



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 6 to 17 May 2019

The Turkish Government has requested the publication of this response, which was provided on 29 April 2020. The CPT's report on the May 2019 visit to Turkey is set out in document CPT/Inf (2020) 24.

Strasbourg, 5 August 2020

INTRODUCTION

The views of the Turkish Government (hereinafter "the Government") to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter "the CPT") on its visit to Turkey from 6 to 17 May 2019 are set out below in the order adopted in the report. Also, in this respect, the Government would like to refer to its comments to the preliminary observations of the CPT, in which the essential aspects of these views were submitted.

The Government is pleased to note that the CPT received very good cooperation at all levels throughout the visit. As mentioned in the report the delegation enjoyed rapid access to all the establishments visited. Information requests were fulfilled and the delegation was able to interview all persons it requested.

On this occasion, Turkey, honouring its resolute and long-established commitment to the policy of zero tolerance against torture, reaffirms its determination for cooperation with the CPT.

Turkey gives due consideration to the recommendations and comments of the CPT and, on their basis, will continue to take necessary measures as appropriate in the field of prevention and punishment of torture and inhuman or degrading treatment.

RESPONSES TO THE RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION SET OUT IN THE REPORT

As regards para. 7, 8 and 9:

The transitional provision (Section 19) added to the Anti-Terrorism Law No:3713 on 25 July 2018 provides that, "*for a period of three years from that date, with regard to crimes against national security or constitutional order, crimes falling within the scope of Anti-*

Terrorism Law or committed by a criminal organization, the authorized period of police custody (i.e. 48 hours or, in the case of collective offences, four days) may be extended twice due to the difficulty in collecting evidence or the volume of the case file, each time within the time-limit of the respective authorized custody period".

The goal of the aforementioned article is to allow the people taken into custody to give their statement safely, to collect the evidence in favour or against suspects, and thus to permit the State to fulfil its duty of effective investigation.

As regards para. 10:

Mobile Motorcycle Intervention Teams ("Yunus Teams") have been established in order to provide public peace and order concerning traffic issue particularly in metropolitan cities. In addition, these teams intervene quickly and effectively particularly in cases related to narcotics, public order and others. They function within the limits of their powers and responsibilities.

All law-enforcement officials including "Yunus Teams" act in compliance with the Regulation on Arrest, Custody and Statement Taking, upon the order of Prosecutors. Practical and theoretical information is regularly provided to the personnel through information meetings given by higher-ranked personnel. This information is given in order to ensure the execution of the duty (concerning people in police custody) in compliance with regulations.

In cases where the use of handcuffs is required, handcuffs are not applied any tighter or any longer time than strictly necessary. Statement takings are carried out in compliance with the relevant regulation and statement taking rooms are monitored by cameras capable of recording 24 hours a day. The families or other relatives of those who are taken into custody are immediately notified. They have the opportunity to contact their lawyers. A lawyer is provided when suspects demand one or in cases it is required by the law.

As regards para. 12:

(i) There is no practice of obtaining a confession or extracting information from the suspects through the use of physical force or psychological coercion. Medical reports of suspects are issued after their arrest and before their release. Medical examinations are carried out without any intervention and in private, unless the doctor requests the presence of a law-enforcement officer during examination for his/her own personal safety. In this case, the detainee's lawyer may also be present during examination.

No statement takings are conducted in any law-enforcement unit if the suspect has not seen a lawyer yet. Persons taken into custody are kept in detention rooms. The whole personnel is trained on how to treat suspects during and after arrest. If arrested individuals claim to have been subjected to

excessive force or ill-treatment in custody, then judicial and disciplinary investigations are immediately initiated and the allegations are duly examined.

(ii) The alleged incident clearly lack any concrete basis. In Sultanbeyli, Sancaktepe and Bakırköy district police headquarters, as in any others, apprehended persons are treated in compliance with the regulation and orders of public prosecutors, no matter the reason of arrest. During custody, they are placed in detention rooms which are equipped with surveillance camera, they are in no way subject to ill-treatment and their physical needs are met. Their medical reports are obtained from the medical institutions.

(iii) Proceedings concerning individuals in question brought to the Sancaktepe Police Station were performed in compliance with orders issued by prosecutors. People taken into custody wait in detention rooms until their case file is complete, then they are sent to the Court. The allegation that the lawyers' visiting room has been used as a detention room is false. Suspects' access to lawyer is provided. They meet their lawyer in the lawyers' visiting room, then required proceedings are conducted. If the suspect does not have a lawyer, they a lawyer is appointed by the Bar upon his request or when it is required by the law.

The personnel is periodically trained as regards matters in question, and the Regulation on Arrest, Custody and Statement Taking and other related topics are reminded at police stations through trainings every fifteen days. The personnel who do not comply with these regulations, who are proved to have used force on or ill-treated people are subject to judicial and disciplinary investigations. Data concerning individuals are entered in the "detention" module of the POLNET-4 application. The duration of police custody does not exceed 24 hours after arrest of the individual. Individuals apprehended are brought to a medical facility by the police in order to issue a medical report. Doctor and individual are left alone for the medical examination.

(iv) Information given concerning para. 10 of the report, are also valid for this subparagraph.

