

TURKEY

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REPORT ON POLICING AND PENITENTIARIES

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Executive Summary

Police Detention

The Regulations governing police detention date from 2005 and fully reflect all the protections required by international bodies active in this area. Further, in the stations visited, it was clear from the comprehensive records maintained that there is full compliance with the requirements of the Regulations when a person is detained and that detention periods are often very short indeed. The facilities visited were relatively new. From the two-year old one, it was manifest that the Authorities had changed the old design to incorporate natural light and ventilation, as required by CPT standards. Older stations will prove difficult to convert to provide these basics; while new stations are being built, and the older ones are decommissioned as unsuitable, efforts must be made to compensate for poor natural light and ventilation in old stations which are being used.

Several factors require to be addressed in order to consolidate the progress made to date:

- **Medical confidentiality is breached when non-medical persons can access reports of the forensic doctor carrying out admission medical screening. Another system should be found for transferring these reports to the investigator's file.**
- **It remains the situation that there is no conspicuously independent forensic medical service in the country, with the forensic clinic under the Ministry of Justice having a monopoly of the service.**
- **It is noted that there is still no video or audio recordings of police interviews with arrested and detained persons. Such recordings are now the norm in many States in Europe and provide an excellent protection against abuse and false allegations of abuse.**
- **The main inspection of police detention facilities is carried out by the Prosecutors. While some monitoring of the 5,344 detention houses is carried out by Provincial and District Human Rights Boards on the instructions of the Human Rights Presidency, consideration should be given to establishing a genuinely and conspicuously independent inspectorate mechanism, responsible for publishing its own reports. This will be required when Turkey ratifies OPCAT.**
- **Strenuous efforts are needed significantly to reduce the number of juveniles detained, both on remand and under sentence, and to ensure that only the amount of security required is applied to each detained juvenile.**

Prisons

Various schemes and programmes have been carried out in Turkish Prisons in recent years with a view to ensuring their compliance with contemporary European standards, and much has been achieved. But there remain two legacies from the past which are hindering progress:

- **Turkey still has a plethora of small prisons designed according to a system where the conditions of the prison were seen as part of the sentence. Until these are replaced with prisons designed to provide for interactive control and dynamic security, there will always be a tendency for prison to be seen for punishment rather than as punishment.**
- **The enormous percentages of remand, not finally sentenced and juvenile prisoners greatly aggravates the difficulty of establishing positive regimes designed to assist prisoners to address their criminogenic behaviour and prepare them for release. Reducing the use of pre-trial imprisonment, especially for juveniles, reducing the period of pre-trial detention and greatly speeding up the appeals process are all required to assist with reducing these numbers.**

In addition to these major points, there are other matters which need to be addressed to improve prisons:

- Staffing levels are very low, thus reducing the opportunity for proper interaction with prisoners and the full use of newly trained staff. Staff training has been greatly improved, but there needs to be more staff so that they can exercise their skills.
- E and F-Type prisons, in particular, need to be designed with proper facilities for safe prisoner interaction. Association with other prisoners should be the normal mode of daily living for at least eight hours per day. Only where there is a specific and on-going security need should prisoners be denied association.
- There is an urgent need for much fuller programmes of activities in all prisons. The CPT minimum of eight hours *constructive* activity every day is not being met, and in some prisons and with some types of prisoner is nowhere near being met.
- Particular attention needs to be paid to small numbers of female prisoners kept in predominantly male prisons, especially in relation to provision of a range of out of cell activities and meeting their sanitary needs.
- Family contact is very restricted and not for reasonable security cause. Non-contact visits are the norm, with only one of the four monthly visits allowing contact; prisoners and their families can be deprived of visits as a disciplinary sanction for events unconnected with visits; aggravated life sentence prisoners have only half the visits of other prisoners. Telephone calls are restricted to one ten minute call per week. There is no security reason for this.
- Civilian prison monitoring boards have been set up. Strong efforts need to be made to make these more representative of the population as a whole, to enable them to organise their own training and to emphasise their independence. They should report publicly on their activities, with appropriate protection for security issues and individual prisoners. In their present form, it is doubtful if they would meet the OPCAT standards.
- NGOs should be given greater encouragement to participate in normal prison activities.
- Each prison with more than 250 prisoners should have a full-time medical doctor appointed to discharge the full range of duties of a medical officer as envisaged by the EPR. A ratio of one doctor to 250 patients would allow discharge of all medical duties properly.

