



CPT/Inf (2009) 17

**Report to the Turkish Government  
on the visit to Turkey  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 22 November to 4 December 2006**

The Turkish Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2009) 18.

Strasbourg, 28 May 2009



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**Copy of the letter transmitting the CPT's report**

Strasbourg, 3 April 2007

Dear Deputy Director General

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Turkish Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Turkey from 22 November to 4 December 2006. The report was adopted by the CPT at its 62<sup>nd</sup> meeting, held from 5 to 9 March 2006.

The various recommendations, comments and requests for information formulated by the CPT are listed in the Appendix to the report. As regards more particularly the CPT's recommendations, the Committee requests the Turkish authorities to provide **within six months** a response giving a full account of the action taken to implement them. The CPT trusts that it will also be possible for the Turkish authorities to provide in the above-mentioned response, reactions to the comments formulated in this report which are summarised in the Appendix as well as replies to the requests for information made.

In respect of the recommendation and requests for information in paragraph 9 of the report, the CPT requests the Turkish authorities to provide a response **within three months**.

The CPT would ask, in the event of the response being forwarded in Turkish, that it be accompanied by an English or French translation. It would also be most helpful if the Turkish authorities could provide a copy of the response in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Yours faithfully

Mauro PALMA  
President of the European Committee for  
the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

Mr Hüsrev ÜNLER  
Minister Plenipotentiary  
Deputy Director General for the  
Council of Europe and Human Rights  
Ministry of Foreign Affairs  
TR - ANKARA



## I. INTRODUCTION

### A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to Turkey from 22 November to 4 December 2006. The visit was one which appeared to the CPT "to be required in the circumstances" (see Article 7, paragraph 1, of the Convention).

2. The visit was carried out by the following members of the CPT:

- Aleš BUTALA (Head of the delegation)
- Pétur HAUKSSON
- Veronica PIMENOFF.

They were supported by Michael NEURAUTER (Head of Division) and Elvin ALIYEV of the CPT's Secretariat, and assisted by:

- Gavin GARMAN, nurse, Head of Forensic Mental Health Nursing, Thames Valley Forensic Mental Health Service, Oxford, United Kingdom (expert)
- Catherine PAULET, psychiatrist, Head of the Regional Medical and Psychological Service, Baumettes Prison, Marseilles, France (expert)
- Zeynep BEKDİK (interpreter)
- Belgin DÖLĀY (interpreter)
- Verda KIVRAK (interpreter)
- Nilay Güleser ODABAŞ (interpreter)
- Kudret SÜZER (interpreter)
- Canan TOLLU (interpreter).

**B. Objectives of the visit and establishments visited**

3. The main objective of the visit was to examine in detail the situation of patients held in psychiatric establishments, in particular as regards living conditions and treatment (including electroconvulsive therapy<sup>1</sup> - ECT). The delegation also looked into the legal safeguards related to involuntary placement procedures and their implementation in practice. For the first time in Turkey, the delegation visited two social welfare institutions.

Another objective of the visit was to review the conditions under which immigration detainees were being held in İstanbul (see paragraphs 8 and 9).

4. The delegation visited the following places of deprivation of liberty:

Mental health hospitals

- Bakırköy Mental Health Hospital, İstanbul
- Elazığ Mental Health Hospital
- Samsun Mental Health Hospital

Social welfare institutions

- Elazığ Home for Persons in Need
- Gaziantep Care and Rehabilitation Centre

Police establishments

- Temporary detention facilities for immigration detainees at İstanbul's Zeytinburnu District Police Headquarters<sup>2</sup>.

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<sup>1</sup> This subject has been addressed in the CPT's reports on the 1997 and 2005 visits to Turkey (see, respectively, CPT/Inf (99) 2, paragraphs 178 to 182, and CPT/Inf (2006) 30, paragraphs 60 to 68).

<sup>2</sup> The delegation also paid a brief visit to the construction site of the new detention facilities for immigration detainees at Kumkapı in İstanbul's Eminönü District.

**C. Consultations held by the delegation and co-operation**

5. At the outset of the visit, the delegation had fruitful consultations with Recep AKDAĞ, Minister of Health, and İsmail BARIŞ, Director General for Social Services and Child Protection. Further, meetings were held with senior officials from the Ministries of Foreign Affairs, Health, the Interior, Justice and National Defence, as well as with the Deputy Director General for Social Services and Child Protection. In the course of the visit, the delegation also met judges of the civil courts in Elazığ and Samsun which are competent for involuntary placement and guardianship procedures.

Moreover, the delegation met with representatives of the Psychiatric Association of Turkey, the Turkish Neuropsychiatric Society, the Psychiatric Nurses Association and the NGO "Human Rights in Mental Health".

6. The delegation received very good and even excellent co-operation in all establishments visited, enjoying immediate access to all places, including those which were visited without prior notification. The delegation was able to interview in private all persons deprived of their liberty with whom it wished to speak and gained rapid access to all the information and documents it considered necessary for carrying out its work.

7. That said, the CPT must stress that the principle of co-operation as set out in the Convention is not limited to steps taken to facilitate the work of visiting delegations, but also requires that decisive action be taken to improve the situation in the light of the CPT's recommendations. In this connection, the Committee was very concerned to learn that most of the recommendations made after its first visit to Samsun Mental Health Hospital in 1997, in particular as regards patients' living conditions, have still not been implemented (see paragraph 20).

**D. Immediate observation under Article 8, paragraph 5, of the Convention**

8. With a view to reviewing the conditions under which foreign nationals were being held pending their removal from Turkey, the CPT's delegation carried out a follow-up visit to İstanbul Police Headquarters<sup>3</sup>.

The delegation could verify that the former detention area in Building B of the Police Headquarters in Vatan Street had been closed down and that foreign nationals had been transferred to the temporary detention facilities at İstanbul's Zeytinburnu District Police Headquarters, as indicated by the Turkish authorities in their response to the report on the 2005 visit<sup>4</sup>. However, the delegation noted with great concern that conditions of detention in the temporary detention facilities were as appalling as those observed at Vatan Street in 2005<sup>5</sup> (e.g. severe overcrowding; almost total lack of beds and mattresses; very limited access to natural light; deplorable hygiene conditions; no outdoor exercise at all for male detainees<sup>6</sup>; etc.).

At the end of the visit, during its talks with the Turkish authorities in Ankara, the delegation made an immediate observation, in accordance with Article 8, paragraph 5, of the Convention, calling upon the Turkish authorities to complete the ongoing construction of the new detention facilities for immigration detainees at Kumkapı in İstanbul's Eminönü District (which was due to open by the end of 2006) and to transfer foreign nationals detained at Zeytinburnu to the new detention facilities without delay.

9. By letter of 23 February 2007, the Turkish authorities provided the following information concerning the above-mentioned immediate observation: "(...) the construction company informed the relevant authorities that the new guesthouse in the Eminönü district would be ready for service by the end of March 2007. The new guesthouse will have the capacity of approximately 600-700 persons as well as the facilities for daily exercises for foreign nationals, who are held for deportation. Efforts are also in progress to ensure a healthier environment and to meet all requirements of those."

The CPT takes note of the information provided and **calls upon the Turkish authorities to bring the new detention facilities for immigration detainees at Kumkapı into service without further delay**. Further, **the Committee would like to receive confirmation that all immigration detainees:**

- **are provided with a bed and clean bedding;**
- **receive adequate quantities of personal hygiene products and are able to take a shower, at a temperature suitable to the climate, at least once a week;**
- **are granted at least one hour of outdoor exercise per day.**

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<sup>3</sup> This establishment has already been visited by the Committee several times, most recently in 2005 (see CPT/Inf (2006) 30, paragraphs 35 to 37).

<sup>4</sup> See CPT/Inf (2006) 31, page 18.

<sup>5</sup> The deplorable conditions found in Building B of the Police Headquarters in Vatan Street were the subject of an immediate observation under Article 8, paragraph 5, of the Convention during the CPT's 2005 visit (see CPT/Inf (2006) 30, paragraph 9).

<sup>6</sup> Female detainees had access to a terrace on the roof of the building.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Mental health hospitals

#### 1. Preliminary remarks

10. The CPT's delegation carried out follow-up visits to Bakırköy Mental Health and Neurological Diseases Training and Research Hospital in İstanbul (hereinafter: Bakırköy Mental Health Hospital) and Samsun Mental Health Hospital. It also visited, for the first time, Elazığ Mental Health Hospital.

11. *Bakırköy Mental Health Hospital* had already been visited by the CPT in 1992, 1997 and 2005.<sup>7</sup> With an official capacity of 1,523 beds, the hospital's psychiatric service was accommodating 1,407 patients at the time of the visit (including 514 female adults and 37 minors). Some 20% of the total patient population were forensic patients (declared criminally irresponsible or under assessment). The "prison ward"<sup>8</sup> was accommodating 31 patients (29 male and two female) at the time of the visit.

*Elazığ Mental Health Hospital*, opened in 1925, is located on a compound of some six hectares on the outskirts of the city of Elazığ. Most of the buildings were constructed in the 1950s. The catchment area covers 18 provinces in eastern and south-eastern Turkey with a population of more than ten million. With an official capacity of 528 beds, the hospital was accommodating 466 patients (307 male and 159 female) at the time of the visit. The number of forensic patients stood at nearly 15% of the total number of patients. Further, five patients were being held in the "prison ward".

The general characteristics of *Samsun Mental Health Hospital*, described in the report on the 1997 visit<sup>9</sup>, remained on the whole unchanged. At the time of the visit, the establishment's psychiatric service was operating at its full capacity with 307 patients (219 male and 88 female), the number of forensic patients constituting some 20% of the patient population. The "prison ward" was holding four male patients.

12. In none of the hospitals visited was the delegation able to obtain precise figures on the number of involuntary patients. From interviews with staff and patients and the consultation of patients' files, it became apparent that the vast majority of patients had been hospitalised against their will or without their consent. Further, the delegation observed that a number of patients whose official status was voluntary were not allowed to leave the hospital premises on their own. This issue will be dealt with in the relevant section of this report (see paragraph 57).

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<sup>7</sup> See, respectively, CPT/Inf (2007) 5, CPT/Inf (99) 2 and CPT/Inf (2006) 30.

<sup>8</sup> All major State psychiatric hospitals in Turkey have so-called "prison wards", which come under the authority of the Ministry of Justice. Such wards accommodate remand prisoners referred by court decision for observation purposes (in order that a report on their criminal responsibility might be drawn up), as well as remand and sentenced prisoners sent for treatment by a prison doctor.

<sup>9</sup> See CPT/Inf (99) 2, paragraph 173.