(v) On 11 October 2018, police has intervened at Merkez neighbourhood, Eski Deprem Apt. St.2 No.2, ringed the door located at the backyard of the building, and announced their presence. After the individual has responded by "come and get (us)", Special Forces entered the building by breaking down the door. When Forces entered quickly the building in order to apprehend the individuals, one man from these individuals -hidden in a blind spot- quickly ran towards the exit door, left the premises and climbed the outer walls of the building. As a result, he was warned and requested to stop. The suspect lost his balance and fell on the ground where there were trees. Once the police reached the

suspect to apprehend him, he tried to run away, police noticed that his head was bleeding due to falling. Once caught by the police, the suspect kept resisting his arrest. In order to break his resistance, he was handcuffed and apprehended with proportionate use of force. All details concerning this arrest are clearly stated in the arrest report.

The individual told the doctor that "he suffered from a hematoma under his eye and hematemesis, after which was sent to the city centre for a CT scan. The CT scan results showed that the suspect did not suffer other trauma than the one on his head. The suspect was transferred to the Selahattin Eyyubi State Hospital for the CT scan then brought back to the Security Chief Office of Hani to complete his proceedings.

The radio communication log of the arrest states that "the suspect tried to escape, and in his attempt, tripped and fell on his face". In his statement given on 14 October 2018 to the Public Prosecutor, in the presence of a lawyer, the suspect stated "I hit my head by jumping from a wall when I was running away from police officers; I do not wish to file a complaint against anyone".

(iv) As regards allegations on Diyarbakir Bağlar Police Station; the issue could not be properly investigated due to the absence of date, name and description of the individual.

As regards para. 14:

PERSONNEL TRAINED ON MAIN HUMAN RIGHTS TOPICS PER YEAR			
YEAR	2017	2018	2019
NUMBER OF PERSONNEL TRAINED	102.328	156.487	100.378

These numbers represent total numbers of the General Directorate of Security (GDS) and General Command of the Gendarmerie (GCG).

- In 2017, 64.135 personnel of the GDS and 38.193 personnel of the GCG,
- In 2018, 118.043 personnel of the GDS and 38.444 personnel of the GCG,
- In 2019, 64.044 personnel of the GDS and 35.334 personnel of the GCG have been trained on key human rights topics.

In addition, the Public Order Department of the Ministry of Interior coordinated "training courses for public order police trainers" in 2017 and 2018 for 154 personnel across the country.

The aforementioned courses include topics such as human rights, apprehending and handcuffing, criminal transportation technics, proportionate use of force, ceasing and

searching of suspects and vehicles. Overall, 10,881 personnel have been trained in 81 Provincial Security Directorates in 2017, 4,279 in 2018 and 3,542 in 2019, reaching a total of 18,702. Trainings are still being carried out.

The Counter-Terrorism Department of the Ministry of Interior carries out trainings regularly for personnel working in central and provincial stations, in order to prevent terror crimes, to preserve civil rights and liberties, public order and safety as well as social peace and, at the same time, ensure that they carry out their duties in line with the principles of the state of law and with respect to human rights.

The GCG Headquarters provides on-site trainings. In this context, Provincial Gendarmerie Command are visited and the personnel are trained on human rights. The compliance of detention facilities with standards is also examined. In the trainings carried out between 2016 and 2019, 16 provinces have been visited and 978 personnel have been trained in these provinces. Also, 270 detention facilities were inspected during these on-site training activities.

As regards para. 16:

Data provided by the General Directorate of Security:

	2017	2018	2019
Number of criminal proceedings instituted	13	4	2
Number of disciplinary proceedings instituted	18	15	3
<u>Types and number of disciplinary proceedings instituted:</u>			
Dismissal	0	0	0
Long term interruption	1	0	0
Short term interruption	1	0	0
Salary cut	1	0	0
Prescription	0	0	0
On-going	0	3	1
No sanction	14	2	1
Warning/reprimand	0	1	1
Cancellation	1	9	1

Total (36)	18	15	3
<u>Types and number of criminal proceedings instituted:</u>			
Prison sentence	0	0	0
Proceedings on-going	0	1	1
Acquittal	12	3	2
Dismissal of the case	1	0	0
Total (20)	13	4	3

*Dated according to the year of occurrence.

Data provided by General Command of Gendarmerie:

Number of complaints in 2017 concerning human rights issues							
Type of complaints	Number of Complaints	Result of Investigations					TOTAL
		False Charges	Proceedings				
			Criminal		Disciplinary		
			On-going investigation	Completed investigation	On-going investigation	Disciplinary sanction as result of investigation	
Torture	1	0	1	0	0	0	1
Ill-treatment	13	7	5	0	0	1	13
Total	14	7	6	0	0	1	14

Number of complaints in 2018 concerning human rights issues							
Type of complaints	Number of Complaints	Result of Investigations					TOTAL
		False Charges	Proceedings				
			Criminal		Disciplinary		
			On-going investigation	Completed investigation	On-going investigation	Disciplinary sanction as result of investigation	
Torture	0	0	0	0	0	0	0
Ill-treatment	18	10	3	3	0	2	18
Total	18	10	3	3	0	2	18

Number of complaints in 2019 concerning human rights issues							
Type of complaints	Number of Complaints	Result of Investigations					TOTAL
		False Charges	Proceedings				
			Criminal		Disciplinary		
			On-going investigation	Completed investigation	On-going investigation	Disciplinary sanction as result of investigation	
Torture	3	3	0	0	0	0	3
Ill-treatment	36	22	5	2	7	0	36
Total	39	25	5	2	7	0	39

Between the years 2016 and 2019, 2 complaints against officials with allegations of ill-treatment in detention rooms of GCG have been filed. After due investigation, these allegations have been determined as unfounded.

