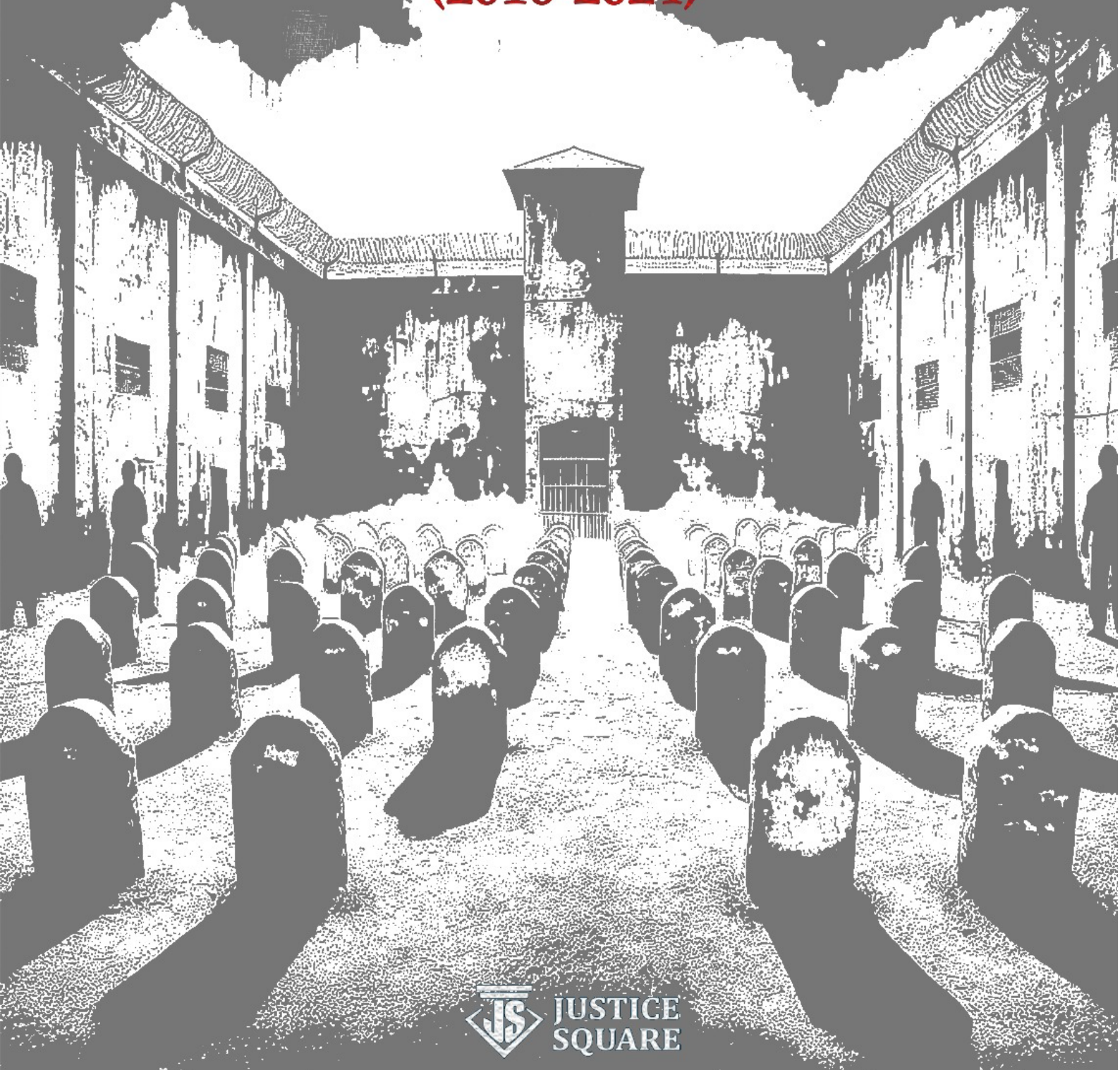


STICHTING JUSTICE SQUARE

Health Challenges in Prisons - Death Cases and Suicides

TURKISH PRISONS REPORT (2016-2024)



JUSTICE
SQUARE

TURKISH PRISONS REPORT

(2016-2024)

Publication No. : 06

Typesetting and Publication: Stichting Justice Square Publications

COPYRIGHT © Stichting Justice Square Publications 2025

All publication rights of this work belong to **Stichting Justice Square**.

It is forbidden to reproduce, publish or store photographs, text, documents and information contained in the work electronically, mechanically, photocopy or by any recording system without the prior written permission of Stichting Justice Square.

The present study was prepared by the Academic Studies Group of Stichting Justice Square.

Contact details

Web : www.justicesquare.org

Email : info@justicesquare.org

Twitter : @SJusticeSquare

Instagram : @jjjusticesquare
@jjjusticesquareEN



ABOUT US

Stichting Justice Square, based in Amsterdam, is a non-profit and non-governmental organisation working globally to make a meaningful impact on the lives of persecuted people, refugees, victims of war and those affected by conflict and displacement by promoting democratic values, encouraging international cooperation and advocating for the protection of human rights. In particular, human rights violations in Turkey are closely monitored by the Foundation and regularly reported to the public. In this context, our Foundation also sends briefing letters and submissions to the relevant institutions and organizations in order to present the violations of rights to the international institutions and organizations.

www.justicesquare.org

CONTENTS

ABOUT US	3
CONTENTS	4
ABBREVIATIONS	11
INTRODUCTION	12
CHAPTER I: NATIONAL AND INTERNATIONAL LEGAL GUARANTEES FOR PRISONERS WITH HEALTH ISSUES	27
A. RIGHT TO HEALTH IN GENERAL	27
B. LEGAL GUARANTEES IN INTERNATIONAL LEGISLATION REGARDING THE RIGHT TO HEALTH OF PRISONS AND PRISONERS	28
a. UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)	29
b. European Prison Rules	29
c. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	30
d. International Covenant on Civil and Political Rights	30
e. World Health Organisation Prison Health Guidelines	30
f. European Committee Against Torture and Inhuman or Degrading Treatment or Punishment Standards	30
g. United Nations Human Rights Committee General Comment No. 21	31
h. Istanbul Protocol	31
C. BASIC LEGAL GUARANTEES IN NATIONAL LEGISLATION	31
a. In General	31
b. Basic Principles on Medical Examination and Treatment	32
c. Basic Principles and Guidelines for the Examination of Detainees and prisoners	33
aa. Providing a Health Service in Accordance with Human Dignity	34
1. In General	34
2. The Right to Health and Medical Care in Prisons in Accordance with Human Dignity	35
bb. Compliance with the Principle of Equality in the Execution of Health Services in Prisons and the Prohibition of Discrimination	37
d. Medical Treatment Process of Prisoners	38
D. PERSPECTIVE TURKISH JUDICIARY ON PRISONERS WITH HEALT ISSUES	40

a. The Transition from an Independent Judiciary to a Regime Judiciary and its Severe Consequences	40
b. Reflections of Discriminatory and Arbitrary Practices of the Regime Judiciary on Prisons	41
c. Discriminatory Regime Practices and Legitimation of Unlawful Trials by the Supreme Judiciary	42
d. Efforts of The Constitutional Court to Cover Up Violations of Rights	44
aa. In General	44
bb. Cases Where the Constitutional Court Normalised Violations Stemming from a Culture of Impunity	44
1. Sinan Büyükorallı Judgement (Ap. No: 2019/17034, 14/9/2022)	45
2. Kadir Altınışık Judgement (Ap. No: 2021/18544, 15/11/2023)	46
3. Fatma Törer Judgement (Ap. No: 2017/14734, 16/9/2020)	49
4. Sinan Gülsu Judgement, (Ap. No: 2019/34602, 11/5/2022)	51
5. Şerif Ağu Judgement (Ap. No: 2019/14028, 18/1/2022)	52
6. Deniz Şah (5) Judgement, (Ap. No: 2020/13465, 21/11/2023)	54
7. Yusuf Özmen Judgement (Ap. No: 2019/13637, 30/6/2021)	55
8. Batuhan Gökçe and Others Judgement (Ap. No: 2018/36427, 06/10/2021)	58
9. Zehra Reyhan Güven Judgement (Ap. No: 2021/4587, 22/04/2021)	59
cc. Evaluation of the Constitutional Court Decisions	60
E. Pardon of the sentences of sick prisoners by the president of the republic and discriminatory decisions in practice	61
F. SYSTEMATIC, DISCRIMINATIVE AND HATE-Motivated PRACTICES IN PRISONS CONSTITUTING CRIME AGAINST HUMANITY	64
a. The Concept of Crimes Against Humanity in General and the Emergence of this Crime	64
b. The Concept of Crimes Against Humanity within the Framework of the Rome Statute and Evaluation of Rights Violations in Turkish Prisons	65
c. The Concept of Crimes Against Humanity in Turkish Law and Evaluation of Rights Violations in Turkish Prisons	68
CHAPTER II: DECISIONS and REPORTS AGAINST TÜRKİYE FOR DISCRIMINATIVE PRACTICES AGAINST PRISONERS WITH HEALTH ISSUES	70
A. EUROPEAN COURT OF HUMAN RIGHTS JUDGEMENTS AGAINST TÜRKİYE	70
a. The ECHR's Perspective on the Issue	70
b. Sample Violation Judgements of the ECtHR on Türkiye	71
B. RESOLUTIONS AGAINST TÜRKİYE BY THE UNITED NATIONS (UN)	72
a. United Nations Resolutions	72
aa. United Nations Working Group on Arbitrary Detention: Opinion No. 38/2017	72

bb. Human Rights Committee: Mukadder Alakuş Decision	73
cc. Human Rights Committee: Gökhan Açikkollu Decision	74
b. Reports Prepared by the United Nations	76
aa. Concluding Observations on the Committee against Torture's Fourth Periodic Report on Türkiye (2016)	76
bb. Opinion of the UN Working Group on Arbitrary Detention (September 2022)	76
cc. Fifth Periodic Report of the UN Committee against Torture on Türkiye (14 August 2024)	77
dd. Second Periodic Report of the UN Human Rights Committee on Türkiye	78
C. REPORTS PREPARED BY THE EUROPEAN UNION	79
a. 2018 Briefing on EU Enlargement Policy (Türkiye Report 2018)	79
b. 2020 Briefing on EU Enlargement Policy (Türkiye Report 2020)	79
c. 2021 Briefing on EU Enlargement Policy (Türkiye Report 2021)	80
d. 2022 Briefing on EU Enlargement Policy (Türkiye Report 2022)	80
e. 2023 Briefing on EU Enlargement Policy (Türkiye Report 2023)	80
D. REPORTS ISSUED BY INTERNATIONAL HUMAN RIGHTS ORGANIZATIONS REGARDING SICK PRISONERS IN TURKEY	81
a. Amnesty International	81
b. Human Right Watch	82
c. Finnish Immigration Service Report	84
CHAPTER III: MAIN PROBLEMS EXISTING IN PRACTICE FOR PRISONERS WITH HEALTH ISSUES	85
A. MAIN PROBLEMS IN HEALTH SERVICES IN PRISONS IN GENERAL	85
B. HANDCUFFED MEDICAL EXAMINATION AND TREATMENT	86
a. The Rule; Unhandcuffed Medical Examination	86
b. Handcuffing of Seriously Ill Prisoners to Beds and Violations of Rights	90
aa. Koçer Özdal	90
bb. L.H.	90
cc. Tahir Gurdal	91
dd. Veysel Atasoy	91
ee. Ali Aydeniz	91
ff. Mustafa Aytaç	92
C. NON-RELEASE OF SERIOUSLY ILL PRISONERS AND PROBLEMS IN PRACTICE	93
a. In general	93
b. Problems and Rights Violations in Practice	94
D. NON-POSTPONEMENT OF EXECUTION OF SENTENCES	94

