbakır Closed Prison 2 psychologists and 3 teachers, and at Gaziantep Closed Prison 2 psychologists, 1 social worker and 3 teachers are in service.

In 2013, further recruitment of 300 social workers, 300 psychologists and 100 teachers is planned to serve in penitentiary institutions and probation offices. The new personnel will be distributed taking into account the establishments' needs.

requests for information

up-to-date information on the implementation of the reconstruction work at Sincan and Maltepe Prisons in the context of the "Group Leader Model" and "BİSİS" project (paragraph 28);

With a view to facilitating juveniles' adaptation to their environment, encouraging them to take active role in the trainings and courses provided, promoting their participation in social and cultural activities which would advance good and positive behavior, and serving them as a role model in this respect, the "group leader" system has been introduced in Maltepe Closed Juveniles Prison, based on the BİSİS project.

The group leader system has been implemented since 1 January 2012 in 12 units located in Block C of the Sincan Closed Juveniles Prison. The windows of the 24 units in Blocks A and C have been replaced by break proof glass.

Construction and electronic works in both establishments will have been completed by the end of March 2013 and the group leader system, which has so far been partially implemented will be extended to cover all juvenile prisoners.

Conditions of detention at Ankara-Sincan and İstanbul-Maltepe Prisons

recommendations

steps to be taken at Sincan Prison to ensure that all juveniles are provided with a full programme of organized activities adapted to their specific needs (in particular, education, vocational training, sport and recreation) (paragraph 33);

In Sincan Juveniles Prison, where BİSİS has been implemented, individualized treatment system has been developed for each juvenile, using a Research and Evaluation Form (ARDEF) based on a model of assessing individual risks-needs-appropriateness.

the practice observed at Maltepe Prison of designating one juvenile in each unit to keep watch and keep good order in the unit during the night to be abolished immediately (paragraph 35);

By April 2013, group leader model will have been implemented in all detention units of Maltepe Prison. There are no legal provisions allowing juveniles to undertake security services which should be provided by the staff. Juveniles are not given tasks other than educational and rehabilitation activities and the necessary warnings have been made to avoid practices which are contrary to law.

comments

the CPT trust that the Turkish authorities will take the necessary steps at Sincan and Maltepe Prisons to improve the possibility for juveniles to occupy themselves within their living units, in the light of the remarks in paragraph 32 (paragraph 32);

Education and rehabilitation works in order for juveniles to spend their time in a more quality manner in the said establishments continue with progress.

requests for information

more detailed and up-to-date information regarding educational activities offered to juveniles held at Sincan and Maltepe Prisons (in particular, types of courses, number of hours per week per juvenile) (paragraph 34);

A number of educational, vocational, sports and socio-cultural activities are offered to juveniles accommodated in Sincan Closed Juveniles Prison. The table showing them is enclosed (**Annex 3**).

In Maltepe Prison, the following vocational, educational, socio-cultural and leisure activities are offered to juveniles: first level literacy, computer operating, web design, hairdressing, accessory designing, drawing/painting, *bağlama* playing, needlework, gymnastics, chess, wood, ceramic and glass painting, aluminum foil crafts, religion and morality education, cinema and drama. Moreover, within this context, workshop activities are organized for juveniles in cooperation with various universities and volunteer organizations.

Conditions of detention in the juvenile units at Diyarbakır and Gaziantep E-type Prisons

recommendations

the Turkish authorities to take immediate steps at Diyarbakır and Gaziantep Prisons and where appropriate, in other prisons in Turkey, to ensure that:

- all juveniles are provided with their own bed (as well as with a clean mattress and clean bedding);
- living units for juveniles are suitably equipped for the number of inmates they accommodate;
- The living units (including sanitary facilities) are kept in an acceptable state of hygiene (*paragraph 36*),

all female adult prisoners at Gaziantep prison be provided with their own bed (as well as with a clean mattress and clean bedding) (*paragraph 37*);

As in all prisons, every woman and juvenile held in Gaziantep and Diyarbakır Closed Prisons is provided with a clean bed and bedding.

In all detention units, a TV, a refrigerator, adequate number of plastic tables and chairs and an electric fan have been provided for the use of juvenile prisoners. The toilets and showers in the living spaces have been refurbished, painted and the cleaning materials required for maintaining hygiene have been procured.