Data provided by the Coast Guard Command:

3 complaints of ill-treatment have been filed against the Coastguard personnel in 2017, 6 in 2018 and 1 in 2019. All of these complaints have been investigated. No sanctions were considered necessary concerning these complaints.

All complaints concerning human rights abuses, including those of torture and ill-treatment, against the personnel of law-enforcement are thoroughly examined, and then properly investigated. As per Law no. 6713 on the Establishment of the Law-Enforcement Monitoring Commission, allegations such as intentional murder, injury, torture shall be jointly verified by Chief Civil Inspectors and law-enforcements' Chief Inspectors and then necessary criminal/disciplinary proceedings shall be initiated against the personnel found guilty.

The aforementioned regulations have been effective in reducing the number of complaints on torture and ill-treatment allegations. The Ministry of Interior considers that high number of complaints on torture and ill-treatment in 2017 and 2018 is the result of false allegations made by FETÖ members, who were arrested following the 15 July 2016 coup attempt, in order to slander and defame the State.

As regards para. 18:

Following the entry into force of the Law no. 6713, the Ministry of Interior started the preparation of regulations on rules and procedures in order to implement the abovementioned Law, according to imperative provisions of its Articles 6, 7 and 8. The Regulation on Implementation of the Law no. 6713 entered into force on 7 August 2019. Moreover, the Ordinance on the operation of Office for Complaints Against Law- Enforcement Officials has been introduced. The "System of Complaint Against Law- Enforcement Officials" and the "Directives on the Operation of the Central Depository System" are still in preparation.

In order to ensure the implementation of the Law, the Ministry of Interior sent written instructions to competent authorities for the establishment of agencies and offices within the DGS, GCG and the Coastguard Command as well as in cities and provinces. Accordingly, Offices for Complaints Against Law-Enforcement Officials have been established in cities and provinces across Turkey, in accordance with Article 75 of the Law no. 6713. In these offices, the personnel in charge of proceedings regarding central depository has been appointed and the authorization processes of these personnel have been completed.

The Program for the training of trainers was organized in Ankara on 4-6 December 2019 for the personnel appointed to these Offices. 168 personnel attended the course on "Electronic System for Monitoring, Complaints and Reporting Module" through this program. These members currently train other personnel in charge at Offices for Complaints Against Law-Enforcement Officials in cities and provinces.

The website of the Law-Enforcement Monitoring Commission and the Commission's Communication Plan of 2020 have been completed.

On 14 January 2020, 15 Chief civil inspectors have been appointed by the Civil Inspection Board with the approval no. 263.

The numbers below show investigations initiated by the Civil Inspection Board against law-enforcement officials on allegations of human rights violations since the Law no. 6713 entered into force:

- 14 in 2016,
- 45 in 2017,
- 14 in 2018,
- 12 in 2019

Reports of these investigations have been sent to relevant authorities for subsequent action.

The Law-Enforcement Monitoring Commission held its first meeting on 20 September 2019 and, had 5 meetings so far. It is anticipated that, with the recommendations and guidance of the Commission, the efforts of implementation of the Law no. 6713 will gain impetus in the coming period.

As regards para. 19 and 22:

In the Regulation on Arrest, Custody and Statement Taking, published in the Official Gazette on 1 January 2005, matters such as "notification of custody", "medical control", "access to a lawyer", "medical examination of persons in custody" and "information on rights" are regulated in compliance with the ECHR and the EU standards. As regards persons in custody;

- All proceedings are conducted in accordance with the Regulation on Arrest, Custody and Statement Taking. Moreover, the Instruction on Detention Centres dated 24 June 2014 include

the procedures to be followed by the police during detention of the persons taken into custody, their stay at and release from the detention centres.

- Art. 8 of the Regulation provides that in case a person is arrested, without any delay, the factual basis for his/her arrest will be notified to a relative or another person he/she indicates.
- As per Art. 9 of the Regulation, medical examinations of persons are conducted after their arrest and before their release.
- As per Art. 20 and 21 of the Regulation, access to lawyer is provided for the detainee at every stage.
- Durations of custody are strictly observed and conducted in line with custody order and in line with Art. 13 and 14 of the Regulation.
- As per Art. 6, persons taken into custody are informed of their rights. Arrest and custody records and the Rights of Suspects form is filled in and a copy of the form is given to persons under custody. These forms are also prepared in Turkish, German, English, French, Russian and Arabic and visibly displayed in detention centres where persons in custody can read them.
- Food is provided to persons in custody. Also, clean beds and blankets are provided if the detention is overnight.

Claims in the report on matters such as "notification of custody", "medical control", "access to a lawyer" and "informing of the rights", are investigated and determined through disciplinary and criminal proceedings.

The Government is meticulous in providing necessary measures against the existing risks of failures and potential human rights abuses at the individual level. The right to report a complaint to administrative and judicial authorities is guaranteed by our Constitution and the Law.

