

To: Health Professionals
From: Medical Office
Date: 29 March 2003

MEDICAL ACTION

TURKEY:

Investigation of doctor for carrying out ethical medical examination of prisoner

Summary

Dr Ilker Meşe, a doctor in charge of a hospital emergency service in Tekirdag, a coastal city to the west of Istanbul, is being investigated for refusing to examine a prisoner in the presence of security officials.

Goals

- To express concern at the action taken against Dr Meşe
- To raise concerns about a new protocol allowing medical examinations of prisoners to be carried out in the presence of security officials, contrary to European standards.

Background

As he prepared to carry out a medical examination of a prisoner on 26 December 2003 at the Tekirdag State Hospital, Dr Ilker Meşe asked accompanying security officials to wait outside the examination room. The officials reportedly only left the room after a disagreement with Dr Meşe over their refusal to leave him alone with the prisoner. Within days of the incident, Dr Meşe was relocated to another clinic as a disciplinary measure and an investigation was instigated against him for non-compliance with a new protocol, which Dr Meşe had no knowledge of, and for “insulting” the attending security forces.

According to the authorities the new protocol was signed by the Ministry of Justice, the Ministry of the Interior and the Ministry of Health in October 2003. It allows for the presence of security officials during examinations where the examination room is not secure or if the prisoner is being investigated for or has been convicted of “terrorist” acts. The protocol stipulates that when a security official is present, they should “take protective measures at a distance where they cannot hear conversations between the doctor and the patient”.

According to reports, the new protocol was not circulated to health institutions in Tekirdag until 15 January 2004. The protocol apparently conflicts with new regulations introduced in February 2003 and welcomed by AI which stipulate that security officials

should not be present during the medical examination of individuals held in police detention unless the physician requests.

AI has repeatedly recommended that medical examinations of detainees and prisoners should be conducted under the control of the medical expert and outside the presence of security or other government officials as a safeguard against torture. The presence of security officials during medical examinations has been condemned on a number of occasions by the European Committee for the Prevention of Torture (ECPT). In November 2002, the ECPT reiterated that:

“...all medical examinations of prisoners, whether on a prisoner’s admission to prison *or at a later stage*, should take place out of hearing and – unless the doctor concerned requests otherwise in a particular case – out of sight of custodial staff.”¹

In addition, a substantive report on health issues by ECPT in 2002 states among other things that:

“all medical examinations of prisoners (whether on arrival or at a later stage) should be conducted out of the hearing and – unless the doctor concerned requests otherwise – out of the sight of prison officers.”²

Recommended Action

Letter-writing

Please write letters in English, to the Minister of Justice and the Minister of Health and in your own words. Use professional headed paper if you use this in your work and the following points as guidelines:

- Introduce yourself as a health professional concerned with human rights issues, saying that you are writing in connection with the case of Doctor Ilker Meşe who is being investigated for refusing to examine a prisoner in the presence of security officials at Tekirdag State Hospital in December 2003, in violation of a new protocol;
- Express concern at the new protocol which allows for medical examinations of prisoners to be carried out in the presence of security officials. State that this is contrary to the recommendations of the European Committee for the Prevention of Torture which state that all medical examinations of persons in custody are to be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers;
- Urge that the new protocol be revised so that all people in custody – whether in prison or in police detention - are allowed confidential medical examinations.
- Invite a response.

Outreach

You may write letters to your national medical associations asking them to write to the Turkish authorities along the following lines:

- expressing serious concern at the new protocol which breaches customary medical practice regarding confidential medical examinations;

¹ Document ID: p-tur-20020321-en. Document date : 27/11/2002. Publication Date : 25/06/2003. Publication Reference : CPT/.inf (2003) 28

² CPT/Inf/E (2002) 1 – Rev. 2003, p35, 51. (See <http://www.cpt.coe.int/en/docsstandards.htm>)

- urging them to review the protocol so that all people in custody are allowed confidential medical examinations according to the ECPT recommendations.

ADDRESSES

Minister of Justice

Mr Cemil Çiçek

Ministry of Justice

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06659 Ankara, Turkey

Telegram: Justice Minister, Ankara, Turkey

Salutation: Dear Minister

Fax: + 90 312 418 5667

Minister of Health and Social Welfare

Mr Recep Akdag

Ministry of Health and Social Welfare

Saglik ve Sosyal Yardim Bakanligi

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Telegrams: Health Minister, Ankara, Turkey

Salutation: Dear Minister

Fax: + 90 312 431 4879

Please send any replies you receive to the medical team at the IS: medical@amnesty.org

If you do not receive a reply within two months of your original letter, you may write again. Please check with the medical team at the IS before you do so.

Thank you for any action you are able to take on this issue.