## 2. Ill-treatment

13. In the course of the visit, the delegation received a number of allegations of physical ill-treatment (consisting mainly of slaps and punches), excessive use of force and verbal abuse by orderlies in all male closed wards (except the "prison ward") of *Elazığ Mental Health Hospital* and in some wards of *Samsun Mental Health Hospital* (such as closed male Ward 1 and the closed forensic ward). Further, at Samsun, acts of violence among patients were perceived by some of them as having been committed at the instigation of orderlies.

The situation was more favourable at *Bakırköy Mental Health Hospital* where only a few allegations of ill-treatment (e.g. slaps) and rude behaviour by orderlies were heard in some of the acute male and forensic male wards. The atmosphere in the establishment appeared to be generally more relaxed than that observed during the 2005 visit.

The CPT wishes to stress that, given the challenging nature of their job, it is essential that orderlies be carefully selected and given suitable training before taking up their duties, and that afterwards they receive ongoing training. While carrying out their duties, such staff should also be closely supervised by - and placed under the authority and responsibility of - qualified health-care staff. **The Committee recommends that the procedures for the selection of orderlies and both their initial and ongoing training be reviewed, in the light of the above remarks.** Further, **the management of all three psychiatric hospitals visited should deliver to orderlies the clear message that all forms of ill-treatment of patients, including verbal abuse, are unacceptable and will be the subject of severe sanctions.**

14. The CPT is concerned about the frequency and seriousness of allegations of inter-patient violence made by patients at the Elazığ Hospital. Some allegations of this kind were also heard at the Bakırköy and Samsun Hospitals.

In the CPT's opinion, inter-patient violence at the hospitals visited often stemmed from an insufficient staff presence within the wards, as well as from a lack of alternative therapeutic approaches (see paragraphs 23, 37 and 38). The Committee must stress in this regard that the duty of care which is owed by staff in a psychiatric establishment to those in their charge includes the responsibility to protect them from other patients who might cause them harm. This requires not only adequate staff presence and supervision at all times, including at night and weekends, but also for staff to be properly trained in handling challenging situations/behaviour by patients.

**The CPT recommends that appropriate steps be taken at the three hospitals visited to combat the phenomenon of inter-patient violence, in the light of the above remarks.**

### 3. Patients' living conditions

15. In any psychiatric establishment, the aim should be to offer living conditions which are conducive to the treatment and well-being of patients; in terms of rehabilitation and a positive therapeutic environment. Creating such an environment involves, first of all, providing sufficient living space per person as well as adequate lighting, heating and ventilation, maintaining the establishment in a satisfactory state of repair and meeting hospital hygiene requirements. Particular attention should also be given to the decoration of both patients' rooms and recreation areas, and the provision of personal lockable space in which patients can keep their belongings.

16. At *Bakırköy Mental Health Hospital*, material conditions were overall of a good standard. Patient accommodation was generally adequate in terms of living space, access to natural light, ventilation and cleanliness. Recent refurbishment in some wards was apparent. Sanitary facilities were on the whole clean and well kept in all wards.

That said, a number of deficiencies were observed by the delegation. In some wards, patients were accommodated in rather cramped conditions (e.g. in Ward K2-K1, five beds in rooms measuring some 18 m<sup>2</sup>). Although day rooms in most wards were adequately equipped and had some decoration, in some wards (e.g. forensic Wards 22, 33 and 38) they were austere, the only equipment being plastic chairs and a television set. Further, in the toilet areas and shower facilities of some wards (e.g. Wards H2 and L6), windowpanes were missing, and damage was observed, resulting from leaking pipes in the ceiling. The delegation also noted that, while patients on some wards (e.g. Ward K1-K2, AMATEM-3) were able to keep their personal belongings in lockers, many patients in the hospital did not have such a possibility.

**The CPT invites the Turkish authorities to remedy the above-mentioned deficiencies.**

17. Specific mention should be made of the hospital's "prison ward". Already after the 1997 visit, the CPT concluded that "the overwhelming presence of bars, armed guards and a watchtower overlooking the outdoor exercise area gave rise to oppressive physical surroundings (...) which made it difficult for staff to create a therapeutic environment". In the report on that visit, the Committee recommended that the existing facilities of the ward be thoroughly reviewed, with the aim of better reflecting its therapeutic functions and, if necessary, it be located in more appropriate premises.<sup>10</sup> Regrettably, no steps had apparently been taken by the Turkish authorities to implement this long-standing recommendation.

**The CPT reiterates its recommendation that appropriate steps be taken without further delay at the Bakırköy Hospital to improve patients' living conditions in the "prison ward".**

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<sup>10</sup> See CPT/Inf (99) 2, paragraphs 192 and 194.

18. At *Elazığ Mental Health Hospital*, material conditions varied considerably between open and closed wards. Patient rooms on the open wards were generally in a good state of repair and suitably equipped, well lit and ventilated. Throughout the hospital, the level of hygiene was adequate in all wards and sanitary facilities.

That said, in most closed wards, living conditions were generally rather poor. In some of them, patients were held in cramped conditions. By way of example, in Ward 3 more than 60 patients suffering from severe mental disorders were held in large bays of 12 beds with just a low wall separating them from the corridor. Dormitories had almost no equipment apart from beds and a few bedside tables and no decoration. Further, patients were not provided with lockable space to keep their personal belongings. Although the hospital was operating below its official capacity, the number of beds was insufficient in the dormitories of closed female Wards 5 and 6<sup>11</sup> and, as a result, some patients were obliged to share a bed. The delegation also observed that in Ward 5 the number of seats in the refectory was lower than the number of patients<sup>12</sup>.

The CPT is particularly concerned about the austere and bleak environment of male closed Wards 1 and 10, where patients spent almost the whole day confined within crowded dormitories (see paragraph 22). It is also deplorable that, in most closed wards, patients could only watch television in the corridor through the barred gates, while standing or sitting on the floor.

More generally, the Committee must stress that the overall design of the closed wards (big dormitories with prison-style barred gates at the entrance area of almost every ward<sup>13</sup>) generated an austere and carceral atmosphere which was hardly conducive to the treatment and well-being of patients.

19. The CPT wishes to make clear its support for the trend observed in several countries towards the closure of large-capacity dormitories in psychiatric establishments; such facilities are scarcely compatible with the norms of modern psychiatry. Provision of accommodation structures based on small groups is a crucial factor in preserving/restoring patients' dignity, and also a key element of any policy for the psychological and social rehabilitation of patients. Structures of this type also facilitate the allocation of patients to relevant categories for therapeutic purposes.

**The CPT recommends that steps be taken at the Elazığ Hospital to improve living conditions, in the light of the preceding remarks. In particular, steps should be taken to divide up large dormitories into smaller rooms and to remove the metal bar partitions, in order to create a more therapeutic and less prison-like environment.**

20. As regards *Samsun Mental Health Hospital*, the CPT is very concerned by the fact that hardly any of the specific recommendations<sup>14</sup> made after its first visit to the hospital in 1997 had been implemented in practice. Living conditions were unacceptable in virtually all closed wards. The state of repair of the wards was very poor, and the level of cleanliness and hygiene left much to be desired. Further, dormitories/rooms were rudimentarily equipped (i.e. only with beds and, in some wards, with a few cupboards). The state of repair and hygiene in the sanitary facilities was also generally poor, and a number of allegations were heard about the lack of hot water in closed male Ward 1 and the open forensic ward.

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<sup>11</sup> 58 beds for 67 patients in Ward 5 and 57 beds for 62 patients in Ward 6.

<sup>12</sup> There were 40 chairs for 67 patients.

<sup>13</sup> The only exception being Ward 6 which had no metal bar partition (the overall atmosphere also appeared to be relaxed).

<sup>14</sup> See CPT/Inf (99) 2, paragraphs 198 to 215.

In various closed wards, the delegation saw patients lying or sitting on the floor of the cramped, dark, smoke-filled and noisy day rooms. The situation was further exacerbated by the fact that patients were usually locked up in the day rooms for most of the day.

Special mention should be made of the deplorable conditions observed in the "prison ward". It was found to be in an even more advanced stage of dilapidation than that observed in 1997. Evidently, the existing facilities were totally unsuitable as a health-care facility.

On a more positive note, the delegation gained a favourable impression of the material conditions in some of the open wards and in AMATEM<sup>15</sup>.

21. At the meeting with the Minister of Health, the delegation was informed of existing plans to construct a new mental health hospital in Samsun. In their letter of 23 February 2007, the Turkish authorities informed the CPT that the construction of a new hospital complex with a capacity of 400 beds was in progress and that three public service buildings had been allocated to the hospital, the renovation of which was expected to be finalised soon. Further, the construction of an additional prefabricated building with a capacity of 120 beds is expected to be completed in 2007.

The CPT welcomes these developments; that said, **it calls upon the Turkish authorities to complete the ongoing construction of a new hospital at Samsun as speedily as possible. Further, the Committee would like to receive a detailed plan of the different stages of the construction of the hospital and a timetable for their full implementation.**

For as long as the existing premises remain in use, **the Committee recommends that steps be taken at the Samsun Hospital to keep patients' rooms in an acceptable state of cleanliness and hygiene and to provide a more personalised environment.**

22. The CPT welcomes the steps taken by the management of Bakırköy and Elazığ Mental Health Hospitals to create appropriate outdoor exercise areas for every closed ward.

That said, the CPT is very concerned by the fact that in several closed wards of all three hospitals visited, patients did not benefit from outdoor exercise on a daily basis. The situation appeared to be particularly problematic at *Samsun* where no outdoor exercise at all was offered to patients in closed male Ward 1, the closed female ward<sup>16</sup>, the forensic observation ward or the "prison ward", despite the specific recommendation made by the Committee after the 1997 visit. At *Elazığ*, patients in Wards 1 and 10 were apparently unable to go outside during the winter months, due to lack of appropriate clothing. At *Bakırköy*, access to outdoor exercise areas appeared to be irregular in Ward K1-K2 (as it depended on the - often insufficient - number of escort staff available), Ward K3-K2 and AMATEM-3 (for psychotic male patients).

On a more positive note, it should be added that patients in closed female Ward 6 and the "prison ward" of Elazığ Hospital had ready access to the outdoor exercise area most of the day.

**The CPT calls upon the Turkish authorities to take urgent measures at the three hospitals visited in order to ensure that all psychiatric patients, whose health conditions so permit, are offered at least one hour of outdoor exercise per day. Further, steps should be taken at the Elazığ Hospital to provide patients with appropriate clothing to this end.**

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<sup>15</sup> Centre for the treatment of alcohol and substance dependence.