Conclusion

There was clear will among all those Authorities we met to do what is required to bring standards, processes and practice into line with the contemporary European standards. Much progress has apparently been made, and the resources provided have been used to show that the Authorities understand what is required. Translating the same practices to older buildings in both police and prisons is very difficult and it will inevitably take some time for new buildings to be provided. In the interim, other changes, as identified, can be made to improve – and reduce - the experience of loss of liberty, to the benefit of all. **A significant step which the Turkish Authorities could now take to demonstrate their on-going commitment to improvement would be the ratification of the OPCAT treaty.**

METHODOLOGY

1. Pre-visit reading of relevant reports on Turkey by the Committee for Prevention of Torture (CPT) of the Council of Europe, previous experts working on behalf of EU, local Rules and Law.
2. Preliminary planning meeting with Turkish Officials in Brussels.
3. Briefing from Head of Directorate General of Prisons and Detention Houses of Turkish Ministry of Justice.
4. Fieldwork visits, as arranged by the Directorate, to Elmadag Closed Penitentiary Institution, Sasmaz Open Prison, Sincan Penitentiary Institution, No.1 L Type Closed Penitentiary Institution, Ankara, No.2 F Type High Security Closed Penitentiary Institution, Cankiri E Type Closed Penitentiary and Institution, the Ankara Training centre for Penitentiary Personnel. In each institution we spoke to staff and some prisoners, as well as looking at physical plant and regime activities.
5. Fieldwork visits to police and gendarmerie establishments under the Ministry of the Interior, namely Yildizevleri Polis Karakolu Oran, the Police Juvenile Detention place in Ankara and the Gendarmerie detention facility in Akyurt.
6. Meetings with:
 - NGOs
 - Members of the Civilian Monitoring Board of Cankiri Prison
 - The Ankara Enforcement Prosecutor
 - The Chair of the Sub-Committee of the Human Rights Commission concerned with prison monitoring
 - The Ankara Bar Association
7. Perusal of further written materials provided during and after the visits.

POLICE CUSTODY

Apprehension, Detention and Statement Taking

Regulation No. 25832 of 1 June 2005 governs the procedures for initial detention of persons who are suspects, possible witnesses or without identity cards. The maximum period of such detention ranges from 24 hours in relation to less serious cases, extendable to three days if there is a large group of suspects, 48 hours in relation to more serious crimes, extendable to four days, and up to seven days in areas declared as emergency state regions, though this requires the explicit authorisation of a judge, who must hear the apprehended and detained person (Articles 13 and 14). These periods are all maxima, and the regulations encourage prosecutors to be as expeditious as possible in dealing with detained persons.

The Regulations are equally prescriptive in relation to all the factors relating to initial detention stressed by the CPT in its general standards. Thus:

- Rooms must be a minimum of 7 sq m, with access to natural light and ventilation, full furniture and access to toilet and bathing facilities (Art 25). A maximum of five persons can be kept in any one room (Art 11). Minors must be kept apart from adults at all times (Art 19)
- Next of kin must be notified “without delay” (Art 8)
- Medical examination must be carried out immediately if force was used on apprehension and, in any event, at the end of the period of apprehension. The investigating officer must not accompany the person to the medical examination. Officers can only be present during the medical examination if the doctor requests this. Any medical examination which results in findings consistent with torture or ill treatment must be notified to the public prosecutor immediately. Three copies of all medical reports must be made, one for the issuing institution’s records, one for the arrestee and one for the investigation file (Article 9)
- The apprehended person is entitled to the services of a defence lawyer at any time, and the lawyer may interview the client in private and be present during any questioning or statement taking. Persons under 18, deaf or mute or unable to defend themselves and those facing a charge which carries a sentence of five years or more **must** have a defence lawyer (Articles 20 and 21)
- A very full custody record must be compiled, recording, inter alia, times of notification to next of kin and lawyer (Article 20)

In addition, the Rules specify the style of questioning, forbidding anything which is oppressive (Art 23) and require the public prosecutor to make regular inspections of detention areas (Art 26). Indeed, the Rules are a model of their kind and compliance with them would ensure that the procedures in place at least fully complied with international norms. We do know, from our field visits, that there is actually over-compliance in some areas. Thus, in the police station visited, it is the practice to take every detained person to the Regional Forensic Centre for a medical examination immediately on detention and immediately before release or transfer, and staff indicated that this was the practice everywhere. (It was thus particularly concerning to note in a report on a recent death in custody elsewhere in Turkey that a medical report had allegedly been completed by a doctor without having seen the patient. If this is true, an apparently excellent protection for detainees and staff alike will have been seriously undermined.)

It apparently remains the case that the only Forensic Medical Service in the country is operated under the control of the Ministry of Justice and that there are apparently no qualified

forensic medical doctors recognised by the courts outside this service. Such a monopolistic situation is not conducive to the development of the most effective, and manifestly independent, service in this crucial area.

It is clear that both the police and gendarmerie stations to which we were taken were among the best in the country. Both were relatively new and located in districts of the city of Ankara which are low-crime areas. Thus the police station had had 80 arrestees in the year to date, while the gendarmerie station had had 10; neither had any detainees at the time of our visits. It was, however, very useful from our perspective to see whether the authorities had learned any lessons from the many recommendations which have been made to them over the years about police detention. Restructuring old buildings, designed under a different philosophy, to meet contemporary standards can be difficult, if not impossible. It is therefore a bit unfair simply to re-visit such establishments. However, if the newer buildings had not altered to meet the new standards, one could conclude that the Authorities had not paid attention to what has been said.