Moreover in Gaziantep Prison, since the establishment is over capacity, works are underway to build a new block with 400-prisoner capacity and to improve the physical conditions of existing toilets and showers.

the necessary steps be taken at Gaziantep Prison and, where appropriate, in other prisons in Turkey to ensure that when, exceptionally, juveniles are held in an institution for adults, they are always accommodated separately from adults and are subject to

appropriate staff supervision during any participation in out-of-cell activities with adults; this requirement applies equally to female juveniles (paragraph 38);

In accordance with the relevant legal provisions, juveniles are accommodated separately from adults in the said prison and other adult prisons. Moreover, in order for juveniles to continue their educational activities, separate education units have been established, which include a computer, barbershop and teamwork room. In the event that, when required by the nature of the activity, juveniles should participate with adults, appropriate staff supervision is maintained.

the Turkish authorities to redouble their efforts at Diyarbakır and Gaziantep Prisons and, where appropriate, in other prisons in Turkey, to ensure that juveniles are provided with organized activities adapted to their specific needs (in particular, education, sport and recreation) (paragraph 39);

As in all other establishments, in Diyarbakır and Gaziantep Closed Prisons, literacy courses are organized for juveniles. In order for juveniles to continue their education, registration and educational planning (open middle school and open high school) is made in accordance with the registration calendar of the Ministry of Education. In addition, vocational courses are provided for juveniles in Diyarbakır and Gaziantep Prisons.

Moreover, sports activities such as volleyball, football, basketball, badminton, darts and chess, folk dancing and plant growing and vocational courses such as computer courses are provided.

requests for information

more detailed and up-to-date information regarding educational activities offered to juveniles held at Diyarbakır and Gaziantep Prisons (in particular, types of courses, number of hours per week per juvenile) (paragraph 40);

From the examination of the table of educational, socio-cultural, vocational, sports and psychosocial out-of-room activities offered in 2012 in Diyarbakır and Gaziantep Prisons, it can be observed that every juvenile attended a weekly average of 25 hours of activities in Diyarbakır and 40 hours in Gaziantep (Annex 4).

Health-care services

recommendations

appropriate steps to be taken by the relevant authorities to ensure that the medical services of all the prisons visited are connected with the health-care database of the Ministry of Health (paragraph 41);

The integration works for making the programs (Family Medicine Unit System and e-prescription applications) used by prison doctors who are attached to the Ministry of Health, compatible with the UYAP system (“The National Judiciary Informatics Systems”) are at the final stages, and the said project is planned to be implemented within 2013.

steps to be taken as a matter of priority to increase the health-care staffing levels in all the establishments visited, in the light of the remarks in paragraph 43. Immediate steps should be taken to ensure that qualified nursing staff are employed at Gaziantep Prison (paragraph 43);

A nurse has been appointed to Gaziantep Closed Prison on 18 January 2013 pursuant to the letter of 1 July 2011 of the General Directorate for Basic Health Services of the Ministry of Health.

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 by a doctor after a medical examination of a prisoner, whether newly-arrived or not, contains (i) a full account of objective medical findings based on a thorough examination, (ii) a full account of statements made by the person concerned which are relevant to the medical examination (including any allegations of ill-treatment), and the doctor’s conclusions, in the light of (i) and (ii), as to the consistency between any allegations made and the objective medical findings (paragraph 47);

All newly-arrived prisoners are subject to a comprehensive medical examination upon their admission and its results are kept in the prisoner’s personal health file.

Works are in progress for providing prisoners with information regarding the prevention of transmissible diseases and for informing health staff that medical reports drawn up should include a full account of objective medical findings and whether these are consistent with the allegations made by the prisoner concerned.

steps to be taken to ensure that, whenever injuries are recorded by a doctor in a prison 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 is 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, upon request, to his/her lawyer (paragraph 47);

In prison establishments, in any finding of an incident requiring judicial investigation and in the event that they receive oral or written account of a complaint within the same scope, all personnel including health-care staff are obliged to communicate the matter to the judicial investigating authorities. Accordingly, in case doctors encounter signs of ill-treatment during examinations, they must include such observations in the records they draw up and submit the record to the relevant public prosecutor for further actions to be taken.