<sup>16</sup> This ward had no outdoor exercise area.

#### 4. Treatment

23. Significant steps had been taken at *Bakırköy Mental Health Hospital* to introduce forms of treatment other than pharmacotherapy (e.g. group therapy and individual psychotherapy) in certain wards and to develop individualised treatment plans. The delegation gained a particularly favourable impression of the treatment and activities offered to psychotic patients suffering from drug addiction, minors and female forensic patients. In addition, a number of activities were organised to facilitate psychosocial rehabilitation. Some patients also went to the day-care centre for occupational therapy. Further, the recently opened Rehabilitation Centre constitutes a major improvement. It was well-equipped and pleasantly furnished and offered a variety of activities (education, sports, art, music, theatre, social skills, etc.) for 50 to 70 inpatients every day<sup>17</sup>.

At *Elazığ Mental Health Hospital*, tangible efforts were being made to develop a psychotherapeutic approach in the open wards, and at *Samsun Mental Health Hospital*, the delegation also heard accounts of sessions held with a psychologist. The delegation was impressed by the two recently opened "half-way houses" (with a capacity of eight places) at Elazığ, which evidently is a significant step forward in facilitating social reintegration of psychiatric patients. Apparently, a psychosocial rehabilitation centre was due to open shortly at Elazığ.

That said, for the majority of inpatients at Bakırköy and the vast majority of such patients at Elazığ and Samsun, treatment still consisted exclusively of pharmacotherapy; hardly any organised occupational or recreational activities were organised at the latter two hospitals. Further, at the Elazığ and Samsun Hospitals, there were no individual treatment plans setting out the goals of the treatment, the therapeutic means and the responsible staff.

**The CPT recommends that steps be taken at all three mental health hospitals visited to provide more comprehensive and individualised care and to better prepare patients' return to the community.**

Further, **the Committee would like to receive more detailed information on the planned rehabilitation centre at the Elazığ Hospital (including whether it is to be accessible to inpatients from closed wards).**

24. The CPT has serious misgivings about the practice of mixing mentally-ill patients with oligophrenic behaviourally disturbed patients on closed wards, as observed in particular at the Bakırköy Hospital.

The Committee is far from convinced that such a practice is beneficial for either category of patient; in particular, it might well hamper the effective rehabilitation of the mentally-ill and be perceived by them as humiliating and degrading. **It recommends that the policy of mixing mentally-ill patients with oligophrenic behaviourally disturbed patients on closed wards be reviewed.**

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<sup>17</sup> In October 2006, 1,048 visits had been recorded (including from 30 outpatients).

25. As regards, electroconvulsive therapy (ECT), the CPT welcomes the fact that it was apparently no longer applied in unmodified form in any of the mental health hospitals visited, in line with the recommendations made by the Committee after the 1997 and 2005 visits<sup>18</sup>.

26. At the *Elazığ* and *Samsun Hospitals*, all application of ECT had been suspended in January 2006, pending the recruitment of an anaesthesiologist.

27. At *Bakırköy*, ECT had been administered to patients exclusively in its modified form (i.e. with both anaesthetics and muscle relaxants)<sup>19</sup> ever since January 2006. All ECT treatments were now given at a central unit<sup>20</sup> which had been designed for that purpose and was well-equipped. All devices were new and had an integrated electroencephalogram. The health-care team working in the unit comprised four psychiatrists, two anaesthesiologists, one anaesthesiology technician and designated nurses, all of whom were specifically trained in ECT. All applications of ECT were recorded in a central register<sup>21</sup> as well as in the patients' files, as recommended by the CPT after the 2005 visit. Appropriate steps had also been taken to ensure that patients waiting to be given ECT no longer had sight of patients who had just received the treatment.

The monitoring of the physical health condition of patients undergoing ECT appeared to be adequate. All patients were seen by an internist, and an electrocardiogram was taken before the treatment. There was also cardiovascular and motor monitoring, as well as an examination of the oxygen saturation of the blood. Further, adequate measures were taken when there was an abortive seizure.

28. In the report on the 2005 visit, the CPT expressed its concern about an excessive use of ECT at *Bakırköy*. The 2006 visit revealed that the percentage of acute patients receiving ECT had decreased from 24.5% to 14.5% since January 2006. Indications for the application of ECT had been reviewed and internal guidelines had been prepared to that effect. That said, the number of applications of ECT at the hospital still appeared to be relatively high.

In their letter of 23 February 2007, the Turkish authorities forwarded to the Committee a copy of the ECT Application Guidebook for mental health hospitals which had recently been finalised by the Ministry of Health. The Guidebook contains a detailed list of indications for application of ECT and also emphasises the fact that ECT should be "applied only after other therapy options have been exhausted (applied in adequate proportions and proved ineffective) and/or when the situation is considered life threatening, with a view to ameliorating acute symptoms quickly and within a short period of time".

The CPT welcomes these developments; **it would like to be informed of the number of patients who have received ECT in 2007.**

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<sup>18</sup> During the 2005 visit, the delegation observed that all patients at Adana Mental Health Hospital and the great majority of patients at *Bakırköy* to whom ECT was administered received the therapy in its unmodified form.

<sup>19</sup> The only exception was a patient whose physical health condition (low choline-esterase values) did not allow the administration of anaesthetics.

<sup>20</sup> A second ECT unit was in preparation.

<sup>21</sup> On average, 40 to 50 patients received ECT every day.

29. The CPT must express its serious misgivings about the fact that it was still common practice for ECT to be applied to patients without their *informed consent* to this treatment. The examination of various patients' files brought to light the fact that consent was in most cases sought in advance, at the time of admission, before a medical indication for the treatment was even established. Further, it was usually a family member and not the patient him- or herself who signed the consent form regarding the administration of ECT. When asked whether the consent of the patient him-/herself was ever considered, the delegation was told this was usually not the case, because "if ECT was indicated, that in itself meant that the patient was not able to give a consent". Moreover, the Committee was concerned to learn that the above-mentioned ECT Application Guidebook still allows for the patient's consent to ECT to be replaced by the consent given by a first-degree relative (even if the latter is not a court-appointed guardian). In this connection, **reference is made to the remarks and recommendations made in paragraphs 67 to 71.**

30. At the Elazığ Hospital, the delegation was informed by staff that in certain wards (e.g. Wards 1 and 3), there had occasionally been an insufficient supply of medicines and that patients' conditions, as a result, had deteriorated. Such a state of affairs is unacceptable. **Steps should be taken at the Elazığ Hospital to review the supply of medicines throughout the hospital.**

31. At Bakırköy, medical files were, on the whole, properly kept. However, at the Elazığ and Samsun Hospitals, many medical files were very succinct or even empty (e.g. they did not contain an anamnesis or any entries concerning consultations with psychiatrists). Further, at Elazığ, the delegation found that in a number of cases dispensed medication had been recorded retrospectively for days or even weeks.

**The CPT recommends that medical files be properly kept for every patient at the Elazığ and Samsun Hospitals, taking into account the above remarks.**

32. As regards medical consultations, numerous allegations were received from patients at Elazığ and Samsun that they were seen only infrequently by their doctor. **The CPT would like to receive the Turkish authorities' comments on this point.**

33. Further, the delegation observed that in the "prison wards" of all three hospitals visited, it was common practice for doctors to see patients in groups (either inside the bedrooms or in the corridors) rather than individually.

The CPT must stress that such an approach not only infringes upon the principle of medical confidentiality but also impedes the establishment of a proper doctor-patient relationship. **Steps should be taken in all three hospitals visited to put an end to this practice.**

34. The CPT is also concerned by the fact that prison officers and members of the gendarmerie respectively were systematically present during medical consultations in the "prison wards" of the Bakırköy and Samsun Hospitals<sup>22</sup>. The situation was clearly more favourable in the prison ward of the Elazığ Hospital, where prison officers were only present during medical consultations in exceptional cases when the patient concerned was considered to be dangerous. Usually, officers remained outside in the corridor, the door being left ajar.

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<sup>22</sup> At Samsun, patients were seen by the psychologist without the presence of members of the gendarmerie.

**The CPT recommends that steps be taken at the Bakırköy, Elazığ and Samsun Hospitals (as well as in other mental health hospitals in Turkey) to ensure that all medical examinations of patients are conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers and other non-medical staff.**

35. At Elazığ, a patient aged 21 years had recently died on the day of his admission to the hospital. According to the patient's medical file, "cardiopulmonary arrest" was recorded as the cause of death and no autopsy or any further investigation had been carried out.

In the CPT's opinion, **an autopsy should be carried out in all cases where a patient dies in hospital, unless a clear diagnosis of a fatal disease has been established prior to death.**

## 5. Staff

36. At the outset, the CPT wishes to stress that in all three mental health hospitals visited, the vast majority of patients met by the delegation expressed their appreciation about the manner in which they were treated by staff and, in particular, by nursing staff.

37. At *Bakırköy Mental Health Hospital*, doctor-nurse staffing levels can be generally described as very good, with a ratio of one doctor per four beds and one nurse per three beds. That said, in some wards (such as Ward 33), it was usual for no qualified nursing staff to be present at night. **The CPT recommends that steps be taken to remedy this shortcoming.**

38. The number of health-care staff was significantly lower at *Samsun Mental Health Hospital* (one doctor per 17 beds and one nurse per four beds) and was at a critical level at *Elazığ Mental Health Hospital* (one doctor per forty-four beds and one nurse per seven beds<sup>23,24</sup>).

In the CPT's view, such low health-care staffing levels, especially as regards qualified nurses, are clearly insufficient to provide proper care and treatment and to ensure a safe environment for patients.

In their letter of 23 February 2007, the Turkish authorities informed the CPT that 16 additional nurses had been employed and new assignments were planned at Elazığ. Further, eight additional nurses had been recruited at Samsun.

The CPT welcomes this development and **would like to be informed of the additional steps taken by the Turkish authorities to reinforce the nursing staff at the Elazığ Hospital.** Further, **efforts should be made to recruit additional psychiatrists at the Elazığ and Samsun Hospitals.**

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<sup>23</sup> In Ward 10 (closed acute male ward), there were only four nurses for a total of 42 patients.

<sup>24</sup> The delegation was informed that, due to the low number of psychiatrists in the country, most psychiatric hospitals were facing considerable difficulties in recruiting psychiatrists.