It was immediately clear in both the gendarmerie and police stations that the lessons had been learned. The police station had accommodation for 50 detainees; there were two double cells measuring 14 sq m. Each cell was equipped with bunk beds and blankets, a bench and table, but had no access to natural light or ventilation. Cell doors were of the America bar type, and both cells were fitted with closed circuit television cameras and sound recorders (CCTV). There was no call bell for summoning staff. Cells had easy access to a toilet block with two urinals, an Asian toilet, two wash hand basins and a shower. The cell and corridor walls were covered in Information to Detainees about their rights, all in Turkish, and there was a total lack of graffiti or vandalism of any kind. The other accommodation was a large tank cell, designed to hold groups of detainees, for example after a football match or demonstration. This had not been used since 2006.

The gendarmerie facility was only two years old and had been built in full conformity with the new Regulation. It had two cells, one for males and one for females, both measuring some 15 sq m excluding the rather luxurious en suite toilet and shower annexes with which each one was provided. Again, the cells had barred fronts and were not equipped with call bells. CCTV cameras had been installed in each cell. Natural light was rather restricted in the male cell, but both had excellent artificial light. Beds were fitted with soft mattresses and each had three blankets.

An outstanding feature of both stations was the excellence of the record keeping. Absolutely everything which happened during the detention period was recorded, with the detainee very often countersigning individual entries as confirmation that it was correct. Thus, the time of contacting relatives was entered and confirmed by the detainee, as was the summoning of a lawyer. Each of the files also had a medical entry, reporting what the forensic centre had said about the detainee on the initial medical examination. Staff explained that they were given the copy of the report intended for the investigation file and always looked at it to see if there was anything they should be aware of while holding the person. They are not given this report if the person makes any allegation against the arresting authority. Delivery of food was recorded – and detainees are sometimes allowed by the prosecutor to receive food from their families. Neither facility had recorded any complaints against staff and the gendarmerie pointed out that there is a national telephone hot line which anyone can use to make a complaint against them. Both also received regular visits from prosecutors.

Both stations had private rooms available for lawyers to interview clients out of hearing of staff. Investigation rooms were normal offices, not equipped with video or tape recording equipment, since this is not used anywhere in Turkey.

Visits were regularly carried out by prosecutors in performance of their statutory function to inspect the stations. A record of such visits is maintained and, in each station visited, it was clear that visits were made when persons were in custody. While it is very important to have this internal system of inspection visits, and to note that the visits are carried out at all times of the day and night, it is also important to have a genuinely independent body entitled to visit and inspect stations. While visits from committees established by the Provincial Human Rights Boards, under the authority of the Human Rights Presidency are beginning to happen, it is not clear that such committees have the constitution, training and experience to function as a genuinely independent preventative mechanism as required under OPCAT. It is noted that their reports are published by the Ministry of Justice, but what standards they are using in their inspections has not been made manifest. Further information on this would be useful.

Conclusions and Recommendations

It is very clear from the 2005 Regulation that the Authorities have taken on board the recommendations which have been made by bodies like the CPT. The extent to which this has affected the practice was also clear to see in the recently designed and built gendarmerie facility, though the location of the en suite toilet facility, especially in the female cell, was such as to make supervision very difficult. I also have problems with in-cell CCTV. This allows the detainee absolutely no privacy at all, and is not a suitable replacement for an officer on duty in the cell area. Barred doors are also a privacy issue, though prisoners sometimes prefer them as they facilitate inter-cell communication! CCTV coverage is appropriate in the corridors and public areas.

As stated, the record keeping was excellent and ably demonstrated compliance with the traditional protections accorded by the Regulations to detained persons. While it is acknowledged that these were particularly good establishments, and had been previously informed of our visit, nonetheless, the level of attention to detail was impressive. One trusts that the same is true throughout the country.

The recommendations I would make are:

- **Medical confidentiality is breached when non-medical persons access the reports of the forensic doctor carrying out the admission medical screening. Another system should be found for transferring these reports to the investigation file.**
- **It is encouraging that all persons subject to detention are medically examined at the outset of detention and at the end. However, it is noted that there is still no independent forensic service available to provide second opinions.**
- **While there are CCTV facilities in places which I consider inappropriate, there are no recording facilities of any kind present during interviews with suspects. Video or tape recording provides an excellent protection to both detainees and investigating officers and consideration should be given to installing some system throughout the country.**
- **The inspection systems in place at the moment are not conspicuously independent. Consideration should be given to introducing a genuinely independent inspectorate with power to visit at any time, examine custody records and talk to detainees in private and with responsibility for publishing its own reports. This would provide a further guarantee of transparency and ensure that Turkey is ready for the ratification of OPCAT.**

Police Juvenile Detention Unit

A special juvenile department was established in 1967 and now consists of 98 persons. Its remit is to deal with juveniles in need of care and protection and those who are crime suspects. A new law on Child Protection in 2005 requires children under 18 to be kept separate from adults in judicial proceedings. There are specialist prosecutors and judges for the under 18s and all of them must be parents themselves. Processes are specially expedited and an assessment of criminal responsibility is made on those over 12 but under 15 before they are taken to trial. There is a total of some 3,000 on remand in the country as a whole at this time, many of whom will be accommodated in special units of adult prisons. Every new admission is seen by a social worker.

