



**L'Association Européenne
Pour la Défense des Droits et des Libertés
(ASSEDEL)**

(The European Association for the Defense of Rights and Freedoms)

**OBSERVATIONS
CONCERNING PRISONS IN TURKEY**

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9 Place de l'Esplanade 67000 Strasbourg

assedel.org

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A. INTRODUCTION

ASSEDEL, L'Association européenne pour la défense des droits et des libertés is a Strasbourg-based non-profit human rights advocacy association. Its objective is to disseminate, promote and defend human rights and fundamental freedoms in the spirit of the European Convention on Human Rights, both within the Council of Europe system and at the local, national, and international levels. The organization guides and supports victims of human rights violations¹.

This report aims to present a broad review concerning prisons in Turkey. This includes the deteriorating conditions that inmates and detainees have been facing and the unfair implementations which have been systematically carried out by officials.

B. RESPONSE TO THE FOLLOW-UP COVID-19 RELATED STATEMENT BY THE COUNCIL FOR PC-CP WG

The Council for Penological Co-operation Working Group (PC-CP WG) has held their 25th meeting on 8-10 September 2020. Additionally, members of the European Organization of Prison and Correctional Services (EuroPris) and the Confederation of European Probation (CEP) attended the meeting which aims to improve the general conditions of the prisoners within the member states, after the outbreak of COVID-19. Some states have taken measures in line with the proposals of the Council. However, these changes are not sufficient to stop or limit the spread of the virus in prisons.

Considering the challenging aspects of the ongoing situation our counter-arguments for the "*Follow up Statement Covid-19*"² are;

- **In article 1:** The Council stated that "*timely and proportionate measures were taken by virtually all prison and probation services in Europe.*"

When it comes to Turkey, which is also a member state, this statement does not match with reality. While the prisoners who have been serving their punishments pursuant to serious non-political crimes were released owing to the coronavirus pandemic, the political detainees were

¹ <https://assedel.org/qui-sommes-nous/>

² FOLLOW-UP COVID-19 RELATED STATEMENT BY THE COUNCIL FOR PENOLOGICAL CO-OPERATION WORKING GROUP (PC-CP WG) held on 8-10 October

kept locked behind bars and officials having ignored the necessary measures to offset the deadly effects of the Covid-19.

-In article 2: The council stated that *“In a few countries, restoration of face-to-face visits with safety precautions was implemented.”*

Turkish General Directorate of Prisons and Detention Centers announced³ that all face-to-face visits will be stopped from 14 March 2020 during the Corona lockdown to prevent the spread of the virus. This prohibition of visits lasted months, and it psychologically exhausted political prisoners and their relatives, loved ones, and their friends.

Restrictive measures should be proportionate. Unfortunately, in this case, the restrictions which were taken by far exceeded its normal boundaries compared to precautions taken in other European states.

-In article 6 and 14: *“As solitary confinement and in particular prolonged periods of such confinement, have a noteworthy negative impact on the mental and physical health of detainees, as detailed in the recently revised and updated European Prison Rules and their commentary (Rules 53 and 60.6)” para. 6*

“However, such a quarantine period should not amount to solitary confinement and should not last more than strictly necessary.” para. 14

As stated, both in paragraph 6 and 14, solitary confinement is considered as a form of human rights violation and even to some extent the word “torture” would be the best to define these unlawful practices. Unfortunately, in Turkey, prison administrations hold such a fierce power that they can easily force detainees and inmates to be locked in weeks and sometimes for months.

Stockholm Centre for Freedom (SCF) made a detailed examination and listed the names of judges and prosecutors who have been faced with solitary confinement for years. SCF report claims that;

³ <https://cte.adalet.gov.tr/Home/SayfaDetay/ceza-infaz-kurumlarinda-kovid-19-pandemi-surecine-dair-kamuoyu-aciklamasi17062020045113>

“Former İstanbul prosecutor Sadrettin Sarıkaya who has been detained on bogus terrorism charges after the controversial 2016 coup attempt has been held in solitary confinement for more than 500 days, according to his son Seyfullah Sarıkaya.”⁴

Also, SCF revealed the names of dismissed judges and prosecutors who are under solitary confinement and listed them as below:⁵