39. As regards other staff involved in therapeutic activities, significant steps had been taken by the management of Bakırköy Mental Health Hospital to introduce multidisciplinary teams with psychologists, social workers, specialised instructors and teachers. At Elazığ Mental Health Hospital, there were four psychologists, one specialised instructor and two social workers in the polyclinic, but no teachers. Samsun Mental Health Hospital had six psychologists and one social worker, but no teachers or rehabilitation staff. In this connection, **reference is made to the remarks and recommendation made in paragraph 23.**

40. In all the mental health hospitals visited, the delegation observed that it was common practice for orderlies to be in the front line in addressing the basic care needs of patients. Patients often had no possibility to discuss their situation with nursing staff. The role of the latter was usually restricted to dispensing medication and reacting to problems.

In the CPT's view, the important task of keeping direct contact with patients and addressing their basic care needs should be in the hands of professionally trained nurses. **The Committee recommends that current practice be reviewed, with a view to facilitating the creation of a therapeutic relationship between nurses and patients and decreasing the risk of any ill-treatment.**

41. The delegation was surprised to discover that, at Samsun Mental Health Hospital, nurses (with the exception of the wards' responsible nurses) had no keys to the wards, and thus were required to call an orderly to open the door each time they wanted enter on a ward. This could easily result in considerable delays, especially outside normal working hours when there was a reduced staff presence.

The CPT must stress that the lack of ready access of nurses to patients constitutes a high risk. **The Committee recommends that immediate steps be taken to remedy this shortcoming.**

42. At both the Bakırköy and Elazığ Hospitals, security staff were contracted to ensure general security of the hospital premises. In this connection, the delegation was told that such staff was frequently present on some wards and could be called upon by doctors or nurses in order to apply means of restraint to agitated patients and/or to assist with the forced administration of medicines<sup>25</sup>.

The CPT has serious misgivings about the fact that security staff were present on wards and fulfilled tasks which should, as a matter of principle, be performed by nurses. **It recommends that the current arrangements concerning the deployment of security staff at the Bakırköy and Elazığ Hospitals and, if appropriate, at other mental health hospitals in Turkey, be reviewed in the light of the preceding remarks.**

43. Significant steps had been taken at Bakırköy to organise in-house training for nurses and orderlies. On appointment, nurses had to complete a four-month on-the-job training course, and annual two-day training seminars were organised for nurses and orderlies. Some training activities were also organised for nurses and orderlies at Elazığ and Samsun.

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<sup>25</sup> As regards, more generally, the use of means of restraint, reference is made to the remarks and specific recommendations made in paragraphs 45 and 46.

That said, there were still many orderlies in all three hospitals visited who had received very little or no training at all (in particular, as regards interpersonal communication skills, etc.).

**The CPT recommends that the Turkish authorities redouble their efforts to provide training to orderlies in all mental health hospitals visited, in the light of the preceding remarks.**

44. Finally, the CPT must express its serious misgivings about the regular presence of members of the gendarmerie (who operate under the authority of the Ministry of the Interior) inside the "prison ward" at Samsun Mental Health Hospital (as regards their presence during medical consultations, see paragraph 34).

The situation was found to be quite different at Bakırköy and Elazığ: only prison officers were deployed within the "prison ward" at Bakırköy; at Elazığ, members of the gendarmerie were only responsible for perimeter security and prisoner transfers. **The CPT recommends that the Turkish authorities take the necessary steps to ensure that the same approach is followed at the Samsun Hospital, as well as at all other mental health hospitals in Turkey.**

## **6. Means of restraint and seclusion**

45. As regards means of restraint, the delegation noted that at *Bakırköy Mental Health Hospital*, there was a special register ("restraint book") detailing the use of restraint, and that all formal requirements (such as an express order by a doctor, etc.) were meticulously followed. That said, the CPT is concerned about the frequency with which means of mechanical restraint (e.g. straitjackets or two- or four-point restraint to the bed) were used in some of the wards. By way of example, in Ward K3-1, means of restraint were applied 69 times to 17 adolescent patients during the month of November 2006. Further, patients on occasion remained in a straitjacket while being strapped to a bed with belts.

At *Elazığ and Samsun Mental Health Hospitals*, a special register for the use of means of restraint had been introduced only recently. Therefore, it was not possible for the delegation to monitor the situation adequately over a prolonged period. That said, at Elazığ, it transpired from interviews with patients and staff that resort to means of restraint was very frequent in some of the wards. In addition, a number of allegations were heard at Elazığ that, until shortly before the visit, patients had been attached to their beds with chains and padlocks, and this was subsequently confirmed by members of staff; such a state of affairs is totally unacceptable. Some allegations were also received at Elazığ that patients were, on occasion, restrained with the help of other patients. At Samsun, the delegation received one allegation that, not long ago, a patient had been strapped to his bed in a forensic ward for a whole week except for toilet visits. However, due to the lack of a specific register in the ward concerned, the delegation was unable to verify that allegation.

Further, *in all hospitals visited*, the supervision of patients subject to means of mechanical restraint appeared to be inadequate. Although patients were regularly checked (usually every 15 minutes) and monitored through CCTV (in those few rooms where such devices were installed), there was no continuous, direct and personal supervision. Further, despite efforts by the management of the hospitals visited to provide training to nursing staff and orderlies on the proper use of means of restraint, the delegation noted that much remains to be done in this respect. Many staff members met by the delegation stated that they had never received any specific training, but that they had learned on the job how to manage agitated patients.

A number of shortcomings were also identified in all three hospitals regarding the recording of means of restraint. In many cases, entries in the restraint book lacked important data, such as the time of beginning and/or ending of the measure, as well as the controls effected by staff. Further, resort to chemical restraint was usually not recorded at all.

It is also a source of concern that, at Elazığ and Samsun, patients were often restrained to their bed in their rooms/dormitories and were thus in full view of other patients<sup>26</sup>. Further, at Bakırköy, the windows of some observation rooms used for the restraint of patients opened onto communal areas which were easily accessible to other patients.

46. Bearing in mind the inherent risks for the patient concerned, the CPT has elaborated the following principles and minimum standards in relation to the use of means of restraint:

- Regarding their *appropriate use*, means of restraint should only be used as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to satisfactorily contain that risk; they should never be used as a punishment or to compensate for shortages of trained staff;
- Any resort to means of restraint should always be either *expressly ordered by a doctor or immediately brought to the attention of a doctor*.
- The *equipment* used should be properly designed to limit harmful effects, discomfort and pain during restraint. The use of chains and padlocks should be prohibited.
- There can be *no justification* for patients remaining in a *straitjacket while being strapped to a bed with belts*.
- *Staff* must be *trained* in the use of the equipment. Such training should not only focus on instructing staff as to how to apply means of restraint but, equally importantly, should ensure that they understand the impact the use of restraint may have on a patient and that they know how to care for a restrained patient.
- Staff should *not be assisted by other patients* when applying means of restraint to a patient.
- The *duration* of the application of means of mechanical restraint should be for the shortest possible time (usually minutes or a few hours). The exceptional prolongation of restraint should warrant a further review by a doctor. Restraint for periods of days at a time cannot have any justification and would amount to ill-treatment.
- A restrained patient should *not be exposed to other patients*.
- As regards *supervision*, whenever a patient is subjected to means of mechanical restraint, a trained member of staff should be continuously present in order to maintain the therapeutic alliance and to provide assistance. Such assistance may include escorting the patient to a toilet facility or, in the exceptional case where the measure of restraint cannot be brought to an end in a matter of minutes, helping him/her to consume food. Clearly, video surveillance cannot replace such a continuous staff presence.

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<sup>26</sup>

At Elazığ, patients were on occasion restrained in their dormitory, despite the fact that a designated observation room was available in the ward.

- Every instance of the use of means of restraint - whether physical or chemical - of a patient must be *recorded in a specific register* established for that purpose, in addition to the individual's file. The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by the person or staff. This will greatly facilitate both the management of such incidents and oversight into the extent of their occurrence.
- Persons subject to means of restraint should receive *full information* on the reasons for the intervention.
- The hospital management should issue *formal written guidelines*, taking account of the above criteria, to all staff who may be involved.

**The CPT recommends that the Turkish authorities take the necessary steps to ensure that all the principles and minimum safeguards set out above are applied in all psychiatric establishments in Turkey.**

**Further, strategies should be elaborated and implemented at all hospitals visited, with a view to significantly decreasing the resort to means of restraint by intensifying therapeutic relations between staff and patients and by applying de-escalation techniques.**

47. As regards seclusion, the delegation noted that no record was kept in any of the mental health hospitals visited of instances when patients were locked in an observation room (or in their own room). **The CPT recommends that steps be taken in all mental health hospitals visited to ensure that every resort to seclusion is recorded in the book of restraints, as well as in the patients' medical files.**

48. Finally, the CPT is concerned about the poor design of the seclusion room of Ward 33 (acute forensic patients) at *Bakırköy Mental Health Hospital*. The seclusion room was located within one of the patients' bedrooms and contained only a bed, which was not fixed to the floor. The communication door could be locked, but the wall separating the seclusion room from the rest of the bedroom did not reach the ceiling. Thus, it was easy for patients placed in the seclusion room to climb out of the room, particularly as the bed could be pushed up to the wall. Staff confirmed that patients had climbed out of the room on numerous occasions and that, as a result, patients who were considered to be in need of being placed in the seclusion room for observation purposes were often restrained to the bed in order to prevent them climbing out.<sup>27</sup> Such a state of affairs is inadmissible.

**The CPT recommends that the design of the seclusion room of Ward 33 at the Bakırköy Hospital be revised, in the light of the above remarks.**

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<sup>27</sup> According to staff, this design flaw had already been reported to the hospital management but no action had been taken thus far.

## **B. Social welfare institutions**

49. As already indicated earlier, the CPT's delegation visited, for the first time in Turkey, two social welfare institutions - Gaziantep Care and Rehabilitation Centre<sup>28</sup> (*Bakım ve Rehabilitasyon Merkezi*) and Elazığ Home for Persons in Need (*Belediye Düşkünler Evi*).

*Gaziantep Care and Rehabilitation Centre* is administered by the Directorate General for Social Services and Child Protection (affiliated to the Prime Minister's Office). It is located on the outskirts of Gaziantep, next to the city's home for the elderly. Initially constructed as a home for the elderly, the Centre was later transformed into an educational institution for disabled children. Since 1997 it has been operating as a long-term residential care institution for minors suffering from severe learning disabilities<sup>29</sup>. Due to the fact that residents usually stay in the Centre for their life-time, new admissions were very rare. Thus, the Centre is progressively becoming an adult care institution. At the time of the visit, it was operating at full capacity with 130 residents (116 male and 14 female, of whom 80 were minors<sup>30</sup>) from 47 different provinces<sup>31</sup>.

