



**SOLIDARITY  
WITH OTHERS**

# REPORT on TURKISH PRISONS

2015-2021.

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July 2021

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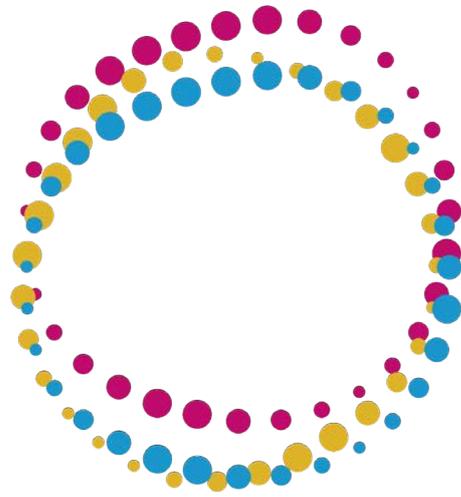
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# SOLIDARITY WITH OTHERS



solidarity with  
**OTHERS**

*We firmly believe that we are only as human as we are able to stand up for the rights and liberties of OTHERS, and not just ourselves.*

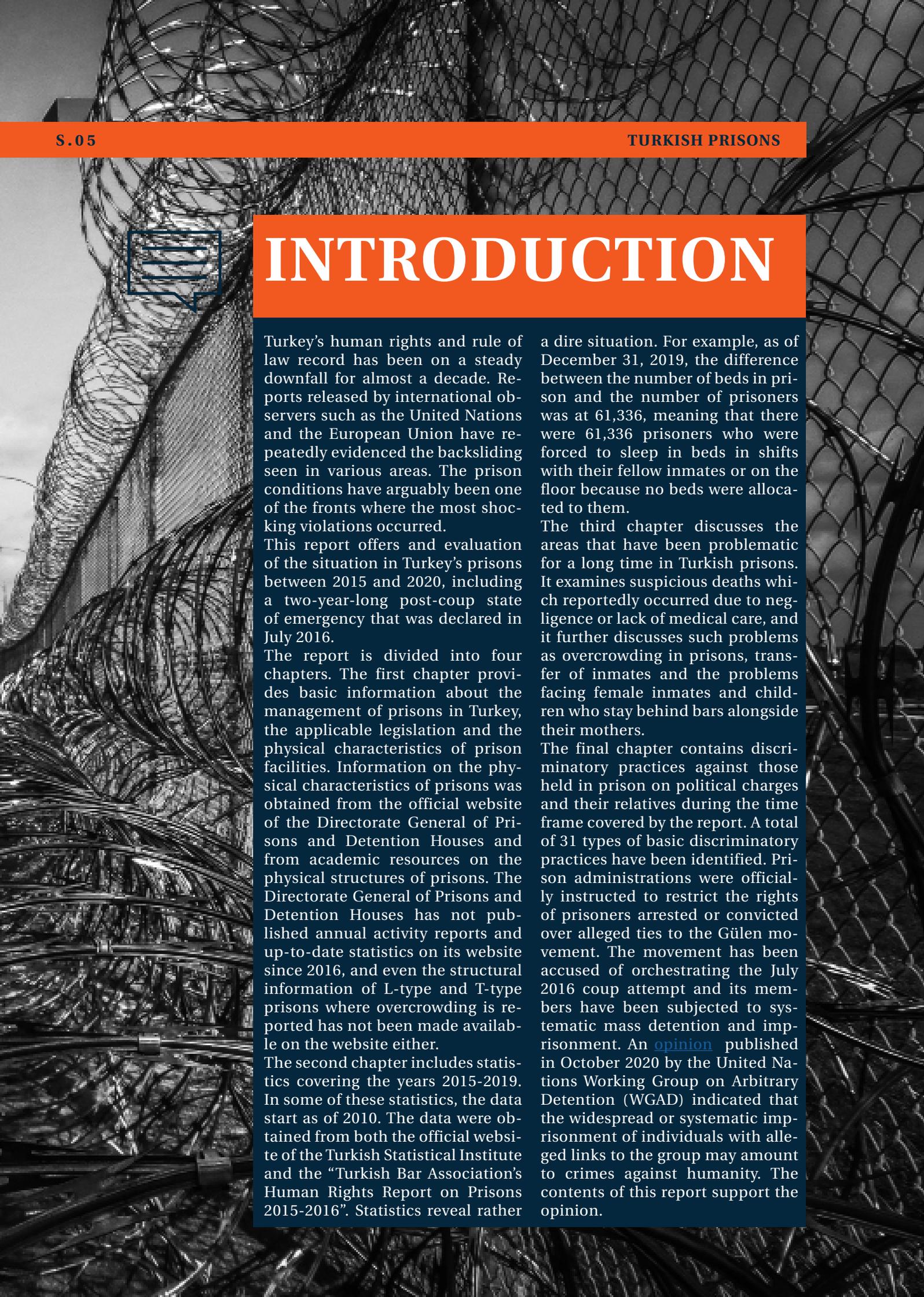
A non-governmental organization established in Brussels with the aim of defending and promoting human rights in Turkey and elsewhere. Our name reflects our solid commitment to act in solidarity with anyone who has been subjected to injustice and violations in Turkey; regardless of race, religious beliefs, social affiliation or political views.

First and foremost, our work consists of ensuring that rights violations in Turkey do not go unnoticed and unrecorded.

In order to accomplish this, we prepare and release reports, fact sheets and newsletters on major human rights issues, rights violations and developments of concern in Turkey, with a view to informing public opinion.

**This report offers an evaluation of the situation in Turkey's prisons between 2015 and 2020, The prison conditions have arguably been one of the fronts where the most shocking violations occurred.**

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# INTRODUCTION

Turkey's human rights and rule of law record has been on a steady downfall for almost a decade. Reports released by international observers such as the United Nations and the European Union have repeatedly evidenced the backsliding seen in various areas. The prison conditions have arguably been one of the fronts where the most shocking violations occurred.

This report offers an evaluation of the situation in Turkey's prisons between 2015 and 2020, including a two-year-long post-coup state of emergency that was declared in July 2016.

The report is divided into four chapters. The first chapter provides basic information about the management of prisons in Turkey, the applicable legislation and the physical characteristics of prison facilities. Information on the physical characteristics of prisons was obtained from the official website of the Directorate General of Prisons and Detention Houses and from academic resources on the physical structures of prisons. The Directorate General of Prisons and Detention Houses has not published annual activity reports and up-to-date statistics on its website since 2016, and even the structural information of L-type and T-type prisons where overcrowding is reported has not been made available on the website either.

The second chapter includes statistics covering the years 2015-2019. In some of these statistics, the data start as of 2010. The data were obtained from both the official website of the Turkish Statistical Institute and the "Turkish Bar Association's Human Rights Report on Prisons 2015-2016". Statistics reveal rather

a dire situation. For example, as of December 31, 2019, the difference between the number of beds in prison and the number of prisoners was at 61,336, meaning that there were 61,336 prisoners who were forced to sleep in beds in shifts with their fellow inmates or on the floor because no beds were allocated to them.

The third chapter discusses the areas that have been problematic for a long time in Turkish prisons. It examines suspicious deaths which reportedly occurred due to negligence or lack of medical care, and it further discusses such problems as overcrowding in prisons, transfer of inmates and the problems facing female inmates and children who stay behind bars alongside their mothers.

The final chapter contains discriminatory practices against those held in prison on political charges and their relatives during the time frame covered by the report. A total of 31 types of basic discriminatory practices have been identified. Prison administrations were officially instructed to restrict the rights of prisoners arrested or convicted over alleged ties to the Gülen movement. The movement has been accused of orchestrating the July 2016 coup attempt and its members have been subjected to systematic mass detention and imprisonment. An [opinion](#) published in October 2020 by the United Nations Working Group on Arbitrary Detention (WGAD) indicated that the widespread or systematic imprisonment of individuals with alleged links to the group may amount to crimes against humanity. The contents of this report support the opinion.

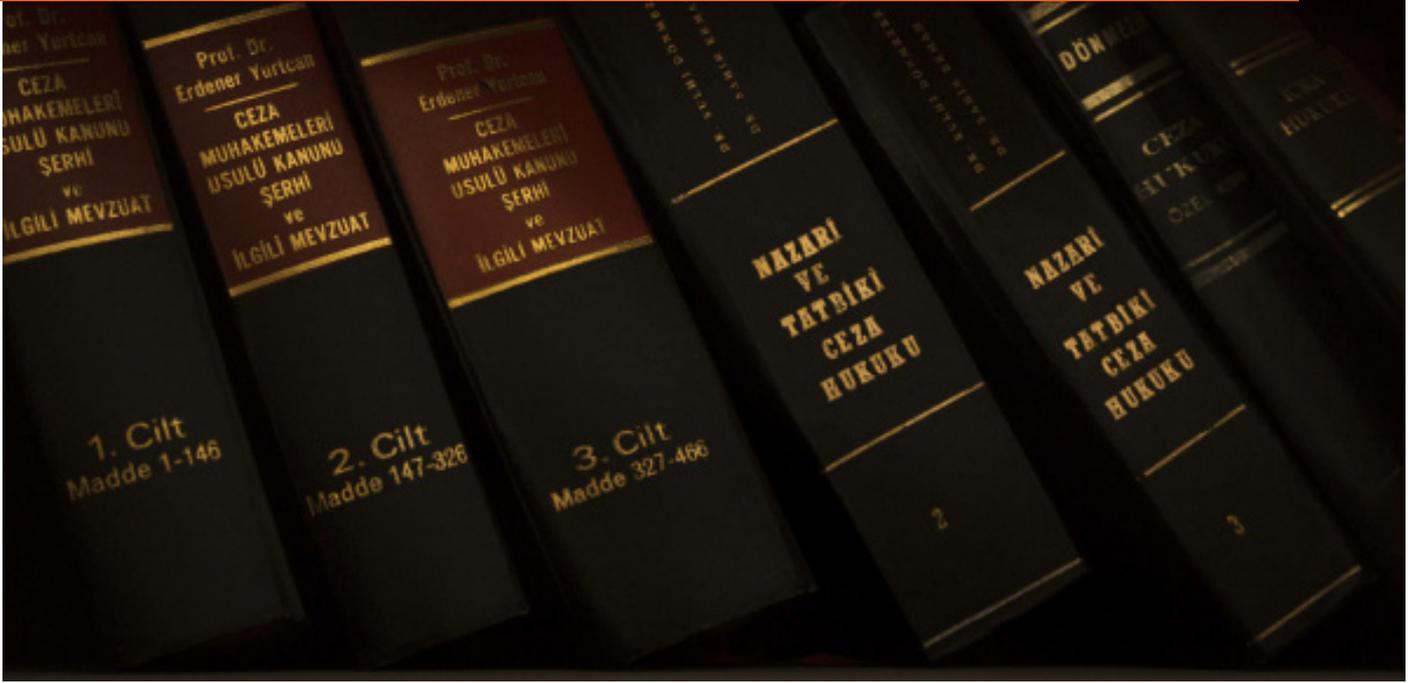


## I- GENERAL OVERVIEW

### A-Administration of prisons in Turkey

**P**risons in Turkey operate under the Ministry of Justice. The responsible ministerial unit is the Directorate General of Prisons and Detention Houses. Prisons are managed by the first warden and, to a certain extent, by the second warden.

Prisons also report to the local office of the chief public prosecutor. The chief prosecutors and the prosecutors that they appoint have the authority to supervise and inspect prisons. Execution of the sentences is monitored simultaneously by prison administrations and prosecutors who are responsible for the enforcement of the sentences handed down by courts. Prison wardens are responsible for all matters such as the lawful execution of sentences, the management of prison facilities, the housing of prisoners, their rehabilitation, and meeting their health and educational needs.



## B- Legislation

Turkey follows the following national and international legislations in the administration of prisons and implementation of sentences. This study attaches utmost importance to the criteria in these legislations.

### 1-International legislation

- The United Nations Standard Minimum Rules for the Treatment of Prisoners
- The Recommendation No. R (87) of the Committee of Ministers on the European Prison Rules
- The Convention on Civil and Political Rights
- The European Convention on Human Rights
- Other conventions and recommendations

### 2- National legislation

- The Constitution
- The Law on the Administration of Prisons and Detention Houses
- The Law on the Implementation of Sentences and Security Measures
- The Regulation on the Implementation of Sentences and Security Measures
- Other laws, regulations, and circular orders

# C- Prisons in Turkey and their physical characteristics

## General characteristics

**P**rison administrations and wards are parts of the same building. From the smallest to the largest and from the oldest to the newest of the closed prisons, they all share the common feature of the ward system. All prisons are designed to have a ward and ventilation. The oldest and the largest types of prisons are the L-type and the K-type, with the former having a much larger capacity.



# Prisons based on types and characteristics

## D-Type prisons

The D-Type consists of 11 blocks and 230 rooms, one of which is an administration block, and is built on a single and triple room basis with a capacity of 400 inmates. There are only two D-type prisons in Turkey<sup>1</sup>

These prisons are high-security facilities structured on the basis of isolation. During the periods of overcrowding, there have been up to five to six people held in wards meant for three .<sup>2</sup>

## E-Type prisons

The E-Type prisons are old facilities designed to have large wards and ventilation. Before the “Operation Return to Life”, a deadly military raid into prisons in İstanbul in December 2020 to end prisoners’ hunger strikes, the projects of the E-type Prisons were modified due to the difficulties in managing large and crowded wards. After the adjustment and the initial construction of the E-type prisons with 18 wards, a total of 90 wards and rooms to accommodate two, four, six, eight and 10 people were constructed. The E-type prisons have a capacity of 600 inmates. That said, they have no standards applied. Vocational training rooms, classrooms and some corridors have been transformed into wards due to overcrowding. Currently, 1000-1500 prisoners are housed in the E-type prisons. An average of 20-25 people has to stay in rooms for eight and 10 people .<sup>3</sup>

## F-Type prisons

The F-type prisons are those created after the "Operation Return to Life". They were designed for solitary confinement and isolation. A typical prison has 57 rooms for 1 inmate and 2 inmates, and 103 rooms for 3 inmates.<sup>4</sup> It has a capacity of Kapasitesi 368 inmates. Leaders of organised crime, dangerous prisoners who have harmed others and inmates sentenced to aggravated life imprisonment are kept in these prisons. It has drawn criticism since the day they were founded due to the devastating impact of the solitary cell and isolation system on prisoners.



## H-Type Prisons

These prisons are also high-security and isolation prisons, as are the F-type and D-type prisons. Designed as per the room system, a typical facility, which has a capacity of 480 inmates, is two-storey and consists of two blocks. It has 200 rooms for 1 inmate and 100 rooms for 3 inmates. The capacity of the three-person rooms was first increased to 6 inmates, but reached the current 14 inmates during the overcrowding period.<sup>6</sup>

## L-Type Prisons

They are Turkey's most modern, largest and most expensive prisons to build.

These prisons are designed to allow inmates to stay in wards of seven and solitary cells. There are 7 rooms in wards for 7 people. Each prisoner has a room with a door, which ensures his privacy. The rooms are 12.45 m<sup>2</sup>, the ventilation of the ward is 65.19 m<sup>2</sup>, the common room is 56.59 m<sup>2</sup> and one unit with 7 people is 208.93 m<sup>2</sup> in total. There are 61 units for 7 people, 4 rooms for 3 people and 40 rooms for one person in an L-type prison.<sup>7</sup> The wards for 7 people are equipped with two bathrooms and two toilets.