| Name of the Prison | Town/City | Names of the Prosecutors and Judges |
|---------------------------|------------------|---|
| Silivri Prison | Istanbul | Ertuğrul Ayar, Servet Sağlam, Mahmut Baltacıoğlu, Burhan Alıcı, Muhsin Durmaz, İbrahim Kır, Oktay Acu, Güray Batur, Yusuf Memiş, Muzaffer Özdemir, Mehmet Bahadır, Lütfullah Sami Özcan, Türker İkibaş, Mustafa Köylü, Remzi Gemici, Metin Kukul, Mustafa Altun |
| Sincan Prison | Ankara | Serkan Kızılyel, Suat Sonay, Yılmaz Erdem, Miklat Başaran, Mustafa Aydın. |
| Keskin Prison | Kırıkkale | Ali Kaya, İbrahim Güneç, Mine Kaya, Muharrem Karayol, Muzaffer Karadağ, Mustafa Akarsu, Dursun Murat Cevher, Mehmet Çelik, Bekir Sözen, Hüsamettin Uğur, İdris Berber |
| Gaziantep L-Type Prison | Gaziantep | Mehmet Arslantaş, Hüseyin Uğurlu, Hüseyin Baş, Hüseyin Görüşen, Davut Bülbül, Nevzat Yörük, Salih Dağ, Mehmet Emin Kurt, Ömer Yıldırım, Selami Candemir, Hasan Kanlı, Emrullah Aycı |
| Yavuzeli Prison | | Ümit Sade |
| Silvan Prison | Sanliurfa | Tuğrul Hançerkıran, İlkey Aydın, Onur Gündem, Ahmet Kırtepe, Mustafa Aslan, İsmail Turgut Kıldan |
| Adana Prison | Adana | Mustafa Çolak, Taha Ekim, Şehmuz Akçakaya, Özlem Akçakaya |
| Bolu Prison | Bolu | Yener Yavuz, Yılmaz Şengül, Bahattin Akman, Habib Atasoy, Celaleddin Dönmez, Tahir Kaplan. |
| Osmaniye Prison | Osmaniye | Fatih Taş, Metin Akdemir, Nihat Hırka, Emin Aydın |
| Duzce Prison | Duzce | Atilla Aslan, Osman Kılınçaslan |
| Kandıra Prison | Kocaeli | Yakup Navruz, Seyfullah Çakmak, Rasim İsa Bilgen |
| Gebze Prison | | Ayşe Neşe Gül |

⁴ <https://stockholmcf.org/former-turkish-prosecutor-held-in-solitary-confinement-for-500-days/>

⁵ <https://zamanaustralia.com/2018/06/iste-isim-isim-2-yildir-hucrede-tutulan-hakim-ve-savcilar/>

| | | |
|----------------------|---------------|----------------------------|
| Akşehir Prison | Konya | Eren Şenli, Mesut Arkuntaş |
| Samsun Prison | Samsun | Naim Karaağaç |
| Kahramanmaraş Prison | Kahramanmaraş | Durdu Kavak |
| Denizli Prison | Denizli | Faruk Büyükkaramuklu |
| Trabzon Prison | Trabzon | Adem Yazar |
| Van Prison | Van | Hidayet Erkeç |

Table 1. Dismissed judges and prosecutors who are under solitary confinement

-In article 12: It is stated that *“In countries where the offenders need to contribute to the costs of electronic monitoring, such costs should be compensated in order not to bar them from the use of such measures due to purely financial reasons.”*

Unlike this statement, one can disclose that, in Turkey, prisoners still have to pay their electricity expenses. Even for the mandatory lights, which must be kept switched on 24/7 so that the camera’s vision quality will not be lessened. Implementing such a rule costs too much money, especially for the prisoners with low-level-incomes. Considering the global financial crisis due to the Covid-19, it would not be reasonable to expect prisoners to pay for these expenses.

-In article 15: *“The Council urges the prison and probation services to pay specific attention to dealing with these problems, by offering additional responses, including services for victims, as well as medical and psychological treatment, cognitive behavior therapy, addiction therapy and other interventions as appropriate, for offenders.”*

Although the Council encouraged the states to provide additional services to deal with these issues, throughout the process, prison administrations are far from helping, if they are not causing the conditions worse. COVID-19 was an emerging troublesome fact where a wide range of human rights violations has already happened during the process after the controversial coup attempt of 15th July 2016.

C. DISCRIMINATIVE OMNIBUS BILL⁶ RELEASING ALL CRIMINALS BUT POLITICAL DETAINEES

COVID-19 pandemic has made an abrupt effect all around the world and, therefore, can be perceived as a turning point for governments in terms of effective administration and taking proportionate timely measures. After the wildly increasing numbers of infected people and deaths, Turkey also has started to implement a set of measures aiming to stop the spread of the pandemic.

International human rights law guarantees everyone the right to the highest attainable standard of health and force governments to take further steps to prevent threats to public health. In line with the ruling, a new omnibus bill was passed from the Turkish Parliament which reduces the execution periods and releases up to 90,000 inmates and detainees. However, unfortunately, these steps were taken not only insufficient but also in discriminative ways. The details of the omnibus bill claim that these provisions excluded some targeted groups such as those who have been accused of being a member of a “terrorist organization”, from the scope of the omnibus bill, as laid down on the articles 18/2-a, 48, and 50/9-a. These provisions explicitly ban the release of the political detainees since they are perceived as dissidents of the ruling party (AKP). An ordinary observation claims that the released prisoners are non-political prisoners such as mafia leaders, murderers, rapists, thieves, etc. All these criminal groups were released, while political detainees have been kept in prisons irrespective of the danger of deadly Coronavirus.

At this point, it is vital to indicate that the Member States are under binding obligations deriving from three groups of rights:

1-Positive Statute Rights

2-Negative Statute Rights

3-Active Statute Rights

According to Positive Statute Rights, “the State not only to refrain from the intentional and unlawful taking of life but also to take appropriate steps to safeguard the lives of those within

⁶ <https://www.resmigazete.gov.tr/eskiler/2020/04/20200415-15.pdf>

its jurisdiction”⁷. This means that states and governments first actively take every measure to protect their citizens’ right to life.