A total of 3918 children passed through the centre on judicial grounds in the last year. Many of them stayed a very short time – often just long enough to see the doctor, which is compulsory for all criminal suspects on arrival and departure. Only 123 of these were finally arrested and are now in Sincan. There is a 24 hour maximum period of detention here and all suspects must see a lawyer, and one always attends within an hour. Families must also be notified immediately a child is received, even if the child is alleging physical abuse by a parent. In such cases, a social worker will always be present when the child sees their parents.

Children subject to judicial procedures who have to spend a night here are kept in a different area from those in need of care and protection. There are two rooms, each measuring some 10 sq m, with very poor natural and artificial light and limited ventilation. CCTV cameras have been installed in the rooms, which are also equipped with two beds and blankets. The “Guest House” for care and protection cases, on the other hand, is a much less formal, four bedded room with good access to natural and artificial light and ventilation. We were reminded that children kept in this room are “not arrested”.

Comment

While procedures are properly followed in this department, the facility for holding arrested children overnight is not really suitable for this purpose. It is likely that there is little difference between the children brought to the centre, no matter the reason for them being there. Thought should be given to treating them the same. It is, however, noted that few actually stay an overnight. **It is nonetheless worrying that some 2,500 children are in remand detention facilities throughout the country, even with the expedited procedures in place. Every effort should be made to minimise the number of children in detention and the length of time they are kept there. It was clear from the visit to Ankara Juvenile Training House that security is not a crucial issue with the youngsters kept there (though we were told that some ten of them are sent to secure conditions at Sincan every year because they are unsuitable for conditions of low security), yet many of these youngsters would have been kept in secure conditions for their, possible lengthy, remand period. Given the potential length of the remand period, it is important that assessments are carried out on all young persons to ensure that only the appropriate level of security is applied to them. There should, of course, be a presumption that the person should be remanded in the community, subject to supervision by probation staff.**

PRISONS

Background

Like most countries, Turkey is a victim of history in relation to its prison estate. It has inherited a large number of small local prisons, all with different designs, many of them ancient and unable to be adapted for the conditions demanded in the 21st century. The decision has been taken to close down the small prisons and build new large prisons near to the largest centres of population. While there are many advantages in having small prisons located near to the homes of the prisoners, it is not usually possible to provide a proper range of activities for small numbers. Equally, it was the case that many of these small prisons were in a poor physical condition and could not economically have been brought up to modern day standards. Two new model prisons were provided under a joint European Union/Council of Europe programme which finished some 18 months ago. A new programme has now started to convert 90 prisons into Vocational Training Centres. The projects have also looked at staff training, and there are now five training colleges spread throughout the country. These colleges have been concentrating on training staff to deliver Offending Behaviour Programmes, which will shortly be rolled out across the country.

Prisoners

There is a total of 422 prisons in the country. On the first day of our visit there were 102,238 prisoners, of whom 43,676 are convicted and sentenced, 18,445 convicted but not finally sentenced and 41,202 pre-trial remands. This represents a rate of imprisonment of some 140, though some claim it is 120, per 100,000, at the higher end within Europe but not grossly out of touch with the average. The figures which are surprising are the percentages of remand and not finally sentenced prisoners, who greatly exceed the number of convicted persons. The average percentage of remand prisoners in other European countries is usually between 15 and 25%; in Turkey, it is almost 40%. This reflects the very lengthy pre-trial detention periods allowed by the law, and the very lengthy appeals process. While the law accords in principle with ECHR and ECtHR rulings, the sheer numbers of unsentenced prisoners may indicate that detention is being used, or continued, at the pre-trial stage in cases where the safety of the public or the interests of justice do not require it. It is well known that remand and appellant prisoners are among the most difficult to manage in custody. They have more rights than sentenced prisoners and are much less likely to settle into any regime, being more difficult to engage in work, education or offending behaviour programmes than their sentenced counterparts. If the Ministry of Justice were to tackle this issue, it would make the task of the Directorate and its staff considerably easier. Equally, the 2,500 juveniles must put a great strain on the staff and facilities available. They have quite distinct needs compared with adults, as well as entitlements, for example, to continuing education started in the community. Special consideration is also needed for women prisoners when they are kept in small numbers in establishments predominantly holding male prisoners. It is understood that this is often done to ensure that the women are kept near to their homes and families. However, male prisons may not be fully prepared for meeting, for example, the sanitary needs of women and may also operate rules (for example requiring a minimum of 10 prisoners before a particular activity can take place) which discriminate against minority groups in the prison.