a. Basic Regulations Regarding the Postponement of the Sentence in the Event that the Convict Has a Disease that will Prevent the Execution of the Sentence	94
b. Postponement of the Execution of the Convicted Person Who Cannot Maintain His Life Alone Due to Illness and Problems in Practice	96
aa. Suspension of Sentences of Terrorism Prisoners Due to a Serious Illness or Disability	96
bb. Case Studies on Terrorism Prisoners Whose Execution is Not Postponed Despite Being Seriously Ill	98
1. Şerife Sulukan, as a dramatic example	98
2. 86-year-old bedridden convict Mustafa Said Turk travelling to prison with a stretcher	98
3. Seriously Ill Prisoner Nusret Muğla Abandoned to Death	99
4. No Postponement of the Execution of Yusuf Bekmezci, who is unconscious and in Intensive Care Unit	100
5. 87 Years Old Seriously Ill Prisoner Adem Cirit	100
6. Serious and Chronically Ill Prisoner Hanife Arslan	102
7. Staff Major Mehmet Gürlü with MS	102
8. Muharrem Cankılıç Had Heart Surgery Twice in Prison	104
9. Ulcerative Colitis Patient Emre Turan	105
10. Fourth Stage Cancer Patient Yusuf Ozmen	106
11. Advanced Kidney Patient Mehmet Parlak	107
E. THE BENEFIT OF SICK PRISONERS FROM SUPERVISORY RELEASE AND CONDITIONAL RELEASE and PROBLEMS EXISTING IN PRACTICE	108
a. Benefiting from Probation in the event that the prisoners are not able to maintain their lives alone due to illness, disability or husbandhood	108
b. Terrorism Prisoners Can Benefit from Probation If They Cannot Manage Their Lives Alone Due to Illness, Disability or Husbandhood	109
c. Benefiting from Conditional Release for Terrorism Prisoners	111
d. Deprivation of Probation and Conditional Release of Seriously Ill Terrorism Prisoners	112
aa. A Cancer Patient, Dismissed Judge Mustafa Başer,	113
bb. Halil Karakoç, 84 years old, seriously ill prisoner	114
cc. Ali Odabaşı, a lawyer who underwent 4 surgeries in prison	115
dd. Deprivation of Supervised Release of İsmet Özçelik, who was kidnapped from Malaysia, for making rosary beads from olive seeds despite being ill	116
F. AS OF 2024 BALANCE SHEET OF SICK PRISONERS AND INMATES IN PRISONS	117
CHAPTER IV: DEATH CASES AND SUICIDES	119
A. IN GENERAL	119

B.	HEALTH PROBLEMS IN PRISONS DUE TO COVID-19 PANDEMIC	121
C.	DEATH CASES IN PRISONS DUE TO INADEQUATE HEALTH SERVICES	122
a.	Death in the White Chair: Mustafa Kabakçioğlu	122
b.	Prisoner Announcing His Own Death: Halime Gülsu	124
c.	Non-Release of detained Court of Cassation Judge Mustafa Erdoğan until his death	126
d.	Death of Former CJP Judge Teoman Gökçe	127
e.	Suspicious Death of Police Chief Zeki Güven	129
f.	Adil Somalı Died While Waiting for Probation	131
g.	Kadir Eyce, a Young Policeman Driven to Death by Poor Detention and Penal Institution Conditions	132
h.	Fahrettin İşgüder, 73, Died in Prison	133
i.	Former Police Chief Necip Bulut Died Due to Lack of Treatment	133
j.	Muzaffer Cengiz Died in Solitary Confinement	134
k.	İsa Yasar	135
l.	Kemal Bilici	135
m.	Brigadier General Kemal Mutlun, who contracted cancer in prison	136
n.	Businessman Ünal Takmaklı	137
o.	Businessman Vahyettin Yahya Bayat	138
p.	Police Chief Ahmet Tatar	138
q.	Businessman Hasan Hayri Alp	138
r.	Academician Ahmet Turan Özcerit	138
s.	Colonel Adnan Cetin	139
t.	Geography Teacher Lokman Ersoy	140
u.	Dr. Ali Ozer	140
v.	Dentist Mehmet Inam	140
w.	Businessman Mustafa Törer	140
x.	Businessman Ahmet Ok	140
y.	Businessman Ahmet Kemal Kaya	141
D.	TORTURE AND ILL-TREATMENT OF PATIENTS IN DETENTION CENTRES AND HORRIFIC CASES	141
a.	In General	141
b.	Teacher Died of Heart Attack After Torture in Detention: Gökhan Açikkollu	143
E.	SUICIDE CASES IN PRISONS	145
a.	Increasing Suicide Cases in Türkiye After 15 July	146
b.	Suicides in Prisons and Detention Centres	153

aa. An Outlook of Suicide Cases in Prisons	154
bb. Causes of Suicide Cases and Psychological Factors	154
1. Poor Prison Conditions	154
2. Inadequacy of Health and Psychological Support Services	154
3. Abandonment to Civilian Death and Hate Practices	154
cc. Measures to be taken to reduce suicide cases	155
c. Suicide Cases in Detention Centres and Prisons	156
d. Suicides in Prisons in the light of Statistical Data	158
e. Some Cases of Suicide in Prisons during the State of Emergency	160
aa. Lieutenant Colonel İsmail Çakmak	160
bb. Enforcement Officer Ömer Çubuklu	161
cc. Public Prosecutor Seyfettin Yiğit	161
dd. Petty Officer Önder Irmak	162
ee. Engineer Burak Açıkalin	162
ff. Colonel İrfan Kızılaslan	163
hh. Aysel Koç	164
ii. Garibe Gezer	164
F. PRACTICES CONTRARY TO HUMAN DIGNITY FOR THOSE WHO DIE IN PRISON OR DETENTION DUE TO ILLNESS	165
a. Graveyard of Traitors	165
b. Bloody Coffin	167
CHAPTER V: ILLEGAL PRACTICES AGAINST PREGNANT, POSTPARTUM, SICK and WOMEN WITH CHILDREN IN PRISONS	169
A. ILLEGAL PRACTICES AGAINST PREGNANT, POSTPARTUM, SICK, AND WOMEN WITH CHILDREN IN PRISONS	169
B. DETENTION AND EXECUTION OF SENTENCES OF PREGNANT WOMEN OR WOMEN WHO HAVE RECENTLY GIVEN BIRTH AND EXPERIENCED PROBLEMS	170
a. In General	170
b. Situation Regarding Terrorism Prisoners	171
C. THE CONSTITUTIONAL COURT'S DISCRIMINATORY ATTITUDE	172
D. PREGNANT WOMEN, PUERPERANT WOMEN AND WOMEN WITH CHILDREN IN PRISONS	173
a. Baby Enis	175
b. Nurhayat Yıldız, a mother who lost her twin babies in prison	176
c. Law enforcement Officer at the Maternity Ward Gate	177
d. 20-month-old Ayşe Ercengiz arrested with her baby	179
e. Arrest of Parents of Six Children Together	179

E. CHILDREN IMPRISONED WITH THEIR MOTHERS	181
F. POSTPONEMENT OF THE EXECUTION OF THE SENTENCE OF A FEMALE CONVICT DUE TO THE ILLNESS OF HER CHILD	184
G. POSTPONEMENT OF THE EXECUTION OF THE SENTENCE OF A WOMAN CONVICTED OF TERRORISM DUE TO THE ILLNESS OF HER CHILD	185
a. Yusuf Kerim Sayın	186
b. Ahmet Burhan Ataç	187
CONCLUSION	189
SOURCES	198

ABBREVIATIONS

ATK	: Forensic Medicine Institute
AYM	: Constitutional Court
ECHR	: European Court of Human Rights
ECHR	: European Convention on Human Rights
CAT	: Committee against Torture
CGK	: Criminal General Assembly
CGTHK	: Law on the Execution of Criminal and Security Measures
CISST	: Civil Society in the Penal Execution System Association
CMK	: Criminal Procedure Code
CPT	: European Convention Against Torture and Inhuman or Degrading Treatment or the Committee for the Prevention of Torture
HRFT	: Human Rights Foundation of Türkiye
HRW	: Human Rights Watch
IHD	: Human Rights Association
SDIF	: Savings Deposit Insurance Fund
TCK	: Turkish Penal Code
TIHEK	: Human Rights and Equality Institution of Türkiye
TTB	: Turkish Medical Association
UN	: United Nations

INTRODUCTION

It is widely recognized that systematic, discriminatory, and hate-motivated policies tend to emerge in societies during certain periods, often driven by political and socio-economic developments. In Türkiye, various individuals, groups, and organizations have been targeted by such policies at different times throughout its history. The underdevelopment of a democratic social structure and the transformation of the masses into instruments of political agendas have contributed to the rise of antidemocratic and dehumanizing practices, especially on political grounds.

Under the Erdoğan regime, antidemocratic actions and practices have escalated, leading to unprecedented human rights violations compared to previous periods. This report aims to shed light on the plight of sick prisoners in Turkish prisons, including deaths, suicides, and the dire conditions faced by pregnant and postpartum women, as well as children. The current process, in which Türkiye has veered away from democratic values, has effectively turned the country into an open-air prison where violations of fundamental human rights permeate every sphere of life.

In addition to documenting these violations, this report addresses the legal implications of systematic and hate-driven activities that amount to crimes against humanity. It underscores how the discriminatory policies of the Erdoğan regime have led to the deliberate neglect of sick prisoners, leaving them to suffer and, in many cases, die due to inadequate healthcare provisions.

Another key focus of this report is the post-15 July period, during which systematic and hate-motivated violations have persisted with the same severity as on the first day. Despite the existence of reports by both national and international organizations, the lack of detailed examination and comprehensive documentation remains a glaring issue. This report distinguishes itself by presenting dozens of severe cases and shedding light on the systemic nature of these policies, which continue to jeopardize human lives on a daily basis.

To provide a clearer understanding of the current situation, the report also offers a brief overview of the developments and key events that paved the way for the establishment of the Erdoğan regime. By doing so, it seeks to place these human rights violations within a broader historical and political context, emphasizing the urgent need for accountability and systemic reform.

Antidemocratic formations and their political extensions, which consider social differences as elements to be destroyed or marginalised instead of seeing them as a richness, have always acted in the direction of marginalisation, encouraging rights violations and defending intolerance. In Türkiye, social groups such as Kurds, Alevis, Roma, Armenians, Christians and Jews have been targeted by hate speech from past to present. Recently, other

migrant groups, especially Syrians, have become the focus of increasing marginalisation due to war and internal conflicts.

The Gulen Movement is the latest target of discriminatory state policies and hate speech that have the potential to reappear in every period in Türkiye. The Gulen Movement is a formation that stands out with its educational and cultural activities and adopts a modern and moderate understanding of Islam based on dialogue and tolerance.¹ With these characteristics, the Movement has gained wide popularity both domestically and internationally.

Due to this popularity, the Erdogan regime established good relations with the Gulen Movement in the early years of its rule. One of the main reasons for this was the positive image of the Movement in the national and international arena through its educational, cultural and social activities. However, in the following period, the Gulen Movement became uncomfortable with the Erdogan regime's radicalised political Islam-oriented policies, organised corruption and authoritarian leadership style². While Erdogan wanted to control all groups and use them in line with his policies, the Gülen Movement was incompatible with this understanding and therefore chose to clearly dissociate itself.

The rift widened in the autumn of 2013 when the Erdoğan regime drafted a bill to close down the dershanes founded by volunteers of the Gülen movement in order to eliminate its human resources and disrupt its educational and cultural activities.

In the ensuing period, a huge bribery and corruption scandal erupted in which ministers, MPs, bureaucrats and prominent Justice and Development Party (AKP) members and their families were indicted, leading to a cabinet reshuffle and major turmoil within the party. The Turkish judiciary and law enforcement agencies began to subject the Erdogan regime to operations implicating it, publicly known as the "17/25 December bribery and corruption operations".³

In the aftermath of the 17/25 December investigations into corruption and bribery involving the Erdoğan regime, the Gülen Movement became the target of discriminatory and hate-based policies and practices that were systematic, planned and ultimately aimed at social exclusion and erasure. The police and judicial investigations into illegal activities involving many government bureaucrats, ministers, minister's children and individuals such as Iranian-born Reza Zarrab, who confirmed the process with his confessions in the US, led to the start

¹ See. Özdalga, Elisabeth: 'Worldly Asceticism in Islamic Casting: Fethullah Gülen's Inspired Piety and Activism', Critique, no. 17 (Fall 2000): 83-104; Turam, Berna: 'Between Islam and the State: The Politics of Engagement: The Engagements between the Gülen Community and the Secular Turkish State', PhD Thesis, McGill University, Montreal, 2001; Ergil, Doğu: Fethullah Gülen & The Gülen Movement In 100 Questions, Blue Dome Press (17 Dec. 2012); Agai, Bekim: The Fethullah Gülen Movement's Project for Islamic Ethics in Education, 27.02.2003, <https://fgulen.com/tr/hayati-tr/hareketi-incelemeler/Bekim-Agai-Fethullah-Gulen-Hareketinin-Egitime-Islami-Etik-Kazandirma-Projesi>

² Third Report of the Independent Commission on Türkiye, Türkiye in Europe The Inevitability of Change, March 2014, p.25 et seq. https://www.ab.gov.tr/files/ardb/evt/Avrupa_da_Turkiye_Degisiminin_kacinilmazligi_Bagimsiz_Turkiye_Komisyonu-Ucuncu_Raporu-2014-.pdf

³ For detailed information see: Wikipedia, "17-25 December Corruption and Bribery Operation", https://tr.wikipedia.org/wiki/17-25_Aral%C4%B1k_Yolsuzluk_ve_R%C3%BC%C5%9Fvet_Operasyonu,

of a new process in Türkiye. The Erdoğan regime holds the Gülen Movement responsible for these operations.