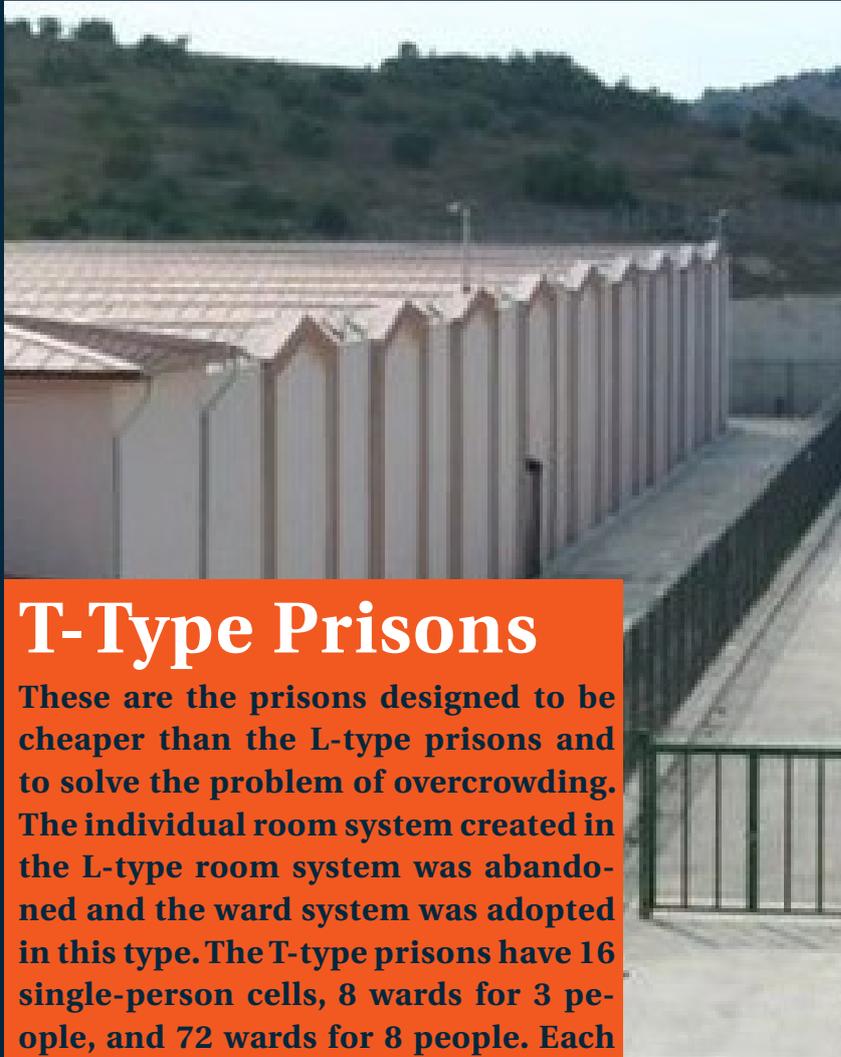
As of the date of this report, there are 3 bunk beds in 7 single rooms in the L-type prisons and 6 people are staying in each room. In total, 42 people are staying in a ward originally designed for 7 people. Furthermore, there have been times when 45 even 50 inmates stayed in the ward.<sup>8</sup>



## M-Type Prisons

These are comparatively old prisons. Two-storey M-type closed correctional institutions, built according to the ward system, were converted into a room system and rooms for 4, 6, 8, 10 people were created. There is no information on their official and increased capacities in official records and scientific studies. The capacity of the rooms of 10 people in the M-type prisons has been increased to 14, and it was observed that more than 20 prisoners had to stay in the rooms during the periods of overcrowding.<sup>9</sup>

<sup>7</sup> The Union of the Turkish Bar Association's Human Rights Report on Prisons 2015-2016., p.12. Ayça YALÇIN, "Cezaevlerinde Hükümlü Yaşama Hacimlerinin İç Mekan Düzenlemesi" Yüksek Lisans Tezi 2003. s.130.



## T-Type Prisons

These are the prisons designed to be cheaper than the L-type prisons and to solve the problem of overcrowding. The individual room system created in the L-type room system was abandoned and the ward system was adopted in this type. The T-type prisons have 16 single-person cells, 8 wards for 3 people, and 72 wards for 8 people. Each ward for 8 people is equipped with 1 bathroom and 2 toilets<sup>10</sup>

Overcrowding is a problem in the T-type prisons as well. At least 24 inmates had to stay in the wards for 8 inmates. That said, there have been times when more than 30 inmates had to stay in these wards during the periods of overcrowding.<sup>11</sup>

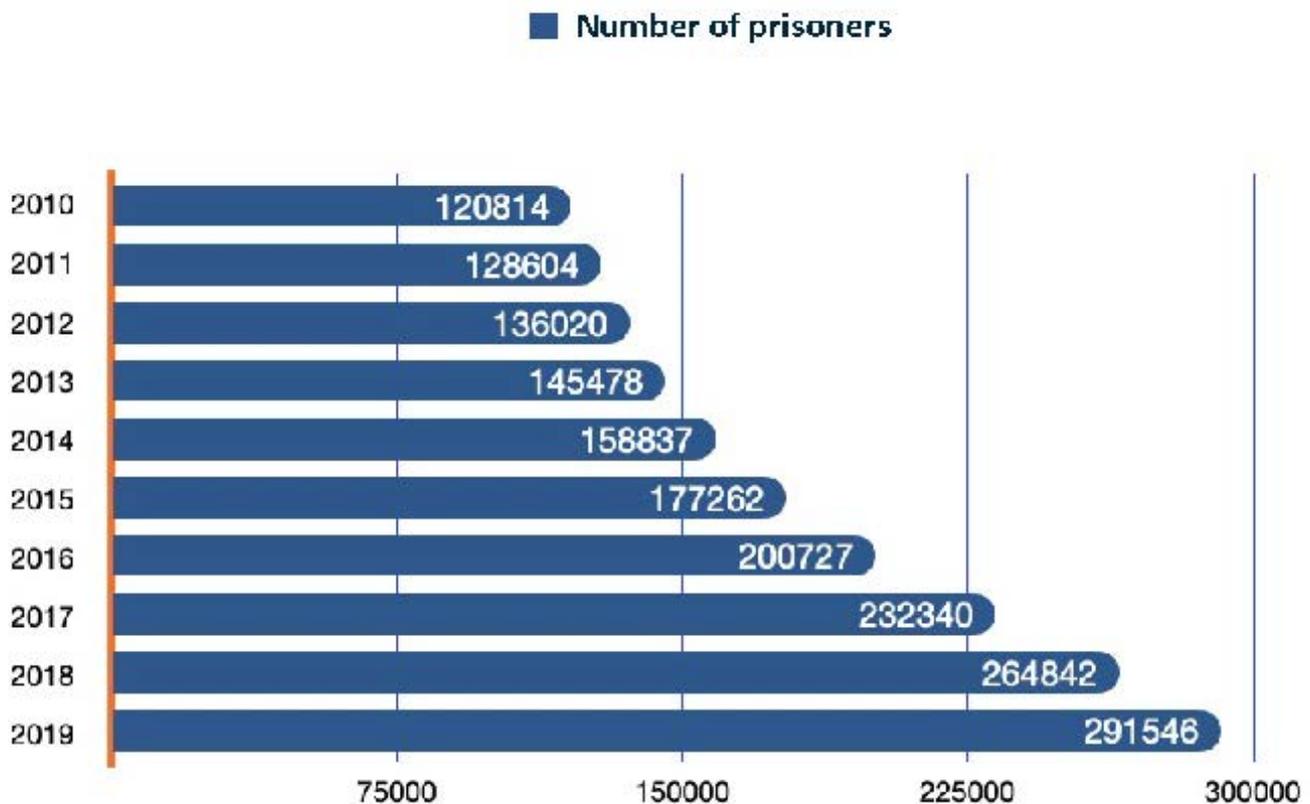
## Other Prisons

Apart from the types listed above, there are also A-type, A1-type, A2-type, A3-type, B-type, C-type, K1-type, K2-type, and S-type prisons as well as non-specific correctional institutions in Turkey. All of these are old-fashioned and low-capacity prisons located in small counties, and are, in most respects, expensive to run. The reason why they are still being operated is the current problem of overcrowding in other prisons.



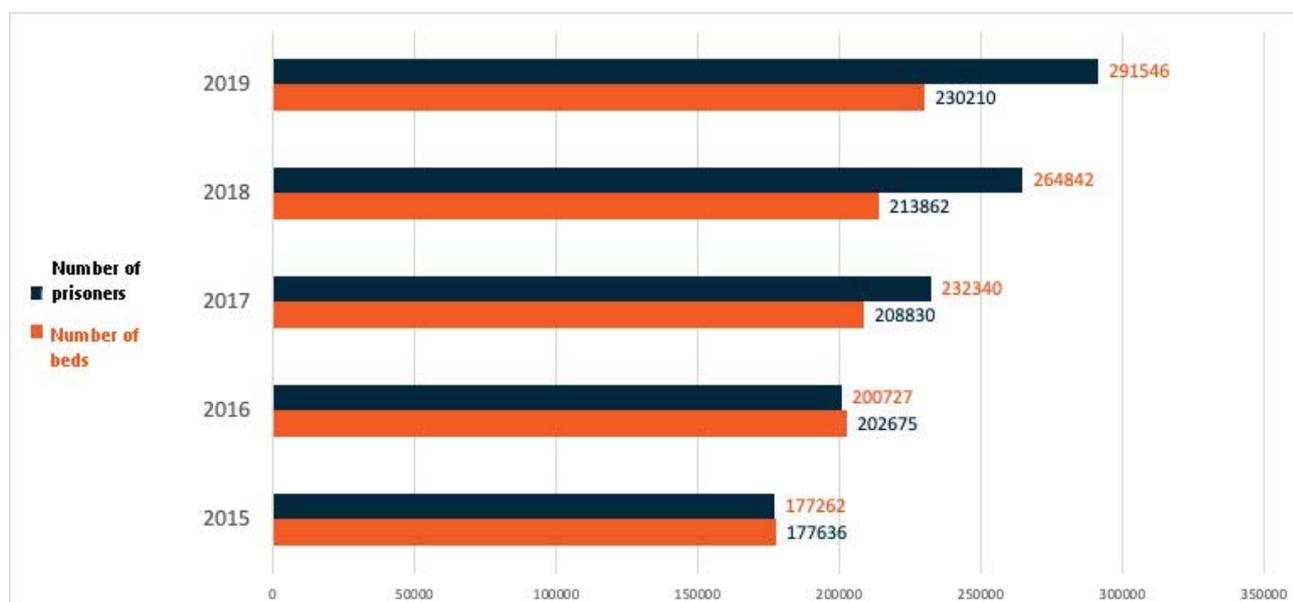
## II- PRISON STATISTICS

Table 1: The number of inmates in prisons, December 31, 2010-2019<sup>12</sup>



According to Table 1, the number of prisoners rose from 120,814 in 2010 to 292,546 in 2019. The number of prisoners has more than doubled in 9 years. According to this data, Turkey has the highest number of prisoners in Europe <sup>13</sup>

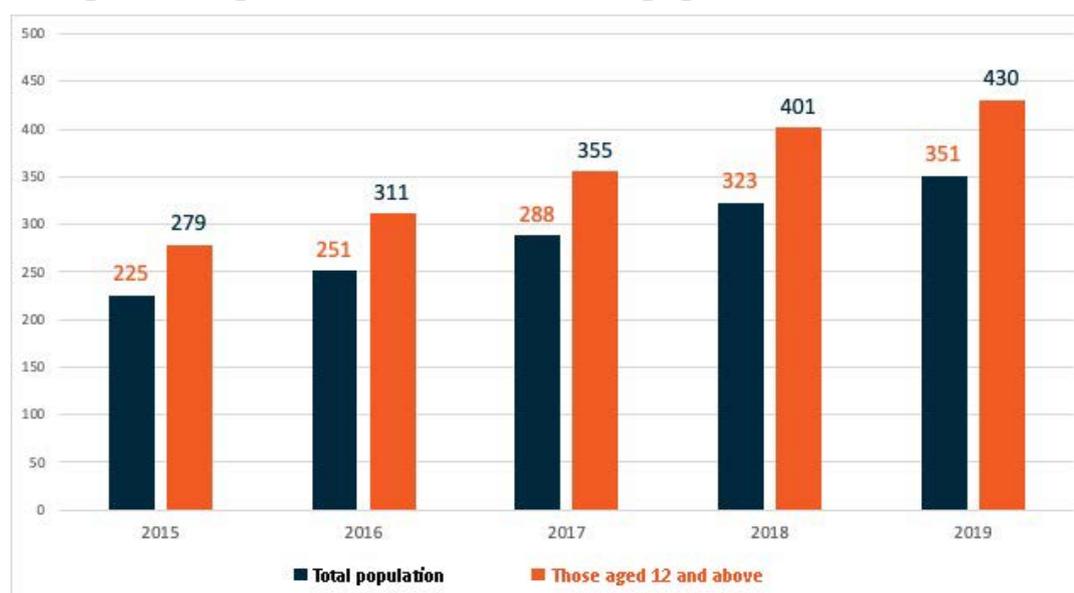
Legislative changes were made to address the problem of overcrowding in a sustainable way like releasing prisoners through the amnesty law. Despite this, there was an uncontrollable increase in the number of prisoners in Turkey. The total number of prisoners today is more than the population of 20 cities of the country. <sup>14</sup>

Table 2: Number of prisoners and beds in penal institutions, December 31, 2015-2019<sup>15</sup>

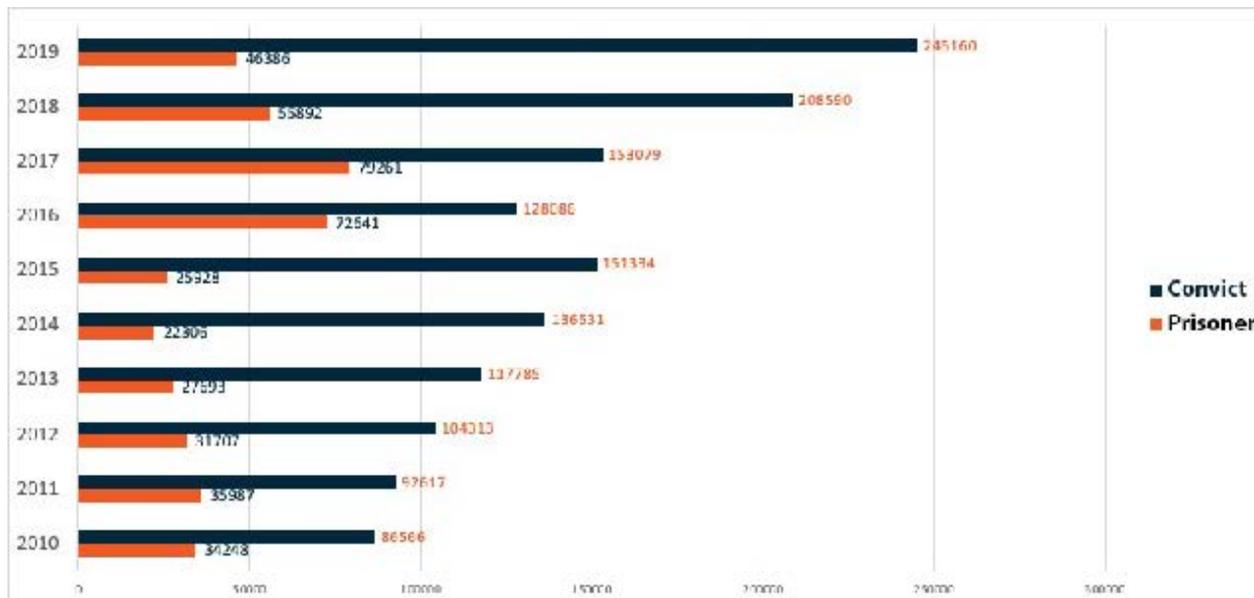
The number of beds rose from 177,636 in 2015 to 230,210 in 2019.

The number of prisoners hit 291,546 in 2019, whereas in 2015, it was 177,262.

The gap between the number of beds and that of inmates in 2019 was 61,336, indicating that 21% of the available beds were not allocated in any way. According to this data, 61,336 people were either lying on the floor or sleeping in shifts with other prisoners. It is observed that the gap between the number of beds and that of prisoners had increased since 2016.