Concerning accessibility, provided that the prisoner consents, there are no legal or practical restrictions on the lawyer's examination of the prisoner's personal health file and other information and documents which may set the basis for a judicial investigation.

steps to be taken to arrange for regular visits by a psychiatrist to Maltepe and Gaziantep Prisons (as well as other prisons in Turkey where such visits do not take place) (paragraph 48);

Pursuant to the "Protocol on the Arrangement of Health Services in Penitentiary Institutions" signed on 30 April 2009 between the Ministry of Health and the Ministry of Justice for the smooth operation of health services, prisons are able to obtain sufficient number of health staff from all branches including psychiatrists by filing a request with provincial health directorates. In fact, Maltepe and Gaziantep Closed Prisons have filed such requests with the relevant provincial health directorates for the appointment of psychiatrists.

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 49);**

It has been laid down in Article 38 of the "Protocol on the Administration, External Security, Transfer and Transportation of Convicts and Detainees and Conduct of Health Services" that, unless the doctor has issued written permission, security personnel shall wait outside examination rooms.

In prison facilities, infirmaries have been established as separate units. The area in the room where medical examination will be made is separated by a wall, which ensures medical confidentiality during the physical examination of the juvenile. Unless the doctor concerned

requests otherwise in a particular case, only the doctor and paramedic shall attend the medical examination in the infirmary unit and all examinations shall be conducted out of the hearing and out of the sight of prison officers.

It has been clearly stated in the “Regulation on Patients’ Rights” that information relating to a person’s health can only be seen by health professionals and all prisons are bound by the provisions of this Regulation. Medical data relating to the juveniles accommodated at establishments are stored safely in cabinets located in infirmary units as separate files for each juvenile and infirmary units are kept locked at all times except when used by doctors and health professionals.

comments

the Committee considers that the longer-term objective should be to abolish the practice of involving prison officers in the performance of health-care duties (*paragraph 43*);

Health services in prisons are in principle provided by doctors and dentists who are attached to the Ministry of Health. That being said, assisting health personnel are also employed by establishments. However, the latter personnel are not authorized to operate alone, and are completely dependent on the instructions of doctors and dentists in providing health services. Therefore, there is no conflict of authority between the prison administration and such assisting health personnel.

the CPT wishes to stress once again that, apart from resulting in a reduction of the time available for prisoners, the practice of prison doctors providing health care to staff members and their families represents a potential risk of conflict of interest (for example, when both inmates and prison officers are examined following a violent incident) (*paragraph 44*);

In accordance with the terms of the protocol signed between the Ministry of Justice and the Ministry of Health in 2009, family doctors appointed by the Ministry of Health are solely responsible for the treatment of inmates and there is no possibility for prison officers to use their services. Moreover, as every officer is registered to a different family doctor due to their residential address, it is technically not possible that they be examined and treated by prison doctors.

That being said, in campus-type penitentiary institutions which possess a general hospital, staff members may also get health services from this hospital. Taking into consideration the capacity of these hospitals and the number of doctors serving there, any disadvantage for prisoners or a conflict of interest is highly unlikely.

Other Issues

Prison staff

recommendations

the Turkish authorities to carry out a review of the current staffing levels at Diyarbakır and Gaziantep Prisons, in the light of the remarks in paragraph 50 (paragraph 50);

By January 2013, a total of 1,049 prisoners are accommodated in Diyarbakır Prison, of which 69 are juveniles. 398 prison officers are employed in the establishment.

In Gaziantep Prison, a total of 1,399 prisoners are accommodated, of which 57 are juveniles. 287 prison officers are employed in the establishment.

It has been planned that within the year 2013, 4,955 new personnel are to be recruited to serve in prisons and probation offices. Appointment of the officers will be realized taking into account the establishments' needs.

Moreover, our policy to recruit high numbers of personnel will continue over the coming years to average 1 officer per 3 prisoners in all establishments in medium term.

In Gaziantep Prison, 2 officers enter juvenile units at regular intervals and check juveniles to eliminate any problems they may have. In 4 shift groups, a total of 8 officers (excluding unit guards) are in charge of the internal order of juvenile units.

Furthermore, as plans are underway to build separate juvenile establishments in Diyarbakır and Tarsus in 2014 within the framework of the 2012-2017 financial investment program, in the event that these establishments are put in service, problems stemming from the inadequate number of personnel will be solved, as in other separate prisons for juveniles.