*Elazığ Home for Persons in Need*, which is administered by the Municipality of Elazığ, is located in the city centre. With an official capacity of 30 places, it was accommodating 29 adult residents (14 male and 15 female) at the time of the visit. The home's vocation is to serve as a care centre for persons who are in need of assistance for whatever reason. The vast majority of residents had learning disabilities to a varying degree and/or various physical handicaps (paralysis, blindness, etc.). Some also had a psychiatric diagnosis or had been admitted to the home for social reasons after having been found in the street in a state of neglect. The home is a long-term care institution, most residents staying there for their life-time. New and much larger premises (102 places<sup>32</sup>) had recently been constructed on the outskirts of the city and were planned to open shortly.

50. At the outset, the CPT wishes to stress that its delegation received no allegations in either institution, nor gathered any other evidence, of ill-treatment by staff or inter-resident violence. Staff in both establishments appeared to be professional and doing their utmost to care for the residents.

51. The delegation was impressed by the material conditions found at *Gaziantep Care and Rehabilitation Centre*. All bedrooms<sup>33</sup> were in a good state of repair, impeccably clean and well-lit. Further, day rooms were adequately equipped (sofas, television sets, carpets etc.) and pleasantly decorated.

At *Elazığ*, the delegation saw the new premises of the Home for Persons in Need which were due to open shortly and gained a generally very favourable impression of them. The rather poor living conditions in the old premises do not call for any particular comment. **The CPT would like to receive confirmation that the new premises of Elazığ Home for Persons in Need are now fully operational and that all residents have been transferred there.**

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<sup>28</sup> The delegation did not visit the orphanage and rehabilitation centre in the city centre, which is also administrated by the Directorate General for Social Services and Child Protection. The latter establishment only accommodates orphans and minors suffering from light mental retardation until they come of age.

<sup>29</sup> It also provides day-care services; there were two children in the day-care unit at the time of the visit.

<sup>30</sup> The youngest child was 13 years old.

<sup>31</sup> One 15-year old girl was temporarily being held at the Centre, as a protective measure ordered by the judicial authorities (on the basis of the Law on Child Protection), after her father had threatened to kill her.

<sup>32</sup> The delegation was informed that plans were afoot to open a women's shelter on the same premises.

<sup>33</sup> Rooms usually had between two and eight beds. One room had fourteen beds.

52. The provision of care appeared to be generally adequate at *Gaziantep Care and Rehabilitation Centre*. It is particularly praiseworthy that the number of caretakers had recently been significantly increased<sup>34</sup>. The Centre employed one doctor<sup>35</sup>, two nurses, one psychologist and 71 caretakers<sup>36</sup>. Children in need of psychiatric care were sent to the child psychiatrist at the nearby general hospital. There were medical files for every resident, which were well kept.

That said, the CPT is concerned by the fact that one of the two nursing posts was vacant at the time of the visit. Further, there was no physiotherapist, although the Centre had a well-equipped room for physiotherapy. The delegation was assured that a physiotherapist would be recruited shortly. **The CPT recommends that steps be taken at the Gaziantep Centre to ensure that the vacant nurse's post is filled without delay. Further, the Committee would like to receive confirmation that a physiotherapist is now working at the Centre.**

53. At the *Elazığ Home*, residents were seen by the Municipality Doctor or transferred, if necessary, to the General Hospital or the Psychiatric Hospital of Elazığ. Staff involved in residents' care included three caretakers (one of whom had previously worked as a paramedic in the general hospital) and a nurse who visited the Home two or three times per week<sup>37</sup>. The delegation gained a generally favourable impression of the care provided to residents (including to those who were bedridden or chronically ill).

However, according to the Home's management, residents were not systematically seen by a doctor upon admission. Further, visits by the doctor or transfers to an outside hospital were not recorded by the management, nor was any record kept of the medicines distributed.

**The CPT recommends that steps be taken by the relevant authorities to ensure that, in the context of the enlargement of Elazığ Home for Persons in Need, the organisation of care and medical treatment is reviewed. In particular, steps should be taken to ensure that:**

- every resident is subject to a medical examination promptly upon admission;
- qualified nursing staff are recruited on a full-time basis;
- rehabilitative services are organised;
- the distribution of medicines is properly recorded.

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<sup>34</sup> Thus, it was possible to reduce the ratio of residents to caretakers on duty from 30 to 1 to 8 to 1.

<sup>35</sup> The doctor also cared for the staff working at the Centre.

<sup>36</sup> Caretakers received ongoing in-house training in childcare at least four times per year.

<sup>37</sup> The delegation was informed of existing plans to employ a nurse on a full-time basis.

54. At the *Gaziantep Centre*, the delegation also gained a favourable impression of the activities organised for residents. All minors were assessed before admission by the Guidance and Research Centre (RAM), which is attached to the Ministry of Education, and individual rehabilitation plans were drawn up and reviewed on an annual basis. The Centre had two instructors for children, one teacher and one social worker. A variety of individual and group activities were regularly organised. Some 40% of the residents were able to follow educational activities; fourteen of them went to an outside school. Steps were being taken to ensure that all residents (including those who were bedridden<sup>38</sup>) benefited from daily outdoor exercise (between one and one-and-a-half hours).

At the *Elazığ Home*, residents had ready access to the garden most of the day. That said, hardly any rehabilitative or recreational activities were being organised for residents, their only occupation being watching television or knitting (for women). **The CPT recommends that the Turkish authorities redouble their efforts to provide rehabilitative and recreational activities to residents at Elazığ.**

55. At *Elazığ*, the delegation was informed that means of restraint were never applied. Any resident who became agitated would immediately be transferred to the nearby psychiatric hospital.

At *Gaziantep*, resort to means of physical restraint appeared to be very infrequent (only two instances during the past four years were recalled by staff). After consultation with the child psychiatrist, the children concerned were restrained to a bed with cotton straps, for less than one hour. A member of staff was said to have been constantly present. The use of means of restraint was recorded in the resident's file, but there was no specific register for this purpose. **Steps should be taken to remedy this deficiency.**

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A sufficient number of wheelchairs were available.

## C. Safeguards

### 1. Safeguards in the context of involuntary hospitalisation

#### a. civil commitment to a psychiatric hospital

56. It is well-known that Turkey still lacks a mental health law. On the other hand, the Turkish Civil Code contains a number of legal provisions which provide for some basic safeguards regarding involuntary hospitalisation of a civil nature (Articles 432 to 437 of the Civil Code<sup>39</sup>). During the visit, the delegation examined in detail involuntary placement procedures in all three mental health hospitals visited. For this purpose, it interviewed staff and patients and consulted a considerable number of patients' files. It also met the competent civil judges of Elazığ and Samsun Magistrate's Courts.

57. At the outset, the CPT must express its concern about the frequent lack of clarity as regards the legal status of patients. In none of the hospitals visited was the delegation able to obtain precise information on the actual number of involuntary patients. Even when patients' files were consulted, the legal status could not always be ascertained. Further, when asked whether patients classified as "voluntary" were allowed to leave the hospital at any time, several members of staff affirmed to the delegation that this was indeed the case "but only if a family member came to sign them out". In other words, the patients concerned were *de facto* deprived of their liberty.

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<sup>39</sup> Any adult who constitutes a danger to the public due to mental illness or mental retardation, alcohol or narcotic substance dependence, very dangerous contagious disease or vagrancy, shall be placed in an appropriate institution for the purpose of treatment, training or rehabilitation or be detained, if no other means of securing his personal protection is available. Public officials who become aware of the existence of one of these grounds are obliged to immediately inform the competent guardianship authority (i.e. the magistrate's court). In this context, any trouble caused by the person to others in his circle is also taken into account. The person concerned shall be discharged from the institution as soon as his situation warrants his discharge. (Article 432)

The competent authority which decides on placement or detention is the guardianship authority of the place of domicile of the person or, in urgent cases, the place where the person is present. The guardianship authority which decides on placement or detention is also authorised to order a discharge. (Article 433)

A person placed in an institution or his relatives may appeal against such placement to the supervising authority within 10 days of notification of the placement decision. This rule also applies to decisions rejecting a request to be discharged from the institution. (Article 435)

Restriction of liberty for protection purposes is subject to the Law on Civil Procedure, provided that the following rules are observed:

- 1) When the decision is taken, the person concerned shall be informed, in writing, of the reasons for the decision and of his right to appeal against the decision to the supervising authority.
- 2) A person who is placed in an institution shall be immediately notified, in writing, of his right to appeal to the supervising authority within 10 days against the detention decision or the rejection of his request to be discharged.
- 3) Any request that requires a court decision shall be forwarded to the competent judge without delay.
- 4) The guardianship authority or the judge who takes the placement decision may delay the consideration of such a request depending on the specificity of the situation.
- 5) Decisions regarding those who suffer from mental illness, mental retardation, alcohol or narcotic substance dependence or very dangerous contagious disease may only be taken after an official medical board report has been obtained. (Article 436)

If necessary, the person concerned is provided with legal aid. The judge shall hear the person concerned when taking the decision. (Article 437)

Further, in all hospitals visited, consultations with staff and the examination of patients' files revealed that, in practice, the consent of the patient concerned to placement (and treatment) could be substituted by approval given by any family member even if the latter was not a court-appointed guardian<sup>40</sup>. Such a state of affairs is not acceptable.

**The CPT recommends that steps be taken at the Bakırköy, Elazığ and Samsun Hospitals to review the legal status of patients, in the light of the preceding remarks.**

58. At Bakırköy and Samsun, two separate forms for voluntary and involuntary admissions were in use, while at Elazığ, a single admission form was used for this purpose.<sup>41</sup>

If the patient concerned did not consent to the placement, the admission form was signed by the admitting doctor and the person who had brought in the patient (i.e. family member, police officer, official of the municipality, ambulance staff, etc.). At Bakırköy, the initial placement decision had to be countersigned by two more doctors of the hospital, while at Elazığ and Samsun, the signature of a single doctor was considered sufficient.

The delegation found that in all the hospitals visited, admission forms containing placement decisions were often very perfunctory. In a number of cases, hardly any reasons or no reasons at all were given for the placement (e.g. simple reference to "psychiatric disorder" or "treatment"). In some cases, the forms did not even mention the name of the patient concerned. Further, the time of admission was not systematically recorded.

**The CPT recommends that steps be taken at all hospitals visited to ensure that involuntary admission forms are properly completed, taking into account the above remarks.**

59. As regards the placement procedure, in none of the hospitals visited was any case of involuntary admission notified by the hospital management to the competent magistrate's court<sup>42</sup>. This state of affairs not only constitutes a flagrant violation of the relevant provisions of the Civil Code (Articles 432 and 433), but also shows that the Ministry of Health Circular No. 10311 of 13 October 2005 instructing the directors of all mental health hospitals to immediately inform the magistrate's court of any involuntary admission has been widely disregarded.