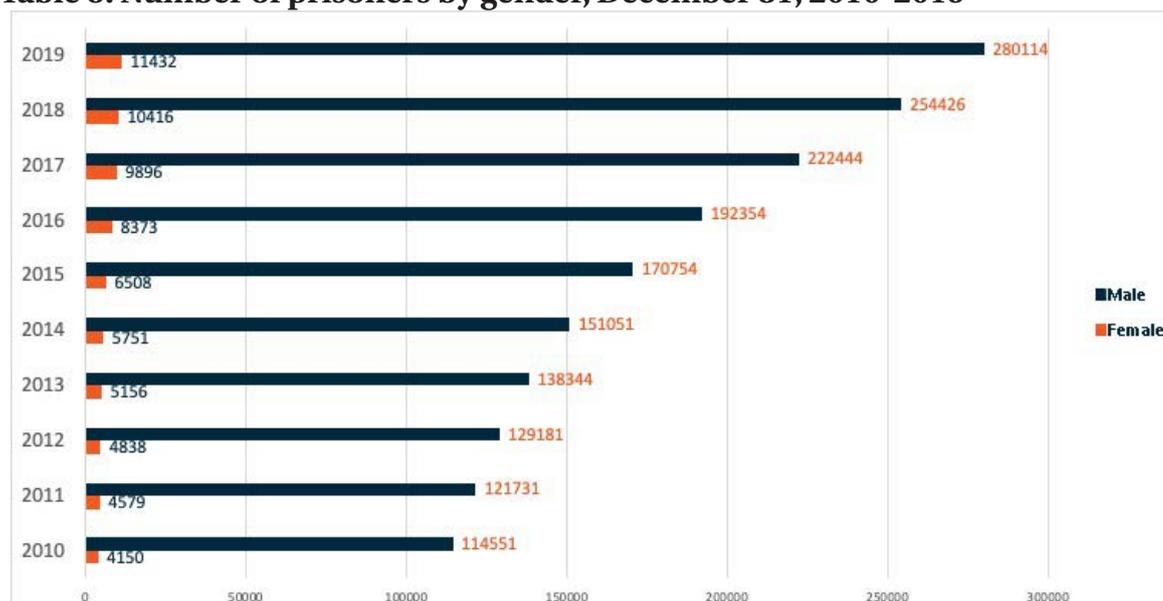
Table 3: Number of prisoners per 100,000 of the national population, December 31, 2010-2019<sup>16</sup>

The number of prisoners per 100,000 of the national population in Turkey is 351. As for the European average, it is 111<sup>17</sup>. Considering the age of 12 and above, it is 430 per 100,000 of the national population. According to this data, the ratio is 1 inmate per 284 people. When 12 years and older are taken into account, it is 1 inmate per 232 people. This figure, however, is 1 prisoner per 896 people on the European average.<sup>18</sup>

Table 4: Number of prisoners - convicts, December 31, 2010-2019<sup>19</sup>

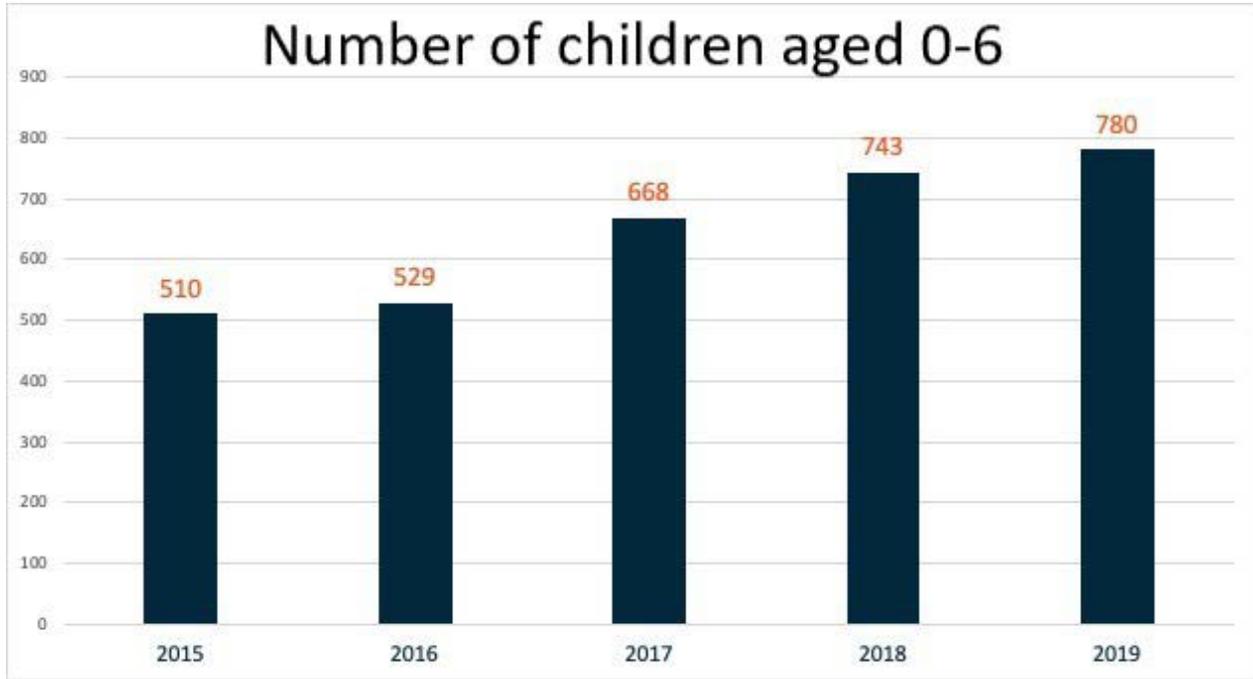
A steady and unpreventable increase in the number of convicts is observed.

The decline in 2016 was due to a change in the law on probation made after the coup attempt on August 15, 2016, to make room in prisons for mass arrests of alleged supporters of the Gülen Movement. The number of inmates, which was 25,928 in 2015, rose to 72,641 in 2016 and 79,261 in 2017, followed by a gradual decline to 46,386 in 2019. Mass arrests of the alleged supporters of the Gülen Movement are the reason for the surges in 2016 and 2017.

Table 5: Number of prisoners by gender, December 31, 2010-2019<sup>20</sup>

Gender statistics of child prisoners are not shown here as they were not taken separately held before 2015. Since there is no official-nonofficial statistics on LGBTQI individuals, they are not shown in the table. There is an unavoidable increase for both genders.

Female prisoners are negatively affected by this increase worse than male inmates. The number of prisons for women cannot be increased in parallel with that of prisoners.

**Table 6: Children aged 0-6 living alongside their mothers in prison**

**The Turkish Statistical Institute and the Ministry of Justice have no official statements and statistics in this regard. The data here are the answers given by the Ministry of Justice to the questions of the deputies and the information contained in the press conferences held by the Minister of Justice<sup>21</sup> The data of 2016 are as of June 10, 2016 .<sup>22</sup> The reason for the surge witnessed in 2017 is due to the mass arrests of the alleged supporters of the Gülen Movement.**

## III-PROBLEMATIC AREAS IN TURKISH PRISONS

### A- Death Incidents 1- Suspicious Deaths in Prisons

**P**risoners are under the protection of the state, so it is necessary to determine whether there is a violation of the right to life in death incidents in prisons. Therefore, all cases of death in prisons are regarded as suspicious deaths and must thoroughly be investigated. If any criminal element is detected as a result of the investigation, the prosecution process continues. Suspicious deaths occurred in Turkey especially among those arrested for political reasons after July 15, 2016. Two examples of these suspicious deaths are given below

#### Teoman Gökçe

Teoman Gökçe served as a member of the Supreme Board of Judges and Prosecutors between 2010 and 2014. Although he run for office for the second time in 2014, he was not elected. He was arrested following the incidents that occurred on July 15, 2016. According to the precedent decisions of the European Court of Human Rights<sup>23</sup> and the United Nations Working Group on Arbitrary Detention, he was arbitrarily arrested.<sup>24</sup> He was forced to stay in solitary confinement until his death. According to media reports, his petitions against his detention and charges made while in prison were not processed and his requests for release were all denied. Claimed to have been subjected to psychological pressure and insults as well as physical torture, Mr. Gökçe was found dead in his cell on April 2, 2018. Cause of death was explained as heart attack<sup>25</sup> Gökçe had been in solitary confinement for two years when he passed away.



<sup>23</sup> The European Court of Human Rights' verdict dated 16 April, 2019 and numbered 12778/17 B. on Alparslan Aslan, and the European Court of Human Rights' verdict dated 03 March, 2020 and numbered 66448/17 B. on Hakan Baş are both precedent verdicts showing the arbitrary detention of Teoman Gökçe.

<sup>24</sup> The UN Working Group on Arbitrary Detention's decision numbered AIHRC/WGAD/2018/78 on Hamza Yaman.



## Zeki Güven

Zeki Güven was dismissed from his post for political reasons, claiming that he had ties with the Gülen Movement while he was the former Intelligence Chief of the Ankara Police Department, and he was incarcerated on May 22, 2018. Mr. Güven, according to the criteria set out by the United Nations Working Group on Arbitrary Detention, he was arbitrarily taken into custody and arrested.<sup>26</sup> Throughout his incarceration, he was forced to stay in solitary confinement, and he was found dead in his cell on July 2, 2018. The media reported that he had information about both the videotape scandal related to Deniz Baykal, the former leader of the main opposition party (CHP), and the connection of this scandal with the then Prime Minister Erdoğan and that therefore his death was suspicious.<sup>27</sup>

<sup>26</sup> Decisions of the UN Working Group on Arbitrary Detention numbered 1/2017, 38/2017, 41/2017, 11/2018, 42/2018, 43/2018, 44/2018, 78/2018 ve 10/2019, 53/2019

## 2- Deaths in Prison Due to Lack of Health Services

As of the date of this report, prisoners held in prison for political reasons were subjected to discriminatory practices to the detriment of their health needs. These discriminatory practices have resulted in the deaths of some inmates. Below is a brief description of the three case studies.



It is one of the most important duties of the state to meet all kinds of health needs of prisoners. There is no loophole in either national or international legislation that can be considered against prisoners in this regard. The state is obliged to meet all the needs of the prisoner, such as having surgery, hospitalization and organ transplantation.

### Halime Gülsu

Halime Gülsu was a teacher. After the coup attempt, Ms. Halime was taken into custody on February 2, 2018 on charges of being a volunteer of the Gülen Movement. 12 Gün gözaltında kalmış, daha sonra tutuklanmıştır. She died while in custody in Tarsus Prison on April 28, 2018. According to the criteria set out by the United Nations Working Group on Arbitrary Detention, Ms. Gülsu was arbitrarily taken into custody and arrested.<sup>28</sup> She had been suffering from systemic LUPUS erythematosus for 15 years when she passed away. In this disease, the immune system sees the body's own tissues as enemies, produces antibodies to destroy them, and eventually leads the patient to death. When Halime Gülsu was taken into custody on February 20, she was not allowed to take all of her medications with her. Due to the nature of the disease, the drugs she was supposed to take could only be purchased and used based on the report that revealed the diagnosis of the disease. This report was also lost by the police during the house search and detention process.

28 Decisions of the UN Working Group on Arbitrary Detention numbered 1/2017, 38/2017, 41/2017, 11/2018, 42/2018, 43/2018, 44/2018, 78/2018 ve 10/2019, 53/2019

While Ms. Gülsu was in custody, she explained her situation to the police, but they did not provide her with the medication she badly needed. She also informed the prosecutor, who took her deposition, and the judge, who issued the arrest warrant for her, about her illness, but neither of them was interested at all. Although she had repeatedly sent petitions while in prison and informed the physician of the prison about her fatal illness, timely procedures were not performed. Although she further informed the doctors who examined her in the hospital where she was taken, her complaints were not taken seriously and unnecessary and incorrect examinations were carried out. Let alone taking her seriously, the doctors reported that she was healthy. Therefore, the prison staff even reprimanded Gülsu on the grounds that she kept them busy unnecessarily. During the detention process and while in prison, she told everyone in charge that it was vital for her to receive the necessary treatment and about how fatal her illness was. There are statements of the people whom she stayed

with in detention in this regard.<sup>29</sup> Her illness became even more severe and she could not even stand up. Ms. Gülsu, 4 days before her death, asked for help in the letters she sent to the Prime Ministry Communication Center (BİMER) and some public institutions as a last resort due to the severity of her health problems, and the lack of treatment she was suffering from.<sup>30</sup> Unfortunately, she was not able to make herself heard. Although the prison physician and prison administrators who witnessed Gülsu's condition, they did not make the necessary medical intervention. Instead, they used temporary methods like giving her only painkillers. The biggest negligence here is that although Ms. Gülsu persistently provided the officials with the information about her illness, they just turned a blind eye and did not care about her condition. Therefore, Ms. Gülsu's death was nothing but negligent manslaughter. According to media reports, no criminal lawsuit has been filed against public officials who are responsible for Gülsu's death.





## Mustafa Kabakçiođlu

Mustafa Kabakçiođlu had been under arrest for 4 years when he passed away on August 29, 2020. He was dismissed from his job, arrested and locked up behind bars with the State of Emergency Decree Law for political reasons on the grounds that he had ties with the Gülen Movement. Mr. Kabakçiođlu, according to the criteria set out by the United Nations Working Group on Arbitrary Detention, was arbitrarily taken into custody and arrested. Kabakçiođlu got diabetes while in prison in 2017. On August 20, he was taken to the quarantine ward alone on suspicion of having Covid-19, as he had been coughing. No tests were performed in any way although he had been taken to the quarantine ward. The report of the forensic institution where a post-mortem examination was performed revealed that he did not have corona. Kabakçiođlu wrote to the doctor on August 27, two days before his death, stating that he had lethargy on the left side of his mouth and left leg, excessive swelling in both organs, difficulty walking and speaking. While writing the petition, he even stated that he had lethargy in his arm and had difficulty moving his lower back. Kabakçiođlu should have been immediately taken to hospital so that his disease could be diagnosed and treated, but he was put in solitary confinement and left for dead.<sup>31</sup>

## Mustafa Barış Avıalan

Mr. Avıalan was arrested in 2016 on the charge of attempted coup. Although he proved that he had nothing to do with the events, he was not released. It was in 2017 when he first suffered from heart disease. For 10 months, the administration ignored his petitions. He was diagnosed with arrhythmia at the beginning of 2018. Two wired pacemakers were implanted at the end of the same year, but they did not solve his heart problem. His request that a third wired pacemaker the cost of which he said he could cover should be implanted was not accepted. Avıalan's condition worsened towards the end of 2019. His other internal organs were negatively affected by his heart problem. Cysts formed in his kidneys and pancreas, and cirrhosis was detected in his liver, and he began to suffer from excessive weight loss. Mr. Avıalan, who needed to be treated in intensive care for reasons such as nutritional difficulties and



inability to breathe, continued to be held in prison. His requests to be released and execution postponement due to the health problems he was going through were all denied. He was not granted the opportunity of inpatient treatment. Avıalan's family tried to make their voices heard on social media, but their efforts resulted in failure. He wrote in a letter he sent to his family as follows: "As a patient who is very close to death, I need help. Any help will be appreciated. I'm in a lot of pain. I expect everyone who can make sacrifices to do something for me. At this very moment, I have nothing left to lose. I can't even move my arm. The oxygen I get is not enough. I can eat very little, and my stomach is swollen; my pulse is constantly low, I feel dizzy all the time, and I can't sleep. I am subjected to all kinds of degrading and inhumane treatment and insults by gendarmes. They're doing everything they can to make my life harder. The doctors aren't interested in my situation at all. God help us. This may be a farewell to you."

**Mr. Avıalan was sick from the very beginning of his trial till his death. He could have been released by the court pending trial, or on a judicial control decision, but he wasn't. He did not receive proper treatment for his disease, nor was he allowed to have surgery, although he wanted to pay for it himself. All these practices that he went through were discriminatory acts. Public officials deliberately left him for dead.**<sup>32</sup>

### 3- Deaths of Inmates Not Released in Time despite Progression of the Disease due to Delay in Diagnosis and Treatment

**A**mong the many discriminatory practices in prisons in Turkey are keeping in prison those who do not receive proper treatment despite their deteriorating illnesses until they have no chance of recovery and releasing these prisoners shortly before their death.

As is known, arrest is a precaution. According to article 109 of the Code of Criminal Procedure, there are alternative measures to arrest and detention. Among them are releasing on bail, imposing international travel ban, regular check-ins at the police station, house arrest, and putting on an electronic monitor. In Turkey, alternative measures are rarely applied to those accused of political reasons.

The detention of those who were imprisoned for political reasons after July 15, 2016, especially on the charges of their alleged relations with the Gülen Movement, is based on the issues highlighted by the UN Working Group on Arbitrary Detention in its decisions and which do not include any evidence and elements of crime. In other words, detention of these people is arbitrary and unfair. Those with severe illnesses and those in need of regular treatment in the hospital environment were not released, and alternative measures were not applied at all.

Below are two examples of such incidents.