Following the 17/25 December, the Gülen Movement, which refuses to align itself with the AKP regime in Türkiye, which pursues a policy based on radical and political Islam, has been targeted by large-scale, systematic, discriminatory and hate-motivated practices of unprecedented intensity in the country's history. These practices ultimately aim to destroy the Gülen Movement.

After the 17/25 December period, when corruption and bribery investigations began, policies aimed at ending and destroying the Gülen Movement were transformed into state policy, this time citing the 15 July coup attempt as justification. The Erdoğan regime also held the Gülen Movement responsible for the coup attempt.

15 July Coup Attempt⁴, "Operation Peace at Home" as it is referred to in the coup text On 15-16 July 2016, a military coup attempt was carried out in Türkiye by a group of soldiers within the Turkish Armed Forces who identified themselves as the "Peace at Home Council". However, the coup attempt and its methodology have consistently been found questionable by the public and the main opposition parties. In this context, the Republican People's Party (CHP) described the coup attempt as a "controlled coup" in an attempt to explain this questionable situation.

It has also been frequently stated that the Erdoğan regime has turned the 15 July coup attempt into an opportunity to destroy the democratic parliamentary system and build a "one man regime"⁵. Although the Commission to Investigate the 15 July Coup Attempt established by the Grand National Assembly of Türkiye (TBMM)⁶ insistently invited Hulusi Akar, the then Chief of General Staff, and Hakan Fidan, the Undersecretary of the National Intelligence Organisation (MIT), to the commission in order to shed light on the coup attempt, neither of them came to testify.

What is even more serious is that the report prepared by the commission, which caused great controversy, was not published on the grounds that it was technically incomplete. In response to a parliamentary question on this issue, Süreyya Sadi Bilgiç, then Deputy Speaker of the Grand National Assembly of Türkiye, made the following statement⁷: *"The report submitted by the 15 July Coup Attempt Investigation Commission to former Parliament Speaker İsmail Kahraman on 12 July 2017 could not be printed and distributed during the 26th Legislative Term as it was not finalised. There is no report finalised by the Commission and submitted to our Presidency."*

⁴ For detailed information, see: Wikipedia, "15 July Coup Attempt", https://tr.wikipedia.org/wiki/15_Temmuz_Darbe_Giri%C5%9Fimi

⁵ BBC, "Kılıçdaroğlu: 15 July is a controlled coup attempt", 3 April 2017, <https://www.bbc.com/turkce/haberler-turkiye-39478777>

⁶ TBMM Minutes; https://www.tbmm.gov.tr/develop/owa/komisyon_tutanaklari.tutanaklar?pKomKod=1021&pDonem=26&pYasamaYili=2

⁷ Diken, "Meclis Presidency: No official 15 July report", 18/07/2022, <https://www.diken.com.tr/meclis-baskanligi-resmi-olarak-15-temmuz-raporu-yok/>

This resulted in the report, which was expected to dispel suspicions about the coup attempt, being concealed from the public.

The general and intelligence reports prepared by foreign countries on the coup attempt were not in line with the Erdoğan regime's theses. At this point, the European Union Intelligence Centre EUISTCEN's report prepared in August, immediately after the coup attempt, stated that Gülen personally had nothing to do with the coup attempt and accused the Erdoğan regime of preparing the list of purges in the army long before 15 July. Speaking to the weekly magazine *Der Spiegel*, Bruno Kahl, the head of Germany's intelligence service (BND), stated that *"there is not enough evidence that the Gülen movement was behind the coup attempt"*. Similarly, the UK Parliament's Foreign Affairs Committee, in its March 2017 report on Türkiye, which made recommendations to the government, stated that *"Our Foreign Office does not have sufficient information about the Gülenists and their role in the coup attempt"*⁸.

The reason for presenting information on what happened before and after the 15 July process in Türkiye is to provide an understanding of the development process of the Erdoğan regime's *one man* order and totalitarian regime in technical terms, and the economic, social, cultural and political rights violations against the opposition groups, especially the Gülen Movement⁹.

After the 15 July coup attempt, which Recep Tayyip Erdoğan accepted as "a blessing of God", systematic and mass detentions and arrests were made against opposition groups, especially members of the Gülen Movement, and they were sentenced to heavy penalties by judicial authorities that turned into regime courts. In this unlawful process, people's most fundamental rights such as the right to life, the prohibition of torture and ill-treatment, the right to liberty and security and the right to a fair trial have been taken away as a state policy. People were left to civilian death both in prisons and in civilian life under the influence of this hate policy.

These unlawful and discriminatory practices, which have become state policy in Türkiye, have manifested themselves in various ways in society and state institutions. The judiciary has ceased to be a provider of justice; it has turned into a regime judiciary that mediates the mass detention and arrest of opponents. These unlawful and arbitrary practices started to be implemented in all institutions of the state within the framework of a plan.

After the 15 July coup attempt, in the chaotic environment brought about by the State of Emergency (SoE), public officials committed acts of violence, threats, injuries and harassment against opposition groups, particularly members of the Gülen Movement, in prisons, detention centres and in civilian life, as well as direct discriminatory practices. Likewise, other opposition groups have also been severely affected by the culture of arbitrariness and impunity created by the state of emergency declared after the coup attempt.

⁸ Euro News, "The July 15 reports of Western intelligence organisations", 13/07/2017, <https://tr.euronews.com/2017/07/13/batili-istihbarat-orgutlerinin-15-temmuz-raporlari>

⁹ DW, "Erdoğan made a statement in Istanbul", 16 July 2016, <https://www.dw.com/tr/erdo%C4%9Fan-i%CC%87stanbulda-a%C3%A7%C4%B1klama-yapt%C4%B1/a-19403922>

In this context, the writers and executives of *Cumhuriyet* Newspaper¹⁰, one of the oldest newspapers in the history of the Republic and is recognized as a secular and social democratic newspaper, were arrested after the 15 July coup attempt on the grounds of being associated with the Gülen Movement despite the absence of any concrete evidence. Likewise, politicians from opposition parties and many dissident journalists and academicians were subjected to the similar unlawful practices.

In this witch hunt against the Gülen Movement, the Erdoğan regime has targeted the police officers, judges and prosecutors involved in the operations by associating them with the Gülen Movement in order to trivialise the corruption allegations against it within the framework of the policies that started after the 17/25 December investigations. In this context, many legal arrangements were made to prepare the infrastructure for operations against the Gülen Movement. The main regulation in this regard is related to the criminal judgeships of peace.

The then Prime Minister and now President of the Republic clearly stated that these operations would be conducted through criminal judgeships of peace. The following statements of Erdoğan during the establishment of the criminal judgeships of peace are noteworthy:

"...We are developing a project. We are creating the infrastructure for this work. When that is finished, the process will accelerate. Just as they filed hundreds of lawsuits against us, we will file hundreds and thousands of lawsuits against them. Then the situation will develop differently."

Regarding the first operation of the criminal judgeships of peace, Erdoğan made the following statement on 21 July 2014:

"The judicial process begins. Criminal Judges of Peace will take this process."

These explanations clearly reveal the purpose of the establishment of criminal judgeships of peace¹¹.

In general, the Gülen Movement has been the main target of severe measures such as mass detentions, arrests and confiscation of assets initiated after the 15 July coup attempt. Criminal judgeships of peace have become the main actors in this process. The Erdoğan regime held the Gülen Movement responsible for the 15 July coup attempt, just as it did for the 17/25 December operations.

Thanks to the chaotic environment created by the 15 July coup attempt and well-planned discriminatory policies, the Erdoğan regime has begun to remove from the public and social sphere, exclude, devalue and impose the most severe measures such as detention, arrest and confiscation of assets on anyone it deems to be affiliated with the Gülen Movement.

In order to put these measures into practice, a state of emergency was declared on 20 July 2016. During the state of emergency, a total of 37 emergency decrees were issued in a

¹⁰ Wikipedia, Cumhuriyet (newspaper), [https://tr.wikipedia.org/wiki/Cumhuriyet_\(newspaper\)](https://tr.wikipedia.org/wiki/Cumhuriyet_(newspaper)) "Erdoğan blurted out that he directed the operation", 22.07.2014

¹¹ "Erdoğan blurted out that he was directing the operation", 22.07.2014, <https://www.siyasetcafe.com/erdogan-operasyonu-yonettigini-agzindan-kacirdi-6005h.htm>

systematic and planned manner to completely eliminate members of the Gülen Movement from the public and private sectors, confiscate their assets and facilitate their arrest. A total of more than 150,000 public officials were dismissed from the public sector by the Decree Laws issued during the State of Emergency. Türkiye has also experienced coups in the 1960s and 1980s, but only during the 15 July period were dismissals carried out by emergency decrees.

With the Decree Law No. 672¹², more than 40,000 public employees were dismissed at once. There is no other similar case in the world. Again, the highest number of judicial personnel dismissed by a single decree in Turkish and world history was carried out by the Council of Judges and Prosecutors (HSK) on 28 July 2016¹³. The General Assembly of the Council of Judges and Prosecutors dismissed 2,847 judges and prosecutors at once with the dismissal decree dated 24/08/2016. Considering that these dismissals were list-based, without the right to defence, and based on pre-prepared lists, it appears to be a systematic discriminatory regime against the Gülen Movement.

Decree Laws issued during the state of emergency shut down 48 health institutions, 1,061 educational institutions, 800 dormitories, 223 courses and study centres, 155 foundations, 1,595 associations, 15 universities, 19 trade unions and 174 media outlets for alleged links to the Gülen Movement. In addition, 985 commercial enterprises were transferred to the Savings Deposit Insurance Fund.

70 newspapers, 20 magazines, 34 radios, 30 publishing and distribution companies and 33 television channels were also closed down by emergency decrees. On the other hand, Bank Asya, which was seized before the coup attempt and transferred to the Savings Deposit Insurance Fund, was also closed down¹⁴.

The value of the assets confiscated through Decree Laws (KHK) and the Anti-Terror Law during the State of Emergency period is estimated to be at least 32.24 billion US dollars as of 21 July 2016 when the State of Emergency was declared¹⁵.

These systematic, planned, unlawful and discriminatory regime practices against opposition groups and groups that the Erdoğan regime considers as opponents and targeted with a state policy have continued in prisons as well. On 20 July 2016, under the pretext of the state of emergency declared, people were subjected to arbitrary, unlawful, systematic and planned torture, isolation, ill-treatment, degrading and discriminatory behaviours and practices in prisons in violation of the principle of equality and the prohibition of discrimination regulated in Article 14 of the ECHR and the prohibition of torture, inhuman or degrading treatment in Article 3. All practices of discriminatory regime policies have been brutally exhibited here.

During the *witch-hunt* launched by the Erdoğan, hundreds of thousands of dissidents, particularly those linked to the Gülen movement, have been subjected to terrorism

¹² No. 672 on Public Personnel within the Scope of State of Emergency Decree Law on Measures Taken, 01.09.2016, <https://www.resmigazete.gov.tr/eskiler/2016/09/20160901M1-1.htm>

¹³ High Council of Judges and Prosecutors, General Assembly Decision, Decision No : 2016/426, Minute No: 17, Decision Date: 24/08/2016

¹⁴ Altıok, Zeynep: State of Emergency Balance Sheet Rights Violations Report, pp.15-16, <https://content.chp.org.tr/file/33743.pdf>

¹⁵ Yıldız, Ali/Spencer, Leighann: The Erosion of Property Rights in Türkiye, 28.05.2020

investigations, unprecedented mass detentions and arrests. Severe violations of rights have taken place in every field. This issue has been the subject of many reports and studies. In this context, when the data presented in the chapter titled "Armed Terrorist Organisation Membership Cases" of The Democracy and Progress Party (DEVA Party) report titled "Normalization of Lawlessness" is examined, it is seen that at least 1,576,566 "armed terrorist organisation" investigations were opened against at least 1,576,566 people in Türkiye between 2016-2020¹⁶.