Staff

There is a total staff of some 27,021, with a further 8,121 vacancies. While there is a variety of staff to prisoner ratios in other European countries, a ratio of one member of staff to almost four prisoners is extremely low by European standards. Our understanding is that there is no problem in recruiting personnel with appropriate qualifications, but the money for paying to fill the vacant posts has not been made available. While none of the directors complained about having too few staff, the implications of the low numbers are unavoidable. Thus, this must impact on the amount of time out of cell allowed to prisoners, the organisation of visits for prisoners and maybe even on the number of disciplinary offences reported each year. It was noticeable everywhere how few disciplinary breaches were recorded compared with experience elsewhere. Perhaps it is the case that Turkish prisoners are very well behaved, though, if that is the case, one would wonder why they are in prison in the first place! If, however, the Turkish Authorities are to deliver a full regime to prisoners, it is crucial that the number of staff is greatly increased as soon as possible. With the five training colleges now ready to take students, there is capacity to train a large number of basic grade recruits speedily. Their deployment in the field would make big changes in regimes possible. We heard of plans for the Justice Ministry to take responsibility for perimeter security back from the Ministry of the Interior. This is, in principle, a sound idea. Several countries use perimeter security duties as a first posting for new prison staff, allowing experienced staff an opportunity to assess the new recruits before deciding on their suitability for interacting with prisoners and working inside the prison.

During visits to the establishments, and from conversations with prisoners, it is clear that staff are spending much more time than previously in normal interaction with prisoners, though the low number of staff makes this contact less intense. It is welcome that there is more interaction, but the full potential of this to influence prisoners will only be realised when there are more staff around.

Prison Design

The biggest change in Turkish prisons over the last few years has been the move away from large dormitories to smaller rooms, especially in the F-Type maximum security prisons. Under the old scheme, prisoners lived in a unit consisting of a dormitory often with 40 or more bunk beds, usually situated on an upper floor, with a kitchen and sitting area downstairs and a door leading to an outside exercise yard, which was normally open during daylight hours. Staff only entered the unit to count the prisoners, perhaps three times per day, and to carry out routine searches. For the rest of the time, the prisoners were left to manage themselves. The decision was made to move to smaller rooms to ensure better staff control and good order. Thus, in the F-Type prison visited, there were two to four prisoners per room (with some single rooms available).

The introduction of the new arrangements has caused considerable problems. Prisoners and their relatives resisted the move and many engaged in hunger strikes, some to death. What they objected to was the fact that prisoners were to be restricted to associating only with those with whom they shared the room. Each room had its own dedicated exercise yard; any movement to work, education or programmes, if any of these was available, would be in the company of the room mates; any attempt to communicate with others would be a disciplinary offence. The Authorities resisted the pressure and carried on with the plan. They did give a little in 2007 when Circular 45/1 made provision for prisoners to be allowed to associate in

groups of up to ten for ten hours a week. This is, however, a privilege and may not necessarily be allowed to every prisoner. It can also depend upon staff availability for supervision purposes. We heard from prisoners, some relatives and NGOs that this remains an important issue for them. It was alleged that not every F-Type prison followed the Circular and that even in those which generally did, the full ten hours was not allowed to everyone every week. They quoted research on how harmful what they call this “solitary confinement” can be to both the mental and physical health of prisoners and indicated that they would continue to campaign against it. The Authorities, on the other hand, point out that the maximum ten hours “Conversation Time” in Circular 45/1 are in addition to time spent in other communal activity, like work, education, offending behaviour programmes and sports programmes. Some prisoners refuse to engage in these activities because they are “Treatment imposed by the State” and thus reduce the amount of time spent in company of others by their own volition. The Authorities also state that, “As of October 2008, an average of 11 hours of common activity has been held per person per week, including 5 hours of conversation, in F-Type prisons”. They have also implemented a project in F-Type prisons called “Civil Society in F-Type prisons” to develop models for more efficient use of common activity areas, to improve staff capacity for organising activities and to ensure the contribution of external civil society organisations. The architecture of the prisons has proved a large hurdle to this, and steps are now being taken to address this where this can be done. Unfortunately, it is simply not possible in some of the prisons to remodel the accommodation to make this possible.

It is suggested that it was not the intention of bodies like the CPT when they criticised the old accommodation arrangements that prisoners be kept at all times in the company only of those few with whom they share sleeping accommodation. Indeed, the CPT would assume that all prisoners should be outside their sleeping accommodation and engaged in constructive activities in the company of other prisoners for a minimum of eight hours per day. Control is maintained through a mix of physical and dynamic security and good interaction between staff and prisoners. We heard, from the Directorate, of the plans for extending electronic surveillance throughout prisons and we saw an example of this in the 176 closed circuit television cameras installed in an F-Type prison for 345 prisoners. This represents a large investment in plant and requires considerable staffing resources to monitor efficiently. The same prison also had a Special Response Unit, a group of staff wearing distinctive military style uniforms, including uncovered batons (of which the CPT does not approve), who are on constant stand-by to act in case of any incident of indiscipline. Such teams are not always helpful in prisons. All staff should be trained to respond, in a proportionate manner, to incidents, and staff who know the prisoners from working with them all the time are more likely to be able to deal with incidents without resort to physical force. Deploying staff in such units takes them away from normal interaction with prisoners, and further depletes the number of staff available for everyday relationships with prisoners.