The “*right to life*” has been described at times as “*the supreme right*”, “*one of the most important rights*”⁸, “*the most fundamental of all rights*”⁹, “*the primordial right*”¹⁰, “*the foundation and cornerstone of all the other rights*”¹¹, the “*prerequisite for all other rights*”¹² and a right which is “*basic to all human rights*”. All of them can be assessed under the right to life.

At this very point, Turkey, a party with a wide range of international treaties, must comply with the very strict rules as laid down by the treaties or conventions, feeling the sense of liability to protect its citizens under the abovementioned obligations.

C. OBSERVATIONS

1) DETERIORATING CONDITIONS OWING TO OVERCROWDED POPULATION

Especially after the 15th July coup attempt, the Turkish government started to put the dissidents behind bars and prisons have become overcrowded. In many cases, since the number of inmates and detainees reached historical peaks in a very short period, the capacity of these institutions has been excessively surpassed.

When analyzing the major prisons facing overcrowdedness, Silivri prison, Istanbul, is the first to be mentioned, in which inmates and detainees are kept in very small wards. Silivri prison consists of 9 different sub-prisons, each of which has its administration; allocating different facilities to inmates and setting a wide range of rules that differ from one sub-prison to another.

⁷ <https://rm.coe.int/168007ff4d> page 20- II. Protection of personal life and integrity

⁸ *Stewart v. United Kingdom* (App. No. 10044/82), (1985) 7 EHRR 453.

⁹ Theo C. Van Boven, ‘The Need to Stop Deliberate Violations of the Right to Life’, in Daniel Premont, ed., *Essais sur le concept de ‘droit de vivre’ en memoire de Yougindra Khushalani*, Brussels: Bruylant, 1988, pp. 285–292, p. 285.

¹⁰ Bertrand G. Ramcharan, ‘The Concept and Dimensions of the Right to Life’, in Bertrand G. Ramcharan, ed., *The Right to Life in International Law*, Dordrecht/Boston/Lancaster: MartinusNijhoff, 1985, pp. 1–32, p. 12; Ren´e Brunet, *La garantie internationale des droits de l’homme d’apres la Charte de San-Francisco*, Geneva: Grasset, 1947, p. 211.

¹¹ Inter-American Commission of Human Rights, *Diez A˜nos de Actividades, 1971–1981*, Washington, D.C.: Organization of American States, 1982, p. 339; Annual Report of the Inter-American Commission on Human Rights, 1986–1987, OAS Doc. OEA/Ser.L/V/II.71 doc. 9 rev. 1, p. 271.

¹² ‘Initial Report of Uruguay’, UN Doc. CCPR/C/1/Add.57.

Although all the wards in Silivri prison have been built to enable the accommodation of 7 inmates, recently this number has increased to 45¹³. Additionally, the lack of hygiene, lack of space, and lack of social activity facilities can be counted as other depriving factors affecting the inmates.

Moreover, the lack of a personal bed allocated to each of the inmates is another factor worth mentioning. Sadly, many inmates have been forced to share the same bed since there are insufficient beds as a result of the aforementioned overcrowdedness.

2. TORTURE, ILL-TREATMENT, AND DEPRIVATION OF RIGHTS

Pretrial detention has become a tool of punishment against defendants by violating their rights stipulated by law. Especially after the failed coup attempt, hundreds of thousands of dissidents have been arbitrarily and unlawfully detained and then imprisoned through disregarding constitutional rights such as the right to access to justice, the right to a fair trial, and the right to access a lawyer, etc.

Following the above-mentioned explanations, it can be observed that both the government and the prison administrations are –and have been- breaching the most fundamental human rights, violating provisions protecting the core of these rights stated in relevant codes and those of the constitution.

I. TORTURE

By definition;

“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official

¹³ <https://www.evrensel.net/haber/404769/silivri-cezaevinde-7-kisilik-kogusta-45-kisi-kalmaya-devam-ediyor>

capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”¹⁴

The Convention that Turkey ratified on 25.01.1988 published by the Official Gazette on 29 April 1987, was put into force. Although Turkey is a member state of the Convention, sadly, quite a lot of torture cases still take place, especially after the so-called coup attempt.

- **Legal grounds that prohibit torture in Turkey;**

1-Turkish Constitution regulates the prohibition of torture in Article 17/3 as;

“No one shall be subjected to torture or maltreatment; no one shall be subjected to penalties or treatment incompatible with human dignity”.

2- Turkish Penal Code regulates torture under part 3, like torture and torment, in articles 94, 95, and 96.

Article 94;

(1) A public officer who performs any act towards a person that is incompatible with human dignity, and which causes that person to suffer physically or mentally or affects the person’s capacity to perceive or his ability to act of his own will or insults them shall be sentenced to a penalty of imprisonment for a term of three to twelve years.