As reported in the US 2021 Human Rights Report on Türkiye, as of the 5th anniversary of the coup attempt (2021), the Ministry of Interior announced that 312,121 people had been detained and 99,123 arrested since the coup attempt for alleged links to the Gülen Movement¹⁷.

Here are some figures provided by Yılmaz Tunç, Minister of Justice, on 13 July 2023:

- *693 thousand 162 people were subjected to judicial proceedings,*
- *67 thousand 893 people are still under investigation.*
- *122,632 people were convicted.*
- *There are a total of 15 thousand 539 prisoners and prisoners in prisons, including 12 thousand 108 prisoners, 2 thousand 605 prisoners and 826 detainees¹⁸.*

In his last speech in the Parliament on 20 November 2024, Minister of Interior Ali Yerlikaya stated that 4,177 operations were carried out against the Gülen Movement in the first ten months of 2024, 6,727 people were detained, 935 people were arrested and 1,317 people were given judicial control orders.

In order to ensure that public officials who carried out unlawful orders, engaged in torture, ill-treatment and degrading behaviour, and committed inhumane acts, decisions and actions exceeding the scope of their duties in the operations against the Gülen Movement during the State of Emergency do not suffer later and to ensure that they are comfortable in other operations to be carried out, these public officials have been given the "armour of criminal impunity" with the State of Emergency Decree Laws. In addition to this, civilian elements were also given this armour of irresponsibility. In this context, firstly, with the Decree Laws No. 667 and 668 dated 27 July 2016, it was stipulated that the legal, administrative, financial and criminal liability would not arise due to these duties and actions of the persons who took decisions and performed duties within the scope of the State of Emergency Decree Laws. Similar provisions were also included in subsequent decrees with the force of law.

¹⁶ Yeneroğlu, Mustafa: "Ordinarisation of Lawlessness: Armed Terrorist Organisation Membership Trials", September 2021, <https://cdn.devapartisi.org/422/Hukuksuzlugun-Siradanlasmasi.pdf>, p.2

¹⁷ United States Department of State, 2021 Human Rights Report-Türkiye, https://tr.usembassy.gov/wp-content/uploads/sites/91/Human_Rights_Report_TR.pdf?_ga=2.172647078.426733446.1687045156-2084181857.1687045156, pp.10-11

¹⁸ Gazete Memur, "Bakan Tunç announced: There are 15 thousand 539 FETÖ members in prison", July 13, 2023, https://gazetememur.com/gundem/bakan-tunc-acikladi-cezaevinde-15-bin-539-fetocu-bulunuyor,sSU5_TNnRE2MvYwiwQU4nQ#google_vignette

As can be seen, hundreds of thousands of people have been dismissed from their professions and arrested with the State of Emergency Decree Laws. As if the dismissal and arrest of hundreds of thousands of people were not enough, these people have been devalued and marginalised in the eyes of society. In this context, the Erdoğan regime has systematically and deliberately started to use concepts such as "fetö, fetö/pdy, fethullahist terrorist organisation, traitor, putschist, virus, hashishashi, agent, puppet, servant of foreign powers" in every event in favour of the regime or in every case where the government is in trouble.

The systematic, discriminatory and hate-motivated policies of the Erdoğan regime have had an impact on public institutions as well as the society. In this context, as a natural consequence of these systematic, discriminatory and hate-motivated policies, public institutions and organisations, especially the judiciary, which should have an independent and impartial stance towards every citizen, have started to act in a discriminatory and biased manner against the principle of equality, and have started to commit acts of torture, ill-treatment and similar acts. This is most evident in prisons.

Those arrested for alleged links to the Gülen Movement have been subjected to the same restrictions as those sentenced to aggravated life imprisonment on the grounds of the state of emergency from the first day they entered prison, although their trials are still ongoing. In this context:

- Restriction of the rights to written communication, telephone and open meetings
- Restriction of visits by visitors and lawyers
- Uniform shaving in the corridor and in front of the cameras
- Covering the ward courtyards completely with wire fences
- The practice of officers entering the arm every time they leave the ward
- Prohibition of sitting next to visitors during open visits
- Stopping cultural, social and sports activities that require collective participation, such as workshops, vocational training courses, training courses and the use of the internet for educational purposes
- Prohibition of radio usage.

In the reflection of the civilian death practices in prisons, people were asked to wait for death between concrete walls. Prison administrations, which went beyond normal practices and working principles, did not grant any of the rights of normal prisoners to those who were arrested for allegedly being members of the Gülen Movement during the State of Emergency, in order to devalue, intimidate and encourage prisoners to become confessors.

People deprived of their liberty have been subjected to discriminatory and arbitrary practices in prisons. Some of these practices were based on the provisions of the State of Emergency Decree Laws and some of them were carried out by administrative decisions. Many people have been subjected to torture, ill-treatment, insult, threats and similar acts that can be considered crimes against humanity. People have been kept in bad and inhumane prison conditions by a conscious choice. 40-45 people were kept in wards that normally

suitable for a maximum of 14-15 people. Many people were put in solitary confinement cells without any justification, as a punishment in advance.

With the decree laws issued, detainees were taken out of prison by the police and intelligence units under the name of interrogation and were subjected to unlawful interrogations, torture and ill-treatment.

The most serious of these practices is the conscious policy of depriving sick prisoners of access to treatment and health facilities and leaving them to die. Hundreds of people were first arrested and then left to die in prisons despite being too seriously ill or suffering from chronic illnesses to be kept in prison. Similarly, many people have contracted serious illnesses such as cancer as a result of torture, ill-treatment and similar inhumane conditions in prisons and detention centres.

As part of the discriminatory policies of the Erdoğan regime, acts amounting to crimes against humanity have been committed against sick prisoners that have been transformed into prison camps. Inmates with serious health problems have been deliberately and arbitrarily deprived of health and treatment facilities; they have been kept in unhygienic, crowded, unventilated, unlit and unhealthy wards.

On the other hand, the inadequate architectural structure of prisons, nutrition and heating problems and discriminatory practices have led to the emergence of new diseases, the progression of existing diseases and increased deaths. Sick prisoners were deliberately left to die in heavy and bad prison conditions.

These severe and inhumane practices in prisons have significantly increased suicide cases. Especially discriminatory and arbitrary practices against political prisoners, torture during and after detention and the climate of hatred created in the society have been effective in the increase of suicide cases.

With the post-15 July hate speech, prisons have turned into centres of revenge for the Erdoğan regime. People arrested or convicted have been harboured in inhumane conditions; they have been subjected to isolation in solitary cells; their right to receive visitors and telephone calls has been restricted; they have been deprived of social and cultural activities. Rights such as release, postponement of execution, probation and conditional release were not recognised; the execution of sick detainees was not postponed or they were not allowed to benefit from health facilities.

This report demonstrates that the systematic and planned acts carried out by the Erdoğan regime in prisons against opposition detainees and prisoners, particularly members of the Gülen Movement, constitute crimes against humanity as defined in Article 7 of the Rome Statute and Article 77 of the Turkish Criminal Code.

Therefore, these actions are the subject of this report. A certain segment of society, on the grounds that it holds different political, philosophical and religious views from the Erdoğan regime, was persecuted in disregard of international law and constitutional provisions:

- Mass arrests and detentions

- Enforced abductions and disappearances inside and outside the country¹⁹
- Inhuman treatment, torture, strip search, rape and forced pregnancy in detention and prisons²⁰.

The United Nations Human Rights Council Working Group on Arbitrary Detention, in its many decisions²¹ on the applications of Gülen Movement volunteer victims, has clearly emphasised that the mere campaign of mass detention and arrest against the Gülen Movement, let alone killings and torture, can constitute crimes against humanity. Likewise, UN independent expert Alfred de Zayas, in his article dated 26 February 2021, stated that eight of the ten stages of genocide (classification, symbolisation, discrimination, dehumanisation, organisation, polarisation, preparation, persecution, excluding extermination and denial) took place with the attacks on Gülen Movement volunteers²².

In short, there is no doubt that the acts against Gülen Movement volunteers constitute crimes against humanity. In the process of serious crimes against humanity committed in prisons and detention centres, these acts committed by the judiciary, law enforcement forces and other public officials have been legitimised by the verdicts and a culture of impunity has prevailed. Arbitrary arrests, detentions, torture, ill-treatment and violation of the right to a fair trial as a result of systematic, discriminatory and hate-motivated policies are tried to be legitimised by the judiciary. This attitude of the judiciary has caused the culture of impunity to become widespread both in prisons and in social life and to become a state practice.

In this oppressive, totalitarian and chaotic order created by the Erdoğan regime in Türkiye, many people in prisons and detention centres have been victims of these crimes against humanity. According to the current data of the Human Rights Association (IHD), as of 30 November 2023, there are a total of 1,517 ill prisoners and prisoners in prisons, 651 of whom are seriously ill. As it can be understood from the reports, many political prisoners and prisoners are not released despite being seriously ill and are left to die.

According to MED-TUHADFED data, 52 people died in prisons in 2021, 78 in 2022, 43 in 2023 and 26 in the first six months of 2024²³. According to the data of the Ministry of Justice, a total of 2,258 prisoners lost their lives in prisons between 2018 and 2023. According to the

¹⁹ Justice Square, Kidnapping and Disappearance Cases in Türkiye, Amsterdam 2024, <https://justicesquare.org/turkiyede-adam-kacirma-ve-kaybetme/>

²⁰ Türkiye; Individuals associated with the Gülen movement; The Finnish Immigration Service's fact-finding mission to Ankara and Istanbul 2 - 6 October 2023, p. 45, [https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf?t=1723630918594](https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf?t=1723630918594)

²¹ United Nations, Human Rights Council Working Group on Arbitrary Detention, https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_51_Advance_Edited_Version.pdf;

²² Alfred de Zayas: Crimes Against Humanity in Erdogan's Türkiye, 26.02.2021, https://www.realclearreligion.org/articles/2021/02/26/crimes_against_humanity_in_erdogans_Türkiye_661936.html

²³ 'Prisons Rights Violations Report' by Mezopotamya Agency, ÖHD and MED TUHAD-FED, 27 April 2024, <https://mezopotamyaajansi.net/tum-haberler/content/view/240335>

data of the Civil Society in the Penal System (CISST), the number of prisoners who lost their lives in prisons was 107 in 2019, 95 in 2020, 128 in 2021, 101 in 2022 and 108 in 2023²⁴.

Similarly, suicide rates in prisons have also increased during the State of Emergency. Hundreds of people committed suicide during this period because they could not bear the aggravated prison conditions, pressures, threats and torture. According to data released by the Ministry of Justice, 66 inmates committed suicide in prisons in 2016 alone, and 40 inmates more until 19 October 2017²⁵.

In the report titled **"Suicides during the State of Emergency"**²⁶ which was made public on 20 April 2017 by CHP MP Veli Ağbaba, it was stated that 35 of the people who were dismissed, arrested or subjected to investigation committed suicide in the first nine months of the state of emergency declared after the coup attempt. These people include 17 police officers, 4 soldiers, 4 teachers, 2 correction officers, 1 guidance counsellor, 1 district governor, 1 mosque imam, 1 prosecutor, 1 engineer, 1 student, 1 doctor and 1 dentist. Seven of the suicides took place in prison and one in a detention centre.

According to recent research²⁷, 92 people who were prosecuted on the grounds that they were associated with the Gülen Movement committed suicide. Likewise, hundreds of family members whose children, mothers, fathers or relatives were dismissed, detained or arrested; who were subjected to severe pressure; who were excluded and marginalised from society, committed suicide in this process.

These numerical data clearly demonstrate the severe and inhumane conditions in prisons and the grave and devastating consequences of these conditions. Diseases, deaths and suicides in prisons, which are discussed in the report, are also included in many national and international reports. However, the exact number of people who have lost their health and died or committed suicide due to discriminatory regime practices is still unknown. One of the main reasons for this is that the Erdoğan regime does not inform the public on this issue. Limited data is available through the work of international and national human rights organisations.