Turkey retains a considerable number of different styles of prison and prison regime – some 18 in all, with an additional “Prisons which are not constructed on a certain type project”. It would appear that this arrangement flows from a time when the type of prison to which a prisoner was allocated was a part of the punishment, with allocation being decided by the court on the basis of the nature of the crime or offence and the previous criminal record of the offender. Contemporary thinking in Europe, consistent with the principle of minimum restriction of liberty, is that prison allocation should be done by prison authorities after an assessment of the individual prisoner’s level of risk and needs. This ensures that no prisoner is subject to unnecessary security, and enables Authorities to maximise the productivity of staff and the use of expensive capital resources. There are other elements in Turkish practice

reflecting the old ideology (for example, see comments on visits and telephones). Perhaps now would be a good time explicitly to espouse the European norm and stress that prisons *are* the punishment and are not *for* punishment.

Activities for Prisoners

It was apparent in each of the prisons visited that there are not enough out-of-cell activities for prisoners. Prisons do try to provide a mix of employment, sports activities, educational programmes, cultural programmes and offending behaviour programmes, and officials are well aware of the CPT recommendation mentioned above. They also know that prisoners who are engaged in constructive activities are much easier to control and less likely to become involved in disruptive behaviour. It was encouraging to note that remand prisoners are offered the same opportunities as convicted, though they are not forced to work (which would be a violation of EPR). Some groups of prisoners routinely refuse to engage with any constructive activity for personal or political reasons, and they are allowed to take this stance without any repercussions. Strict life sentence prisoners did complain that they are not allowed to associate at work and are effectively excluded from education unless they can persuade all the prisoners in their category to undertake the same class.

The modern F-Type prison visited had a plethora of rooms available for communal activities, but many of them were lying empty. Staff told us that “About 30% of prisoners are involved in activities”. Similarly, in an E-Type prison we were told, “Less than half the prisoners are out of their cells for eight hours per day”. There were particular problems for the small number of female prisoners held in this E-Type prison – they could not reach the threshold number of 10 prisoners needed for social activities or courses and were not allowed to visit the library. The reasons for these low levels of constructive activity are varied. A major one, especially in the F-Type prison, is the shortage of staff, both to escort the prisoners to the work/education/programme areas and to direct the activity. Of course given the history of not engaging prisoners in such activities, it will take time to change the culture and ensure that prisoners see the advantages of taking part and that staff become comfortable with engaging much more with prisoners. Lack of work also means lack of pay. In that regards, we were concerned to be informed that all prisoners had to pay for their own electricity and females had to supply their own sanitary protection. Without any income from the establishment, prisoners are forced to rely on family, or the charity of other prisoners, for basic necessities. This is not acceptable.

It is planned to introduce many more offending behaviour programmes in the coming months and years. These are ideal for bringing prisoners out of their cells and encouraging them to look at factors which may have contributed to their offending. Strong efforts are also being made in conventional education, especially for illiterate prisoners, and in cultural activities like music and theatre. Workshops are much more difficult – and expensive – to organise. However, the authorities must be encouraged to devote considerable more resources to providing constructive activities and encouraging prisoner participation

Visits

Visiting arrangements for prisoners have attracted adverse comments in previous reports, but seemed to have changed little. Visits are regulated by the *Regulation on Visits to Convicts and Remands* (Official Gazette Date 17 June 2005, No 25848). This imposes a practice which I consider very strange of allowing “contact” visits once per month, where prisoner and

visitor sit face to face and chat normally, while in the other three weeks of the month the visits are “non-contact”, with prisoner and visitor separated by a screen and required to talk through a telephone. Non-contact visits can be necessary, where, for example, a visitor is suspected of introducing contraband, but they greatly reduce the effectiveness of the visit in sustaining relationships between prisoner and visitors. The fact that a contact visit is allowed each month indicates that the non-contact visits are not for security reasons. It would be interesting to consider any other justification which might be advanced for the arrangement.

Secondly, prisoners can be deprived of visits for a maximum of three months as a punishment for disciplinary offences inside the prison. According to information received, this punishment can be imposed consecutively, and we heard of one case where a prisoner was deprived of visits for a year without a break. Prisoners sentenced to solitary confinement are also routinely refused visits during the serving of that disciplinary sanction. Article 8 of the European Convention of Human Rights protects the right to respect for private and family life. Imprisonment obviously interferes with this right, but the degree of interference should be kept to a minimum. Interference with visits imposed as a result of a violation of visiting rights would be permissible under Article 8.2, but not if it is imposed for any other violation. In any event, deprivation of visits is only likely to exacerbate any behavioural problems being presented by a prisoner. Keeping prisoners in touch with their families and friends outside prison reduces the alienation of the prisoner from the normal world and helps sustain relationships which will be crucial for the successful reintroduction of the prisoner into society at the end of the sentence. Article 8 rights apply not only to prisoners, but to the family outside as well. That family thus has the right to maintain contact with the prisoner, presuming family members themselves comply with reasonable regulations concerning visits and the Authorities have a duty to make this possible.