- **Reports published by different councils of the UN stating the presence of torture in Turkey**

I. Office of the United Nations High Commissioner for Human Rights

The report¹⁵ published by the Office of the United Nations High Commissioner for Human Rights concerning the year 2017 explicitly reveals that there has been systematic torture in Turkey. 4th subheading of the report namely “torture and ill-treatment” begins with frustrating words having been poured out of the mouth of a wife of a man suspected of being part of the Gülenist network, interviewed by OHCHR;

“They took me to the police station, terrorism unit ...They called the prosecutor and told him on the phone, “we have got a wife of a terrorist”. ... Then the police officer started threatening to take off my clothes and that

¹⁴ <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>

¹⁵ 2018-03-19_Second_OHCHR_Turkey_Report, page 19

they would show me to the detained men soldiers. He put his hands under my t-shirt and started to take it off. ... I was numb, silent.”

77. OHCHR documented the use of different forms of torture and ill-treatment in custody, including severe beatings, threats of sexual assault and actual sexual assault, electric shocks, and waterboarding.

79. OHCHR found that perpetrators of ill-treatment and torture included members of the police, gendarmerie, military police, and security forces.

80. “... OHCHR received reports of individuals detained and ill-treated without charge by anti-terrorism police units and security forces in unconventional places of detention such as sports centers and hospitals.”

II. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Report¹⁶ to the Turkish Government on the visit to Turkey carried out by the council on 10-23 May 2017 announced that;

90. “... many inmates were being held for prolonged periods under conditions which could, in the CPT’s view, be described as inhuman and degrading treatment.”

According to the recent reports concerning torture cases in prisons by human rights foundations and NGOs, a dramatic increase draws our attention at first sight. Since torture has been used as a way of suppressing dissidents aiming to deter and intimidate them behind bars, lots of cases can be mentioned under this heading. However, we will address only a few out of hundreds of torture crimes committed briefly.

III. Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment.

¹⁶ Report to the Turkish Government on the visit to Turkey carried out by the council on 10-23 May 2017

The report that was published on 5 May 2020 states that “Most prevalent forms of torture include food and sleep deprivation, beatings, waterboarding, and electric shocks.”¹⁷

IV. United Nations Human Rights Council

Report of the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment on his mission to Turkey

The Council held the 27th session between 26 February-23 March 2018 and Nils Melzer reported¹⁸ under the subheading namely Torture and ill-treatment that;

26. “According to numerous consistent allegations received by the Special Rapporteur, in the immediate aftermath of the failed coup, torture and other forms of ill-treatment were widespread, particularly at the time of arrest and during the subsequent detention in police or gendarmerie lock-ups as well as in improvised unofficial detention locations such as sports centers, stables and the corridors of courthouses. More specifically, the Special Rapporteur heard persistent reports of severe beatings, punches, and kicking, blows with objects, falaqa, threats and verbal abuse, being forced to strip naked, rape with objects and other sexual violence or threats thereof, sleep deprivation, stress positions, and extended blindfolding and/or handcuffing for several days. Many places of detention were allegedly severely overcrowded and did not have adequate access to food, water, or medical treatment. Also, both current and former detainees alleged that they had been held incommunicado, without access to lawyers or relatives, and without being formally charged, for extended periods lasting up to 30 days.”

When it comes to the other findings;

¹⁷ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25209>

¹⁸ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Turkey, Nils Melzer report, 27th session betw. 26 Feb. To 23 March 2018

- A report published by ASSEDEL reveals that there are two “non-existing, widely known torture centers” in Ankara.¹⁹ Since the beginning of 2016, approximately 25 people have been identified by surveillance cameras and witnesses’ testimonies.
- The Turkish Government has enacted, in advance, some decree-laws aiming to provide a kind of immunity for those who commit torture crimes. Moreover, the courts remained reluctant to carry out an effective prosecution phase with the effect of the political atmosphere.
- Preventive mechanisms such as Turkey Equality and Human Rights Institution also remained useless and idle throughout the process.²⁰
- A recent specific torture event²¹, of which the victim’s name is Mehmet Sıdık MEŞE, occurred in December 2020, has been declared by Diyarbakır Bar Association.
- According to the press briefing of the Bar, the victim prisoner has been tortured by the wardens of Diyarbakır 3-numbered T-type Prison at the beginning of December. Just after the torture, the prison officials tried to hide the pieces of evidence of the torture that had left marks on the body, so that the marks would disappear and cannot be revealed through an examination by a doctor.
- The lawyer of the victim reported to the General Attorney of Diyarbakır to be able to set out the details of the event and punish those who are responsible. Unfortunately, the perpetrators were encouraged as nothing had been done by the authorities, and the crime of torture was concealed.

II. ILL-TREATMENT

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) encourages national and international Human Rights bodies to raise awareness concerning ill-treatment cases inside the detention places. The CPT emphasized this crucial matter in the meeting held on 9 July 2020 as;

“The CPT wishes to recall the crucial importance for the prevention of ill-treatment of monitoring of detention places by independent national and international human rights bodies.