Contact with the outside world

recommendations

the Turkish authorities to pursue their efforts to review the system of visits for juvenile prisoners and to take the necessary steps to ensure that:

- all juveniles are able to receive visits from their family members without physical separation, except in individual cases where there may be a clear security concern;
- visits can also be received at weekends,

- juvenile prisoners are allowed to accumulate unused visit entitlements, in particular when families live far away from the prison (*paragraph 52*),

the Turkish authorities to make the necessary arrangements to ensure that juvenile prisoners and especially those who do not receive visits are granted more frequent access to the telephone (*paragraph 53*);

Provisions relating to the duration of visits, relevant procedures and number of visitors are contained in Articles 83-86 of the Law on the Execution of Sentences and Security Measures (LESSM) and the Regulation on Visiting Prisoners. Visits are carried out pursuant to these provisions.

Juvenile convicts accommodated in reformatories receive open visits from their family members. It has been envisaged that juvenile detainees on remand shall also enjoy open visits from their families, pursuant to the draft Penitentiary Institutions Visiting Regulations.

Moreover, although the duration of visits are specified in the relevant provisions as half an hour to one hour, in practice, this duration is applied at the upper limit (one hour) for juveniles.

Furthermore, by the Law no. 6411 enacted on 24 January 2013, several incentive-based privileges have been introduced for all prisoners, regardless of them being adults or juveniles. Accordingly, prisoners are able to accumulate 3 consecutive unused closed/open visit entitlements and use them at once. The duration or number of weekly telephone conversations may be doubled, the duration of weekly visits may be extended to two hours and open visits would be allowed instead of closed ones.

Moreover, it has been envisaged that based on incentives, juveniles will be able to spend 3 to 24 hours with their parents or legal guardian in rooms reserved for this purpose.

There are no legal obstacles preventing visits in prison establishments to be made at weekends.

comments

the Committee encourages the Turkish authorities to introduce arrangements for extended visits, as described in paragraph 52, in other penitentiary establishments where juveniles are held (in addition to Sincan Prison) (*paragraph 52*);

As regards visits made to penitentiary establishments where juvenile prisoners are held, the necessary warnings are made to ensure that the duration of visits are arranged to respect the best interests of the juvenile.

the Turkish authorities are invited to consider the possibility of allowing indigent juveniles at least one telephone call per month free of charge (paragraph 54);

Vital necessities of indigent juveniles including their telephone calls are covered by local, provincial or district social assistance funds. Due diligence is shown to avoid any disadvantage in respect of such juveniles.

requests for information

confirmation that juveniles held at Sincan Prison now have the opportunity to benefit from extended visits from their family members (paragraph 52);

The duration of open and closed visits received by juveniles held in Sincan Closed Juveniles Prison is applied as one hour, the upper limit described in the legislation, having regard the high interests of the juvenile.

clarification from the Turkish authorities as regards the complaints received from some juveniles that they were not able to make telephone calls because their families were not in a position to provide certain documentation requested by the prison administration (paragraph 55);

In Sincan Closed Juveniles Prison, by 4 January 2013, 107 juveniles out of 193 juvenile convicts and detainees whose families were able to complete the documentation requested as per the legal provisions enjoy 10 minutes of telephone calls every week.

According to Article 88 of the Rule, as the juvenile is obliged, for security reasons, to indicate the identity and address of and relationship to the person with whom he/she would be having telephone calls in the “telephone conversation form”, the submission of documents verifying these information is essential. Therefore, delays may occur in obtaining the documents at times, which also cause delays in making telephone calls.

Discipline

recommendations

whenever juveniles are subject to the sanction of confinement in a disciplinary room, they must be guaranteed appropriate human contact throughout the duration of the measure (paragraph 56);

The sanction of room confinement for juveniles has been regulated in the relevant law (Article 46 of the LESSM). The conditions in which this sanction shall be executed are set forth in Article 151 of the relevant Rule. Accordingly, this disciplinary sanction is applied for

not more than five days, without prejudice to the juvenile's right to the open air and to see his/her family, lawyer and legal representative. Moreover, the duration of open air time, which has been laid down as 1 hour per day for adults, is being applied as 3 hours for juveniles. In addition, juvenile prisoners are examined by a doctor before, during and after the execution of the disciplinary sanction and are able to reach officers whenever they wish.

a comprehensive register of disciplinary sanctions imposed to be established at Gaziantep Prison (paragraph 57);

In accordance with the legal provisions (Article 158 of the Rule), disciplinary sanctions and measures imposed in all penitentiary institutions are recorded in observation and classification forms and stored by electronic means (UYAP system).