Thirdly, it was noted that, in at least one of the prisons visited, visits only take place on Monday, Tuesday, Wednesday and Thursday, with no provision made for the other three days of the week, unless a National Holiday falls on one of these days. While this may be culturally acceptable, it might also exclude the possibility of some people visiting at all if their only availability is at weekends. For most countries, the busiest visit sessions are at weekends.

We heard complaints from various prisoners and from NGOs that prisoners and their visitors are not allowed to speak in their own language during visits (and in telephone calls). We note that Article 41 of the *Regulation on Visits to Convicts and Remands* requires Turkish to be used during visits, but allows other languages to be spoken when either the prisoner or the visitor does not speak Turkish. Such conversations are to be recorded and if, when checked by staff, the conversation is found to include matters which might undermine the security of the institution or disrupt public order, proceeding shall be initiated against the participants. The existence of this possibility should be drawn to the attention of all prisoners and NGOs.

Finally, the number of visits to which prisoners are entitled depends on their sentence. Aggravated life sentence prisoners have the lowest entitlement, with both the number of visits and the range of visitors they may have subject to tight controls. This is the group most likely to lose touch with the outside world, and the visits conditions aggravate that likelihood. Using the number and range of visits as part of the punishment is not acceptable in principle. Prisons are supposed to be punishment in themselves; further restrictions should only be imposed when they are necessary for the safe and orderly confinement of prisoners.

Telephones

Prisoner access to telephones is also very restricted, with each prisoner allowed to make only one ten minute call per week. There is no objection to requiring prisoners to pay for their own telephone calls, so the cost of the calls cannot be used as a reason for limiting the number. There would, of course, be extra costs in providing a monitoring system for a greater number of calls, but sophisticated electronic systems which target certain numbers or names can be obtained at reasonable cost. This would enable much enhanced contact between prisoners and their families, an end which can only contribute to the stability of the prisons and the rehabilitation of the prisoners. There is a similar issue in relation to telephones concerning the use of languages other than Turkish, and this should be met by the same response as in the visits context.

External Monitoring

Turkey shares the same system as many European countries of having prosecutors responsible for monitoring prisons' compliance with the relevant laws and rules and for dealing with prisoners' complaints. These can be the same prosecutors who are involved in investigating the crime or offence for which the person is imprisoned, and this is likely to be the case in the smaller prisons in Turkey, though they have ensured that the larger prisons have specialist prosecutors for the enforcement of sentences. Nonetheless, it is not surprising that many prisoners do not accept that an enforcement prosecutor can be genuinely independent of the prison administration. They are thus reluctant to raise grievances with them, and most of the issues they do raise are about their trials or sentences. I consider that there is a need for a conspicuously independent body, with no responsibility for criminal investigations, trials or release dates, freely available to prisoners to deal with complaints and to ensure that domestic and international regulations are being observed.

Turkey has recently established *Prison Monitoring Boards*, based on the Boards of Visitors found in English Prisons, and we had the opportunity to meet several members of such boards. The Boards are composed of civilians appointed by regional Justice Commissions (which consist of the chief prosecutor, a serious felony judge and a senior person respected by the community). The law has recently changed to require at least one appointee to be female, but the board we met had not yet managed to persuade a woman to join. Indeed, the members we met were exclusively male, over fifty years of age and all from professional occupational backgrounds. They are required to visit each prison in their area at least once every four months and in practice visit the larger ones fortnightly to ensure that they can see every part of the prison over the four month period. They are not required to give advance notice of visits and are empowered to see prisoners on their own, though they are usually escorted during their visits. They meet in the Ministry of Justice, which also provides the secretariat and arranges transport for visits (this ensuring that notice is given of all visits). Members received some initial training from the public prosecutor and the local felony judge on their rights and duties. They make a report to the Minister of Justice every four months and a copy of this report is also sent to the Human Rights Commission, the local Judge and the public prosecutor. A summary of these reports, and action taken in response to them, is published each year by the Ministry of Justice.

Prisoners have the right to petition to meet with a member of the board. Such a petition would pass through the local prison administration, to the public prosecutor and thence to the board, but it can be in a sealed envelope. Prisoners can also ask to see a board member during a

routine visit. The commonest prison related issues raised by the prisoners with the board are the quality and quantity of the food, the very short time they are allowed to telephone each week and the limited visit times. In its four years of existence, it has received no complaints about ill-treatment. The board provides standard answers to the communication issues, pointing out that the procedures in place are those required by the law. There is also a lack of resources to allow improved food or more communal areas in the prison. The board sees little point in reporting on matters which cannot be addressed because of financial restraints.

Comment: The introduction of the boards is a good start to involving ordinary citizens in independent monitoring of prison establishments. The boards themselves should now be looking at ways of strengthening their conspicuous independence, seeking to diversify their memberships, developing ways of ensuring that prisoners have unfettered access to them (for example, by introducing complaints boxes to which they alone have the key), giving wider publicity to their reports and developing their own training and understanding of prisons issues in both national and international contexts, so that they may be able, if they wish, to challenge existing practices which are unnecessarily restrictive. In this way, they may grow into the type of body which complies with the OPCAT requirements for local monitoring.