The report by Amnesty International **"Türkiye: Amnesty International's Brief On The Human Rights Situation"**²⁸, it is emphasised that detained journalists, activists and those dismissed by emergency decrees have limited access to health services and solitary confinement practices increase psychological problems. The 2021/22 report²⁹ addressed the

²⁴ Civil Society in the Penal Execution System Association (CISST), Prison Statistics, <https://cisst.org.tr/hapishane-istatistikleri/>

²⁵ Birgün, "The number of suicides in prisons is increasing", 20.10.2017, <https://www.birgun.net/haber/cezaevlerinde-intihar-edenlerin-sayisi-artiyor-185609>

²⁶ Cumhuriyet, "OHAL is killing: Number rises to 35", 29.04.2017, <https://www.cumhuriyet.com.tr/amp/haber/ohal-olduruyor-sayi-35e-yukseldi-730232>

²⁷ Solidarity with Others, Erdoğan Regime's Hate Speech: "Fetö", April 2023, https://tr.solidaritywithothers.com/_files/ugd/b886b2_a19495c590774e08a3bec5433be47b02.pdf.²⁷

²⁸ Amnesty International, "Türkiye: Amnesty International's Brief On The Human Rights Situation, 1 February 2019, <https://www.amnesty.org/en/documents/eur44/9747/2019/en/>

²⁹ Amnesty International Report 2020/21: **The state of the world's human rights**", April 7, 2021, <https://www.amnesty.org/en/documents/pol10/3202/2021/en/>

lack of emergency medical care in prisons and the insufficiency of Forensic Medicine officers, while the 2022/23 report³⁰ drew attention to allegations of torture and ill-treatment.

Similarly, Human Rights Watch's (HRW) October 2016 report "*A Blank Check: Türkiye's Post-Coup Suspension of Safeguards Against Torture*"³¹, the October 2016 report by Human Rights Watch (HRW) stated that units given broad powers and judicial oversight under the state of emergency have widened the use of ill-treatment. Deaths in custody and suicides were observed, but no independent monitoring was carried out.

HRW's report "**Türkiye: COVID-19 Puts Sick Prisoners at Grave Risk**"³² highlights that seriously ill detainees at mortal risk are denied early parole or house arrest arrangements due to the anti-terrorism law.

In Human Rights Watch's 2024 report³³, it is stated that since 2016, the police and gendarmerie have not rigorously investigated allegations of torture and ill-treatment in detention and prisons, and perpetrators have not been adequately prosecuted. **The European Committee for the Prevention of Torture (CPT)** has made three visits to Türkiye since 2016 and stated that reports on poor prison conditions, overcrowding and ill-treatment identified during its visits in 2017 and 2019 were allowed to be published³⁴.

The report "**Türkiye; Individuals associated with the Gülen movement**", prepared by the Finnish Immigration Service and made public in June 2024, explicitly mentions the rape of women in detention. According to the report, many women detained after the coup were subjected to severe torture, rape, ill-treatment³⁵. The report also analyses the situation in prisons and states that individuals imprisoned for political activities are the group most subjected to discrimination. It is emphasised that releases are arbitrarily delayed by the authorities based on the assessment that the individual is "*unrepentant*" and "*likely to carry out the same activities again*". The report found that there are 651 seriously ill detainees and prisoners, and approximately 1,550 prisoners in Türkiye.

These reports prepared by international institutions and national human rights organisations clearly reveal human rights violations in prisons. However, due to the repressive attitude of the Erdoğan regime, these violations are not sufficiently reflected in national and international public opinion.

In this context, this study has been prepared in order to draw attention to inhumane practices such as the situation of sick detainees and prisoners, suicides and deaths in prisons

³⁰ Amnesty International Report 2022/23: The state of the world's human rights", March 27, 2023, <https://www.amnesty.org/en/documents/pol10/5670/2023/en/>

³¹ Human Rights Watch, "A Blank Check: Türkiye's Post-Coup Suspension of Safeguards Against Torture", October 25, 2016, <https://www.hrw.org/report/2016/10/26/blank-check/Turkiyes-post-coup-suspension-safeguards-against-torture>

³² HRW, "Türkiye: COVID-19 Puts Sick Prisoners at Grave Risk", [https://www.hrw.org/news/2020/04/03/Turkiye-covid-19-puts-sick-prisoners-grave-risk#:~:text=\(Istanbul\)%20E2%80%93%20An%20examination%20of,arrest%20despite%20their%20conviction%20under](https://www.hrw.org/news/2020/04/03/Turkiye-covid-19-puts-sick-prisoners-grave-risk#:~:text=(Istanbul)%20E2%80%93%20An%20examination%20of,arrest%20despite%20their%20conviction%20under)

³³ Human Rights Watch 2024 Türkiye Report

³⁴ Human Rights Watch 2021 Türkiye Report, <https://www.hrw.org/world-report/2021/country-chapters/Turkiye#8d3ef8>

³⁵ Mazlumder 2 October and 23 December 2023; A human rights representative Organisation 3 October 2023.

in Türkiye. In addition, it is aimed to reveal the perpetrators of the crimes against humanity committed due to these harsh conditions, to fight against these unlawful and discriminatory policies and to publicise to the world public opinion the policies of the Erdoğan regime based on arbitrariness, hatred and discrimination against political detainees and prisoners.

This report, prepared by **Stichting Justice Square**, aims to draw attention to the situation of sick prisoners, deaths and suicides, and to emphasise the legal nature of the violations of rights.

The report consists of five chapters. **The first chapter** titled "**National and International Legal Guarantees for Prisoners with Health Issues**", analyses the national and international legal framework aiming to protect the rights of sick prisoners. In this chapter, legal texts such as the Turkish Constitution, the Law on the Execution of Sentences and Security Measures, the Universal Declaration of Human Rights and the European Convention on Human Rights (ECHR), as well as universal principles, directives, protocols and decisions guaranteeing the right to health of ill prisoners are included.

In addition, the arbitrary behaviour of the local courts, the higher judiciary and the Constitutional Court towards violations of rights in prisons has been discussed with sample decisions. The issue of the President's discriminatory use of the constitutional special amnesty power for sick prisoners against political prisoners was also evaluated. Severe, systematic and intensive violations of the rights of prisoners with health problems are analysed in the context of crimes against humanity.

The second chapter titled "**Decisions and Reports against Türkiye due to Discriminatory Practices against Prisoners with health problems**" deals with international criticism, reports and judicial decisions taken against Türkiye due to discriminatory practices against prisoners. The decisions of international organisations such as the European Court of Human Rights (ECHR) and the United Nations against Türkiye are analysed, and the relevant chapters of the annual reports of the European Union are included. In addition, the reports of international non-governmental organisations such as Amnesty International and Human Rights Watch (HRW) detail their concerns about discriminatory and ill-treatment practices towards sick prisoners. The aim of the decisions and reports in this chapter is to demonstrate through case studies that Türkiye has failed to fulfil its legal, political and moral obligations in relation to prisons as set out in national and international legislation.

The third chapter titled "**Main Problems Experienced in Implementation for Seriously Ill Prisoners**", details the problems faced by ill prisoners in their daily lives and treatment processes in prisons. The aim of this chapter is to address the problems faced by seriously ill prisoners in accessing health services and the violations of their rights through case studies. It is explained with examples that seriously ill prisoners are deprived of rights such as release, postponement of execution, probation and conditional release through conscious choices.

Also:

- Failure to provide necessary medical treatment
- Biased reports from the Forensic Medicine Institute

- Insufficient health personnel in prisons
- Difficulties in obtaining medicines
- Inhuman physical conditions in prisons
- The issues of forcing sick prisoners to be treated in handcuffs were also discussed with case studies.

Statistical data on sick prisoners are also included.

The Fourth Chapter of the report titled **"Death Cases and Suicides in Prisons"** analyses the increasing number of deaths and suicides in prisons. The aim of this chapter is to present the reality of death cases and suicides in prisons and detention centres, especially of political prisoners. According to the findings of the chapter, most of the deaths are related to inadequate health services and medical negligence. Suicide cases, on the other hand, are considered as a result of psychological pressures in prisons, hate speech in the state and society, ill-treatment and isolation. The report draws attention to the increasing suicide rates in prisons and emphasises the inadequacy of psychological support systems for prisoners.

This chapter also includes:

- A large proportion of suicides and deaths were linked to the negligence of the prison administration
- That ill-treatment, psychological pressure and isolation cause mental and physical breakdown among prisoners
- It was also noted that administrative and judicial controls were insufficient in complaints about deaths and suicides.

In addition, practices that violate human dignity, such as the "graveyard for traitors" to which political prisoners are subjected after torture and ill-treatment in prisons, are also detailed.

The fifth chapter titled "Unlawful Practices Against Women Who are Pregnant, Postpartum, Accompanied by a Children in Prisons", deals with the specific difficulties experienced by female prisoners. In this chapter, the physical and psychological effects of unlawful practices on mothers and children, such as the difficulties faced by women in prison with their children, the situation of children whose both parents are imprisoned simultaneously, the problems faced by children with health problems whose parents are imprisoned, arbitrarily detaining of pregnant, sick and puerperant women, are discussed with case studies.

Also:

- Exposure of sick, pregnant and postpartum women to inadequate health services
- Facing inhumane conditions during the birth process
- Problems such as not meeting the basic needs of women with children were also discussed with case studies.

These chapters of the report include grave cases, confirmed by open sources, detailing the problems experienced. However, it is a well-known fact that there are many more problems in Turkish prisons than those mentioned here. A comprehensive assessment of the situation in prisons will only be possible in an environment of democratic governance and the rule of law in Türkiye. Nevertheless, approximately 100 cases have been analysed in the report, contributing to an understanding of the current situation.

The report also states that there are severe violations of rights in prisons such as torture, ill-treatment, strip searches, insults, threats, hate speech, isolation in solitary cells, transfer to prisons far away from family members and accommodation in inadequate physical conditions. The discriminatory, arbitrary and systematic policies of the Erdoğan regime against political prisoners lie at the root of these problems. However, these issues are not addressed in detail in this report due to the large number of violations. As Stichting Justice Square, these rights violations will also be reported in the future.

The main reason for the report's focus on the problems of sick prisoners, death cases suicides and the situation of women is that the mass eradication and erasure activities against the Gülen Movement, which started with the 17/25 December bribery and corruption operations and became a state policy with the 15 July coup attempt, increased the rates of victimisation and rights violations compared to other groups.

Since the 15 July coup attempt, the rate of mass detentions and arrests has reached its highest level and the highest number of detainees in prisons have been those linked to the Gülen Movement. Statistics show that the Gülen Movement has suffered more human rights violations in the last 8 years than any other political group in Türkiye in the last 40-50 years. For this reason, international human rights organisations have been reporting in detail on rights violations against the Gülen Movement, especially during this period.

The report reveals the scope and seriousness of rights violations in Turkish prisons and shows that sick prisoners, women and other disadvantaged groups are subjected to practices that violate human dignity despite national and international legal guarantees.

CHAPTER I:

NATIONAL AND INTERNATIONAL LEGAL GUARANTEES FOR PRISONERS WITH HEALTH ISSUES

A. RIGHT TO HEALTH IN GENERAL

Although the right to health is a fundamental right explicitly guaranteed in national and international legislation, sick prisoners in prisons in Türkiye are subjected to practices that severely violate this right.

The right to health is an important right that includes the right to benefit from and have access to health services that are necessary for a person to maintain a minimum standard of living worthy of his/her dignity simply by virtue of being a human being. Although regulated under social and economic rights, the right to health is closely linked to fundamental rights such as the right to life and the right to protection of material and moral integrity and is indispensable for human life.

International documents emphasising the right to health as one of the most fundamental services of the contemporary social state approach state that this right should be provided at the highest standards. Likewise, in our Constitution, the right to health is regulated among economic and social rights³⁶.

Due to this nature, the right to health is among the rights that impose both positive and negative obligations on the state. While the State has to take a positive action to fulfil the right to health, the negative dimension of the right is that individuals can make their own decisions in terms of bodily integrity and not be subjected to medical intervention against their will.

As will be analysed in detail below, within the framework of the right to health, national and international legislation imposes the following basic duties on the state:

- Eliminating the causes leading to deterioration of health
- To promote health and prevent epidemics and occupational diseases
- To reduce infant mortality and ensure the healthy development of children
- To move environmental health forward
- To ensure that sick individuals have access to health institutions and benefit from all kinds of health services.