# Ahmet Turan Özcerit



Ahmet Turan Özcerit was an associate professor in Computer Engineering at Sakarya University. He was arrested in July 2016. According to the criteria set out by the United Nations Working Group on Arbitrary Detention, Mr. Özcerit was arbitrarily taken into custody and arrested. While in prison, he had colorectal cancer and the disease metastasized to his liver and lungs and progressed to stage 4. The prison administration delayed the diagnosis of the disease and he did not receive proper tre-

atment in the prison environment. Despite all the efforts that he and his family displayed, he was kept behind bars although he could have been set free with alternative measures. When he was released at last on September 21, 2017, it was too late because there was no hope for his disease to be cured. On February 12, 2018, he died of cancer that he had contracted in prison and which was not properly diagnosed and treated.<sup>33</sup>

## Medeni Arifođlu



Medeni Arifođlu was a businessman when he was arrested after July 15, 2016 and all his assets were confiscated. Mr. Arifođlu, according to the criteria set out by the United Nations Working Group on Arbitrary Detention, was arbitrarily taken into custody and arrested.<sup>35</sup> While in Malatya Penitentiary, his appendix burst, but although he petitioned the guards, no one took him seriously for days. Only after he passed out in pain was he taken to the intensive care unit. Arifođlu had a liver transplant in 2012 and his doctor reported that he might be faced with the risk of organ loss if he remained in prison conditions. Despite this report, he was not released. Mr. Arifođlu had already been using 17 drugs a day for years. With the 2 antidepressants added to them, the number of the drugs he was on reached 19. To make things worse, he was denied the right to see a doctor and

receive proper treatment at a hospital. His health gradually deteriorated. He was diagnosed with kidney cancer in July 2018. Despite the persistent efforts that he, his family, and HDP MP Ömer Faruk Gergerliođlu displayed, he was not provided with proper treatment for too long. He was eventually taken to a hospital in Adana, but the hospital administration kept him waiting for days on the grounds that they didn't have enough beds for prisoners and, he didn't allow for the surgery. From there, he was transferred to Malatya Penitentiary again. By November 2018, the tumor grew more from 5 cm to 14 cm. Through the campaigns organized on social media, people called on authorities to allow for his release. Only after it was understood that his disease was impossible to cure was he released in March 2019, but it was too late. He passed away on January 25, 2020.

## 4-Deaths from Covid 19

**M**illions of people have died worldwide due to Covid-19 caused by the corona virus. It is a scientific fact that this disease spreads rapidly indoors and in public spaces.

On April 14, 2020, Turkey, as part of the efforts for amnesty, amended the law on the execution of sentences and security measures to protect prisoners from the corona threat in prison. At that time, both domestic and international public opinion and institutions such as the United Nations, the European Union, and Human Rights Watch were asked to ensure that those political prisoners in Turkey were also granted this amnesty.<sup>34</sup> Turkey, however, did not heed any of these these calls and did not grant amnesty to political criminals. Despite the release of other prisoners, the number of remaining prisoners in the wards has not been reduced and the problem of overcrowding has continued. The wards evacuated were either kept empty or used as quarantine wards.

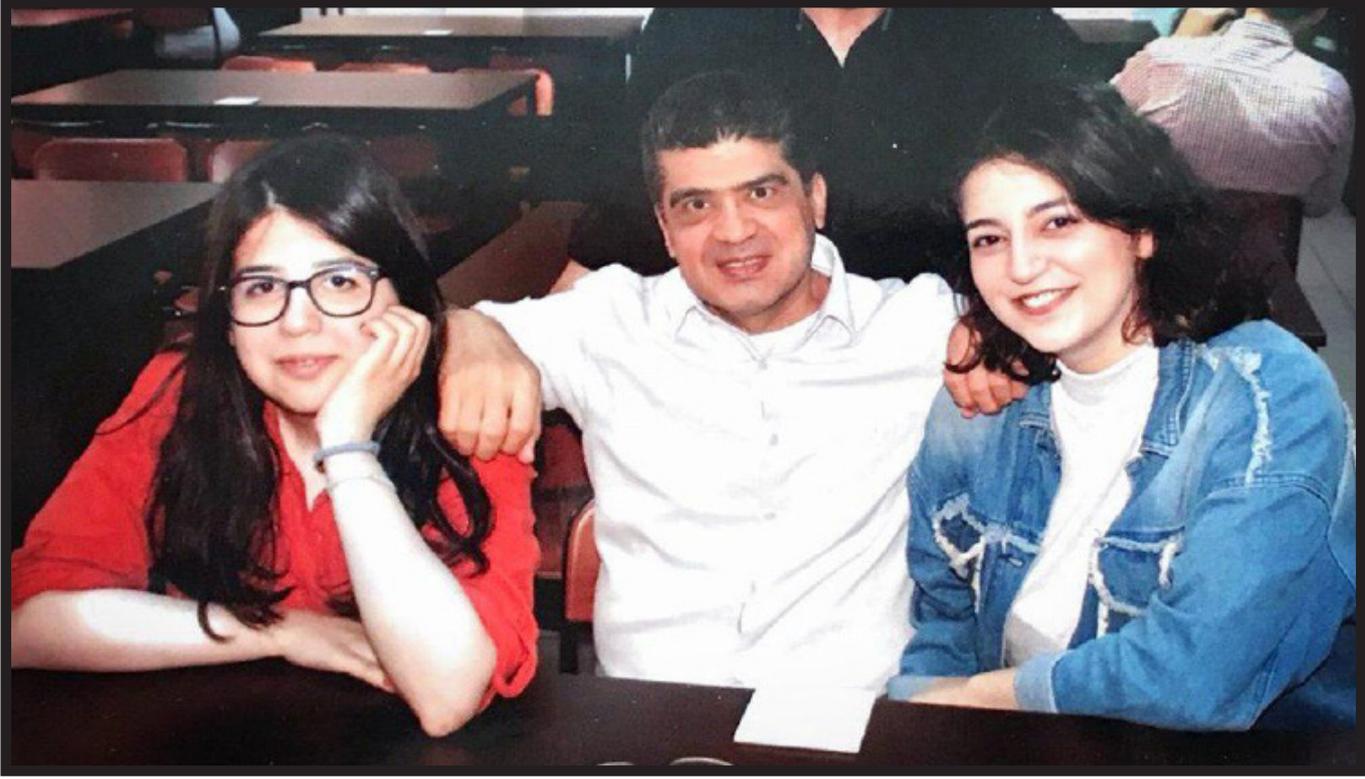


Political prisoners, thus; were left vulnerable to Covid-19. Due to the economic crisis in the same period, the quality and quantity of meals in prison dropped. The food needs of the prisoners were not met. Those kept behind bars on political charges were adversely affected and even several deaths were seen due to Corona-19. Unfortunately, there is no reliable statistic in this regard, as the Tur-

kish government does not clearly reveal the deaths from Corona-19 in the official records.<sup>35</sup> In the corona process, judicial control measures like releasing these prisoners on parole could have been applied, but prosecutors and judges did not use such measures. These prisoners were deliberately left exposed to Covid-19.

## B- Allegations of Torture

One of the long-lasting problems of Turkish prisons is the allegations of torture. In the process especially after July 15, 2016, the allegations of torture against those arrested for political reasons continued increasingly



### Hüsamettin Uğur

Hüsamettin Uğur, a member of the Supreme Court of Appeal, was arrested after the incidents occurring on July 15, 2016 for allegedly having ties with the Gülen Movement. He was arbitrarily arrested according to the precedent decisions of the European Court of Human Rights<sup>36</sup> and the United Nations Working Group on Arbitrary Detention.<sup>37</sup> On February 17, 2020, he was physically assaulted and beaten by guards who threatened him, saying: “You will not be out of prison alive!” The prison administration imposed disciplinary punishment on Mr. Uğur, using his phone conversation with his daughter,

Nalan Dilara Uğur, who is also a lawyer, as a pretext. When his daughter, Nalan Dilara Uğur, shared posts on social media about torture and ill-treatment his father was subjected to in prison, the prison administration and the guards threatened Mr. Uğur with harm to his daughter. He then demanded that he be transferred to another prison due to torture and ill-treatment he had long been faced with. Ms. Uğur also campaigned for his father’s demand on social media. It was only after a year that his demand was accepted and he was transferred to another prison.

<sup>36</sup> The European Court of Human Rights’ verdict dated 16 April, 2019 and numbered 12778/17 B.on Alparslan Aslan, and the European Court of Human Rights’ verdict dated 03 March, 2020 and numbered 66448/17 B. on Hakan Baş are both precedent verdicts showing the arbitrary detention of Hüsamettin Uğur

<sup>37</sup> The UN Working Group on Arbitrary Detention’s decision numbered AIHRC/WGAD/2018/78 on Hamza Yaman.

## C- The Problem of Overcrowding in Prisons

**O**vercrowding in Turkish prisons has remained a serious problem for many years with no signs of stopping. Overcrowding means hosting inmates above capacity. The increase in the total number of prisoners in prison cannot be considered as overcrowding alone. Overcrowding, as in the case of Turkish prison wards, putting 40-45 people in a ward of 7 people.



As can be seen in Table 2, the gap between the number of beds and the number of inmates as of December 31, 2019 was 61,336. According to this data, 61,336 people were either lying on the floor or sleeping in shifts with other prisoners. Two terms are used to determine the capacity in Turkish prisons: the real capacity and the increased capacity. The real capacity is the capacity of prison buildings in the construction project. As for the increased capacity, it is the capacity increased with each bunk bed added.

The level of overcrowding in the L-type prisons, which are the largest prisons in Turkey, can be given as an example here. The capacity of wards except for

the cells in these prisons is 7 people. The construction projects drawn up show that the wards have 7 rooms and 1 bed in each room. However, in order to solve the overcrowding problem, extra one bed was added to each room first and the capacity was increased to 14. Then those beds were converted into bunks, making each room for 28 inmates. Then, a bunk bed was placed in each room, thus making each room for 6 inmates, while the ward's capacity was increased to 42 inmates in total. Furthermore, extra beds were placed even under the staircase and on the upper floor stairwell, thus the total capacity rose to 45 or even 50 inmates

Table 7: Real capacity of Turkish prisons and actual number of prisoners in wards<sup>39</sup>

Prison Type	Real Capacity (Ward)	Actual Number of Prisoners <sup>40</sup>
L-type	7	40-45
T-type	8	20-25
M-type	8-10	20-25
E-type	8-10	20-25

<sup>39</sup> Sources of information on the real capacity in prisons: Ayça YALÇIN, "Cezaevlerinde Hükümlü Yaşama Hacimlerinin İç Mekan Düzenlemesi" Yüksek Lisans Tezi 2003. Raziye ADALI, *Hapishane Koşulları Ve Mahkûmlar (Sivas E Tipi Kapalı Cezaevi Örneği)*, Yüksek Lisans Tezi, 2010. Nurcan GÜL, *Dünyada ve Ülkemizde Cezaevi Mimarlığı ve Güncel Tasarım Ölçütlerinin İrdelenmesi*, Yüksek Lisans Tezi, 2015.

**Below are the main problems caused by overcrowding:**

## 1- Infrastructure Problems

The biggest problem that overcrowding creates is that of infrastructure. Prisons in Turkey accommodate 3-4 times more prisoners than envisaged in the construction project. For this reason, infrastructure systems such as hot and cold water and sewage have failed. Bathrooms and toilets in the wards cannot meet the needs.

Ömer Faruk Gergerlioğlu, a human rights activist and MP, shared the complaint of H.R. Çümen, a prisoner locked up in Balıkesir L-type prison, on November 25, 2020 as follows: "There are 45 of us, the sewers are often clogging up, there's dirt everywhere, we're suffering from constant water shortages, and there's a lot of mice; we have already killed 25 of them. The guards are making fun of us, saying: 'Hey! Why don't you feed them instead of killing them?' The food is really bad. Every one of us has gotten infected with Covid-19, but we're not allowed to see a doctor!"<sup>41</sup>

## 2- Correctional Staff-Inmate Ratio

The correctional staff-inmate ratio in Turkish prisons is 1:4,80<sup>42</sup> This figure is more

**The types of prisons shown in Table 7 represent the majority of the Turkish prison system. Apart from these, there are also different types of prisons. However, some of them are high-security and mostly cell-type prisons, such as F-type and H-type prisons. The rest are fairly old, non-standard and small prisons. Their condition is no better than those listed above.**

than twice the European average, which is 2, 2<sup>43</sup> Prison services are disrupted due to staff shortages. Implementation of sentences and remediations for prisoners are slowing down, causing serious setbacks and loss of rights. Severe disruptions occur in the services related to many different units such as not taking some prisoners to the trial, not delivering their documents to the court or related places on time, not allowing them to participate in weekly-held social activities, or letting them benefit from such activities only once a month, not allowing them to access to psychosocial or educational, and library services, preventing them from participating in business and vocational courses, and keeping letters and mail for months that are supposed to be delivered to inmates.

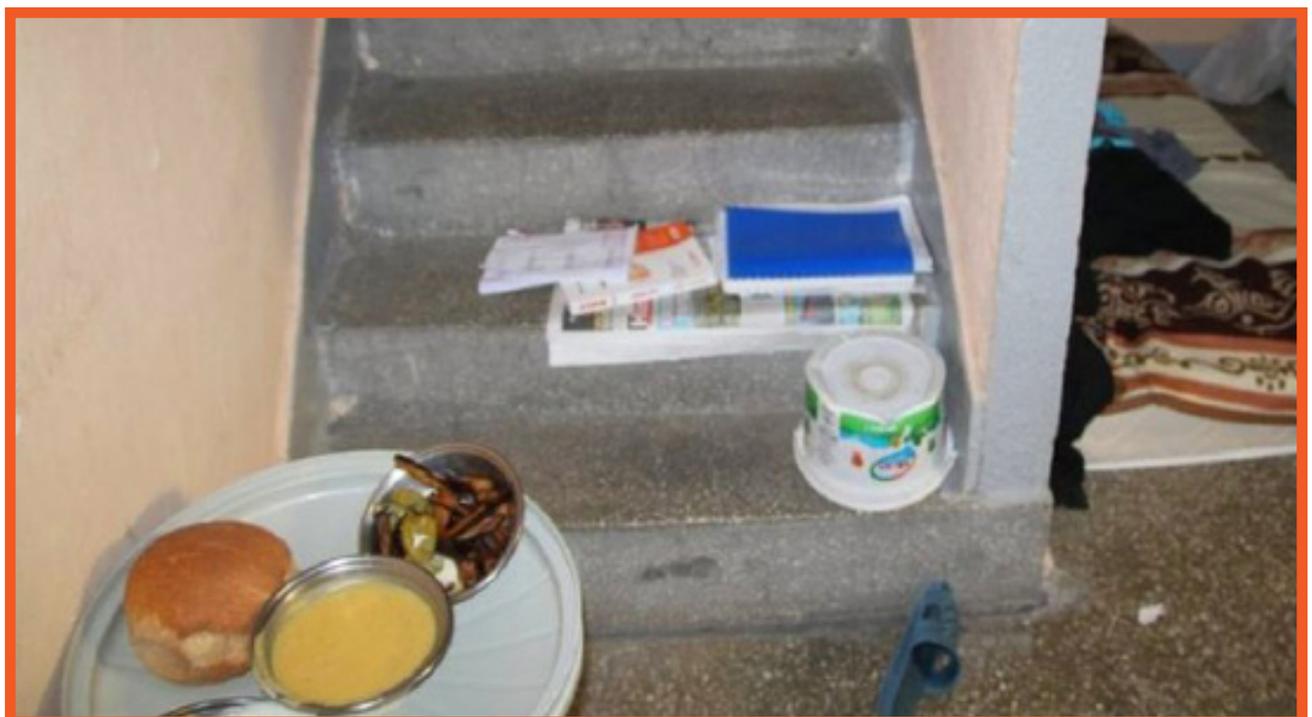
### 3- Problem of Access to Healthcare Services

Prisoners' health is affected in the worst way by overcrowding, as it restricts access to the doctor and healthcare services. There is a doctor in every prison in Turkey. In an answer designed for 700 people, the number of doctors is not raised even if the number of prisoners hits 3000. Patient prisoners may have to wait for days, weeks or even months to be examined by a doctor. Problems often emerge in terms of referrals to hospital, appointments are canceled, and the referral chain system needs to be operated from start over in order to make new appointments. The biggest victims of all these problems are undoubtedly prisoners.

***“Infectious diseases spread rapidly due to the problem of overcrowding that inmates are faced with grow exponentially.”***

### 4- Nutritional Problems

Crowding also leads to serious nutritional problems for prisoners. Wards are not provided with food in parallel with the increasing number of inmates. Prison canteens have difficulty in supplying, storing, and distributing goods, so restrictions are placed on product diversity and quantity purchasing as a solution to this problem. Health problems arise in direct proportion to nutrition, which is why there are problems among prisoners.