Custody proceedings and matters concerning detention facilities are regularly inspected by the Civil Inspection Board of the Ministry of Interior, by higher ranks of law-enforcement officials, by administrative authorities, by committees of inspection of the DGS and the GCG, as well as by Public Prosecutors.

In this respect, the Civil Inspection Board has a highly important duty as regards proceedings of detention facilities. The Civil Inspection Board inspects central and provincial agencies of the GDS and GCG and the Coast Guard Command on behalf of the Ministry of Interior. In the scope of its annual inspection program, duties of the Board

such as inspection of detention facilities, proceedings to be performed in cases where illegal actions take place are set out in its duty order. The detention facilities of police and gendarmerie agencies are inspected with particular care by the Board, which reviews and provides recommendations about proceedings related to custody as well as the structural conditions of detention facilities, and provides a comprehensive record of these reviews and recommendations in inspection reports. Matters that are criticized in reports are taken into consideration by the concerned agencies to provide remedies. Judicial proceedings are initiated concerning actions that are illegal and cause violation of rights.

In respect of the references in the report regarding deficiencies in the physical conditions of detention facilities, it should be recalled that, great deal of work has been carried out in the last 15 years in order to improve the physical conditions of detention facilities and statement taking rooms. Within this scope, adequate financial resources were allocated to improve the conditions of detention facilities across the country both in terms of structure and in terms of administrative procedures. These efforts are observed in the reports of the Civil Inspection Board. Efforts are ongoing to further improve these conditions in order to reach higher standards in detention facilities.

As regards the issues concerning access to a lawyer:

Turkish legislation guarantees the right of access to a lawyer for the suspect and the accused at every stage of investigation and prosecution. As per Article 149 of the Code of Criminal Procedure, detainees are free to choose and be represented by one or more lawyers. If they cannot afford a lawyer, legal aid is available and a lawyer shall be appointed for them. In some cases, due to the gravity of the offences, it is mandatory for the investigation or prosecution authorities, whether the suspect request it or not, to appoint a lawyer ex officio for offences which carry imprisonment for a term of at least 6 years.

The right of the lawyer to consult with the detainee, to be present during the statement taking or interrogation, and to provide legal assistance shall not be prevented or restricted at any stage of the investigation and prosecution phase.

As regards para. 23 and 24:

The procedures regarding the medical examination of persons in custody are set out in Article 9 of the Regulation on Arrest, Custody and Statement Taking, in line with Article 99 of the CCP and the Circular No. 2005/143 on the "Principles to be followed in operating coroner services" dated 22/ September 2005, issued by the Ministry of Health.

All persons in custody get mandatory medical controls at the outset and at the end of the custody or in each extension of the custody period if necessary. As a principle, the law-enforcement officials are not in the same room with the doctor and the patient during the examination, unless the doctor requests otherwise, due to his/her personal safety considerations.

On the other hand, despite the measures to prevent violence in health care, acts of violence may occur against medical staff during health care service. The law-enforcement officials carefully observe whether the person has potential risk of doing harm to himself/herself or other people or running away during physical examination. If the doctor requests the examination to be conducted in the presence of law-enforcement official, this request shall be documented in writing. As mentioned before, in such cases, the detainee's lawyer may also be present during examination upon the detainee's request, provided that it does not cause a delay.

Furthermore, Article 21 of the Regulation on Patient Rights guarantees respect for the privacy of the patient. Article 23 of the same Regulation provides that "The information obtained due to provision of medical services cannot be disclosed under any circumstances except the situations permitted by law".

The Government would like to underline that law-enforcement officials are prohibited to use any form of reprisal or threats thereof as well as to exert any other discouragement vis-à-vis detained persons. During trainings, law-enforcement officials are reminded that such acts are unacceptable and will be punished accordingly.

As regards para. 26:

In line with the CPT's recommendation and in accordance with Article 6 of the Regulation on Arrest, Custody and Statement Taking, persons taken into custody are informed of their rights. As mentioned before, arrest and custody records and the Rights of Suspects form is filled in and a copy of the form is given to persons under custody. These forms are also prepared in German,

English, French, Russian and Arabic and visibly displayed in detention centres where persons in custody can read them.

As regards para. 27:

In December 2019, all the cameras in detention facilities of Ankara Provincial Directorate of Security were replaced with IP cameras, thus video quality has been enhanced through the means of high technology. All the detention facilities of Ankara Provincial Directorate of Security have necessary technical equipment and specification and sufficient natural lightning, thereby, complying with the Circular "Standards for Detention Facilities and Statement Taking Rooms" No. 2004/68 and dated 1 April 2004.

Detention procedures are established by recording into a book assigned for recording those placed into detention. The record book for those under detention are completely and carefully kept in due form. The matters such as consulting with lawyers and informing relatives are also recorded. There has not been detected any errors or irregularities so far within the framework of the inspections carried out periodically by the Public Prosecutors.

Entries in the Record Book are also registered into the Custody and Detention Module within the POL-NET Team System.

In this regard, the Public Prosecutor inspected the Record Book in Juvenile Division of Şanlıurfa Provincial Directorate of Security on 7 January 2020 and did not find any fault or deficiency.

As regards para. 31:

In detention facilities attached to Şanlıurfa Provincial Directorate of Security, the supply of breakfast, lunch and dinner and drinking water for the detainees is operated by a food company coordinated by the Logistic Branch of the Security Directorate. All the needs of persons are provided in time, subsequent to the completion of their custody and health control procedures.