At the establishment in question, juveniles received 2 warning, 35 deprivation of certain activities and 41 room confinement sanctions as a result of various acts within 2012. In addition, criminal complaints have been filed in respect of 12 juveniles.

immediate steps to be taken to ensure that any juvenile facing more than one sanction of placement in a disciplinary room is not subjected to this sanction for an uninterrupted period in excess of the maximum time limit for a given offence. In the case of multiple sanctions of placement in a disciplinary room, there should be an interruption of several days in the solitary confinement regime after each sanction has been served (paragraph 58);

In practice, if a juvenile receives two or more sanctions of room confinement, these sanctions are executed with interruption where possible, provided that an unfavorable delay is not caused in the conditional release schedule.

Moreover, pursuant to Article 48 § 3-c of the LESSM, since a juvenile who is subjected to a room confinement is continuously overseen by a doctor, in cases where necessary, the doctor may postpone the execution or the sanction may be executed at intervals.

Section 14 (2) of the Ministry of Justice Regulation on visits of remand and sentenced prisoners to be amended so that any restrictions on family contact as a punishment are imposed on juveniles only when the offence relates to such contact (paragraph 59);

In a judicial action brought for the annulment and suspending the execution of Article 14 § 2 of the Regulation on Visiting Prisoners, the Council of State ordered "suspension of the execution" on 6 July 2012. The General Directorate of Prisons and Detention Houses has therefore issued a letter on 10 August 2012, instructing all prisons that the suspended Article 14 § 2 should not be applied until the completion of the annulment proceedings. Accordingly, all adult or juvenile prisoners shall enjoy open visits notwithstanding that they may have

received disciplinary sanctions other than censure punishment and even when this sanction has not been lifted.

the Turkish authorities to take the necessary steps to ensure that juvenile prisoners facing disciplinary charges are formally guaranteed the right to be heard in person by the decision-making authority (i.e. governor or disciplinary board), as well as the rights to call witnesses on their own behalf and to cross-examine evidence given against them (paragraph 60);

Pursuant to the relevant legislation, in the event that a juvenile prisoner is involved in an incident that may warrant a disciplinary investigation, he/she shall be given 3 days to prepare a defense statement. The defense may be submitted either orally or in writing (Articles 152 § 2 to 152 § 4 of the Rule).

In the event that an unlawful investigation has been conducted (failure to take the oral or written defense statement of or to collect the evidence mentioned in the defense by the juvenile), the prison enforcement judge shall revoke the irregular disciplinary penalty upon appeal. There are no legal obstacles preventing prisoners from getting legal assistance during the course of the disciplinary investigation.

the role of health-care staff in relation to disciplinary matters to be reviewed, in the light of the remarks in paragraph 61 (paragraph 61);

Concerning juvenile prisoners who received the sanction of room confinement, the necessary health checks are made in accordance with Article 48 § 3-c of the LESSM, reading: “The prisoner shall be duly examined by a doctor. If it is found that he/she will not be able to endure the sanction, its execution shall be postponed or imposed at intervals determined by the doctor”.

Moreover, medical staff shall examine the juvenile and issue regular reports on his/her state of health before, after and when necessary, during the execution of the sanction. Additional health checks can be made upon the request of the juvenile.

steps to be taken at Maltepe and Diyarbakır Prisons to ensure that all facilities used for disciplinary room confinement are kept in a reasonable state of repair and cleanliness, have adequate access to natural light and are suitably equipped (a table and a chair, if necessary fixed to the floor, in addition to a proper bed) (paragraph 62);

A fixed bunk bed, a mattress, a wardrobe, toilet and shower are contained in the observation rooms at Maltepe Prison. A chair fixed to the floor is planned to be added to these rooms. The rooms have access to natural light by a 118 x 98 cm window without such obstructions as bars.

In Diyarbakır Prison, access to natural light in confinement rooms is provided by one window. Perforated plates covering the windows have been replaced to allow more light in the rooms. These rooms contain a minimum of two bunk beds (with mattresses), a table and a chair. The necessary painting and repairs have been made. It is planned that a separate juvenile prison will be put in service in 2014.

comments

juveniles should be allowed, if they so wish, to have access to a lawyer throughout the disciplinary procedure (including during the hearing before the governor or disciplinary board) (paragraph 60);

Explanations concerning this comment have been covered under the recommendation in *paragraph 56* above.