**The CPT recommends that the Turkish authorities take the necessary steps at the Bakırköy, Elazığ and Samsun Hospitals and, if appropriate, at other mental health hospitals in Turkey, to ensure that all involuntary admissions are systematically notified to the competent court. Steps should also be taken by the management of all mental health hospitals to inform the competent courts of all patients currently being held in any of these hospitals on an involuntary basis.**

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<sup>40</sup> See, in this regard, paragraph 70.

<sup>41</sup> As regards the "consent" to treatment which was usually sought upon admission, see paragraphs 67 to 71.

<sup>42</sup> At Samsun, the competent magistrate's court had been informed of an involuntary admission in some cases by the police.

60. According to Article 437 of the Civil Code, the judge is required to hear the patient concerned before taking a decision on placement. However, in those few cases where a judge was involved in involuntary admissions (see footnote 42), the patients concerned had apparently not been seen by the judge and that placement decisions were not systematically forwarded to the patient concerned. Further, placement decisions were sometimes taken by the court with considerable delays (up to one month).

**The CPT recommends that the Turkish authorities take the necessary steps to ensure that:**

- **any patient who is admitted to a mental health hospital in Turkey on an involuntary basis is always heard in person by the judge before a decision on placement is taken;**
- **decisions on involuntary placement in a mental health hospital are taken speedily by the competent court;**
- **the patient concerned receives a copy of the court decision and is informed, verbally and in writing, about the reasons for the decision and the avenues/deadlines for lodging an appeal.**

61. It is another matter of concern that guardians often played no role whatsoever in the entire placement procedure. They were not seen as a safeguard in the process of hospitalisation and were often not informed, let alone involved, in the procedure. In practice, it made no difference to the placement procedure whether a guardian had been appointed or not. In this connection, **reference is made to the remarks and recommendations made in paragraphs 86 to 89.**

b. discharge procedures

62. Involuntary placement in a psychiatric establishment should cease as soon as it is no longer required. Consequently, the need for such a placement should be reviewed at regular intervals by an appropriate authority. This is all the more necessary in cases where involuntary placement has been imposed for an indefinite duration. In addition, the patient himself or herself should be able to request at reasonable intervals that the necessity for placement be considered by a judicial authority.

63. In all mental health hospitals visited, involuntary hospitalisation of a civil nature was usually indefinite and was only terminated with the approval of the hospital's Medical Board (upon the recommendation of the treating doctor or at the request of the patient concerned). However, there was no automatic review procedure in place.

According to Article 435 of the Civil Code, patients could in principle appeal to the court against a hospital's decision to reject a request for discharge. However, patients were usually not informed of such a possibility. Further, the Civil Code does not provide for any procedure by which the need for involuntary placement is reviewed on a regular basis.

64. The placement of forensic patients in a mental health hospital by a criminal court as a protective measure on account of their criminal irresponsibility (under Article 57 of the Penal Code) was usually also ordered for an indefinite period of time.

Turkish criminal legislation does not provide for an automatic review procedure in such cases. Further, it would appear that the patients concerned do not have a formal right to request a judicial review of their placement. In practice, patients or their relatives address themselves to the hospital management which then consults its Medical Board. If the Board considers that the patient should be released, it transmits a report to the public prosecutor's office, which subsequently forwards the report to the competent court<sup>43</sup>. The delegation was informed that, in the context of discharge procedures, court decisions were usually taken without the patients having been heard in person by the judge.

**65. The CPT recommends that the Turkish authorities take steps to provide an automatic review, at regular intervals, of involuntary placements - whether of a civil nature or as a protective measure due to criminal irresponsibility - in all mental health hospitals in Turkey. This review procedure should offer guarantees of independence and impartiality, as well as objective medical expertise.**

**Further, the Committee recommends that steps be taken to ensure that forensic patients hospitalised under Article 57 of the Penal Code have a formal right to request at reasonable intervals that the necessity for their placement be considered by a court and that the patients concerned are heard in person by the judge in the context of discharge/review procedures.**

c. safeguards during placement

66. An introductory leaflet setting out the establishment's routine and patients' rights should be issued to each patient on admission, as well as to their families. Any patients unable to understand this leaflet should receive appropriate assistance.

*At Bakırköy Mental Health Hospital, such a leaflet was provided to patients or their families on admission. However, the leaflet made no reference to the possibility and modalities for lodging a complaint. Only oral information was provided to newly-admitted patients at Elazığ and Samsun Mental Health Hospitals.*

In this connection, the CPT wishes to recall the relevant provisions of the Ministry of Health Regulation on Patients' Rights<sup>44</sup>.

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<sup>43</sup> A discharge procedure may also be opened at the initiative and request of the hospital's Medical Board, the public prosecutor or the judge for the execution of sentences.

<sup>44</sup> The Regulation (No. 23420 of 1 August 1998), inter alia, stipulates that, in order to ensure the full enjoyment by patients of all the rights set forth in the Regulation and other relevant legislative norms, health-care establishments shall take the necessary measures, including devising leaflets/brochures setting out the rights of patients as provided for by the Regulation, and making them accessible for patients, staff and visitors of the establishments.

**The Committee recommends that steps be taken at all hospitals visited and, if appropriate, in other mental health hospitals in Turkey, to ensure that an introductory leaflet setting out the establishments' routine and patients' rights - including information about complaints bodies and procedures - is drawn up and systematically provided to patients and their families on admission. Any patients unable to understand this leaflet should receive appropriate assistance.**

67. Patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment. Every patient, whether voluntary or involuntary, should be given the opportunity to refuse - either personally or through the guardian - treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances<sup>45</sup>.

Of course, consent to treatment can only be qualified as free and informed if it is based on full and accurate information about the patient's condition and the treatment which is proposed. In this connection, it is essential that all patients be provided systematically with relevant information about their condition and the treatment proposed for them. Relevant information should also be provided following treatment (results, etc.).

68. At all the mental health hospitals visited, the delegation observed that, in the case of voluntary admissions, the patient's consent to treatment was usually sought upon admission to the hospital at the time when the patient gave his consent to the placement.

At *Elazığ and Samsun Hospitals*, a brief clause to this end was included on the admission form, which was signed by the patient concerned. No documentation could be found to show that the patient concerned had received detailed information on the diagnosis, the treatment proposed and the possible side effects.

The situation appeared to be more favourable at *Bakırköy* where a separate treatment consent form had recently been introduced (as regards the application of ECT, see paragraph 29). This form contained detailed information on various treatment-related issues and also mentioned the fact that additional and more specific information had been provided to the patient verbally. However, the latter form also contained a provision (item 3), in which the patient was requested to give his consent also to any treatment which might be provided in the future, including after a change of diagnosis or treatment (or a transfer to another clinic).

In this connection, **the CPT wishes to stress that whenever a consent to treatment is given by a patient upon admission, the patient concerned should continuously be kept informed of the treatment applied to him/her and placed in a position to withdraw his/her consent at any time.**

69. As regards the application of ECT, a specific consent form had recently been introduced at Bakırköy, which contained detailed information on this specific type of treatment (including on the potential side effects). That said, the delegation gained the impression that the form was drafted in a rather complex and legalistic manner and thus was not very user-friendly. This was also the view of doctors met by the delegation. **Steps should be taken to remedy this shortcoming.**

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<sup>45</sup> Cf. also Article 25 of the Regulation on Patients' Rights.

70. Another, more fundamental, flaw in the current system lies in the fact that, in practice, it was not the consent of the patient concerned but that of a family member that was sought (even when the latter was not a court-appointed guardian).

More generally, it emerged from the delegation's discussions with the medical staff at all the hospitals visited that there was a widespread perception that patients who were hospitalised against their will were, on account of their mental illness, not able to give valid consent to any subsequent treatment.

The CPT does not agree with such an approach. It must stress once again that all patients should, as a matter of principle, be placed in a position to give their free and informed consent to treatment, including ECT. The admission of a person to a psychiatric establishment on an involuntary basis should not be construed as authorising treatment without his or her consent.

**71. The CPT recommends that the Turkish authorities take steps - including of a legislative nature - to distinguish clearly between the procedure for involuntary placement in a psychiatric institution and the procedure for involuntary psychiatric treatment, in the light of the remarks made in paragraphs 67 and 70.**

**Further, the Committee recommends that steps be taken at all mental health hospitals in Turkey to ensure that the consent of the patient (or of the guardian, if the person concerned is declared incompetent by a court) to any treatment, based on full and comprehensible information, is sought and a record of the consent kept in the patient's file and that, save for exceptional circumstances clearly and strictly defined by law, the treatment is not administered until such time as consent has been obtained.**

72. The CPT welcomes the fact that, at all three hospitals visited, patients and their family members were able to lodge complaints (both verbally and in writing) with the hospital's Patients' Rights Board<sup>46</sup>, whose main task was to process complaints and make recommendations to the hospital's management<sup>47</sup>.

At Bakırköy and Samsun Hospitals, these boards appeared to operate effectively (with an ever increasing number of complaints in recent years).<sup>48</sup>

That said, at Elazığ, most patients appeared to be unaware of the existence of the Patients' Rights Board. Not surprisingly, the Board had received only very few complaints. **Steps should be taken to remedy this shortcoming.**

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<sup>46</sup> According to the Ministry of Health Instruction on the Implementation of Patients' Rights, a Patients' Rights Board shall be established in all public hospitals located in provincial centres, as well as in hospitals with a capacity of 100 or more beds located in sub-provinces.

<sup>47</sup> Decisions are taken by secret ballot by a simple majority of the voting members of the Board, among whom are a deputy chief doctor (chairman of the Board), the chief of the service accommodating the complainant, a member of the administrative staff, a trade union representative, and a member of the provincial council.

<sup>48</sup> At Bakırköy, of total 213 complaints examined by the Board from 2004 to 2006, 77 were resolved in the complainant's favour often leading to administrative sanctions against the personnel; in 634 cases, complaints were settled locally before reaching the Board. At Samsun, 13 complaints were resolved in the complainant's favour (out of 30 examined in 2005-2006), while 50 were settled locally.

73. The CPT also attaches great importance to psychiatric establishments being visited on a regular basis by an outside body responsible for the inspection of patients' care, which is independent of the national or local health authorities.

Although all hospitals visited received inspections from the Ministry of Health, there was no independent body which could carry out inspections of mental health hospitals in Turkey. **The CPT recommends that steps be taken to ensure that all psychiatric establishments in Turkey are visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients' care. This body should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations.**

74. As regards patients' contact with the outside world, the situation in all three hospitals visited was generally satisfactory. They were able to send and receive correspondence, to have access to the telephone, and to receive visits from their families.