¹⁹ <https://assedel.org/assedel-research-has-submitted-the-ill-treatment-and-torture-report-to-coe-cpt/>

²⁰ <http://www.diken.com.tr/sistematik-iskence-kabusu-geri-mi-dondu/>

²¹ <https://gazetekarinca.com/2020/12/diyarbakir-barosundan-cezaevinde-iskence-aciklamasi/>

The findings of such bodies can be of great assistance to member States in assessing the practical impact of their policies upon persons deprived of their liberty.”²²

In line with this recall, we will briefly summarize the ill-treatment incidents that having been implemented in detention centers. Firstly, the Turkish Penal Code regulates the crime of ill-treatment under the section of “Torment” in Article 96 as follows:

“Any person who performs any act which results in the torment of another person shall be sentenced to a penalty of imprisonment for a term of 2 to 5 years. Where the act is committed against a child, a person who is physically or mentally incapable of defending himself or a pregnant woman, then a penalty of imprisonment for a term of 3 to 8 years shall be imposed”.

Just to concretize, a recently occurred series of violation of rights and ill-treatments to a former member of the Court of Cassation and a political detainee, **Hüsamettin Uğur**, in **Kırıkkale Keskin T-type prison**²³, sets out the inhuman and degrading treatments occurring towards vulnerable detainees by wardens. His daughter, Nalan Dilara Uğur, sadly detailed a series of systemically ill-treatments that have been undertaken by the wardens towards Hüsamettin Uğur.

“Firstly, they cut his clean water supply, then battered him badly out of sight of the cameras, which preceded harmful cell searches and scattering all his belongings to the ground. All his petitions remained ineffective since the wardens tore them apart and did not deliver them to whom it may concern. Additionally, the letter examination committee has kept the letters coming from his loved ones for weeks and then delivered or just simply refused to give the letters by claiming to be inappropriate words and statements.”

The table below indicates a brief list of victims of torture and ill-treatment only the tip of the iceberg that has been going on for 5 years in Turkey²⁴

²² Follow-up statement regarding the situation of persons deprived of their liberty in the context of the ongoing COVID-19 pandemic of CPT, 09.07.2020

²³ <https://www.dogrusu.com/news/tutuklu-yargi-uyelerine-iskencenin-sembolu-keskin-cezaevi>

²⁴ <https://assedel.org/assedel-research-has-submitted-the-ill-treatment-and-torture-report-to-coe-cpt/>

| Name of the Prison/Station | Town/City | Torturers | Complain | Victim (f:female) |
|-----------------------------|-----------|-------------------------|---|---------------------------|
| Tekirdağ No 2 F-Type Prison | Tekirdağ | 5 or 6 prison guards | Beating, torture | Ömer Köse |
| Denizli T-Type Prison | Denizli | Prison guards | Guards said her clothes' color was banned and forced her to enter prison without clothes. | Fatma Demir (f) |
| Denizli T-Type Prison | Denizli | Prison doctor | The doctor prescribed her a very high dose of medication, which was given to those who brutally attack others. | Fatma Demir (f) |
| Denizli T-Type Prison | Denizli | Emergency response team | In soundproof walls of a room, he was forcibly undressed, handcuffed, and tortured, because he wanted to be transferred to his father's ward. Father had a brain tumor and needed care. | Onur Demir |
| Ankara Police Department | Ankara | n/a | Torture | 80 undergraduate students |
| Ankara Police Department | Ankara | n/a | Female students were being stripped to their underwear and beaten down. | Female students |
| Ankara Sincan Prison | Ankara | n/a | As a healthy 48-year-old doctor, he was dead after 3 months of imprisonment. Authorities declared it as a heart attack, but medical reports indicated internal bleeding. | Ali Özer |

Table 2. Ill treatment and torture in Turkish prisons (limited list)

III. DEPRIVATION OF RIGHTS

-RIGHT TO COMMUNICATION

Letters, 10-minutes phone calls per week, and meeting visitors are the only means of communication allocated to detainees and inmates in prisons across Turkey. As seen in the case of Hüsamettin UĞUR, some of the letters sent to him have been kept for quite a long time and

in some cases even rejected claiming that the letters include forbidden statements and sent back by the letter examination board, causing another deprivation of a right.

-RIGHT TO MEET VISITORS

There are two types of meeting with visitors. One is behind the window via telephone and the other one is direct meeting in a room. The former is called “Closed meeting”, while the latter is called “Open/Free meeting”. Normally each of these meetings lasts one hour, but some prison authorities arbitrarily end meetings 30 minutes earlier, forcing visitors to leave hurriedly without considering the long distances they had come from.

-RIGHT TO ACCESS MEDICAL FACILITIES

One of the most challenging factors affecting prisoners’ lives can be considered as the lack of availability to see a doctor and receive medication. In most cases, petitions heading to the Prison administration remain ineffective. Sometimes this process takes even 2 months just to be examined by a doctor to state what the problem is. Also, it is stated in the report²⁵ of the Office of the United Nations High Commissioner for Human Rights that *access to a doctor and medical examination has been restricted*.

3. UNLAWFUL DETENTION OF DEADLY-ILL PRISONERS

❖ SPECIFIC CASES OF MEVLUT OZTAS AND FATI H TERZIOGLU

Mevlüt Öztaş and Fatih Terzioğlu died owing to the tardy displays of neglectfulness of the authorities. These concrete examples can help one to comprehend what people come across in terms of ill-treatment in Turkey.