# D- TRANSFER OF INMATES

**One of the most important problems of Turkish prisons that should be addressed, the problem caused by the transfer of inmates is also an inevitable result of overcrowding.<sup>44</sup>**

The European Court of Human Rights ruled in 2019 on the violation of the rights of those detained in prisons for political reasons away from the provinces where their families live. (*Avşar and Tekin v. Türkiye*, dated 17.09.2019 and application number: 19302/09 and 49089/12) Abdulkerim Avşar, one of the applicants, was locked up behind bars in Kırıkkale F-type Prison at the time of application and his family was living in Diyarbakır, 800 km away from the prison. His mother, who suffered from Parkinson's disease, couldn't visit him. In June 2008, Mr. Avşar's lawyer asked the Directorate General of Prisons and Detention Houses to transfer his client to a prison in Diyarbakır, but the request was rejected. In December 2008, Mr. Avşar appealed to the relevant court in Kirikkale against this decision, but the judge turned down the appeal, saying that the case was not in his jurisdiction. Mr. Avşar then made objection against the court's verdict, but the Kirikkale High Criminal Court ruled against him. Avşar, 10 years after his first application, was at last transferred to Diyarbakır T-type Prison May 25, 2018. As for Abdulkerim Tekin, he was kept in Kırıkkale F-type prison in November 2011, his first application date, and his family was living in a village near Siirt, 1000 km away from Kirikkale at the time of his application. In November 2011, Mr. Tekin applied to the Directorate General of Prisons and Detention Centers to be closer to his family, but his application was turned down on the grounds that the prison he wanted to be transferred to reached full capacity. Mr. Tekin appealed to the relevant court. In April 2012, the judge ruled that the rejection of the transfer request was not unlawful. Tekin's appeal to

Kırıkkale High Criminal Court against the decision of the Execution Judge was rejected on the same grounds. 5 years after the first application, he was transferred to another prison about 1,500 km away from Siirt on August 22, 2016. Avşar and Tekin have submitted an individual application to the European Court of Human Rights, arguing that the refusal of their request to transfer to a prison closer to their families is a violation of their right to respect for private and family life. The European Court of Human Rights found these applications justifiable and ruled that Article 8 had been infringed, awarding compensation and legal expenses of 6,000 euros in favour of each applicant. The arbitrary transfer of prisoners causes irreparable damages to both prisoners and their relatives. Prisoners are psychologically adversely affected because they have to be separated from their relatives for too long. Families, on the other hand, are experiencing serious problems in terms of travel money, time and safety. Burak Aydın, arrested for his alleged ties with the Gülen Movement in Mardin, lost 4 people from his family in a traffic accident on February 28, 2018. Mr. Aydın's family lived in the province of Giresun, 700 km away from the province of Mardin, where he was kept behind bars, and they came to Mardin to visit him. His mother, wife, son, daughter, and the driver all were killed in the accident on their way back home.<sup>45</sup>

Through a system called the Audio-Visual Information System (SEGBIS), prisoners in Turkey can easily connect to the court via the internet and give their testimonies. However, especially those arrested on political grounds are incarcerated in provinces far away from their families or transported to remote places.

## E- FEMALE INMATES

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**Female inmates are among the worst affected groups by the current situation in Turkish prisons. Not many cities have a prison especially established for women. Female prisoners are kept behind bars in blocks or wards reserved for women in prisons in city centres. They have very limited access to social facilities and prison workshops in these prisons.**

**Their individual hygiene needs are seldom met by prison administrations most of the time. These needs are sometimes met with the support of non-governmental organizations.**

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Women have become the biggest victims especially because of the mass arrests carried out against the Gülen Movement following the incidents of July 15, 2016. Too many pregnant and newborn mothers or mothers with infants were arrested for activities that, in normal times, would not be considered to be crimes but that would be regarded as part of their legitimate social lives. Due to these mass arrests, they were not be put in the same wards as the ordinary prisoners and other political prisoners, and the problem of overcrowding emerged in the wards they were held in. In this crowded environment, women could not even meet their individual needs, while some were forced to stay with their infants and young children.

# F- CHILDREN STAYING IN PRISON ALONGSIDE THEIR MOTHERS

The most disadvantaged groups among Turkish prisoners are children forced to stay in prison alongside their mothers. According to the Turkish penal system, children aged 0-6 can stay in prison with their mothers. In institutions other than in prisons for women, the needs of children are not fully and properly met. The main reason for this is that the prison has not enough wards for female inmates and that there are 3- 5 children who have to stay with their mothers in that prison. Therefore, the administration just ignores these children and their needs. As can be seen in Table 6, there are too many children aged 0-6 in Turkish prisons, and an increase has been observed in the number of these children since 2017. The reason for this increase is the children who have to stay alongside their mothers arrested for political motives.



**Rights deprived of children who are forced to live with their mothers in prison in Turkey,**

- Toys
- Nursery, kindergarten
- Playground
- Nature
- Contact with cats, dogs, birds, etc.
- Playmate
- TV
- Adequate nutrition,
- Father, siblings, relatives

## IV- DISCRIMINATORY PRACTICES AGAINST POLITICAL PRISONERS

### 1- Incarceration until Death

**T**urkey does not have a death penalty. That said, it has a penal system that results in death. “In the event of a sentence of aggravated life imprisonment for committing, within the framework of the activity of an organization, one of the crimes mentioned in Clause 16 of Article 107 of the Law on the Execution of Penalties and Security Measures under which parole is regulated, in Book 2 and Part 4 of the Turkish Penal Code No. 5237, in Part 4 entitled ‘Crimes Against the Security of the State’, in Part Five entitled ‘Crimes Against the Constitutional Order and the Functioning of this Order’, and in Part 6 entitled ‘Crimes Against National Defense’, probation provisions shall not apply.” All of these people who have been sentenced to aggravated life imprisonment will remain in prison until they die.



**All of these people who have been sentenced to aggravated life imprisonment will remain in prison until they die.** ”

After the coup attempt on July 15, 2016, thousands of people were sentenced to life imprisonment to remain within the scope of this legal regulation. The vast majority of those sentenced to life imprisonment are privates, students of edu-

cational institutions such as the military schools, the cadet schools, and the war academy, as well as officers and noncommissioned officers. There is no doubt that the proceedings against these people have not been conducted fairly.

This practice in the Turkish executive system was the subject of a lawsuit that was brought before the European Court of Human Rights. The court considered the execution, which resulted in imprisonment until death without the possibility of parole, as a violation of the “Prohibition on Torture” issued under Article 3 of the European Convention on Human Rights. Briefly mentioning the decision of the European Court of Human Rights, in the case of *Öcalan v. Turkey* (Application No: 24069/03, 197/04, 6201/06, 10464/07, March 18, 2014), the ECHR, after referring to the general principles as to its approach to life imprisonment in its examination of whether Öcalan’s life imprisonment is reducible or not, dealt with the relevant provision of Article 107/16 of the law on the execution of penalties and security measures. As a result of its evaluations, the court concluded that the applicant, who was sentenced to aggravated life imprisonment

for a crime committed against state security, was clearly deprived of the possibility of conditional release based on legitimate penological grounds and as such, the legislation in force in Turkey did not allow the applicant to be released. The Court stated that the aggravated life sentence given to Öcalan cannot be considered “reducible” in terms of the purpose set out in the third article of the European Convention on Human Rights and concluded that the rule of “inhumane or degrading treatment or prohibition of punishment” was violated. (See paragraph 211-214).

The fact that thousands of innocent people, who had no responsibility for the coup attempt, and who were obviously not given a fair trial, were sentenced to imprisonment until their death in an execution system that violates the prohibition of torture is the result of a political choice and is based on discrimination.

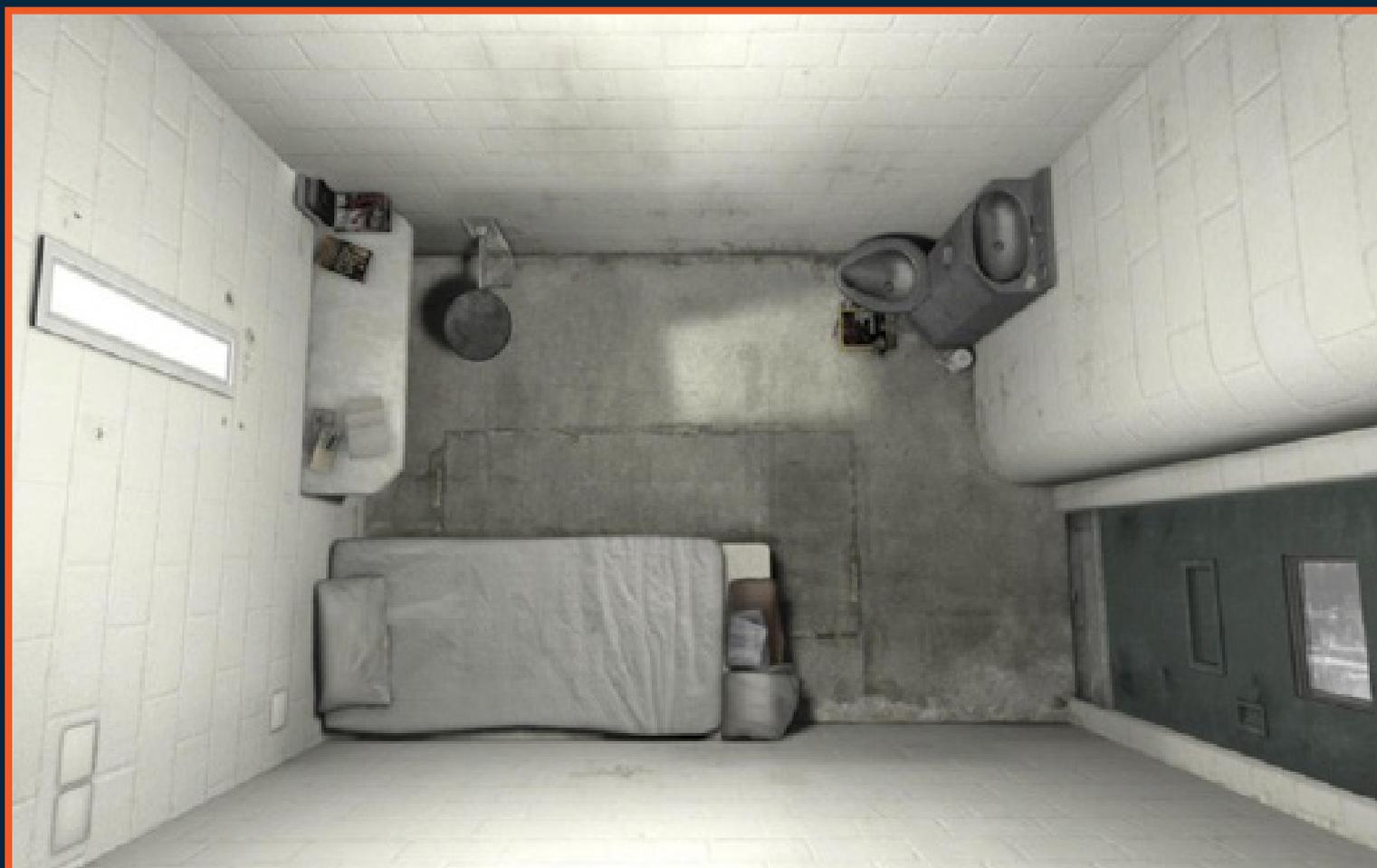
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## 2- Practice of Permanent Solitary Confinement

Some people arrested for allegedly having ties with the Gülen Movement following the events of July 15, 2016 have been permanently held in solitary confinement. Solitary confinement is normally part of the execution of an aggravated life sentence and the application of disciplinary action. However, these people were placed in solitary confinement from the moment of their first arrest or shortly after, and unfortunately they have been kept in solitary confinement for years. In particular, many members of the judiciary who were arrested when they were members of the Constitutional Court, the Supreme Court of Appeals, the Council of State or the Higher Board of Judges and Prosecutors, and who had previously served as the President of the High Criminal Court or the Chief Prosecutor have served time in single cells, and there are still many of them in solitary confinement.

**The European Committee for the Prevention of Torture (CPT) published a report on its visit to Turkey in 2017, stated as follows: “The CPT considers that the maximum possible period of cellular confinement of 20 days for adult prisoners is excessive. Given the potentially very damaging effects of solitary confinement on the mental and/or physical well-being of the prisoners concerned, this period should be no more than 14 days for a given offence, and preferably lower (paragraph 138).” In Turkey, hundreds of people have had to endure such inhuman treatment for years. There are many scientific studies showing that permanent confinement has a torture effect on the person.** <sup>46</sup>

**This practice of solitary confinement was carried out on the order of the Directorate General of Prisons and Detention Houses. In other words, it was carried out not because of a judicial requirement but with political motives. (Annex-1)**



### 3-Arbitrary Extention of Sentences

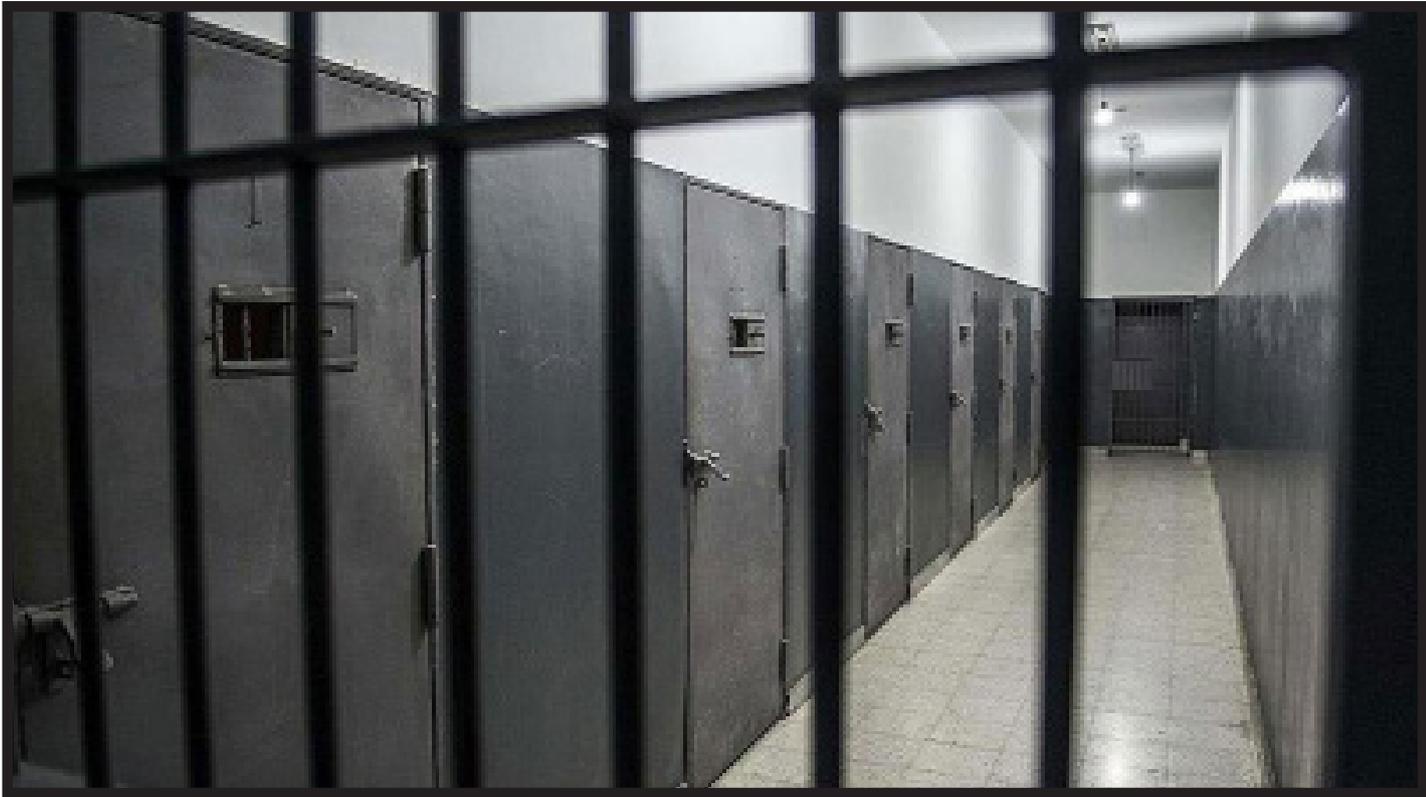
The Turkish penal system has a gradual transition system within itself. Although it varies according to the type of crime and punishment, execution ends with release by taking advantage of probation after the time served in closed and open penal institutions, respectively.