Personal hygiene products are provided to persons in custody and, when needed, toilets at the floor of the detention facility can be used.

In detention facility located at the headquarters of the Security Directorate of Diyarbakır, after the tender organized by the Supply Division, food for detained persons is supplied by the Police Accommodation Division. The food supply of surrounding districts is done through the

allowance of District Security Directorates or Chief Offices. Three meals (breakfast, lunch and dinner) are served in these facilities. Detainees' access to toilet and washing facilities are granted upon their request.

With respect to sleeping needs of person detained in these facilities, clean sheets, blankets and mattresses are provided by the personnel in charge.

As regards conditions of detention:

Articles 25 and 26 of the "Regulation on Arrest, Custody and Statement Taking" establish the minimum standards for detention and statement taking rooms and the matters on inspection.

Article 25 of the Regulation stipulates that, *“Detention rooms should measure at least 7 square meters wide, 2.5 meters high and at least 2.5 meters between the walls. Adequate natural lightning and ventilation facilities are provided. However, if the ventilation facilities are insufficient due to the high number of the suspects, other places having the physical conditions prescribed for detention facilities may also be used”*.

Detention facilities within the Directorate General of Security and the General Command of Gendarmerie are constructed in accordance with the above-mentioned Regulation, and the efforts to renovate the existing facilities accordingly are still underway.

A Directive on Detention Facilities by Directorate General of Security, which entered into force on 24 June 2014, is available on POL-NET Legislation Information System. The Directive establishes the procedures regarding the persons in custody, the custody period and their release.

In order to set forth national and international standards, "Detention Facilities Concept of the General Command of Gendarmerie" has been prepared and updated within the scope of the Standards of the CPT, publications of the Civil Inspection Board of the Ministry of Interior, Law-Enforcement Ethics, Law-Enforcement Human Right Concept.

Almost all police stations have been equipped with camera record system throughout Turkey. Work is underway to meet the requests of the provinces which lack the system.

A detailed study has also been carried out by the Directorate General of Security for restructuring detention facilities, and sample plans with details are printed in booklets.

Pursuant to Article 92 of the Code of Criminal Procedure and Article 26 of the Regulation on Arrest, Custody and Statement Taking, in the course of their judicial duties, the chief public prosecutors or public prosecutors appointed by them shall inspect the detention room where the individuals taken into custody shall be accommodated, including, if any, statement taking rooms, the factual situation of the persons in custody, the grounds for being taken into custody and the custody periods, as well as all records and procedures related to arrest and custody.

Article 202 of the Code of Criminal Procedure stipulates that;

"(1) If the accused or victim of the offense does not speak enough Turkish in order to express himself, the essential points of the accusation and the defence shall be translated by an interpreter appointed by the court.

(2) The essential points of the accusation and the defence shall be explained to the accused or to the victim, who is handicapped, in a manner that they can understand them.

(3) The provisions of this article are also applicable at hearings of the suspect, victim and witnesses in the investigation phase. The interpreter shall be appointed by the judge or the public prosecutor at this phase. "

The persons in custody are provided with food, drinking water, personal cleaning products and blankets. Their need for daylight and fresh air is also met.

The projects of the buildings under construction/to be constructed are prepared in accordance with the latest legislations.

For example, all the detention rooms in six new service buildings as of 2019 affiliated with Istanbul Provincial Directorate of Security have been constructed pursuant to the updated legislation on detention facilities. Moreover, the detention rooms are monitored through the cameras for twenty-four hours. Audio and video recording systems in detention and statement taking rooms in Provincial Directorates of Security and Counter-Terrorism Departments are modernized every year.

Information On Detention Facilities In 2019			
Total number of detention facilities: 4011			
Facilities conform to standards		Facilities that don't conform to all the standards	
Total number of detention facilities	Capacity	Total number of detention facilities	Capacity
3.688	13.037	323	810

Detention facilities of the General Command of Gendarmerie:

In 2017, among a total of 2009 detention facilities, 1.841 complied with the standards, whereas 148 did not (97 of them due to structural deficiencies and 51 due to the absence of camera).

In 2019, among a total of 2.065 detention facilities, 1.951 complied with standards, whereas 114 did not (106 of them due to structural deficiencies and 8 due to the absence of camera).

As regards para. 36:

Overcrowding in prisons is a problem encountered by many countries. In order to tackle this problem and reduce overcrowding, comprehensive endeavours are continued to be performed such as introducing measures alternative to arrest, legislation work, personnel recruitment, projects, improvement on physical structure of penal institutions, observation and classification.

As regards para. 40:

Turkey takes into account the standard minimum rules for penal institutions stated in the Recommendation of the Committee of Ministers of the Council of Europe on Penal Execution while planning and constructing the penal institutions and accommodation convicts/detainees.

It is essential to carry out, without delay, the first admission treatment procedures of convicts and detainees admitted to penal institutions for the first time.

In this connection, the Circular No. 172 on Access of Those Accommodated in Penal Institutions to Human Rights Centred Health, Their Treatments, Transfers due to Treatment and Procedures of Sentence Postponement in Accordance with International Standards was published on 6 January 2020 pursuant to the Law no. 5275 on the Execution of Penalties and Security Measures with a view to establishing rules and principles about the protection of health of convicts and detainees, diagnosis and treatment, their transfers due to disease, sentence postponement, facilitating implementation of the legislation and overcoming the relevant problems.