We had **direct communication with Büşra Öztaş, daughter of Mevlüt Öztaş**, and she explained what kind of ill-treatment had been put into force against his beloved father, Mevlüt Öztaş²⁶. He had been kept in Uşak and Afyon T-type prisons between 01.02.2018-23.06.2020 and died owing to pancreatic cancer. After being diagnosed with cancer, his lawyer applied to Ankara Attorney General with a request to reprieve his punishment but failed. When he was

²⁵ 2018-03-19_Second_OHCHR_Turkey_Report, page 20, para. 83-c

²⁶ <https://kronos34.news/tr/tutuklu-gazeteci-mevlut-oztasin-cinayet-sonucu-olumu/>

released, cancer had already spread all over his body. After a short period from the release, he died.

We also contacted Ms. Esra Terzioğlu, wife of Fatih Terzioğlu²⁷, once a detainee between 24.09.2018-11.07.2020 in Silivri 7-numbered prison had been diagnosed with gastric cancer, died due to the delayed-release like Mevlüt Öztaş. During the process, they resort to almost any judicial or administrative authority but failed as well.

As seen from these occasions, release requests in similar situations have easily been refused without examining how crucial the case is. As a result of delayed releases, prisoners who had been facing deadly illnesses have died without any proper treatment.

4. DEATHS OF PRISONERS

❖ **A recent deeply affecting tragedy:** The death of Mustafa KABAKCIOGLU

He was a former police officer, who had been –mistakenly- thought to get infected by Covid-19 found dead in his quarantine cell. The reason for using the word “mistakenly” is Mr. KABAKCIOGLU was not Corona tested. Although he was severely ill and had written several petitions to request to see a doctor, the prison warden did not let him see a doctor. Finally, the authorities of the prison separated him from his usual and regular cell and moved him to a quarantine cell, which was ultimately damp, fusty, and an unsuitable place even for a healthy person.

Mustafa KABAKCIOGLU, a former prisoner in Gumushane E-type prison, was one of the tens of thousands of Decree-Law victims. With the outbreak of the Coronavirus pandemic, most of the inmates and detainees were released owing to the massively dangerous Covid-19. As mentioned at the beginning of the report, the government discriminated against the prisoners according to the type of “crime” they committed. While even convicts of the most dangerous crime types such as murder, sexual offense, and child abuse have been released, the political detainees were exempted from the legal regulation that allows prisoners to be released.

²⁷ <https://www.haberasi.com/yonetmen-fatih-terzioglu-cezaevinde-yakalandigi-hastalik-sebebiyle-vefat-etti/16790/>

To see the bigger picture below is a detailed list of known casualties inside the prisons²⁸.

| Prison | Prisoner | Date of the death | Reason |
|-------------------------|------------------|--------------------|---|
| Düzce Prison | Metin Yücel | January 19, 2021 | He was a lawyer and registered with the Bilecik Bar Association. He was also one of the founders of the Ak Party in Bilecik, did not remain silent against the injustices he saw. He fearlessly defended journalists, civil servants, housewives, and shopkeepers against the lawlessness in the courts. The brave lawyer of the victims, Metin Yücel, was arrested and sent to Düzce Prison. Despite all the efforts of the MPs and victims' families, he was thrown into prison with the slander of terrorism and not released. 51-yo Metin Yucel could not get rid of the Covid-19 disease he had caught in prison. |
| Tarsus Alifaki Prison | Seyfettin Kurtçu | December 25, 2020 | He was first dismissed from his teaching profession by decree. Later, he was detained for being sued and arrested on 20 June 2019. His son, a math teacher, was also in the same ward as his father. The tired heart of the 51-yo Kurtçu could not bear what he experienced any longer. He left behind a tearful wife, a son, and a daughter. |
| Afyon Prison | Ümit Gökhasan | November 23, 2020 | He was serving as a commissioner in Bitlis. Gökhasan, who was expelled by decree in November 2016, was arrested on March 8, 2017. He was sentenced to 6 years and 11 months in prison. He contracted stomach cancer in prison. He was sent back to prison after the surgery on February 13th. All of his treatments were half-finished, chemotherapy was not started, and he passed away in prison. |
| Istanbul Silivri Prison | Yusuf Kurt | November 20, 2020 | He was taken out of the barracks on the night of July 15, saying that there was a terrorist attack from the campsites in Yalova, was kept on the Fatih Sultan Mehmet Bridge until morning without getting off the bus, and taken to the police station in the morning, 4 days later, he was arrested like all cadets and was sent to Silivri Prison and he was imprisoned for 8 months. After his release, he caught spinal cancer due to extreme stress, and Kurt and 70 cadets were sentenced to life imprisonment during the ongoing court process. Every court stress increased the tumor even more and Yusuf Kurt succumbed to the tumor that spread throughout his body towards the evening of 20 November. |
| Siirt Prison | Cengiz Karakurt | September 22, 2020 | 41-yo was dismissed with a decree from his profession. He was a Physics teacher in Batman, was arrested within the scope of Hizmet Movement investigations, and put in Siirt Prison. He fainted during a headcount in the ward. Karakurt passed away in the intensive care of the hospital where he was taken. Although he was ill since he had been through open-heart surgery in the past, this situation was passed on official statements as a cold. |