However, there is a discriminatory practice against political prisoners. Political prisoners are held in prisons on charges of terrorism. Only if the Board of Administration and Observation decides that the prisoner has left the organization can he/she serve time in an open prison. That said, this remains only in theory most of the time, and political prisoners serve time in closed prisons. They also face unjust treatment in terms of probation rights. Probation period for those who have politically been arrested for having ties with the Gülen Movement and who have completed their sentence in prison is not 1 year but less. Although there is no disciplinary penalty or other situation that may prevent them from being considered to be inmates with good conduct, they are released late.

Another arbitrary and discriminatory practice carried out against political prisoners is to exceed the time that will be served in prison due to late appellate reviews. Hundreds of people, increasing in number every day, complete the entire sentence without a final verdict of conviction about them. Because

*“Because the appeal process of the case files against these people has not been completed, the decisions are not finalized, so they are also deprived of the right to benefit from probation 1 year before release on the condition that the convicts are entitled to”*

the appeal process of the case files against these people has not been completed, the decisions are not finalized, so they are also deprived of the right to benefit from probation 1 year before release on the condition that the convicts are entitled to. The High Court of Appeal clearly neglects its duty towards a group and delays the process, which results in irrevocable loss of rights. Although the part of the sentence which was imposed on the arrested journalist Ms. Büşra Erdal, one of the victims of this practice, and which must be served in prison by the law, expired in March 2020, she has not been released because her appellate review is yet to be finished.<sup>47</sup>



#### 4- Compelled Self Incrimination

**U**nder the constitution and international law, no one can be forced in any criminal case to be a witness against himself. There are no exceptions to this rule. Those arrested with political motives in Turkey are also subject to a discriminatory practice in this regard. The prerequisite for benefiting from probation and parole is “good conduct”. Prison administrations ask those sentenced on political grounds to provide a written document stating that they have agreed to the charges against them. Those who do not provide such a document as asked by the administrations are not considered to be inmates with good conduct, and are either granted probation late or not granted probation at all. Prison administrations base this practice on an administrative letter of the Directorate General of Prisons and Detention Houses dated 20.04.2015 and numbered 66607.<sup>48</sup> This article is clearly contrary to international conventions, the constitution and the law. Moreover, although it is only an opinion piece, it is applied by prison administrations as an article of law.

The practice is as follows. A convict arrested on political grounds is asked to state in writing that he/she has left the alleged terror organization and sign the document in order to be considered an inmate with good conduct, and to submit a petition in which he/she states: "I have left the organization, so I request that I be accepted as an inmate with good conduct". Prisoners arrested on political grounds are accused of terrorism charges. Almost none of these people accepted the accusations in any way during the trial process. Submitting such a petition amounts to admitting both the charges of membership in a terrorist organization and the accusation of terrorism. The risk that may be faced if this petition is not submitted can be described as follows: As is known, a person sentenced to 6

years and 3 months imprisonment on charges of terrorism must spend  $\frac{3}{4}$  of his sentence in prison in order to be released on probation. If he/she is considered to be an inmate with good conduct, he/she may be granted probation 1 year before the end of the sentence. If these two conditions are met, the time required to be served in prison is 3 years 8 months 10 days. If he/she does not submit this petition, he may not be able to benefit from probation at all. As a result, he/she may have to stay in prison for 4 years 8 months and 10 days instead of being released 1 year earlier. Although it is against the law, being considered to be an inmate with good conduct depends on the condition of "admission of guilt", and unless this condition is not met, the risk of serving the whole sentence stands.



## 5- Arbitrary Disciplinary Practices and Penalties

Disciplinary penalties are applied in Turkish prisons on various grounds, especially for those arrested on political charges.

According to international principles, prisoners cannot be subjected to inhumane and degrading disciplinary punishments such as corporal punishment and solitary confinement, nor can their right to meet their humanitarian needs be violated in the name of discipline, security, or criminal sanctions.<sup>49</sup>

In prisons, corrections officers expect absolute obedience from inmates. Any objection is met with disciplinary punishment. Hair and beard growing, not standing at the

counts, tying hair back or wearing it down, being present at the inmate counts, greeting other inmates in the corridor, singing in Kurdish, referring to arbitrary practices of the prison administration in letters and phone calls, and objection to strip search may result in disciplinary punishment. The process after July 15, 2016 has severely restricted the rights of prisoners, especially on political grounds, and has left them vulnerable to practices such as arbitrary disciplinary punishment. Complaints about disciplinary penalties and appeals to executive judges have been rejected much more than before.

<sup>49</sup> Union of the Turkish Bar Association's Human Rights Report on Prisons 2015-2016, p.53

**There are more than 300 thousand detainees and convicts in Turkish prisons.**

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## 6- Strip Search

Strip search of especially political prisoners has long been conducted in Turkish prisons. This practice is based on the Regulation on the Management of Penal Institutions and the Regulation on the Execution of Penal and Security Measures. Instead of being based on a regulation, this practice must be based on the relevant law because it is an application that interferes with the privacy of the person's body. The 2nd clause of Article 34 of the Regulation states that "If there are reasonable and serious indications that there is contraband or any substance prohibited to be

brought into or kept in the institution and if deemed necessary by the highest supervisor of the institution, strip searches can be conducted or body pits can be searched in accordance with the following procedures". Accordingly, a separate evaluation should be made for each person and incident, and if the highest supervisor of the institution evaluates the situation and deems it necessary, a proper search should be conducted. However, this is not followed, and widespread and systematic strip searches of political prisoners are carried out.

## 7- Forcing Visitors to Strip down to Underwear

Although there is no regulation in the prison and penal system that allows for such a practice in the law or any relevant by-law, there are many news reports that the relatives of political prisoners and convicts have been forced to strip down to underwear.<sup>50</sup> This inhuman practice is being carried out systematically during both contact visits and non-contact visits, and the administrations of prisons where this practice is being conducted are trying to justify it, pointing to the possibility that visitors might convey messages to inmates charged with alleged terror offences.



## 8- Obstruction of the Right to Education

The education rights of political prisoners and convicts have been taken away from them. Article 4 of the Decree-Law on State of Emergency No. 677 dated 31.10.2016 “Those who are arrested or convicted of crimes committed within the framework of membership of terrorist organizations or the activities of these organizations may not take the central examinations held throughout the country and all kinds of formal or non-formal education and training institutions and examinations conducted or held by public institutions and organizations inside or outside the penal institution during the continuation of the state of emergency and while they are in the penal institution as arrestees.” According to this provision, those arrested on political grounds and with the charge of membership of a terrorist organization are denied the right to access to education. The fact that they encounter such a prohibition under the control of the state,

while in prison and in no way pose a threat to public safety reveals a discriminatory approach.

Those arrested for or convicted of political crimes were deprived of their right to education for approximately 2 years from 10.31.2016 until 07.18.2018, when the State of Emergency ended.

Arrested in 2016 on charges of participating in the coup attempt when she was a junior at the Air Force Academy, Şüheda Sena Öğütalan was able to pass the the university exam held in 2019 to study law at Marmara University, accomplishing an outstanding success. Although the State of Emergency was lifted a year before Sena passed the university exam, the administrations of university and prison deprived her of the right to education arbitrarily. In order to overcome this obstacle, volunteers had to initiate a signature campaign through Chance.org.<sup>51</sup>

## 9- Prohibition of in-Prison Social Activities

Since July 15, 2016, those arrested on charges of allegedly having ties with the Gülen Movement have been denied the right to access to all psychosocial in-prison training and self-improvement training activities, including vocational trainings, arts and crafts trainings, sports events, social and cultural events like watching concerts, seeing pieces of theatre and movies, all of which are carried out to ensure the physical and spiritual rehabilitation of prisoners and convicts, and to protect them from the devastating impact of prisons.

This prohibition was put into practice with the letter dated 28.07.2016 of the Directorate General of Prisons and Detention Houses (Annex 2). The letter reads as follows: “It is deemed appropriate not to provide those from the FETO terrorist organization with any training and self-improvement activities carried out in penal institutions, including access to clergy, but except for the right to access to psychologist interview, until a second instruction. I kindly request that the letter be forwarded to all central and interrogative penal institutions affiliated to your Chief Public Prosecutor’s Office. “This prohibition shows how discriminatory attitude is applied and should be regarded as a practice of ill-treatment.



## 10- Prohibition of Access to Religious Officials

Under international conventions and national legislation on the rights of prisoners, the management of prisons and the operation of the penal system, prisoners are entitled to access to religious officials. Since July 15, 2016, people arrested for political motives on the grounds of their alleged ties with the Gülen Movement have been denied the right to access to religious officials in a discriminatory manner. This prohibition has been put into practice with the letter, dated 28.07.2016, of the Directorate General of Prisons and Detention Houses. (Annex 2) The letter reads as

follows: “It is deemed appropriate not to provide those from the FETO terrorist organization with any training and self-improvement activities carried out in penal institutions, including access to clergy, but except for the right to access to psychologist interview, until a second instruction. I kindly request that the letter be forwarded to all central and interrogative penal institutions affiliated to your Chief Public Prosecutor’s Office.” This prohibition shows how discriminatory attitude is applied and should be regarded as a practice of ill-treatment.

## 11- Obstruction of the Right to Letters



One of the most important rights for an inmate in prison is undoubtedly to be able to communicate in a healthy way with his/her relatives outside. The most important tools to achieve this are visits paid by their relatives, correspondence with them, and phone calls he/she has with them. Communication with relatives has been minimized for prisoners arrested for political crimes in the process that started on July 15, 2016 in Turkey and especially with the declaration of the state of emergency on July 21, 2016. One of the most important indicators of these unlawful practices is the restriction of the right to letter. Public prosecutors and wardens prohibited the exercise of this right unlawfully.

Prosecutor Raif Bıkmaz's letter on the restriction of communication rights for all prisoners in Silivri prison who were charged with having participated in the attempted coup can be given as an example of this unfair and unlawful practice. (Annex 3).

Raif Bıkmaz wrote this letter on 07.22.2016 through the investigation file numbered 2016/64145. In capitals, it was stated in the letter that

**“As IT is believed THAT THE DETAINEES who are ARRESTED under Article 309,312,313 and 314 of the Turkish Penal Code CAN TAKE AND GIVE ORGANIZATIONAL ORDERS AND INSTRUCTIONS IN THE ONGOING COUP ATTEMPT, IT WAS DECIDED THAT ENTRY OF THEIR VISITORS SHOULD BE PROHIBITED, THAT THEIR PHONE CALLS AND WRITTEN COMMUNICATIONS SHOULD BE RESTRICTED, AND THAT THE DOCUMENTS THAT ARE PROVIDED BY THEIR LAWYERS SHOULD ALSO BE RESTRICTED.”**

However, this investigation was only limited to “Judges and Prosecutors” working for the Chief Prosecutor's Office of Bakirkoy. No soldiers, no cops, and no civilians are suspects in this case. This prosecutor, exceeding the limits of his authority and duties, imposed a ban on prisoners who were supposed to be the subjects of investigations of the regions out of his jurisdiction. However, he later decided that it was beyond his jurisdiction and sent the file to the Ankara Chief Prosecutor's Office. Nevertheless, before that, he had conducted an investigation, and issued an order, exceeding the area of his jurisdiction. This clearly demonstrates the arbitrariness, uncontrollability and chaos of the period.

The prohibitions imposed on Mustafa Doğan, the author of this report, by the letter dated 07.22.2016 of Prosecutor Raif Bıkmaz of Bakırköy remained in force until the decision of the High Criminal Court to lift the prohibition on 12.08.2017. Mr. Doğan was not allowed either to send or to receive a letter until the ban was lifted. The authorities did not even feel the need to provide a reasonable justification for the ban imposed on Mr. Doğan and did not explain why the ban continued for 1.5 years and was finally lifted.

## 12- Restriction of the Right to Telephone Conversations

Another discriminatory practice during the State of Emergency was to restrict the right to telephone conversations. The exercise of the right to telephone conversations was restricted with the regulation in Article 6/1 of the State of Emergency Decree No. 667 dated July 22, 2016. The restriction read as follows: “Prisoners may only be visited by their spouses, first and second-degree blood relatives, and first-degree in-laws and guardians or trustees, provided that they provide the necessary documents. The powers of the Ministry of Justice and the Chief Public Prosecutor’s Office are reserved. Prisoners may benefit from the right to telephone communication only once every fifteen days and not for longer than

ten minutes, limited to the persons listed in this clause.” Those arrested grounds of political crimes were allowed to enjoy the right to a hone call once every 15 days, although other prisoners benefitted from this right once a week. Inmates who were in prison at the time of many serious human rights violations such as torture, dismissal, arbitrary detention, and abduction did not hear from their families. Families also had to wait for days worrying about the condition of the prisoners. Another limitation introduced by this regulation is the limitation of the persons these prisoners could contact by telephone. Political prisoners were not allowed to call their fiancées, friends or relatives who were on the list.



*This ban was lifted at last in July 2018 with the end of the state of emergency. This limitation was nothing but another discriminatory practice that these prisoners were subjected to.*



### 13- Visitor Restriction Policy



**A**nother restriction for those arrested for political crimes is visitor restriction by breaking their ties with the world outside the prison. The number of people who can visit prisoners in contact and non-contact visits in normal periods is limited. Pursuant to Article 83 of the Law on Penalties and Security Measures “The convict may be visited once a week by his/her spouse, up to third-degree blood and in-law relatives, and his/her custodian or trustee provided that they provide the documents, and also by a maximum of three persons whose names and addresses he/she has notified at the time of admission to the institution,

in a way that shall not be changed again except in compulsory cases.” Article 6/e of the State of Emergency Decree No. 667 dated July 22, 2016, states that “Inmates may only be visited by their spouse, up to second-degree blood and first-degree in-laws and custodians or in-laws, provided that they provide the documents”, thus reducing the number of visitors. According to this article, those who are not their relatives by blood and have no official relations with them such as friends, fiancé(e)s, or lovers are excluded from the visitors list. This discriminatory practice remained in force for two years until June 2018.

## 14- Restriction of the Right to Contact Visits

It was only during contact visits at which prisoners can have contact with their relatives and visitors. The rules of contact visits to prisons are set up according to the Regulation on Visits to Convicts and Prisoners. Article 13 of the Regulation defines a contact visit as follows: “A contact visit means visits and interviews in the section especially allocated for this objective in the correctional institution where both the prisoner and the visitor(s) can be heard and monitored during their talk by the officer present, allowing for physical contact between them.” As for Article 14, it states that “convicts and prisoners may have a contact visit with their mothers, fathers, spouses, children and grandchildren once a month,” thus pursuant to this article, contact visits were decided to be made once a month.



After July 15, 2016, a change was made in the regulation to the detriment of prisoners arrested on political grounds. With Article 5/e added to the Regulation, a discriminatory limitation that did not exist before was imposed, changing the contact visits for political prisoners were decided to be made once every two months instead of once every month.<sup>52</sup> Although the authority to change this period seems to be left to the discretion of the prison administration in the article, contact visits for political criminals were made every two months in all prisons until the State of Emergency was lifted. Furthermore, the permission for contact visits granted by the Ministry of Justice on religious and public holidays and special occasions such as New Year's Eve were evaluated against political prisoners and these detainees were not given the permission to benefit from contact visits even on those days. In this context, Halil Berk, who was dismissed from his profession and arrested while he was deputy governor for allegedly having ties with the Gülen Movement, applied to the Constitutional Court on the grounds that his right to open opinion was unlawfully restricted. The Constitutional Court concluded on 03.21.2018 on the file with individual application number 2017/8758 that the

“ This practice that aimed to sever ties with the family of a political prisoner was arbitrary and discriminatory. ”

application was inadmissible.<sup>53</sup> According to the text of the decision, the applicant was arrested on 07.25.2016 and released on 03.22.2017. During his incarceration, he was allowed to benefit from contact visits 4 times although he was supposed to have the right to contact visits 8 times. This practice that aimed to sever ties with the family of a political prisoner was arbitrary and discriminatory.

<sup>52</sup> Article 5/e added to the Regulation is as follows “e) (Annex: OG-18/8/2016-29805) By taking the number of the prisoners, the security, and order of the institution, those arrested for and convicted of the crimes defined in Section Four, Fifth, Sixth and Seven of Part Four of the Second Book of the Turkish Penal Code dated 26/9/2004 and numbered 5237, and the crimes within the scope of the Anti-Terror Law dated 12/4/1991 and numbered 3713, contact visits in the penal institutions for these convicts and prisoners shall be made every two months by the decision of the administrative and observation board.”