Segregation

recommendations

the Turkish authorities to review the current practice of administrative segregation of juveniles, taking into account the remarks in paragraph 64. Whenever juveniles are segregated from other inmates under conditions akin to solitary confinement, they must be guaranteed appropriate human contact throughout the duration of the measure (paragraph 64),

every juvenile subjected to segregation to be granted at least one hour of outdoor exercise per day, from the very first day of placement under such conditions (paragraph 64);

Explanations concerning these recommendations have been covered under the recommendation in *paragraph 56* above.

the necessary steps to be taken at Maltepe Prison to ensure that placement of a juvenile in an observation room under conditions akin to solitary confinement does not last longer than is strictly necessary (paragraph 65);

It has been laid down in Article 45 § 1 of the LESSM that, if there is a risk of committing an act by a juvenile which would call for a disciplinary sanction, protective and preventive measures, which are not in the nature of penalties, may be imposed in order to eliminate those risks or to avoid damages which are impossible or difficult to remedy during the course of an investigation.

In the second paragraph of the Article, such measures have been stated, one of which is transferring the juvenile to another room. Moreover, it has been stipulated in Article 49 that the administration may change the room, labor or workplace of the juvenile who is subject to a disciplinary investigation, transfer him/her to another section of the establishment, or separate him/her from other inmates. Changing rooms is among the duties of the board of administration and observation, concerning which they convene and take decisions when necessary. Therefore, since changing rooms as a measure would be in effect until the elimination of the risk, the board shall convene immediately upon the elimination of such risk and lift the measure.

whenever a juvenile is segregated under conditions akin to solitary confinement, he/she always to be seen as soon as possible by a member of the health-care staff, i.e. a doctor or a nurse reporting to a doctor, and thereafter, on a regular basis, at least once per day (paragraph 67);

Explanations concerning these recommendations have been covered under the recommendations in *paragraphs 56 and 61* above.

a special register to be kept of every placement in a confinement/observation room or padded room, recording the name of the juvenile concerned, the reasons for the measure, the date and time of the beginning and end of the measure, the deciding authority, the precise location where the prisoner subject to segregation is accommodated and the time of the daily checks by health-care staff (paragraph 68);

Concerning padded rooms and observation rooms, in the event that juveniles are placed in these rooms for security and safety reasons (in order to protect utterly weak and vulnerable juveniles or to restrain a juvenile who is a threat to others' well-being), a register containing the identity of the prisoner, the reason of the measure, the date and time of the beginning and end of the measure, the deciding authority and the room number is kept in the personal file of the juvenile.

the padded rooms at Sincan and Maltepe prisons to be taken out of service until such time they are fully refurbished (paragraph 69);

In accordance with Article 49 of the LESSM, 2 padded rooms are maintained at Sincan Juveniles Prison to be used to restrain prisoners whose violent conduct and behaviors endanger his/her or other inmates' life safety. Each room measures 14 m². All walls and the floor are padded with soft sponge and a toilet, a tap, a window and a light bulb is contained. The room is watched and recorded 24 hours via CCTV system.

These rooms are regularly checked by doctors, technical and administrative personnel and, in accordance with the reports drawn up, the damage caused by either juveniles or wear out is promptly repaired.

The rooms at issue will be completely renovated and redesigned within 2013.

There are no padded rooms at Maltepe Juveniles Prison. However, 4 rooms with wooden and wall-to-wall carpet floor coverings with sanitary facilities exist. These rooms have adequate access to daylight and are used to temporarily calm down aggressive prisoners pursuant to the law, who harm themselves or other inmates. These rooms have been taken out of service and renovation works are in progress.

requests for information

the Turkish authorities' observations as regards the allegations heard by the delegation both at Sincan and Maltepe Prisons that, on occasion, several juveniles had been placed together in a padded room (paragraph 66);

Pursuant to Article 49 of the LESSM, these rooms are used to accommodate prisoners who have displayed aggressive conduct and behaviors likely to risk the life safety of themselves or fellow inmates. In the event of a large number of juveniles involved in the same incident, juveniles who do not have hostility or risk of harming each other may temporarily be placed in the same padded room until the determination of their new units, which should be limited to 1-2 hours.

Inspection procedures

requests for information

a list of all visits to Sincan and Maltepe Juveniles Prisons and Diyarbakır and Gaziantep E-type Prisons by the respective Provincial Prison Monitoring Boards since January 2010 and copies of the reports on the most recent visit to each of the establishments (paragraph 70);

The information is attached as requested (**Annex 5**).

The annexes to the response can be found on the CPT's website: www.cpt.coe.int