²⁸ ASSEDEL-III-treatment-and-torture-report-2021 page 26

| | | | |
|--------------------------|---------------------|--------------------|---|
| Kütahya Tavşanlı Prison | Veysel Atasoy | September 21, 2020 | The former police officer was dismissed from his job by KHK. He caught the coronavirus and died in Kütahya Tavşanlı Prison where he was detained. |
| Istanbul Bakirkoy Prison | Beyza Özden (f) | September 03, 2020 | She was a director of a student hostel and jailed in Bakirkoy Prison in Hizmet Movement investigations. Her body could not stand anymore and she died when she was 27-yo. |
| Gümüşhane Prison | Mustafa Kabakçıoğlu | August 29, 2020 | He was dismissed from his job while he was a deputy commissioner in Giresun Police Department, was arrested, and sent to Gümüşhane Prison. Police officer Kabakçıoğlu, who was suspected of Covid19, died in a solitary cell, although his cough increased he was not taken to the hospital. His family filed a criminal complaint with the Gümüşhane Public Prosecutor's Office regarding the death. |
| Kandıra Prison | Yusuf Uzun | August 07, 2020 | Yusuf Uzun, an accounting teacher died from cancer in Kandıra Prison, where he was detained after being dismissed from teaching in Kocaeli Darica. He succumbed to the relentless disease which he had been fighting for three years. |
| Nevşehir Prison | Caner Durukan | June 03, 2020 | He was a health officer who was dismissed from his job with a decree died in the Oncology intensive care of Kayseri Erciyes University Hospital, where he was treated. Durukan was arrested in mid-2017 as part of Hizmet Movement investigations and stayed in Nevşehir Prison for a year, has been receiving treatment for bowel cancer for 2.5 years. When Durukan's treatment was delayed in prison, the tumor spread to his liver. |
| İzmir Kırıklar Prison | Özgür Doğan | April 11, 2020 | 43-yo literature teacher and father of 3, dismissed from his profession with decree No. 672. He was diagnosed with cancer in prison but was not evacuated until his illness reached the 4th stage as a result of negligence, and it was too late for everything after his release. |
| Kahramanmaraş Prison | Ümit Erdiñç | April 02, 2020 | Diabetic Ümit Erdiñç, who was detained in Kahramanmaraş Prison, died of a heart attack. |
| Malatya Prison | Medeni Arifoğlu | January 25, 2020 | He was one of the respected businessmen of Bingöl. After the state of emergency, all his assets were confiscated and he was arrested and put in Malatya Prison. He had a liver transplant, his appendicitis burst in prison, and was in intensive care. Medeni Bey, who was sentenced to 7.5 years, had not been released despite an 86% apology report. Despite all his efforts he was left to die. |

Table 3. Known casualties in Turkish prisons, January 2020-January 2021

5. “STRIP SEARCHES” FOR WOMEN

A strip search is a rare type of search that can be applied in very special situations at prison entrances and exits when the subject person is suspected of having a foreign substance or object while entering. It is a legal practice, but it has always been applied to men and women arrested for the same reason, namely labeled as 'terrorist' by the regime. Except for today's regime, the practice of strip-search has not been seen in other periods.

Recently, a group of female ex-prisoners has published shocking videos on their social media accounts in which they insist they have been subjected to shameful scrutiny during detention, prompting criticism.²⁹ One of the lawyers has expressed that she was one of the dozens of victims of this humiliating search, remembering the date and place where the physical examination was futile.³⁰

MP and human rights advocate Dr. Omer Faruk Gergerlioglu has spoken about the incident and said “Those who have been practicing strip-search on women causing the feeling of shame and fear are -moreover- trying to cover up the unfortunate occasions by lying and slandering³¹.” European Parliament, The Chair of Subcommittee of Human Rights Marina Arena recently verified the strip-searches in Turkey.³²

6. UNLAWFUL SEARCH OF WARDS

Most of the prisons carrying out their own rules are using wardens as a tool for punishing the dissidents. Although there are several ways of doing this, periodical searches of wards allow the administration to put their ideas into practice. During the search, wardens enter the wards and gather all the prisoners in the yard then begin to scatter all clothes, beds, and even books to the ground.

Mr. Hüseyin Torlak, who is currently imprisoned in Afyonkarahisar No 2 T-Type Prison for terrorism charges, has explained his experience:

²⁹ <https://newsdol.com/ksaeng/naked-examination-shocking-testimonies-from-female-prisoners-in-turkey/>

³⁰ <https://newsdol.com/ksaeng/naked-examination-shocking-testimonies-from-female-prisoners-in-turkey/>

³¹ <https://tr.euronews.com/2020/12/20/cezaevlerinde-c-plak-aramalar-nas-l-gundem-oldu-kim-ne-diyor>

³² <https://twitter.com/MDrougka/status/1377307045880336390>

'The A-13 ward was searched by guards on Aug. 21, 2020. The entire ward was subjected to inhuman treatment and psychological torture during this search. Despite the epidemic, the guards entered the ward without masks and gloves. Our beds were pressed with shoes.'