## 15- Restriction on Attorney Visits

Anyone who faces an indictment and is arrested for that has the right to have a private meeting with their lawyer. This is a requirement of the right to a fair trial, which is one of the basic human rights. As in many areas, this very right has been violated as well. Since the July 15, 2016 events, the authorities have restricted the political prisoners' right to access to a lawyer. The restriction was imposed with Article 6/d of the State of Emergency Decree No. 667 dated July 22, 2016. It is stated in the Decree Law that "by the order of a prosecutor, in the event that there is a possibility of endangering the security of the society and the penal institution, direct a terrorist organization or other criminal organizations, and giving orders and instructions to these organizations, or transmitting sec-

ret, open, or encrypted messages to them during the attorney-client conversations in jail, their conversation may be audio or video recorded, an official may be present to watch the interview with the prisoner and his/her attorney, the samples of documents or the original documents, and the files exchanged between the lawyer and the prisoner, and the records they keep regarding the conversations between them may be confiscated, or the days and hours of the interviews may be restricted. If it is understood that the conversation between the prisoner and his/her attorney has been conducted for the purposes stated above, the interview shall be terminated immediately and the minutes shall be kept with the justification attached to them.

*Since the July 15, 2016 events, the authorities have restricted the political prisoners' right to access to a lawyer*



Prior to the commencement of the meeting, the parties are warned of this. In case of taking minutes about the prisoner, upon the order of the public prosecutor, the conversation between the prisoner and his/her attorney may be prohibited by the criminal justice of peace. The banning order is immediately sent to the relevant bar association to appoint a new lawyer for the prisoner. The public prosecutor may ask for the change of the attorney delegated by the bar association.” As for the practice of this Decree Law, prisoners were given only a specific day and a limited time to have a conversation with their attorneys. For example, the lawyers of the No. 6 L-Type Sivilivri Prison were given permission to meet with their clients arrested on the FETO/PDY charges only on Monday. Therefore, they could not meet with their clients regularly, they had to wait in line for hours, and sometimes they even had to leave pri-

sons without meeting with their clients. Audio and video recording cameras were installed in the interview rooms. Two guards accompanied the attorneys and took down notes during their interviews with their clients. Attorneys and prisoner were not allowed to exchange documents. The documents were received by the guards in charge there, then sent to the prosecution offices, after they had examined and deemed appropriate, they were delivered to the addressee. It took weeks, even months, for the documents to circulate like this. Some prisoners’ documents were lost in this process, and others lost their rights in time-sensitive matters such as objections and individual applications.

This discriminatory practice is an explicit violation of the basic human rights and freedoms, preventing people who are faced with accusations without legal basis from defending themselves.

## 16- Deprivation of the Right to a Barber

Prisoners’ need for a barber must be met by the penal institution they stay in. However, throughout the state of emergency declared right after the July 15, 2016 events, the right of political prisoners to access to a barber and hair services was restricted and haircuts were done with a humiliating, demeaning, discriminatory practice. Every prison has a barber shop or a room designated for haircuts, which is equipped with the necessary tools, and where, under normal circumstances, all inmates get their hair cut by a prison employee or a competent inmate. After

July 15, 2016, the prisoners were allowed to get their hair cut in the barber’s room for the first 1-2 months, but this practice was later terminated. During the State of Emergency, until July 2018, the hair of those arrested for alleged links to the Gülen Movement were cut in the corridors of the prison like sheep sheared. This was nothing but discriminatory and disparaging. Applications made by the prisoners to the prison administrations for the termination of this practice were all rejected.

## 17- Closing Ventilation with Wire Mesh

**A**ccording to the international standards for prisons and detention houses, all prisoners should be able to spend time outside in the open air each day.

All wards in Turkish penal institutions must have a ventilation system. Prisoners should be able to benefit from this ventilation every day from

8: 00 a.m. to 5: 00 p.m., which is the end of the shift, or until sunset.

For the first time in the history of the Turkish penal institutions, wire mesh was placed on the ventilation of the wards where the political prisoners were staying.<sup>54</sup> Thus, even the sky has been left behind bars for these prisoners.



## 18- Discriminatory Practices against Pregnant Women and Women with Babies

**A**ccording to the relevant law, the prison sentence of pregnant women and women recently giving birth is suspended. This issue is regulated in Article 16/4 of the Law No. 5275 on the Execution of Penalties and Security Measures as follows: “The execution of the prison sentence shall be deferred for women who are pregnant or who gave birth less than one and a half years ago. If the child dies or is given to someone else other than his mother, the punishment shall be executed after two months from giving birth.”

As can be seen, this regulation is related to sentenced women. If pregnant women or women with babies are suspected of a crime, this regulation on execution should be considered as a matter of priority when exercising discretion regarding their arrest. It would be completely outrageous and disproportionate for such a woman to be arrested instead of suspending the penalty. After all, there are many alternatives that can be tailored for pregnant women such as money bail, house arrest, regular check-ins at police station, imposing on a ban on lea-

“Many pregnant women or those recently giving birth have been referred to the court on charges of being in contact with the Gülen Movement and most of them have long been in prison.”

ving the country, and electronic tagging. Though there are this many alternatives, resorting to arrest demonstrates arbitrariness and discrimination. Many pregnant women or those recently giving birth have been referred to the court on charges of being in contact with the Gülen Movement and most of them have long been in prison.



## 19- Elderly and Sick Inmates

As is known, the purpose of punishment is to achieve specific and general deterrence. The execution of prison sentence of sick inmates is meaningless in terms of the purpose of specific and general deterrence. In this regard, Article 16/6 of the Law on the Execution of Penalties and Security Measures No. 5275 states that “the sentence of the prisoner, who cannot sustain his/her life by himself/herself in the conditions of the penitentiary due to a serious illness or disability he is suffering from and who is considered not to pose a serious and tangible danger to the public security, may be suspended in accordance with the procedure set out in the third paragraph until he/she recovers from illness.” Therefore, the execution of sentence of a person convicted of a crime by the court and who is seriously sick can be delayed until he/she recovers. Severe patients arrested on political charges or those sentenced are also subjected to discriminatory practices in this regard. Treatment of severely ill prisoners is being delayed, and they are forced to stay in prisons

in these grave conditions. The courts do not release the prisoners even if there is a provision under the law on execution of penalties and security measures that the sentences of even the convicts may be suspended. These inmates’ lives are clearly under threat, yet they are not released anyway. After all, there are many alternatives that can be tailored for them such as money bail, house arrest, regular check-ins at police station, imposing on a ban on leaving the country, and electronic tagging. That said, none of these alternatives are not applied. Those released are the inmates whose treatments no longer respond and whose deaths are certain soon after. Another discriminatory practice concerns those who should not be locked up behind bars due to their advanced ages and seriously bad health conditions. While the execution of the sentences of those who are under the same conditions is suspended, those arrested for having ties with the Gülen Movement are deprived of the right to postpone their sentences.

Bir diğ er ayrımcı uygulama ilerlemiş yaşı ve sağı k durumu cezaevine girmesinde sakınca olanların durumuna ilişkindir. Aynı şartlarda bulunanlar için cezalarının infazının ertelenmesine karar verilirke, sırf siyasi gerekçe-

lerle Gülen Hareketi ile irtibatları nedeniyle ceza verilmiş olanlar cezalarının ertelenmesi hakkında mahrum bırakılmaktadırlar.



**Transferred from Eskişehir Çifteler Prison to Ayvalık Prison, prisoner Aynur Uyar, who has diabetes, heart and blood pressure, passed away 10 days after being transferred.**

## 20- Torturing Inmates after Taking Them out of Prison

After July 15, 2016, an amendment was made to the relevant law with Article 3/1-ö of the Decree-Law No. 668 to take those arrested for political crimes out of prison and take them to the police station for testimony. According to this amendment, a prosecutor shall make a request and a criminal peace judge shall decide. This practice has long been used as a means of torture in Turkey. An inmate could easily be summoned and questioned by the prosecutor, but the prisoners were handed over directly to the police instead and forced to stay at the police station for 10-15 days. They were held in detention in very severe

conditions for days for questioning or taking statements that could have been completed within a few hours. They were subjected to such practices of torture as beating, sleep deprivation, stripping naked, food and water deprivation, physical exhaustion, insults, and threats.

Mehmet Alp was arrested for political reasons before July 15, 2016. At the end of May 2017, he was taken from Keskin Prison and to the Anti-Terror Branch of Şanlıurfa Police Department and subjected to torture there for days.<sup>55</sup>

## 21- Restriction of the Right to Access to the Health Services

**A**ccess to the healthcare services is one of the basic human rights of prisoners that cannot be restricted. Nevertheless, people arrested for alleged links with the Gülen Movement on political grounds have been subjected to discriminatory treatment in this regard. Many of them have been kept waiting for weeks to be examined by the prison doctors. Hos-

pital referrals required to provide further examinations and treatments were not made and the prison doctors used avoidance methods such as painkillers. Some prison doctors even stated that there was nothing they could do about treatment and referral to hospitals, clearly giving reasons for their arrest to some patients in very serious condition as an excuse.<sup>56</sup>



*Some prison doctors even stated that there was nothing they could do about treatment and referral to hospitals, clearly giving reasons for their arrest to some patients in very serious condition as an excuse.*



## 22- Prohibition of Conjugal Visits



Prisoners in Turkey, as in many countries, can spend time alone with their spouses in private and private rooms created in prison pursuant to Article 51 of the Law No. 5275 on the Execution of Penalties and Security Measures. Article 51 sets out the methods of rewarding prisoners with good conduct. Among these methods are prolonging their phone calls, granting them contact visits instead of non-contact visits, and conjugal visits. However, those arrested for political reasons and on the grounds of their ties with the Gülen Movement are denied

the right to conjugal visits. This prohibition was not made by law but by the order of the Director General of Prisons and Detention Houses.<sup>57</sup>

It should also be noted that those arrested on the grounds of their ties with the Gülen Movement are deprived of other rewards mentioned in the article. Although these people comply with prison rules, do not have problems with either their ward mates, or the prison staff or the administration, and they all have good conduct prisoners, they are discriminated against and deprived of these rights.

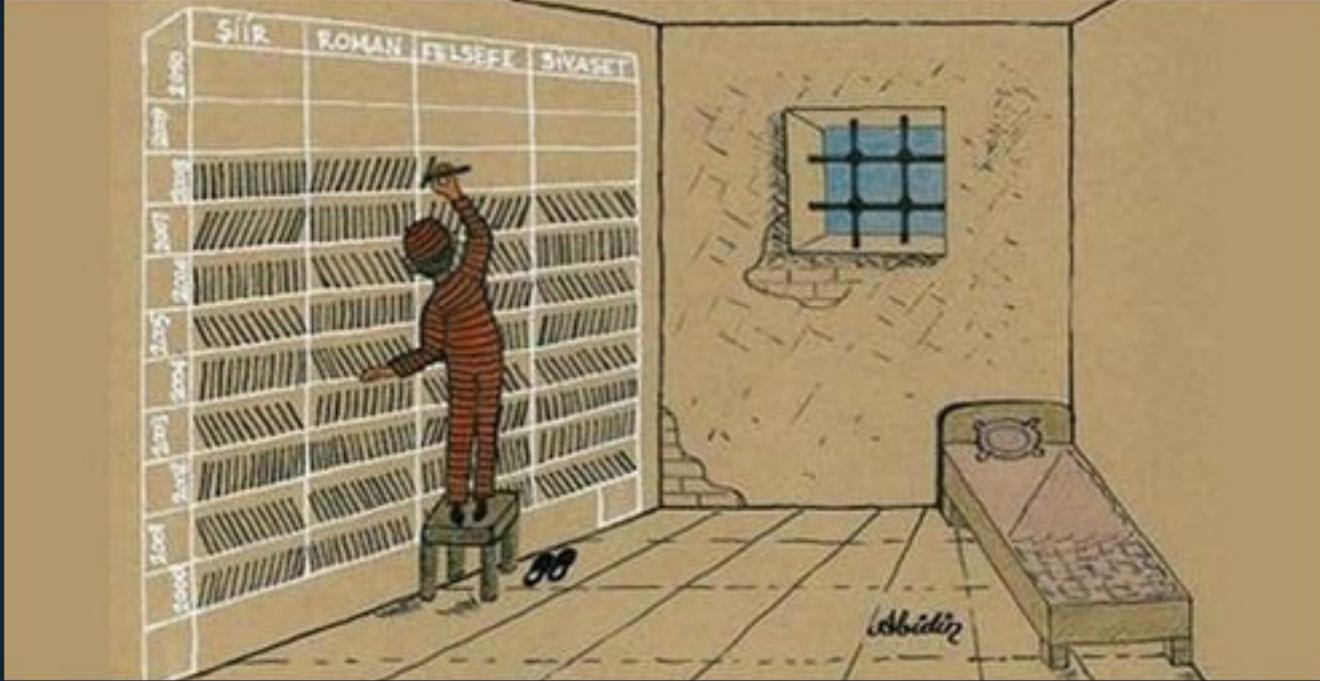
## 23- Imposition of Arbitrary Dress Code

Turkish prisons have no practice of wearing uniforms. Instead, the inmate can keep as many items or clothing in his/her locker as listed in the Regulation on the Types of Property That Can Be Kept in Penal Institutions. In July 13, 2017, one of the detainees charged with attempted coup went to trial wearing a T-shirt that read “HERO”. The T-shirt had been purchased from a clothing store and given to the inmate by his relatives. However, the court was disturbed by the word “Hero” and its meaning.<sup>58</sup> This incident caused a political crisis. So many people found themselves in trouble because of the clothes, food boxes, and food items with the word, “Hero”, on them. At least 38 people were detained and 2 of them were later arrested. The mother of a baby, who was wearing a dress that read ‘My father is a hero’ on it during their visit to her father, was taken into custody. Emirhan Baysal is one of the ones suffering from this hysterical situation. He was indicted

on charges of “propagandizing the terrorist organization” for a similar reason, but fortunately he was acquitted as a result of the case.<sup>59</sup> As in many other situations, these incidents had serious ramifications on those behind the bars. The government decided that wearing the uniform should be mandatory for those arrested for political crimes, but it did not put that into practice in the end. That said, harassment was practiced against those arrested on the grounds of having ties with the Gülen Movement. Their clothing was searched over and over again. Even the clothes, which read “Adidas, Nike, and Kinetix” on them, were taken from the prisoners, and delivered to their visitors. If there was any writing on the clothes brought by the visitors, and even if it was only a brand, the clothes were not allowed into prison. Due to this situation, the prisoners, who had already few visitors, had to wear clothes of their ward mates for weeks.



## 24- Obstruction of the Right to Access to Educational Resources



For prisoners, the most important activity that allows them to achieve self-improvement is reading. Especially those arrested on political grounds need books to learn a foreign language or continue their academic studies.

However, their right to access to educational resources has also been violated since the incidents of July 15, 2016. The grammar books of foreign languages and other books that academicians need to get were not provided to them.<sup>60</sup>

This practice is entirely discriminatory. While ordinary prisoners are being persistently encouraged to have education, the right of political prisoners is being obstructed.

## 25- Confiscation of Pocket Radios

**C**Radios are the most important means through which prisoners can listen to music in prisons. These radios are sold by prison administrations to prisoners. These are very simple pocket radios that broadcast in the AM, SW, MW, LW, and FM bands and which are fitted with headphones. In the process after July 15, 2016, the pocket radios of political prisoners that broadcast in the bands stated

above except for those broadcasting in the FM band were confiscated on the grounds that they would create communication opportunities for them.<sup>61</sup>. However, these radios were purchased from the prison canteen and all of them had been checked. The prisoners whose radios were confiscated were not refunded, nor were they given new radios. This practice was also discriminatory.