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75. The 2006 visit has demonstrated once again that legislative measures will be required in order to remedy many of the deficiencies found in the Turkish mental health system, in particular as regards various safeguards in the context of involuntary hospitalisation<sup>49</sup>.

Therefore, **the CPT reiterates its recommendation that the Turkish authorities take urgent measures to ensure the enactment of comprehensive mental health legislation. In this connection, account should also be taken of the Recommendation Rec (2004) 10 of the Council of Europe's Committee of Ministers to Member States concerning the protection of the human rights and dignity of persons with mental disorder.**

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<sup>49</sup> Cf. also CPT/Inf (2006) 30, paragraph 73.

## 2. Safeguards in the context of admissions to social welfare institutions

### a. initial placement and discharge

76. As in the context of mental health hospitals, the delegation observed a number of shortcomings concerning the placement of persons in both social welfare institutions visited.

77. First of all, at *Elazığ Home for Persons in Need*, about one third of the residents did not have an official identity. Such a state of affairs is unacceptable. It is self-evident that the persons concerned are, in practice, deprived of any rights if their existence is not recognised by the State. **The CPT recommends that immediate steps be taken to remedy this deficiency.**

78. Further, persons in need were admitted to the Elazığ Home without any safeguards. Decisions on placement were usually taken by the Director and the Head of the Department of Social Services of the Municipality of Elazığ respectively (after an assessment had been made regarding the social situation of the person concerned). The magistrate's court was never involved in such placements.

In this regard, the CPT wishes to recall that the relevant provisions of the Civil Code (Articles 432 to 437<sup>50</sup>) refer to involuntary admissions not only to health-care but also social welfare institutions. Thus, the social welfare institution's management would be obliged to notify cases of involuntary admission to the competent magistrate's court, with a view to seeking the court's approval for the placement.

However, at Elazığ, the management of the Home for Persons in Need appeared to be unaware of the above-mentioned legal requirements. **The CPT recommends that the Turkish authorities take the necessary steps to ensure that involuntary admissions to the Elazığ Home, as well as to any other social welfare institution in Turkey, are notified to the competent magistrate's court.**

79. Further, the vast majority of residents (25 out of 29) suffered from learning disabilities. However, although they were thus unable to give valid consent to their placement, guardians had not been appointed for any of these residents. In this connection, **reference is made to the remarks and recommendations made in paragraphs 86 to 89.**

80. At *Gaziantep Care and Rehabilitation Centre*, the decision on the admission of a minor was usually taken by the Directorate General for Social Services and Child Protection, with the approval of a parent or a court-appointed guardian (when the parents were deceased or had been deprived of their parental rights).

Further, placement decisions could also be taken by the family court on the basis of the Law on Child Protection, with simultaneous deprivation of parental rights (e.g. in the case of abuse or violence) or without deprivation of parental rights (e.g. in the case of extreme poverty).

In the event of an adult being admitted to the Centre, the consent given by any family member on behalf of the person concerned was considered sufficient, even if that family member was not a court-appointed guardian. As was stressed already in the context of mental health hospitals (see paragraph 57), such a state of affairs is not acceptable.

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<sup>50</sup> See footnote 39.

The delegation also observed that, as at the Elazığ Home, the relevant provisions of the Civil Code were not applied in practice at the Gaziantep Centre. The magistrate's court was usually not notified of any involuntary admission. In this connection, **the recommendation made in paragraph 78 equally applies to Gaziantep Care and Rehabilitation Centre (as well as to any other establishment of this kind in Turkey).**

81. In the case of an incapacitated adult being admitted to the Gaziantep Centre, the consent was given by the guardian, without any additional involvement by the magistrate's court, despite the fact that such an involvement is required by law (Article 462 Civil Code). **Steps should be taken to remedy this deficiency.**

82. As in the context of involuntary admission to a mental health hospital (see paragraph 63), Turkish legislation does not provide for any review procedure by which the need for placement in a social welfare institution is reviewed at regular intervals by an appropriate authority. **The CPT recommends that the Turkish authorities take the necessary steps to ensure that such a procedure is introduced in respect of all persons who are placed against or without their will in a social welfare institution in Turkey.**

b. safeguards during placement

83. Neither at Gaziantep Care and Rehabilitation Centre nor at Elazığ Home for Persons in Need did residents or their family members receive an information leaflet setting out the establishment's routine and residents' rights. **The CPT recommends that such a leaflet, also containing information about the right to lodge formal complaints and the modalities for doing so, be provided to residents and their families at Elazığ and Gaziantep, and, if appropriate, in other social welfare institutions in Turkey.** Further, **any residents unable to understand this leaflet should receive appropriate assistance.**

84. As regards inspections, the Gaziantep Centre was visited by the Directorate General for Social Services and Child Protection in 2001 and 2006, while the Elazığ Home received only one inspection from the Ministry of Health in 2005. **It would be desirable that such inspections be carried out more frequently.**

Further, **the CPT invites the Turkish authorities to explore the possibility of introducing regular visits to social welfare institutions by an independent outside body which is responsible for the inspection of residents' care.**

85. At both establishments visited, the existing arrangements for residents to maintain contact with the outside world (i.e. residents' access to correspondence and telephone, and visits from family members) were, on the whole, satisfactory.

### 3. Guardianship

86. At the outset, the CPT must stress that serious shortcomings have been identified by its delegation as regards the situation of persons who, due to their mental state, were unable to consent to their placement in a mental health hospital or social welfare institution.

In principle, the Turkish Civil Code contains a number of important safeguards regarding the procedures for depriving a person of his/her legal capacity (and appointing a guardian), as well as for admissions to mental health or social welfare establishments<sup>51</sup>. However, in all establishments visited, hardly any of these safeguards were being implemented in practice. Thus, the system of guardianship was rendered, to a large extent, ineffective.

87. As regards the procedure for appointing a guardian, it is a matter of particular concern that, in many cases, the whole procedure was conducted without any involvement of the person concerned. The latter was often not even aware of the procedure being applied to him/her.

**The CPT recommends that the Turkish authorities take the necessary steps to ensure that all persons who are in the process of being deprived of their legal capacity are systematically:**

- **heard in person by the magistrate's court;**
- **given a copy of the court decision;**
- **informed, verbally and in writing, of the possibility and modalities for appealing against the court decision.**

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<sup>51</sup> Every adult who, due to mental illness or mental retardation, alcohol or substance addiction, or having an unhealthy lifestyle, cannot take care of him/herself or is in need of continuous assistance or endangers the safety of others, shall be deprived of his/her legal capacity. Administrative authorities, notaries and courts who, when performing their functions, become aware of a case that requires guardianship, shall immediately inform the competent guardianship authority (i.e. the magistrate's court) of this situation. (Articles 405 and 406)

The decision to deprive someone of their legal capacity due to mental illness or mental retardation shall only be made on the basis of an official medical board report. Before rendering such a decision, the judge may, taking into account the report from a health institution, hear the person whose deprivation of legal capacity has been requested. (Article 409)

The permission of the guardianship authority is required, inter alia, for the placement of a person under guardianship in a (...) care or health institution. (Article 462)

88. Although many residents/patients at the Gaziantep Centre and the three hospitals visited, and almost all the residents at Elazığ Home for Persons in Need were described by staff as being manifestly unable to consent to their placement, none of them had a guardian; nor had there been any involvement by the magistrate's court in the placement procedure.

**The CPT recommends that the Turkish authorities take the necessary steps to ensure that all admissions to mental health hospitals and social welfare establishments of persons who are unable to consent are notified to the competent magistrate's court, so that the latter can take a decision on the placement, and, if necessary, on the appointment of a guardian. The same procedure should be applied whenever the mental condition of a competent person deteriorates during placement.**

89. Further, at Gaziantep, members of staff (mostly the social worker) were, on occasion, appointed as guardians for residents accommodated in the Centre.

From the very fact that it is also the role of a guardian to defend the rights of persons deprived of their legal capacity vis-à-vis the hosting social welfare institution, such a practice may easily lead to a conflict of interests and, eventually, compromise the independence and impartiality of the guardian. Therefore, **the CPT recommends that the Turkish authorities strive to find alternative solutions which would better guarantee the independence and impartiality of guardians.**



## **APPENDIX**

### **LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **Detention facilities for immigration detainees in İstanbul**

##### recommendations

- the Turkish authorities to bring the new detention facilities for immigration detainees at Kumkapı into service without further delay (paragraph 9).

##### requests for information

- confirmation that all immigration detainees:
  - are provided with a bed and clean bedding;
  - receive adequate quantities of personal hygiene products and are able to take a shower, at a temperature suitable to the climate, at least once a week;
  - are granted at least one hour of outdoor exercise per day (paragraph 9).

#### **Mental health hospitals**

##### **Ill-treatment**

##### recommendations

- the procedures for the selection of orderlies and both their initial and ongoing training to be reviewed, in the light of the remarks made in paragraph 13. Further, the management of all three psychiatric hospitals visited should deliver to orderlies the clear message that all forms of ill-treatment of patients, including verbal abuse, are unacceptable and will be the subject of severe sanctions (paragraph 13);
- appropriate steps to be taken at the three hospitals visited to combat the phenomenon of inter-patient violence, in the light of the remarks made in paragraph 14 (paragraph 14).

## **Patients' living conditions**

### recommendations

- appropriate steps to be taken without further delay at the Bakırköy Hospital to improve patients' living conditions in the "prison ward" (paragraph 17);
- steps to be taken at the Elazığ Hospital to improve living conditions, in the light of the remarks made in paragraphs 18 and 19. In particular, steps should be taken to divide up large dormitories into smaller rooms and to remove the metal bar partitions, in order to create a more therapeutic and less prison-like environment (paragraph 19);
- the Turkish authorities to complete the ongoing construction of a new hospital at Samsun as speedily as possible (paragraph 21);
- steps to be taken at the Samsun Hospital to keep patients' rooms in an acceptable state of cleanliness and hygiene and to provide a more personalised environment (paragraph 21);
- the Turkish authorities to take urgent measures at the three hospitals visited in order to ensure that all psychiatric patients, whose health conditions so permit, are offered at least one hour of outdoor exercise per day. Further, steps should be taken at the Elazığ Hospital to provide patients with appropriate clothing to this end (paragraph 22).

### comments

- the Turkish authorities are invited to remedy the deficiencies concerning material conditions in some wards at the Bakırköy Hospital, mentioned in paragraph 16 (paragraph 16).