The abovementioned Circular provides that convicts and detainees be examined during their admission to penal institutions to find out whether they have physical injuries due to beating or use of force, suffer from contagious and chronic diseases, take medicine on a regular basis or have ongoing treatment. In addition, it states that the first admission treatment is provided as soon as possible to take necessary measures to address their possible health problems and to ensure the well-being of other convicts/detainees and penal institution staff. In the absence of institution doctor or family physician (out of working hours or holidays) the "First Admission Observation Form of the Convicts/Detainees" are filled out by the prison admission unit to detect their general state of health and the first admission treatment is provided as soon as possible (within three days at the latest) until given by a doctor.

In the absence of doctors and nurses within twenty-four hours following the admission of convicts and detainees to the institution, it is ensured that the first admission treatment is provided by the prison admission unit to detect general state of health of convicts and detainees until provided by a doctor.

Moreover, convicts and detainees are immediately referred to hospitals by taking all necessary measures in the event that family physician, institution doctor or prison admission unit finds out that the relevant person has contagious disease or physical injuries due to beating or use of force.

As regards the statement in the report that "Further, the results of every examination, including the above-mentioned statements, the doctor's conclusions, should be made available to the prisoner and his/her lawyer":

The required procedures are carried out in accordance with Article 16 of the "Regulation on Patients' Rights" which provides that *"The patient can examine the file and records, which has information about his her health status, directly or through his/her legal representative and take a copy. These records can only be seen by those who are directly related to the patient 's treatment. "*

The guardians working at infirmaries of penal institutions are tasked with only following up the personal health files of convicts and detainees referred to hospitals; medical privacy is protected.

Furthermore, medical care and treatments of inmates are provided first in healthcare services of penal institutions in all penal systems in the world, and if required, in hospitals outside the prisons, paying utmost regard to medical confidentiality. In accordance with international standards for prisons, detainees are examined and provided with treatment first by medical specialists, but in case of further examination and treatment, by hospitals outside the prisons. For example, Articles A/1, 2, 3 and 4 of the Recommendation No. (98)7 of the Committee of Ministers to Member States Concerning the Ethical and Organisational Aspects of Health Care in Prison and C/13 Appendix to Recommendation state that "Medical confidentiality should be guaranteed and respected with the same rigour as in the population as a whole." In addition, the same recommendations are also stipulated in Articles 39-42 of Chapter 3 of the European Prison Rules (2006). Turkey's penal institutions display the same sensitivity in accordance with the abovementioned and other relevant rules.

In Turkey, family practice was kicked-off as a pilot implementation in 2005 in the province of Düzce. The number of provinces was increased over the years, and as of the end of 2010, it has been implemented across the country.

Within the framework of family practice, healthcare services in penal institutions are provided under Article 6 titled "the provision of mobile and on-site healthcare services" of the Regulation on Family Practice and the Protocol on Health Care Services in Penal Institutions signed between the Ministry of Health and the Ministry of Justice on 30 April 2009.

Article 6 of the Regulation on Family Practice reads *"Upon request, one or more family practitioners may be assigned to provide on-site healthcare services in places, where people live collectively and do not have the ability to directly refer to family practitioners they are registered to or to freely choose family practitioners and where there are no physicians available, such as prisons, juvenile*

correction facilities, hospices, nursery schools and orphanages hosting children in need of protection. Family practitioners that provide healthcare services in these institutions register people residing in those institutions. Institutions that are declared as on-site healthcare service area are obliged to offer the minimum requirements necessary for the provision of these healthcare services. In such places, on-site healthcare services are provided for no less than three hours a month for every 100 persons, at least once a week where there are up to 750 registered persons and at least two times a week where there are more than 750 registered persons. This duration is doubled for prisons and juvenile correction facilities.”

In order to strengthen health units of penal institutions, in 2019 56 nurses and 108 psychologists were employed.

In coordination with the Ministry of Health and the Ministry of Justice, works are underway to appoint 116 psychologists, 24 social workers, 90 nurses to the penal institutions in 2020 and to appoint 102 dentists by transfer.

As regards para. 41:

Paragraph 7 of Article 57 of the Turkish Criminal Code sets forth that, *"In relation to an offender who is addicted to alcohol, narcotics or psychotropic substances, it shall be determined whether he requires treatment at a health institution which has expertise on alcohol, narcotic and psychotropic substance addicts. The treatment shall continue until such persons are cured from using alcohol, narcotics or psychotropic substance. They may be released from the health institution by a decision of a court or a judge on the basis of a report to be prepared by the commission of the health institution in which the person was placed. "*

Pursuant to the said Protocol, programmes for fight against addiction are carried out for the convicts and detainees.

Moreover, treatment and probation measures are taken concerning narcotics and psychotropic addicts within the scope of probation services.

As regards the implementation of treatment and probation decision in accordance with Article 191 of the Turkish Criminal Code, the accused or convict is examined and treated at a health institution determined by the Ministry of Health and a follow-up programme

is provided with treatment by the health institution by referring them to treatment centres for drug addiction.