These regulations clearly define the scope of the right to health and the responsibilities that the state is obliged to fulfil³⁷.

³⁶ Döner, Ayhan/Kelek, Mücahit: "The Right to Health in terms of Negative Obligations", EÜHFD, C. XIX, S. 3-4 (2015), pp.3-4

³⁷ Bulut, Nihat: Sanayi Devriminden Küreselleşmeye Sosyal Haklar, XII Levha Yayınları, 2009, p.209-210; Döner/Kelek, p.7

The right to health, like other human rights, imposes on states the responsibility to respect, protect and fulfil the right to health. Within the framework of these duties and responsibilities of the State, each individual has the right to access information on his/her health status, health services and their utilisation³⁸. Access to information obtained through scientific research and technological innovations is also a right.

Health care services and providers should provide information taking into account the religious, ethnic and linguistic characteristics of patients. In addition, the removal of bureaucratic barriers, training of health providers and the preparation and distribution of information materials are important to make information easily accessible. A patient has the right to have direct access to his or her clinical files and medical records, to obtain samples of these documents, to obtain information about their contents, to ask questions and to request corrections of errors in their contents.

The right to health should ensure that all individuals benefit from these opportunities in an inclusive and secure manner. While these developments have brought about new models and practices for service delivery, they have also increased interest in health services for vulnerable groups such as persons with disabilities, women, children, the elderly, refugees, ethnic groups, prisoners. In particular, prisoners, due to their limitations, maintain their access to health services dependent on factors other than themselves. Therefore, they are in a more specialised position in the exercise of their right to health compared to other vulnerable groups.

These regulations once again demonstrate the importance of ensuring that the right to health is accessible and inclusive for every individual³⁹.

In Türkiye, there have recently been serious problems in the effective exercise of the right to health and access to health facilities by prisoners. It has been observed that discriminatory practices are frequently used especially in the context of terrorism offences. Although there are many guarantees in the Constitution and domestic legislation in this regard, it is noteworthy that systemic violations of rights continue.

In this chapter, the guarantees in national and international legislation on the right to health of prisoners will be discussed.

B. LEGAL GUARANTEES IN INTERNATIONAL LEGISLATION REGARDING THE RIGHT TO HEALTH OF PRISONS AND PRISONERS

The protection of the right to life of prisoners deprived of their liberty is one of the fundamental obligations of the relevant state. This obligation is clearly stipulated in many international conventions. Even if a person is deprived of his/her liberty, he/she has the right

³⁸ Zengin, Nazmi: "Right to Health" and Presentation of Health Services, Journal of Performance and Quality in Health, Y.2010, C. 1, S. 1, p.44 - 52

³⁹ Arslan, Serdar/Aslantürk, Hüsnunur/Ulucan Özkan, Elvan/Öztürk, Yusuf: "Evaluation of Treatment Requests and Complaints of Detainees and Convicts Regarding Health Service Provision", Journal of Tıbbi Sosyal Hizmet, Y.2017, s. 10, p.10-25

to receive and access uninterrupted health care services on an equal basis with free individuals outside.

In this context, it would be useful to examine the following documents on the right of prisoners to receive and access health care services.

a. UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)

"United Nations Standard Minimum Rules for the Treatment of Prisoners" also known as the Nelson Mandela Rules, were adopted by the United Nations General Assembly on 17 December 2015 to ensure humane treatment of detainees and prisoners. These rules emphasise that prisoners should benefit from health services at the same standards as health services in the community and should have free access to these services⁴⁰.

The Nelson Mandela Rules are one of the most detailed documents addressing the rights of detainees and prisoners, as well as the obligations of the States concerned. They refer in particular to international instruments such as the UN International Covenant on Civil and Political Rights, the UN International Covenant on Economic, Social and Cultural Rights and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Article 1 of the Code reads as follows: *"All prisoners shall be treated with respect for their inherent human dignity and worth. No prisoner shall be subjected to torture, cruel, inhuman or degrading treatment, whatever the justification, and all prisoners shall be protected from such treatment. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times."* This regulation makes it clear that the fundamental rights of prisoners must be protected in accordance with universal standards.

According to Article 24 of the Nelson Mandela Rules, the provision of health care to prisoners is a responsibility of the State. They should have access to the standards of health care available in the community and should have free access to necessary health care services without discrimination on the basis of their legal status.

b. European Prison Rules

The European Prison Rules, which set out principles and minimum standards for the treatment of prisoners, were adopted by the Council of Europe in 2006 and revised in 2020. These rules emphasise the importance of prisoners having access to health care services equivalent to those available in the community. It also states that they should have access to necessary medical treatment and support⁴¹.

According to the rules:

⁴⁰ The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

⁴¹ Council of Europe, The European Prison Rules, [https://search.coe.int/cm/#{%22CoEIdentifier%22:\[%2209000016809ee581%22\],%22sort%22:\[%22CoEValidati onDate%20Descending%22\]}](https://search.coe.int/cm/#{%22CoEIdentifier%22:[%2209000016809ee581%22],%22sort%22:[%22CoEValidati onDate%20Descending%22]})

- Prison authorities must protect the health of all prisoners and ensure that they have access to available health services without discrimination on the basis of their legal status.
- Health services in prisons must provide all medical, surgical and psychiatric services necessary to diagnose and treat the physical or mental illness of prisoners (Art. 40).
- With regard to the protection of the physical and mental health of convicted persons, doctors must provide regular medical care for all convicted persons who are ill, in accordance with the standards of health care in the community (Art. 43).

These regulations once again demonstrate the importance of international standards in protecting the right to health of prisoners.

c. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) was adopted by the United Nations General Assembly in 1984. The Convention obliges States Parties to protect against torture and other cruel, inhuman or degrading treatment or punishment. In particular, ensuring that sick and disabled prisoners are treated humanely and receive the necessary medical care is among the basic principles of the Convention⁴².

d. International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR), adopted by the United Nations General Assembly in 1966, guarantees the right to humane treatment of all individuals, including prisoners. According to Article 10 of the Covenant, all persons deprived of their liberty must be treated humanely and with respect for human dignity. This requirement includes the provision of adequate medical care⁴³.

e. World Health Organisation Prison Health Guidelines

The World Health Organisation (WHO) has developed guidelines for prison health for prisoners. These guidelines emphasise the principle of equivalence of care. This principle emphasises that prisoners should have the same standards of health care as the general population. The guidelines also state that specialised health care services should be provided for prisoners with chronic diseases or mental health problems, or those with special needs⁴⁴.

f. European Committee Against Torture and Inhuman or Degrading Treatment or Punishment Standards

⁴² United Nations, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 10 December 1984, General Assembly resolution 39/46, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

⁴³ International Covenant on Civil and Political Rights, Adopted 16 December 1966, General Assembly resolution 2200A (XXI), <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

⁴⁴ World Health Organization (WHO), Health in Prisons, A WHO Guide To The Essentials In Prison Health,

According to the standards of the European Committee Against Torture and Inhuman or Degrading Treatment or Punishment (CPT), health care for persons deprived of their liberty is directly relevant to the CPT's mandate. The CPT standards, developed by the Council of Europe, provide detailed guidelines on the treatment of prisoners, including sick or disabled prisoners. The standards stress the importance of providing appropriate medical care, respecting the dignity of prisoners and prohibiting inhuman or degrading treatment. In this context, the standards recognise that inadequate health care can quickly lead to situations of inhuman and degrading treatment.

g. United Nations Human Rights Committee General Comment No. 21

General Comment No. 21, adopted by the UN Human Rights Committee in 1992, interprets Article 10 of the International Covenant on Civil and Political Rights (ICCPR) and sets out standards for the humane treatment of prisoners. The Commentary stresses the need to provide adequate medical care, to maintain humane conditions and to respect the dignity of prisoners. Article 2 of the Commentary states in particular that article 10, paragraph 1, of the International Covenant on Civil and Political Rights applies to all persons deprived of their liberty in accordance with the law of the State party and within its jurisdiction. This includes persons in prisons, hospitals (in particular hospitals for mental and nervous diseases), detention camps, rehabilitation centres and other similar places. According to the Commentary, States parties should ensure that the principle set out in this article is respected in all institutions and establishments under their jurisdiction in which persons deprived of their liberty are placed.

h. Istanbul Protocol

Adopted in 1999 by the United Nations, the Istanbul Protocol provides international guidelines for the investigation and documentation of allegations of torture and ill-treatment. The Istanbul Protocol, whose full title is "**Manual for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**", emphasises the importance of providing medical care and meeting the health needs of prisoners who have been subjected to torture or ill-treatment. In this context, the Istanbul Protocol is recognised as the first international guideline for the investigation and documentation of torture.

C. BASIC LEGAL GUARANTEES IN NATIONAL LEGISLATION

a. In General

The right to health, which is an integral part of the right to life, is guaranteed in our domestic legislation in many laws, particularly in the Constitution. In this context, in addition to constitutional guarantees, there are also special regulations that guarantee the right to health, especially for prisoners. The main reason for these guarantees is to protect the health of individuals and to take necessary measures to ensure their survival.

Paragraph 1 of Article 56 of the Constitution, titled "Health services and protection of the environment", states that "*Everyone has the right to live in a healthy and balanced environment.*" and Paragraph 3 states that "*The State shall ensure that everyone maintains his/her life in physical and mental health, and shall regulate the planning and service provision*

of health institutions from a single source in order to increase savings and efficiency in human and material power and to realise cooperation." and the obligation of the State in this regard is clearly regulated. Furthermore, according to Article 60 of the Constitution, *"Everyone has the right to social security. The State shall take the necessary measures and establish the necessary organisations to ensure this security"*, another important guarantee for the right to health is regulated.

On the other hand, the first paragraph of Article 17 of the Constitution, entitled "The inviolability of the person, his material and spiritual existence", states that everyone has the right to life, the protection and improvement of his material and spiritual existence; and the third paragraph states that no one shall be subjected to torture or cruelty, and no one shall be subjected to punishment or treatment incompatible with human dignity.

In this context, in one of its judgements, the Constitutional Court stated that *"... the right to health is closely linked to the right to '... life and the protection of material and spiritual existence...' regulated in Article 17 of the Constitution. Therefore, the state will not be able to make regulations that eliminate the 'right to life' in the limitations it will apply while fulfilling its duties in the economic and social field."* The Constitutional Court emphasised that the right to health is closely linked to the right to life and the right to protect and develop material and spiritual existence in Article 17 of the Constitution.

The aforementioned constitutional provisions show that the right to access to treatment and medication, which is one of the most fundamental rights of individuals to regain their health, is constitutionally guaranteed. In this context, these constitutional guarantees are valid for all citizens as well as for prisoners. Although their right to liberty and security is restricted, prisoners continue to enjoy other fundamental rights and freedoms, just like normal citizens.

These obligations and responsibilities imposed by the Constitution on the state in the context of the right to health are stipulated by many laws, regulations and circulars, particularly the Law No. 5275 on the Execution of Criminal and Security Measures. This law also regulates in detail the examination and treatment of prisoners in case of illness. In Articles 71 and 78 of the Law, it is stated that the convict has the right to protect his/her physical and mental health and to benefit from examination and treatment facilities and medical tools for the diagnosis of his/her diseases; and in Article 79 titled "Health inspection", the procedures and principles of routine health inspections of prisoners are determined.

b. Basic Principles on Medical Examination and Treatment

In order for prisoners to have a healthy life in prison and after their release, it is of great importance that they receive effective health services in prisons. Law No. 5275 regulates in detail the examination and treatment of prisoners in case of health problems.

According to Articles 71 and 78 of the Law, prisoners have the right to benefit from examination and treatment facilities and medical equipment for the protection of their physical and mental health and for the diagnosis of their illnesses. Urgent or ordinary examination and treatment of prisoners shall be carried out primarily in the prison infirmary by the institution physician. If examination and treatment is not possible in the prison institution, prisoners shall be treated in the inmate wards of state or university hospitals.

According to Article 57 of the Law, the transfer of prisoners who are hospitalised in the convict wards of the nearest full-fledged state or university hospitals shall be made with a medical board report. In case of emergency and life-threatening conditions, the transfer shall be carried out with a report prepared by two specialised physicians, one of whom is a specialist in the disease, and approved by the chief physician. In this case, the closest state or university hospitals with prisoner wards shall be preferred.

If the control and treatment of the convict or detainee must continue in the hospital, this situation must be documented by a medical board report⁴⁵.