### requests for information

- a detailed plan of the different stages of the construction of the new hospital at Samsun and a timetable for their full implementation (paragraph 21).

## **Treatment**

### recommendations

- steps to be taken at all three mental health hospitals visited to provide more comprehensive and individualised care and to better prepare patients' return to the community (paragraph 23);
- the policy of mixing mentally-ill patients with oligophrenic behaviourally disturbed patients on closed wards to be reviewed (paragraph 24);

- medical files to be properly kept for every patient at the Elazığ and Samsun Hospitals, taking into account the remarks made in paragraph 31 (paragraph 31);
- steps to be taken at the Bakırköy, Elazığ and Samsun Hospitals (as well as in other mental health hospitals in Turkey) to ensure that all medical examinations of patients are conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers and other non-medical staff (paragraph 34).

#### comments

- steps should be taken at the Elazığ Hospital to review the supply of medicines throughout the hospital (paragraph 30);
- steps should be taken in all three hospitals visited to put an end to the practice of doctors seeing patients in groups rather than individually (paragraph 33);
- an autopsy should be carried out in all cases where a patient dies in hospital, unless a clear diagnosis of a fatal disease has been established prior to death (paragraph 35).

#### requests for information

- more detailed information on the planned rehabilitation centre at the Elazığ Hospital (including whether it is to be accessible to inpatients from closed wards) (paragraph 23);
- the number of patients who have received ECT in 2007 (paragraph 28);
- comments of the Turkish authorities regarding the frequency of medical consultations at the Elazığ and Samsun Hospitals (paragraph 32).

#### **Staff**

#### recommendations

- steps to be taken to remedy the absence of qualified nursing staff at night in some wards at the Bakırköy Hospital (paragraph 37);
- the practice described in paragraph 40 to be reviewed, with a view to facilitating the creation of a therapeutic relationship between nurses and patients and decreasing the risk of any ill-treatment (paragraph 40);
- immediate steps to be taken to ensure at the Samsun Hospital that nurses have ready access to patients (paragraph 41);

- the current arrangements concerning the deployment of security staff at the Bakırköy and Elazığ Hospitals and, if appropriate, at other mental health hospitals in Turkey, to be reviewed in the light of the remarks made in paragraph 42 (paragraph 42);
- the Turkish authorities to redouble their efforts to provide training to orderlies in all mental health hospitals visited, in the light of the remarks made in paragraph 43 (paragraph 43);
- the Turkish authorities to take the necessary steps to ensure that the approach described in the second sub-paragraph of paragraph 44 is also followed at the Samsun Hospital, as well as at all other mental health hospitals in Turkey (paragraph 44).

#### comments

- efforts should be made to recruit additional psychiatrists at the Elazığ and Samsun Hospitals (paragraph 38).

#### requests for information

- the additional steps taken by the Turkish authorities to reinforce the nursing staff at the Elazığ Hospital (paragraph 38).

### **Means of restraint and seclusion**

#### recommendations

- the Turkish authorities to take the necessary steps to ensure that all the principles and minimum safeguards set out in paragraph 46 are applied in all psychiatric establishments in Turkey (paragraph 46);
- strategies to be elaborated and implemented at all hospitals visited, with a view to significantly decreasing the resort to means of restraint by intensifying therapeutic relations between staff and patients and by applying de-escalation techniques (paragraph 46);
- steps to be taken in all mental health hospitals visited to ensure that every resort to seclusion is recorded in the book of restraints, as well as in the patients' medical files (paragraph 47);
- the design of the seclusion room of Ward 33 at the Bakırköy Hospital to be revised, in the light of the remarks made in paragraph 48 (paragraph 48).

## **Social welfare institutions**

### recommendations

- steps to be taken at the Gaziantep Care and Rehabilitation Centre to ensure that the vacant nurse's post is filled without delay (paragraph 52);
- steps to be taken by the relevant authorities to ensure that, in the context of the enlargement of Elazığ Home for Persons in Need, the organisation of care and medical treatment is reviewed. In particular, steps should be taken to ensure that:
  - every resident is subject to a medical examination promptly upon admission;
  - qualified nursing staff are recruited on a full-time basis;
  - rehabilitative services are organised;
  - the distribution of medicines is properly recorded (paragraph 53);
- the Turkish authorities to redouble their efforts to provide rehabilitative and recreational activities to residents at the Elazığ Home (paragraph 54).

### comments

- steps should be taken at the Gaziantep Centre to introduce a specific register on the use of means of restraint (paragraph 55).

### requests for information

- confirmation that the new premises of Elazığ Home for Persons in Need are now fully operational and that all residents have been transferred there (paragraph 51);
- confirmation that a physiotherapist is now working at the Gaziantep Centre (paragraph 52).

## **Safeguards**

### **Safeguards in the context of involuntary hospitalisation**

#### recommendations

- steps to be taken at the Bakırköy, Elazığ and Samsun Hospitals to review the legal status of patients, in the light of the remarks made in paragraph 57 (paragraph 57);
- steps to be taken at all hospitals visited to ensure that involuntary admission forms are properly completed, taking into account the remarks made in paragraph 58 (paragraph 58);
- the Turkish authorities to take the necessary steps at the Bakırköy, Elazığ and Samsun Hospitals and, if appropriate, at other mental health hospitals in Turkey, to ensure that all involuntary admissions are systematically notified to the competent court. Steps should also be taken by the management of all mental health hospitals to inform the competent courts of all patients currently being held in any of these hospitals on an involuntary basis (paragraph 59);
- the Turkish authorities to take the necessary steps to ensure that:
  - any patient who is admitted to a mental health hospital in Turkey on an involuntary basis is always heard in person by the judge before a decision on placement is taken;
  - decisions on involuntary placement in a mental health hospital are taken speedily by the competent court;
  - the patient concerned receives a copy of the court decision and is informed, verbally and in writing, about the reasons for the decision and the avenues/deadlines for lodging an appeal (paragraph 60);
- the Turkish authorities to take steps to provide an automatic review, at regular intervals, of involuntary placements - whether of a civil nature or as a protective measure due to criminal irresponsibility - in all mental health hospitals in Turkey. This review procedure should offer guarantees of independence and impartiality, as well as objective medical expertise (paragraph 65);
- steps to be taken to ensure that forensic patients hospitalised under Article 57 of the Penal Code have a formal right to request at reasonable intervals that the necessity for their placement be considered by a court and that the patients concerned are heard in person by the judge in the context of discharge/review procedures (paragraph 65);
- steps to be taken at all hospitals visited and, if appropriate, in other mental health hospitals in Turkey, to ensure that an introductory leaflet setting out the establishments' routine and patients' rights - including information about complaints bodies and procedures - is drawn up and systematically provided to patients and their families on admission. Any patients unable to understand this leaflet should receive appropriate assistance (paragraph 66);

- the Turkish authorities to take steps - including of a legislative nature - to distinguish clearly between the procedure for involuntary placement in a psychiatric institution and the procedure for involuntary psychiatric treatment, in the light of the remarks made in paragraphs 67 and 70 (paragraph 71);
- steps to be taken at all mental health hospitals in Turkey to ensure that the consent of the patient (or of the guardian, if the person concerned is declared incompetent by a court) to any treatment, based on full and comprehensible information, is sought and a record of the consent kept in the patient's file and that, save for exceptional circumstances clearly and strictly defined by law, the treatment is not administered until such time as consent has been obtained (paragraph 71);
- steps to be taken to ensure that all psychiatric establishments in Turkey are visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients' care. This body should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations (paragraph 73);
- the Turkish authorities to take urgent measures to ensure the enactment of comprehensive mental health legislation. In this connection, account should also be taken of the Recommendation Rec (2004) 10 of the Council of Europe's Committee of Ministers to Member States concerning the protection of the human rights and dignity of persons with mental disorder (paragraph 75).

#### comments

- whenever a consent to treatment is given by a patient upon admission, the patient concerned should continuously be kept informed of the treatment applied to him/her and placed in a position to withdraw his/her consent at any time (paragraph 68);
- steps should be taken to remedy the shortcoming concerning the consent form for ECT described in paragraph 69 (paragraph 69);
- steps should be taken at the Elazığ Hospital to ensure that patients are aware of the existence of the Patients' Rights Board (paragraph 72).

## **Safeguards in the context of admissions to social welfare institutions**

### recommendations

- immediate steps to be taken to ensure that all residents at Elazığ Home for Persons in Need have an official identity (paragraph 77);
- the Turkish authorities to take the necessary steps to ensure that involuntary admissions to the Elazığ Home, as well as to any other social welfare institution in Turkey, are notified to the competent magistrate's court (paragraph 78);
- steps to be taken to ensure that involuntary admissions to Gaziantep Care and Rehabilitation Centre, as well as to any other establishment of this kind in Turkey, are notified to the competent magistrate's court (paragraph 80);
- the Turkish authorities to take the necessary steps to ensure that a procedure, whereby the need for placement in a social welfare institution is reviewed at regular intervals by an appropriate authority, is introduced in respect of all persons placed against or without their will in a social welfare institution in Turkey (paragraph 82);
- an information leaflet setting out the establishment's routine and residents' rights - including information about the right to lodge formal complaints and the modalities for doing so - to be provided to residents and their families at the Elazığ and Gaziantep establishments and, if appropriate, in other social welfare institutions in Turkey. Any residents unable to understand this leaflet should receive appropriate assistance (paragraph 83).

### comments

- steps should be taken to remedy the deficiency described in paragraph 81 (paragraph 81);
- it would be desirable that inspections of the kind mentioned in the first sub-paragraph of paragraph 84 be carried out more frequently (paragraph 84);
- the Turkish authorities are invited to explore the possibility of introducing regular visits to social welfare institutions by an independent outside body which is responsible for the inspection of residents' care (paragraph 84).

## **Guardianship**

### recommendations

- the Turkish authorities to take the necessary steps to ensure that all persons who are in the process of being deprived of their legal capacity are systematically:
  - heard in person by the magistrate's court;
  - given a copy of the court decision;
  - informed, verbally and in writing, of the possibility and modalities for appealing against the court decision  
(paragraph 87);
- the Turkish authorities to take the necessary steps to ensure that all admissions to mental health hospitals and social welfare establishments of persons who are unable to consent are notified to the competent magistrate's court, so that the latter can take a decision on the placement, and, if necessary, on the appointment of a guardian. The same procedure should be applied whenever the mental condition of a competent person deteriorates during placement (paragraph 88);
- the Turkish authorities to strive to find alternative solutions which would better guarantee the independence and impartiality of guardians (paragraph 89).