The pocket radios of political prisoners that broadcast in the bands stated above except for those broadcasting in the FM band were confiscated on the grounds that they would create communication opportunities for them

## 26- Exclusion from the Scope of the Amnesty Laws



In order to prevent the overcrowding in prisons in Turkey, early releases, as part of the penal system, are granted by pardoning the punishments from time to time. Although the government tries to portray these changes as amendments or adjustments to the penal system, when we consider Article 65 of the Turkish Penal Code, it would be more appropriate to accept these practices as special amnesty arrangements because they had a result that did not influence those who entered the prison later, shortened the time required to be served in prison and reduced the backward penalties. Two amendments for early releases were made in 2016 and 2020, the periods covered by the report. These amendments were made by changing the periods and rates related to the use of pa-

role and probation of the Law on the Execution of Penalties and Security Measures. The first amnesty law was made with the State of Emergency Decree No. 671 dated August 15, 2016. According to the media, some 38,000 prisoners benefitted from this law.<sup>62</sup> As it was clearly stated in the media at that time, early release of ordinary prisoners was granted in order to make room for those who would be arrested for having alleged ties with the Gülen Movement. The second amnesty law was made on April 14, 2020. With this law, more than 100,000 ordinary prisoners were released.<sup>63</sup> The Covid-19 is claimed to be the reason for this second amnesty law. Those arrested on political grounds, however, were excluded from the scope of both amnesty laws. This was yet another discriminatory practice.

## 27- Exclusion from Beneficial Amendments to the Law

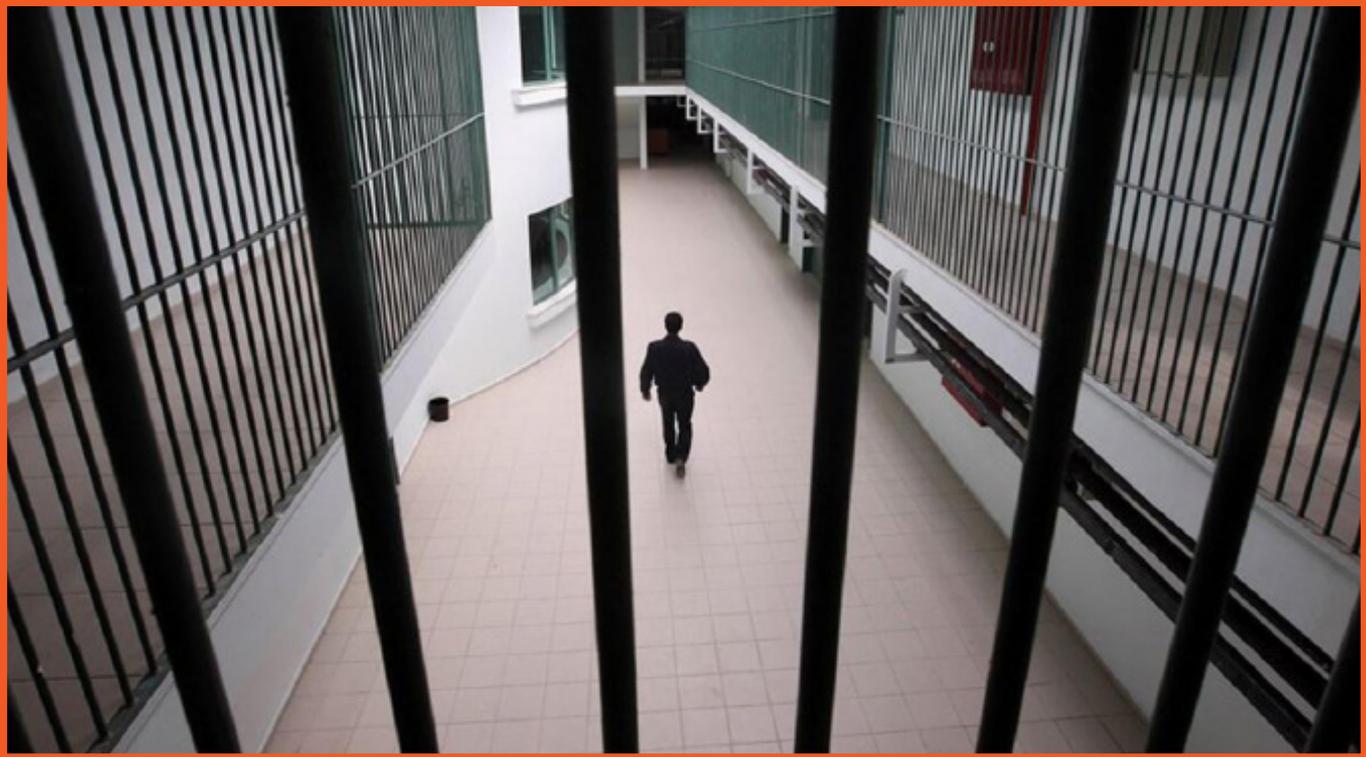
Article 2 of the Law on the Execution of Penalties and Security Measures states that “the rules on the execution of criminal and security measures are applied regardless of of race, language, religion, sect, nationality, color, gender, birth, philosophical belief, national or social origin and political or other ideas or thoughts, economic powers and other social positions of the convicts and without giving any privilege to anyone.” In other words, the basic principle is equality, and all types of discrimination is prohibited. Despite this fundamental principle of equality, the state has the right to determine special methods of execution for certain types of crime. That said, it would be contrary to the principle of equality and discriminatory to make exceptions on the grounds of the type of crime in the new regulations on the execution of sentences created by taking criteria such as gender, disease or age.



Discriminatory regulations were created against the principle of equality in some amendments made on April 14, 2020. Amendments to Article 110 regulate special execution procedures for sick, elderly, female, and child convicts. Article 9/a states that “those convicted of terrorist offences and offences of forming, managing or being a member of an organization or offences committed within the scope of organizational ‘activity’ shall be excluded from the amendments.” Thus, those convicted of political crimes are excluded from some practices of execution of sentences regulated in this article. However, this amendment was supposed to determine a special regime of execution of sentences especially for the disadvantaged groups on prison such as sick, elderly, female, and child inmates. This practice at the expense of political prisoners was discriminatory. Another discriminatory practice in relation to the amnesty law of 14 April 2020 is the exclusion of political prisoners from amnesty in a way that does not coincide with the purpose of enacting the law. This legal regulation was made because of Covid-19, as inmates were at grave risk of death. However, it would be impossible to claim that Covid-19 poses a

*“Those convicted of terrorist offences and offences of forming, managing or being a member of an organization or offences committed within the scope of organizational ‘activity’ shall be excluded from the amendments.”*

threat to only a group of prisoners, so this practice was clearly discriminatory. It clearly constitutes a crime against humanity in terms of its fatal consequences. Turkey has been urged many times to end this practice through international organizations such as the United Nations, the World Health Organization, the European Union, Amnesty International, and Human Rights Watch, but none of these calls have worked at all.



## 28- Denial of the Right to Benefit from Favorable Laws Entering into Force Later

It is universal law to apply immediately the favorable laws entering into force later. This practice also includes some practices related to the execution of sentences. Clause 3 of Article 7 of the Turkish Penal Code states that “the provisions relating to the regime of execution of sentences shall be applied immediately, except for those related to the postponement of the prison sentence, release on probation, and recidivism.” Accordingly, if there is a change in the provisions on release on probation and recidivism in favor of the prisoner, it must be implemented immediately.

On April 14, 2020, some amendments were made to the Law on the Execution of Penalties and Security Measures. Among these amendments are provisions on release on probation and recidivism. With this new

regulation, some changes were also made in the regime of execution of sentences regarding repeat offenders. The sentence calculation previously applied as  $\frac{3}{4}$  for repeat offenders was reduced to  $\frac{2}{3}$ . Before the amendment, the sentence calculation for those convicted of terror crimes were done according to the regime of execution of sentences created for repeat offenders. Courts took this into account in their verdicts before this amendment. The provisions of the amendment to the law state that the execution of sentences for terror crimes shall be applied by  $\frac{3}{4}$ , but they are still at the expense of the offenders. The amendment to the “regime of execution of sentences for repeat offenders” is indeed favorable and must be applied immediately, but it is not taken into account in court’s verdicts.

All the fundamental laws regarding the penal law were amended in 2005. The General Assembly of Criminal Chamber of the Supreme Court of Appeals determined at the time that it was the amendment to the law in favor of the accused or convict, suggesting that they should benefit from this amendment.

That said, despite the favorable amendment to the law and the settled case-law of the Supreme Court of Appeals, those arrested or convicted on political grounds have not been allowed to benefit from this amendment to the law with a discriminatory approach.



## 29- Making Release from Prison on Probation Difficult

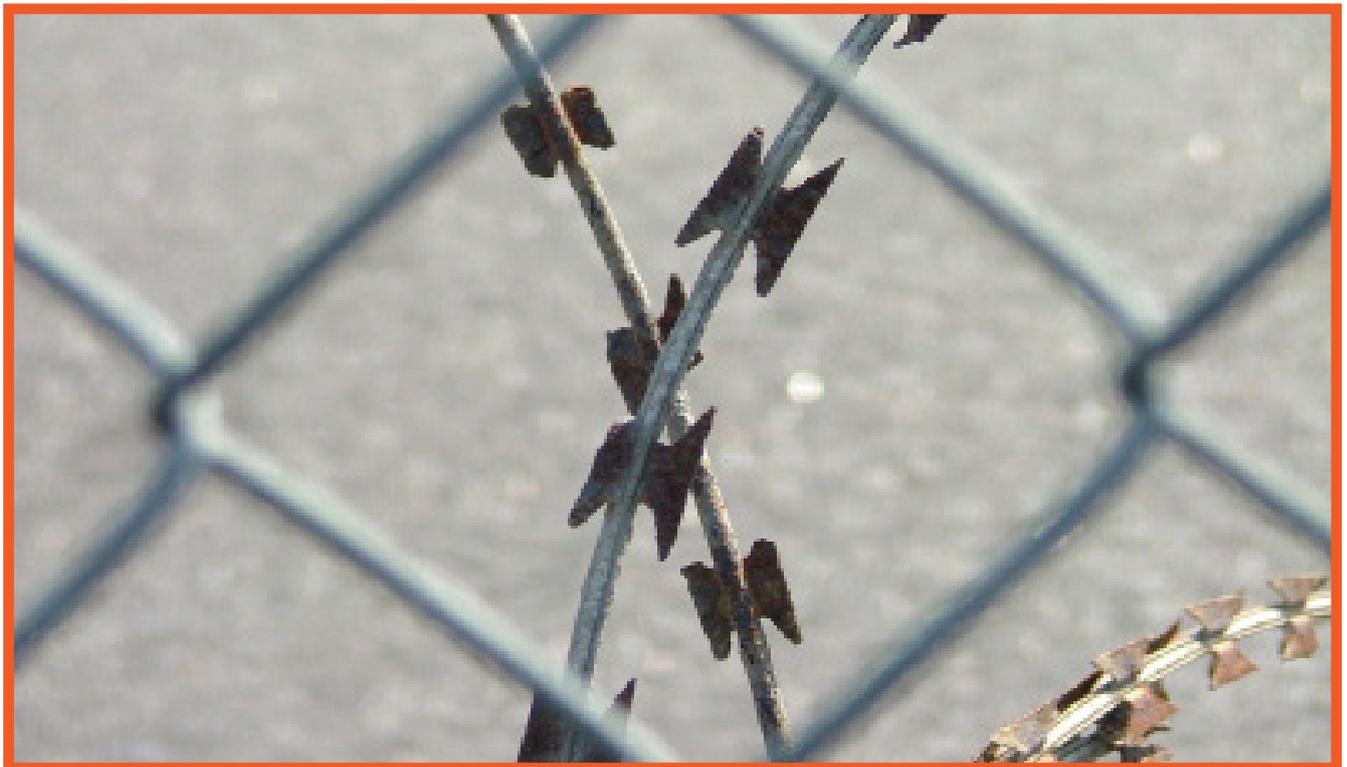
On April 14, 2020, amendments were made to some fundamental institutions of the execution of criminal law. One of the most important of these changes was made in Article 89 of the Law on the Execution of Penalty and Security Measures that regulates the procedures and conditions for the determination of good conduct. After the amendment, a commission whose members were from outside the prison was established to assess the

behavior of those sentenced to more than 10 years in prison and those convicted of terrorism charges. The number of criteria to be taken into account in the determination of the good conduct has been raised. However, these criteria are impossible to review and realize.<sup>64</sup>

All of these regulations are discriminatory practices to prevent the release of those held in prison on political grounds.

### 30- Restriction of the Right to Legal Remedies

Petitions are the most important tools that enable prisoners to access to the legal remedies before official institutions. Prisoners in Turkey submit their petitions to prison officials on a basis of trust. They are not given any document indicating that their petitions have been received. Prison administrations are obliged by the constitution and the relevant laws to deliver these petitions to the relevant institutions or organizations. Those arrested on political grounds are faced with such practices as not delivering their petitions to the relevant institutions and losing these petitions. All of such practices serve as obstacles in their way to access to the right to legal remedies.





### 31- Ban on Having Photos Taken

One of the oddest discriminatory practices during the State of Emergency is the ban on having photos taken. Having photos taken in prison is a practice that has been allowed for years. Photos of inmates are taken by a correction officer or another inmate for a fee as a souvenir. However, during the State of Emergency, prisoners arrested on political grounds were not allowed to take photographs showing themselves, their ward mates, and their lives in prison.<sup>65</sup>

# CONCLUSION

Turkey faced a dark and controversial coup attempt on July 15, 2016 and a state of emergency was declared afterwards. The Turkish government then declared that it suspended its obligations under conventions concerning human rights such as the International Covenant on Civil and Political Rights and the European Convention on Human Rights, and notified the United Nations and the Council of Europe. The state of emergency, which was declared for a period of three months on July 21, 2016, lasted 2 years and was lifted on July 18, 2018. During this period, many decree laws restricting or abolishing many fundamental rights and freedoms were issued. With these decree laws, many changes have been made to the basic laws, most of which are still in force. Complaints of discriminatory practices against political prisoners in Turkey have always been voiced. These practices, through the decree laws, were shown as if they were carried out according to the law. The Directorate General of Prisons and Detention Houses, prosecutors, and prison directors have all interpreted the laws and State of Emergency Decrees broadly and arbitrarily. In this way, they have taken away even the most basic rights of prisoners that are guaranteed by international conventions and the constitution. It is an undeniable fact that prisons have a devastating effect on the human body and the soul. Such problems as overcrowding and inadequate physical space in prisons make the prison conditions even more difficult for inmates.

In addition, Turkey is in the economic crisis. Therefore, the nutritional requirements of prisoners have fallen below the level they should have. Discriminatory practices against political prisoners in prisons in Turkey have reached a level that will cost people their lives. People's rights to access to health care have been taken away, and diagnosis and treatment of diseases have been delayed. Despite the fact that arrest is a protection measure and there are alternative measures to arrest such as house arrest, regular check-ins at police station, and imposing ban on leaving the country, even inmates of their deathbeds were not allowed to benefit from these opportunities. As for the people who were released, they were those about whose recovery there was no hope left and who died shortly after release. Another discriminatory practice put forward in the report is strip search, which is against human dignity. Other countries have the practice of strip search as well at the entrance of prison. Strip search is against the legislation, but it has become widespread, especially for those arrested on political grounds. According to the relevant regulation, each nude search event requires an assessment of the requirements of the situation and an order from the prison warden. As stated in the report, these rules are not followed, especially in relation to those arrested on political grounds, and the target group has been generally and widely subjected to strip search. Visitors also suffer from this practice which force them to strip down to underwear.



There is no rule in national or international legislation that visitors can be searched in this way. The maximum period of solitary confinement determined by the European Committee for the Prevention of Torture (CPT) as 14 days has been applied for years to those arrested for allegedly having ties with the Gülen Movement. Moreover, a considerable number of these people are judges, prosecutors, and members of the Constitutional Court, Supreme Court of Appeals, and the Council of State. It has been revealed in the report that the practice of solitary confinement is not a decision made by judicial authorities with judicial requirements but is being carried out with the instruction of the Directorate General of Prisons and Detention Houses; in other words, it is being conducted with a political motive. As stated in the report, Turkey's prisons are like hell on Earth for both political and ordinary prisoners. Prisons are not managed well at all. The purpose of the punishment is to achieve specific and general deterrence, yet the situ-

ation has turned into torture for all prisoners, and the government just ignores the steps it is supposed to take towards the solution of the existing problems. Penal policy is preferred in solving these problems, although it is obvious that they should be settled through social policies. Penal policy serves nothing but aggravate the overcrowding problem in prisons, making it permanent. The language used by the government is hateful, divisive and discriminatory. On the other hand, the government deems the slightest criticism as a crime, and has whoever criticizes it arrested by the judiciary, which has long-lost its independence and only follows its instructions. As Turkey moves away from democracy, people can't even breathe. The condition of the prisons is similar to that of the scuba divers who ran out of oxygen in their underwater tank. The only permanent solution for prisons is that democracy and the rule of law prevail in the country without further delay.

## REPORT on TURKISH PRISONS

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