Moreover, treatment for addicts in penal institution is provided by psycho-social assistance and health services. Such services are defined in Law No. 5275 on the Execution of Penalties and Security Measures and the Bylaw on Management of Penal Institutions and Execution of Penalties and Security Measures.

Psycho-social assistance and health services are offered to protect and improve mental and physical health and give treatment for both convicts/detainees and prison staff.

During the admission to penal institution, an Examination and Evaluation Form (ARDEF) is filled out with regard to convicts and detainees by psychologists and social workers within the scope of the Individualized Rehabilitation System (BISIS). As a result of it, risks and needs of inmates are identified and they are referred to psycho-social assistance and (individual or group) intervention programmes. Moreover, they are included in the Intervention Programme for Tobacco, Alcohol and Drug Addiction. It is a treatment programme for addicts and is intended to inform the participants about tobacco, alcohol, drug and addiction, to motivate them, to minimize loss and to avoid from diseases. As a result of risk evaluation, convicts and detainees are referred to hospitals if required.

As regards para. 46:

All prisoners in İmralı F-type High-Security Prison are allowed to associate in collective activities for six hours per week, including one hour of sports three days a week, and offered four hours of outdoor exercise per day (two hours in the morning and two hours in the afternoon). Prisoners can participate in the additional activities (including one hour of painting/handicrafts, one hour of table tennis and one hour of board games) in pairs.

Pursuant to Paragraph I of Article 26 of the Law No. 5275 convicts/detainees in penal institutions have the obligation to serve their prison sentence and to act in compliance with the execution regime implemented for this purpose. In Paragraph 1 of Article 37 of the said Law, it is stated that when a convict acts in breach of the behaviour and attitudes required by the laws, bylaws and regulations or the administration for an order, security and discipline in the institution, one of the disciplinary penalties specified in Articles 39-44 of the Law No.5275 shall be implemented against him, depending on the nature and seriousness. After evaluating, disciplinary board decides whether an act deserves disciplinary punishment or not, and then convicts/detainees

are informed about it. The convicts/detainees may complain to execution judges against the board's decision, and to assize courts against the execution judges' decision.

The officers and managers cannot themselves decide to impose penalty on the convicts and detainees. The disciplinary board examines the situation and imposes the penalty stipulated in the legislation.

As regards para. 47 and 51:

Paragraph 1 (d) of Article 5 entitled "Basic Principles" of the Regulation on Visits to Convicts and Detainees states that "The convicts and detainees may meet with their relatives specified in this Regulation for once a week, including one contact visit in a week to be determined by the institution administration and non-contact visits in the remaining weeks of the month."

In subparagraph (e), "Taking into account size, security and order of the institution, the contact visits in penal institutions may be allowed every two months upon the decision of management and observation board for the convicts and detainees who are imprisoned from the crimes defined in Article 220 of the Turkish Criminal Code and Second book, Fourth Section, Fourth, Fifth, Sixth and Seventh Parts and from the crimes falling into scope of the Anti-Terror Law No. 3713 of 12/4/1991 ."

In subparagraph (f), "Those convicts of aggravated life imprisonment may have visits twice a month, including one contact and one non-contact visit for once every fifteen days.

The relevant articles of the above-mentioned Regulation provide how the convicts/detainees accommodated in penal institutions enjoy the right to visits."

However, as stated in Paragraph I of Article 43 entitled "Deprivation of accepting visitors" of the Law No. 5275 on the Execution of Penalties and Security Measures "The penalty of deprivation of accepting visitors does not allow the convicts to receive visits for one month to three months."

For this reason, a convict who has received disciplinary punishment of "Deprivation of accepting visitors" cannot have contact or non-contact visit within the specified time.

Moreover, in accordance with Paragraph 1 of Article 59 entitled "The right to see a lawyer or a notary" of the Law No. 5275 on the Execution of Penalties and Security Measures "The convict shall have the right to meet a lawyer up to three times without a power of attorney in the framework of legal practice.

In Paragraph 2 "Meetings with a lawyer or a notary shall take place upon presentation of professional identification papers, outside holidays and within business hours, in places allocated for this purpose, out of hearing but within sight for security reasons."

In Paragraph 3 "A lawyer may not have meetings with several convicts at the same time, even if he holds powers of attorney issued by them."

In Paragraph 4 "During the meeting with a lawyer, document or document templates and files given by the convict to his/her lawyer and vice versa and his records of meetings with his/her clients shall not be subject to examination; the meeting between a convict and his/her lawyer cannot be listened or recorded."

In Paragraph 5 "In the event that information, finding or document, which implies that safety of society and penal institutions is endangered, terrorist organization or other criminal organisations are directed, orders and instructions are given to these organisations or secret, open or encoded messages are transmitted by their commands, is obtained, as for the meetings of convicts who are imprisoned for the crimes defined in Article 220 or the Turkish Criminal Code and Second book, Fourth Section, Fourth, Fifth, Sixth, Seventh Parts and from the crimes falling into the scope of the Anti-Terror Law No. 3713 of 12/4/1991, the meetings may be recorded vocally or visually for three months upon the request of chief public prosecutor's office and decision of execution judge, the officer may be present in the meeting so as to monitor the meeting between the convict and his/her lawyer, document or document templates and files given by convict to his/her lawyer and vice versa and the record they kept on the conservations between them may be seized or days and hours of these meetings may be restricted."