The *Human Rights Commission* has a *Standing Sub-Committee for Monitoring Prisons* which consists of politicians with an interest in this area. Members have visited prisons in other countries and now visit Turkish prisons regularly and receive applications from prisoners. It is producing a report on a recent death in custody, a death for which the Ministry of Justice apologised on the day it happened and which has led to the arrest of several prison staff. It has a particular concern about the numbers of remand prisoners and the length of time for which people can be held on remand.

The *Ankara Bar Association* reported that there are now fewer allegations of ill-treatment in prisons than there were previously and that material conditions were improving. They said it was comparatively easy to obtain legal aid to work for a prisoner, but they were unable to give us concrete examples of civil cases which they had taken to domestic courts relating to prison conditions or the behaviour of prison staff. Perhaps, they thought, the legal framework does not exist for such cases, so they continue to go to the European Court of Human Rights.

NGOs are increasingly being allowed to have some involvement in prisons, but still complain that the Authorities lack interest in making full use of what they are prepared to offer. Many are involved in offering preparation for release and support after release. Others remain critical of close relationships between judges and prosecutors and the apparent inability of the Constitutional Court to pre-empt challenges in the European Court of Human Rights by providing remedies in the domestic courts. Some still receive allegations of torture and ill-treatment, though the number of such allegations has reduced over the last few years. Lack of transparency, even of the new prison monitoring boards, continues as a problem, and the domestic legal system does not seem able to respond in ways which reduce the time spent in prison, especially on remand.

Medical services

The role of the medical officer in a prison is a crucial one. Not only is this person responsible for screening prisoners and treating any illnesses which they present, but s/he also has responsibilities for ensuring the provision of health education, food safety and general health and safety in the establishment. The European Prison Rules thus require that in anything but the smallest prison a full-time permanent medical officer should be appointed. It was

therefore disappointing to note that in one of the E-Type prisons visited, with over 600 prisoners, the post for the full-time doctor has been vacant for over five years. A service is provided by a locum doctor, but this service is not likely to be on a par with that which would be provided by a full-time dedicated person. In the same prison, the post of psychiatrist had been vacant for a similar time, and the social worker, who won much praise from staff and prisoners alike, was currently absent on National Service. If this reflects the situation elsewhere, there is clearly an important issue requiring a structural solution, and requiring one very quickly.

Recommendations

Various schemes and programmes have been carried out in Turkish Prisons in recent years with a view to ensuring their compliance with contemporary European and United Nations standards, and much has been achieved. But there remain two legacies from the past which are hindering progress:

- **Turkey still has a plethora of small prisons designed according to a system where the conditions of the prison were seen as part of the sentence. Until these are replaced with prisons designed to provide for interactive control and dynamic security, there will always be a tendency for prison to be seen for punishment rather than as punishment.**
- **The enormous percentages of remand, not finally sentenced and juvenile prisoners greatly aggravates the difficulty of establishing positive regimes designed to assist prisoners to address their criminogenic behaviour and prepare them for release. Reducing the use of pre-trial imprisonment, especially for juveniles, reducing the period of pre-trial detention and greatly speeding up the appeals process are all required to assist with reducing these numbers.**

In addition to these major points, there are other matters which need to be addressed to improve prisons:

- Staffing levels are very low, thus reducing the opportunity for proper interaction with prisoners and the full use of newly trained staff. Staff training has been greatly improved, but there needs to be more staff so that they can exercise their skills.
- E and F-Type prisons, in particular, need to be designed with proper facilities for safe prisoner:prisoner interaction. Association with other prisoners should be the normal mode of daily living for at least eight hours per day. Only where there is a specific and on-going security need should prisoners be denied association.
- There is an urgent need for much fuller programmes of activities in all prisons. The CPT minimum of eight hours *constructive* activity every day is not being met, and in some prisons and with some types of prisoner is nowhere near being met.
- Particular attention needs to be paid to small numbers of female prisoners kept in predominantly male prisons, especially in relation to provision of a range of out of cell activities and meeting their sanitary needs.
- Family contact is very restricted and not for reasonable cause. Non-contact visits are the norm, with only one of the four monthly visits allowing contact; prisoners and their families can be deprived of visits as a disciplinary sanction for events unconnected with visits; aggravated life sentence prisoners have only half the visits of other prisoners. Telephone calls are restricted to one ten minute call per week. There is no security reason for this.

- Civilian prison monitoring boards have been set up. Strong efforts need to be made to make these more representative of the population as a whole, to enable them to organise their own training and to build their independence. They should report publicly on their activities, with appropriate protection for security issues and individual prisoners. In other words, they should grow into the type of body required by OPCAT.
- NGOs should be given greater encouragement to participate in normal prison activities.
- Each prison with more than 250 prisoners should have a full-time medical doctor appointed to discharge the full range of duties of a medical officer as envisaged by the EPR.

Conclusion

Turkey has done much to improve conditions in police, gendarmerie and prison detention areas, but much remains to be done. Ratification of the UN OPCAT would confirm the country's commitment to continuing this process.

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