Another important issue regulated in the Law is the routine health inspection of prisoners. Pursuant to Article 79 of the Law titled "**Medical Examination**", the institution physician inspects the institution at least once a month and prepares a report including the diseases that require general and special measures and the measures to be taken in terms of health conditions in the institution and submits this report to the institution management.

In this context, the ECtHR has frequently emphasised the importance of health inspection, particularly in the prevention of epidemics. The Court has stated that the spread of infectious diseases, particularly in prisons, is a serious public health problem. For this reason, prisoners should be screened free of charge for hepatitis or HIV/AIDS virus within a reasonable period of time following their placement in prison, with their consent⁴⁶.

c. Basic Principles and Guidelines for the Examination of Detainees and prisoners

Article 6 of the Law No. 5275 titled "Principles to be observed in the execution of prison sentences" includes other basic principles to be considered in the execution of prison sentences. The procedures and principles determined by the legislator for the execution of sentences are important in terms of the realisation of the main purpose to be achieved by the execution of sentences, the rehabilitation and reintegration of the convict into the society, as well as the execution of a prison sentence requiring deprivation of liberty not falling victim to arbitrariness and not violating fundamental rights and freedoms.

Prisons do not aim to satisfy the vengeance of the administration or society. On the contrary, they aim to rehabilitate the individual in order to prevent the repetition of the criminal offence and to prevent such offences by both the convict and other persons through the effective and rapid execution of the sentence. At this point, the main criterion of rehabilitation in the execution of prison sentences is the remorse shown by the convict during the execution process and his/her efforts and success in adapting to the programmes implemented in this process. However, since the achievement of this depends on the convict's desire and effort, the execution regime should be organised in a way to encourage this desire and effort.

On the other hand, in the chapter titled "Basic Principles" of the Recommendation No. REC (2006) 2 of the Committee of Ministers of the Council of Europe to Member States on

⁴⁵ Aras, Bahattin/Güverçin, Sezgin: Execution Law, 2nd Edition, Yetkin Publishing, Ankara 2024, p.607 vd.

⁴⁶ ECtHR Cătălin Eugen Micu v. Romania, Application No: 55104/13, K.T: 05/01/2016

European Prison Rules dated 2006, the principles regarding execution are regulated as follows:

- All persons deprived of their liberty must be treated with the respect due to human rights.
- Persons deprived of their liberty retain all their rights not legally deprived of them by a judgement convicting or detaining them.
- Restrictions imposed on persons deprived of their liberty must be minimally necessary and proportionate to the legitimate aim of the judgement against them.
- Lack of resources cannot excuse prison conditions that violate the human rights of detainees and prisoners.
- Prison life should be as close as possible to the positive aspects of general community life.
- All forms of imprisonment should be organised in such a way as to facilitate the reintegration of persons deprived of their liberty into free society.
- Co-operation with external social services and community involvement in prison life should be encouraged as far as possible.
- Prison staff fulfil an important public service and should have working conditions that make it possible to maintain high standards of recruitment, training and care for prisoners.
- All prisons should be subject to regular official inspection and independent monitoring.
- In order to monitor the execution of sentences in accordance with the principles laid down by law and to ensure that the convicted person is aware of his or her rights, the detainee and the convicted person should be immediately informed of their rights in writing. Similarly, if the detainee or convict is illiterate, he/she should be informed of his/her rights orally.

Considering the provisions of the Constitution, laws and international conventions and documents, these principles should be taken as basis in the execution of sentences. In particular, since it directly concerns the right to life of the detainee or convict, it is necessary to follow up the prisoners urgently in the process of receiving treatment and health services.

aa. Providing a Health Service in Accordance with Human Dignity

1. In General

As a requirement of Article 3 of the ECHR, another fundamental principle that must be observed in the execution of sentences is the principle that the execution is in accordance with human dignity. The second paragraph of Article 2 of the Law No. 5275 titled "Basic principle in execution" stipulates that cruel, inhuman, degrading and humiliating behaviour cannot be used in the execution of penalties and security measures. The main aim and struggle at this point is the humanisation of execution.

Pursuant to Article 6 of the Law entitled "**Principles to be observed in the execution of prison sentences**", the deprivation of liberty necessitated by a sentence binding the liberty must be under material and moral conditions that ensure the protection of respect for human dignity.

On the other hand, as a requirement of being a social state, social justice and social assistance for prisoners must be practicable in prison conditions. This is because the social state guarantees the convicted person in prison the necessary conditions for the provision of his or her own private care. In this respect, when carrying out the execution task, the State shall guarantee assistance to balance social and other contributions and shall, to the extent of its power, take the measures necessary to respect human dignity for the detainee and the convicted person.

Considering that the rule of law must be observed in all areas of life, prisons naturally fall within this scope. As a requirement of the rule of law, penalties must be executed within the framework of the principle of respect for human dignity. Even if a person is deemed guilty at the end of the trial, this should not result in the denial of his/her honour. During the execution of the sentence, it must not be ignored that the offender is a human being and not an object. Human dignity is an indispensable part of democracy and the rule of law.

In accordance with the principle of respect for human dignity, prisoners shall not be subjected to behaviour or practices contrary to human dignity or to torture or inhuman ill-treatment. Regardless of the offence or punishment of the offender, such practices would be acts against humanity. Conditions of detention, the treatment of detainees, discriminatory behaviour, insulting remarks made by state officials, degrading treatment such as making the detainee eat or drink things that are not normal may constitute treatment incompatible with human dignity and honour.

2. The Right to Health and Medical Care in Prisons in Accordance with Human Dignity

As part of the practical requirements of imprisonment, the health and well-being of prisoners must be adequately safeguarded and necessary medical assistance provided. This is necessary to ensure the right to health of convicted and detained persons in conditions of human dignity. In this framework, keeping a sick person in inappropriate physical and medical conditions or continuing to keep him/her in prison despite the fact that he/she has a disease that prevents execution is a treatment contrary to the third paragraph of Article 17 of the Constitution. As emphasised by the Constitutional Court in the Hüseyin Yılmaz Decision, this provision of the Constitution also protects the conditions in which a convict or detainee is kept in prison in a manner befitting human dignity. The method of execution and the behaviour during the execution process must not cause the prisoner more distress or suffering than the inevitable level of anguish which is a natural consequence of deprivation of liberty.

In the event of illness of prisoners, the State has an obligation to provide the necessary medical assistance to such persons under its control. A violation of Article 3 of the Convention and the third paragraph of Article 17 of the Constitution will arise if, as a result of the failure to fulfil this obligation at all or as required, an emergency situation posing a danger to the life or bodily integrity of the person, severe or prolonged suffering is caused, or if, although the

aforementioned consequences do not occur, the stress, uneasiness or humiliation experienced by the person due to the deprivation of medical assistance - within the framework of the specific circumstances of the case - is serious enough to reach the level of treatment incompatible with human dignity.

Within the framework of the obligations arising from Article 3 of the ECHR, the prison administration is under a duty to provide the necessary health care in conditions of human dignity to prisoners under its supervision and responsibility. The necessary medical assistance must be provided in order to safeguard the health of detainees and prisoners. The obligation of the administration also extends to the prompt taking of the necessary measures and decisions, in particular in respect of prisoners suffering from a disease which may prevent their execution. As underlined in the ECtHR's *Kudla v. Poland* judgment, under Article 3 of the European Convention on Human Rights, the State is under an obligation to ensure that a person is detained in conditions compatible with human dignity and that the means of carrying out the measure do not subject the person to an intensity of suffering and hardship which would exceed the level of distress inevitably inherent in detention. It is also the State's responsibility to provide the person with the necessary medical assistance and to ensure that his or her health and welfare are adequately safeguarded, taking into account the practical requirements of the execution.

The applicant, who suffered from a number of medical problems, including anorexia and a mental illness characterised by a need to feign illness, also known as Munchausen's syndrome, complained about his continued detention and the failure to provide him with appropriate treatment for his health problems. The Court emphasised, in particular, that the authorities had failed to take sufficient account of the applicant's medical condition and the need to provide him with specialised care in a suitable facility; it noted that, notwithstanding the sensitivity of the applicant's case, the transfer proceedings and the prolonged uncertainty following his request for a postponement could subject him to hardship in excess of the level of distress inevitably inherent in detention. For these reasons, the Court held that there had been a violation of the prohibition of inhuman or degrading treatment under Article 3 of the European Convention on Human Rights.

In *Gülay Çetin v. Türkiye*, concerning the applicant, who had advanced cancer and died in a prison ward of a hospital due to her illness, the Court stated that, in accordance with the prohibition of inhuman or degrading treatment under Article 3 of the European Convention on Human Rights, the health of prisoners sometimes requires humane measures, especially when a problem arises in relation to the continued detention of a person whose condition is not suitable for a prison environment in the long term. In the concrete case, the Court found that the applicant's situation, both before and after his final conviction, amounted to inhuman and degrading treatment contrary to Article 3. It also held that the applicant had been discriminated against, taken in conjunction with Article 14 on the prohibition of discrimination, because he did not qualify for the protective measures applicable to prisoners with a serious illness at the time of his pre-trial detention.

Finally, the Court recommended that, in accordance with Article 46 of the Convention, which governs the binding force and execution of judgments, the Turkish authorities should

take measures to protect the health of detainees on remand or with a final conviction and incurable illness.

bb. Compliance with the Principle of Equality in the Execution of Health Services in Prisons and the Prohibition of Discrimination

Another fundamental principle to be observed in health services provided in prisons is the principle of equality and non-discrimination. Article 2 of the Law No. 5275 titled "Basic principle in execution" states that the rules regarding the execution of penalties and security measures shall be applied without discrimination and without privileging anyone in terms of race, language, religion, sect, nationality, colour, sex, birth, philosophical belief, national or social origin, political or other ideas and opinions, economic power and other social status of prisoners. Likewise, it is also stipulated that cruel, inhuman, degrading and humiliating treatment shall not be used in the execution of penalties and security measures. The main purpose of these regulations is the humanisation of execution.

As stated in the justification of the aforementioned article, the principle of *"no discrimination on the grounds of sex, race, colour, religion, sect, nationality, political and intellectual opinion, national and social origin, belonging to a minority, wealth, birth, etc."* stipulated in Article 14 of the European Convention on Human Rights, other international conventions and declarations and Article 10 of the Constitution applies to prisoners as well.

In line with this principle, which is expressed as "equality before the law" in the Constitution, it is aimed that no convict in the same status during execution shall be given privileges or be treated differently on the grounds of race, colour, religion, sect, nationality, political or other ideas and opinions, national and social origin, minority status, birth, economic power or other social status. However, individualisation of sentences and measures in order to adapt them to the personality of the convicted person does not, of course, contradict this principle. On the contrary, a good individualisation programme should be implemented for each convict in order for the execution to yield the expected results.

A good individualisation programme contributes not only to the socialisation of the convict but also to his/her integration into the society by moving away from the criminal personality. This process can only be possible if both the convict and the institution fulfil their duties and obligations. If it is desired for the convict to be socially responsible in the future and to continue his/her life without committing crimes, maximum attention should be paid to this individualisation programme in the execution of the sentence.

It is a requirement of the rule of law that the limitations imposed on the constitutionally guaranteed rights of the convict during the execution phase are clearly and unambiguously determined, and that the position of the convict is set out in a way that leaves no room for doubt. With the execution of the sentence, restrictions on rights such as personal immunity, the right to information, freedom of expression, confidentiality of communication and the right to property come to the fore. Likewise, it is of utmost importance for the rule of law that the execution of the sentence is carried out in a manner that respects human dignity. For this reason, interferences with fundamental rights must be clearly and explicitly regulated by law.

According to ECtHR case law, the provisions of the European Convention on Human Rights do not end at the prison gate. Convicted and detained persons continue to enjoy all the fundamental rights and freedoms guaranteed under the Convention, except the right to liberty. Any restriction of the rights set out in the Convention must be based on a valid justification. Such grounds may, however, include security concerns arising from the circumstances of the conviction, such as the prevention of crime and the maintenance of order.

As a natural corollary of the principle of equality, the principles of non-discrimination must be scrupulously observed during the execution of a sentence. It is in line with these principles that the ECtHR has considered allegations of discrimination in relation to the application of certain prison regimes or other aspects of prison sentences which result in some categories of prisoners being treated differently from certain other categories of prisoners.