Considering the regime's attitude towards the people they accuse as 'terrorists', one can guess how the practice was at the guardian level.

7. INSUFFICIENT NUTRITION, LIMITED HOT WATER

According to the rules of 'Rights of Prisoners' published by the **General Directorate of Prisons and Detention Houses, 72(1) says: *The convict is given nutritious food in quality and quantity, suitable for health conditions, reasonable variety, taking into account age, health, the nature of the job, religious and cultural requirements, and drinking water to keep him healthy and strong, based on calories to be determined jointly by the Ministries of Justice and Health.***

(2) The convict can obtain his needs other than the daily food and necessities from the institution canteen. In institutions that do not have a canteen, these items can be procured from outside under the permission and control of the administration.

(3) The sick convict is given food to be determined by the institution physician.

(4) Children staying with their mothers and breastfeeding mothers are given food appropriate to their situation.³³

However, the reality in Turkish prisons contradicts the law. Lack of food, cold and hot water can be considered as one of the most significant problems that prisoners have been facing. Some prisons provide hot water only for 1 hour a day, while some others put limits even for the cold water. Also, the meals provided by the administration have been gradually reduced, resulting in insufficient nutrition that has caused new illnesses owing to lack of food. Children staying with their mothers because of their young age are not served in prisons. Mothers lack the necessary and nutritious food to feed their children at their very growing ages.

8. MAKE UP DISCIPLINARY PUNISHMENT

³³ <https://cte.adalet.gov.tr/Home/SayfaDetay/hukumflu-haklari>

It is a general outcome that if the rule of law lacks somewhere, then anarchy and arbitrariness will outbreak. In this case, making up fake disciplinary reports to suppress prisoners are quite broad in terms of deterring them not to try their rights before the judicial mechanisms. Additionally, since there is no effective petition recording system, some petitions are being removed without submitting to concerning institutions.

In some cases, wardens intentionally intimidate prisoners and wait for them to respond, by doing so, the aim is to make fake reports and pave the way for detainees to be punished by the general disciplinary committee of the prison.

These punishments are vital since, as a result, prisoners may be banned from some of the most basic rights such as meeting visitors, phone call rights, and restricted intake of letters.

9. SOLITARY CONFINEMENT

The ultimate level of protection and quite a high priority must be assured by state officials with regards to human rights. Solitary confinement, one of the most right-restraining types of punishment, threatens the guarantee of being treated well under the scope of both international and national human rights protection provisions.

As emphasized in most of the HR-based documents and reports of sub-councils of UN, solitary confinement can only be applied under certain circumstances and for a determined period so that prospective arbitrary implementations can be eliminated.

As mentioned above, prolonged periods of such punishment deteriorate not only the physical but also the mental health of detainees, and therefore these kinds of ultimately restrictive enforcements have to be proportionate and measured.

As for Turkey, legal provisions for supervising officials are inadequate. Ineffective provisions cause uncertainty and pave the way for prison administrations to enforce any kind of punishment to detainees without being charged.

Some news on the media persistently indicates that more than 3 thousand detainees have been kept under solitary confinement.³⁴

³⁴ <https://www.dw.com/tr/t%C3%BCrkiyede-tek-ki%C5%9Filik-h%C3%BCrelerde-ka%C3%A7-mahk%C3%BBm-var/a-48624244>

Legal grounds of solitary confinement in Turkey

- **Article 44/1 of the Law No. 5275 on the Execution of Penalties and Security Measures (CGTİHK)³⁵;**

“that those sentences are kept in a cell day and night, without prejudice to the right to go out into the open air and is deprived of all contact.”

- **Article 17 of the Turkish Constitution.**

"Nobody can be tortured and tormented, nobody can be subjected to a punishment and treatment incompatible with human dignity."

Finally, below, related paragraphs with the topic are quoted from the follow-up Covid-19 related statement by the council of PC-CP WG.

6. As solitary confinement and in particular prolonged periods of such confinement have a noteworthy negative impact on the mental and physical health of detainees, as detailed in the recently revised and updated European Prison Rules and their commentary (Rules 53 and 60.6), ... As a general rule, the PC-CP wishes to underline that any such restrictions on rights and freedoms of persons under the supervision of prison or probation services should be temporary only and should be proportionate to the severity of a crisis, as well as to its impact and timespan, and should be lifted as soon as the source for their introduction has ceased to exist³⁶.

14- “The practice of quarantining new arrivals in prison in separate cells/ wings as a precautionary measure to prevent the spread of a virus before a prisoner’s allocation to an ordinary accommodation wing represents a necessary measure during a pandemic. However, such a quarantine period should not amount to solitary confinement and should not last more than strictly necessary³⁷.”

³⁵ <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5275.pdf>

³⁶ covid-19-related-statement-by-the-members-of-the-council-for-penological-co-operation-working-group-pc-cp-wg para.6

³⁷ https://www.coe.int/en/web/prison/home/-/asset_publisher/ky2olXXXogcx/content/covid-19-related-statement-by-the-members-of-the-council-for-penological-co-operation-working-group-pc-cp-wg-?_101_INSTANCE_ky2olXXXogcx_viewMode=view/