In Paragraph 6 "Execution judgeship may evaluate a convict in terms of his/her observance of rules, the danger s/he constitutes to society or penal institution and his/her development in rehabilitation studies and may extend the specified period in the decision no more than three months for several times; execution judgeship may also shorten or terminate this period."

In Paragraph 7 "Where it is understood that the meeting of the convict who falls into the scope of the fifth paragraph was made for the aim specified in the same paragraph, the meeting shall be terminated and this shall be written down in the minute with its reasoning. Before the start of the meeting, the parties shall be warned about this issue."

In Paragraph 8 "Where minutes are taken down about a convict pursuant to the seventh paragraph, the meeting of the convict with his/her lawyer may be banned by execution judge for six months upon the motion of chief public prosecutor's office. The banning decision shall be immediately notified to the convict and relevant bar presidency for the assignment of a new lawyer to the convict. Chief public prosecutor's office may request bar presidency to change the designated lawyer. Payment shall be made to the lawyer assigned according to this provision of the paragraph, pursuant to Article 13 of the Law No. 5320 of March 23, 2005 on the Enforcement and Application Procedure of the Code of Criminal Procedure."

In Paragraph 9 "The decisions rendered by execution judge pursuant to this article may be appealed according to the Law No. 4675."

In Paragraph 10 "Provisions of this article shall be applied against the convicts staying in high security penal institutions according to the third paragraph or Article 9 and against the convicts meeting with their lawyers as suspect or accused due to another crime while being convicted of crime in the fifth paragraph."

In Paragraph 11 "At the investigation phase, the Criminal Magistrate, at the prosecution phase the trial court shall be authorized to render decision according to the provisions of this article."

The relevant articles of the above-mentioned law provide how the convicts and detainees accommodated in penal institutions use the right to meet with their lawyers.

As regards para. 52:

Article 68 entitled "*The convict's right to send and receive letters, fax messages and telegrams*" of the Law No. 5275 on the Execution of Penalties and Security Measures provides that:

"Article 68 — (1) Subject to restrictions specified below, the convict shall have the right to send and receive letters, fax messages and telegrams sent to him, and to send letters, fax messages and telegrams at his own cost and expense.

(2) *Letters, fax messages and telegrams sent or received by the convict shall be inspected by the letter-reading committee or, if this committee does not exist, by the highest authority of the institution.*

(3) *Letters, fax messages and telegrams endangering the order and security of the institution, holding up officers as a target, serving for communication between members of terrorist or interest-seeking criminal organisations or other criminal organisations, containing false and untrue information which would lead to panic among people and in the institution, or containing threats or insults, shall not be delivered to the convict. They shall not be sent if they are written by the convict.*

(4) *Letters, fax messages and telegrams sent by the convict to public authorities or to his lawyer for the purpose of defence shall not be subject to inspection."*

Article 91 entitled "*The convict's right to send and receive letters, fax messages and telegrams*" the Bylaw on Management of Penal Institutions and Execution of Penalties and Security Measures provides that:

"Article 91 — (1) The convict shall have the right to send and receive letters, fax messages and telegrams sent to him, and to send letters, far messages and telegrams at his own cost and expense.

(2) *Letters, fax messages and telegrams sent or received by the convict or arriving for him shall be inspected by the letter-reading committee or, if this committee does not exist, by the highest authority of the institution.*

(3) *Letters, fax messages and telegrams endangering the order and security of the institution, holding up officers as a target, serving for communication between members of terrorist or interest-seeking criminal organisations or other criminal organisations, containing false and untrue information which would lead to panic among people an in institutions, or containing threats or insults, shall not be delivered to the convict. They shall not be sent if they are written by the convict.*

(4) *Letters, fax messages and telegrams sent by the convict to public authorities or to his lawyer for the purpose of defence shall not be subject to inspection. However, in the event that the situations specified in Paragraph 2 (c)-2 of Article 84 arise, the procedures and principles in the said Article are applied to the letters, fax messages and telegrams sent for the purpose of the defence of the convict to his lawyer. "*

In line with the above-mentioned Law and Bylaw, the letters sent to public authorities in Turkey and the international organisations and institutions (such as the ECtHR, the CPT) are not subject to examination.

As a result, there are no restrictions for the convicts and detainees in penal institutions to send and receive letters except for the conditions specified in Paragraph 3 of Article 68 of the Law no. 5275.

As regards para. 53 and the information request on the visits carried out by the Prison Monitoring Board to İmralı F-type High Security Prison (İmralı Prison) in 2019 and 2020:

Bursa Penal Institutions and Prisons Monitoring Board paid visits to the İmralı Prison on the dates of 16 May 2019, 27 August 2019 and 27 December 2019. The Prison Monitoring Board also scheduled a visit on 11 February 2019 to İmralı Prison. However, this visit had to be cancelled due to the inclement weather conditions. Visit reports are provided in the attachment.

As regards the health situation of prisoners held at İmralı Prison:

Personal health files of the convicts and inmates are accessed only by the institution doctor, health officer and the relevant staff in infirmaries. These files are not shared with anyone unless requested in writing by public authorities (courts, lawyers, hospitals, etc.)

APPENDIX
(not published)

Reports by Bursa Penal Institutions and Prisons Monitoring Board on its visits to
Imralı Prison of 16 May, 27 August and 27 December 2019