In this connection, the Court ruled in *Varnas v. Lithuania* that the different treatment of prisoners compared to convicted prisoners in respect of conjugal visits was not justified under Article 14 of the ECHR. The Court also did not accept the argument that the lack of appropriate facilities justified the denial of conjugal visits. In sum, the Court found that the authorities had failed to provide a reasonable and objective justification for the different treatment of detainees compared to convicted prisoners and found this practice to be discriminatory and found a violation of rights.

In the post-15 July period, prisons have become places where human rights violations intensified due to hate speech and discriminatory practices. Practices such as keeping arrested or convicted persons in inhumane conditions, subjecting them to isolation in solitary cells, restricting their right to receive visitors and telephone calls, depriving them of social and cultural activities, and not providing them with adequate health facilities have frequently come to the agenda in this period. In addition, one of the most serious consequences of this process is that although they meet the conditions, they are not benefited from probation or conditional release, the execution of sick prisoners is not postponed and they are deprived of health services.

In this process, the state's policies based on hate speech have subjected innocent individuals in prisons to discriminatory practices and put them at risk of physical death. In the aftermath of the 15 July coup attempt, investigations into alleged membership of the Gülen movement led to the arrest of many individuals whose health conditions did not allow them to be held in prison. Poor prison conditions and inadequate treatment services have led to a further deterioration in the health of individuals in prison and many have been deliberately left to die.

It has become a widespread administrative practice to deny necessary medical assistance and treatment to persons in prisons who are detained or convicted for alleged membership of the Gülen Movement. This situation clearly indicates the existence of a discriminatory prison regime. The State, in violation of its obligation to protect the right to life of individuals, continues unlawful practices that may result in the death of people in prisons.

d. Medical Treatment Process of Prisoners

Examination and treatment services of prisoners; Law No. 5275 on the Execution of Criminal and Security Measures, Regulation on the Administration of Penal Execution Institutions and the Execution of Criminal and Security Measures, **"Protocol on the Regulation of Health Services in Penal Execution Institutions"** signed between the Ministry of Health and the Ministry of Justice dated 30.04.2009, **"Protocol on the Execution of Health Services in Penal Execution Institutions"** dated 26.01.01.2017 dated "Protocol on the Administration of Penal Execution Institutions, External Protection, Transfer and Transfer of prisoners and Execution of Health Services" and the Circular No. 172 of the Ministry of Justice.

In the second part of the Circular No. 172 of the Ministry of Justice, General Directorate of Prisons and Detention Houses dated 06.01.2020 on "Human Rights-Centred Access to Health and Treatment of Those Accommodated in Penal Execution Institutions in International Standards, Their Transfer Due to Treatment, Suspension of Sentences", the principles to be followed regarding the illness and treatment of prisoners are regulated in detail.

According to this:

- Organisation of health services and conditions: Emergency or regular medical examination and treatment of prisoners shall be performed by the institutional physician or family physician in charge in the prison. All examination and treatment results shall be kept in the health file.

- Security measures during examination: During the examination or treatment of the convict in the institution, no personnel other than health personnel shall be present. However, necessary measures are taken by the administration of the institution for security purposes and in such a way that conversations cannot be overheard.

- Examination and treatment in a hospital: The examination of prisoners in hospitals shall be carried out in guarded examination rooms with obstacles against escape. Prisoners who are referred to a hospital shall be hospitalised and treated in the special ward in that hospital if inpatient treatment is required.

On the other hand, these wards are also considered as a part of prisons and the execution legislation is applied in these areas. Pursuant to the fourth paragraph of Article 99 of the Regulation on the Administration of Penal Execution Institutions and the Execution of Penalties and Security Measures, if it is stated to be compulsory by the report of the physician treating prisoners who need inpatient treatment in the hospital, the spouse, mother, father, sibling or, in their absence, a family relative deemed appropriate by the Chief Public Prosecutor's Office may be kept with the patient as a companion.

When the provisions of the current legislation are evaluated, the state has a positive obligation to meet the health services of prisoners in an adequate and urgent manner. In this context, the main duties that the state must fulfil in relation to the right to access to health are as follows:

- **Provision of appropriate and adequate physical space:** Provision of appropriate and adequate physical spaces for health services to be carried out in institutions and organisation of these spaces in accordance with the service

- **Supply of medical equipment and equipment:** Procurement of medical equipment and other equipment necessary for the uninterrupted provision of health services
- **Maintenance, repair and cleaning services:** Regular execution of general maintenance, repair, cleaning and security services of the places where health services are provided
- **Appointment of adequate personnel:** Appointment of sufficient number and quality of personnel for the effective provision of health services in prisons
- **Referral procedures in accordance with the legislation:** Ensuring that the relevant legislation is complied with for prisoners who need to be referred to hospitals or other health units.

In addition, the CPT considers the right of prisoners to health care as one of the issues it particularly monitors. Health care services provided to persons deprived of their liberty fall directly within the mandate of the CPT.

Inadequate health care in prisons can quickly lead to conditions that can be defined as "inhuman and degrading treatment". However, health care in prisons plays a critical role in preventing ill-treatment. Moreover, the quality and extent of health care has a positive impact on the general living conditions in prison.

D. PERSPECTIVE TURKISH JUDICIARY ON PRISONERS WITH HEALTH ISSUES

a. The Transition from an Independent Judiciary to a Regime Judiciary and its Severe Consequences

In the process that started after the 17/25 December bribery and corruption operations in Türkiye and continued with the 15 July coup attempt, the Erdoğan regime has systematically and deliberately made a number of legal and administrative arrangements in order to suppress the opposition, especially the Gülen Movement, and to erase and destroy them from social, public, political and economic life. First of all, it should be known that the regulations made in this process were mainly carried out through the judiciary. The structure of many fundamental institutions, especially the Council of Judges and Prosecutors, has been changed and many new legal regulations have been introduced. The main reason for all this is the Erdoğan regime's desire to gather all powers under its control.

With the constitutional and legal changes made to its institutional structure, the state has turned into a regime state rather than a state of law. Rather than the independence of powers and institutions, Türkiye has evolved into an antidemocratic process of unification and control of powers in one hand. As a natural consequence of the transformation of the state order into the Erdoğan regime, all elements of the power mechanism have adopted this policy. Likewise, the government's discriminatory and hateful policies have been adopted as a thesis by institutions such as the judiciary, which it took under its control after the 17/25 December process, and the propaganda discourses of the Erdoğan regime have been reflected in almost verbatim judicial decisions.

Approximately 5,000 judges and prosecutors were dismissed during the state of emergency declared after the 15 July coup attempt. In place of those dismissed, approximately 15,000 judges and prosecutors were recruited with simplified exam and politicised interview conditions. Therefore, the process of cadre formation in the judiciary has been completed and all elements of the regime's judiciary have been made ready. The judiciary has been turned into the shield and saviour of the regime.

In this process, judges and prosecutors, who are supposed to be independent and impartial, and who are tasked with protecting the attacks on the fundamental rights and freedoms of citizens, punishing these attacks when necessary and providing them with legal security, have started to implement the unlawful and discriminatory policies put forward by the Erdoğan regime. Rather than legal decisions, judicial mechanisms have started to issue decisions that are in line with the expectations of the Erdoğan regime and legitimise the unlawful practices of the regime.

With the 15 July coup process, thousands of pages of indictments prepared by the judiciary, unlawful decisions in which the government's political discourse is reflected in the justifications, unlawful practices faced by people trying to seek their rights in courthouses, systematic ill-treatment, torture, strip searches, discriminatory practices applied to those in prisons and their visitors, and the decisions given in judicial applications against these practices reveal a very grave picture. Decisions and practices that legitimise these violations of the law in this process have led to the legitimisation of discriminatory and hateful practices by the judiciary.

b. Reflections of Discriminatory and Arbitrary Practices of the Regime Judiciary on Prisons

The regime-controlled judiciary has constantly caused controversy with its decisions at every stage of the judicial process. The judiciary has been one of the institutions at the centre of systematic human rights violations during the State of Emergency. Many unlawful practices such as unlawful operations, detentions, arrests and detention in poor prison conditions against thousands of people were carried out by the judiciary. Almost all of the applications made to local courts, courts of appeal or higher judicial authorities regarding torture, ill-treatment and discriminatory practices in detention or prisons or unlawful practices in investigation and prosecution processes have been left inconclusive within the framework of the expectations and policies of the Erdoğan regime.

When this grave situation in the judiciary is considered together with the subject of this study, it will be seen more clearly that the applications made to the chief public prosecutor's offices, execution judgeships, heavy penal courts and main courts due to torture, ill-treatment, illness or poor prison conditions in prisons have not yielded any results. The demands of sick prisoners for effective health care, release, probation and postponement of execution have not been accepted. Since the judiciary is dominated by the discriminatory and hate policies determined by the Erdoğan regime, the attitude towards people detained under the pretext of the fight against terrorism has been in line with the attitude of the regime.

Although prisons are institutions where the final sentence is executed for prisoners, with the discriminatory practices that started after 15 July, they have turned into revenge

centres of the Erdoğan regime. Arrested or convicted prisoners are harboured in inhumane conditions, subjected to isolation in solitary cells, restricted rights to receive visitors and telephone calls, deprived of social and cultural activities, not provided with adequate health facilities⁴⁷, seriously ill prisoners are left to die, Unlawful practices such as driving people to suicide due to severe psychological pressure and threats, not allowing them to benefit from probation and conditional release despite their conditions, not postponing the execution of sick prisoners are the most grave, hate-motivated and discriminatory prison practices of this period.

After 15 July, all the practices of discriminatory regime policies have unfortunately been brutally exhibited in prisons. The most serious of all these practices is that sick prisoners and prisoners are left to die by being deprived of access to treatment and health facilities with a conscious policy. Hundreds of people were first arrested and then left to die in prisons despite being too seriously ill to stay in prison or having chronic severe illnesses. The rights to probation and conditional release of prisoners who were not released due to their illnesses were also taken away on unlawful grounds. It is as if sick prisoners were asked to die in prison.

As an example in this context, **Mustafa Başer**, a dismissed judge who has been detained in Sincan F1 Type Prison since 1 May 2015, has not benefited from the right to probation that he was legally entitled to, despite the fact that he was entitled to probation a long time ago and had bladder cancer. After a serious surgery, he was not allowed to benefit from this right either, although he was entitled to conditional release as of 27 September 2022. Although thousands of prisoners in the same situation in prisons are benefiting from probation and conditional release, dismissed judge Mustafa Başer has not benefited from these legal rights. The main reason for this is that Mustafa Başer ordered the release of the police officers who carried out the 17/25 December operations involving ministers and bureaucrats of the current Erdoğan regime. For this reason, Başer is subjected to discriminatory and hateful practices. It is not enough that he is unlawfully serving his sentence in solitary confinement, he is deliberately left to die as a severe cancer patient out of revenge and hatred. The prison administration and members of the judiciary, who are in a position to make decisions on this matter, make decisions against him purely out of hatred. Although Mr. Başer is a stage 3 cancer patient, he is deliberately left to die because of this hate motive.

c. Discriminatory Regime Practices and Legitimisation of Unlawful Trials by the Supreme Judiciary

During the 15 July state of emergency declared on the grounds of the attempted coup, Türkiye has been rendered completely unregulated by the emergency decree laws and a regime in which discriminatory regime practices prevail in all areas of life has emerged. The Constitutional Court, the Court of Cassation and the Council of State, which are responsible for administering justice against this unlawful order created by the State of Emergency Decree Laws and the practices of the judicial authorities in Türkiye, have not only failed to fulfil these functions, but have also made decisions that give total legitimacy to these unlawful practices of the Erdoğan regime and have made statements to the public in this direction.

⁴⁷ Aras, p.5 vd

As an important result of the design process of the judiciary that started with the 17/25 December process in the Turkish judiciary, the high courts, which should guide the legislature, executive and local courts with their jurisprudence, started to act within the framework of the principles imposed by the Erdoğan regime and to make decisions as desired by the political establishment. The high courts have abandoned their past practices and jurisprudence of nearly 100 years and have started to make decisions as desired by the Erdoğan regime. In this process, a legitimisation has taken place through the high judiciary. The most obvious example of this is the Supreme Court of Appeals and the Constitutional Court's abandonment of their past practices in determining the existence and membership of an armed terrorist organisation, and their new decisions that abolish constitutional guarantees.

Apart from this, it is observed that the applications made to the higher judicial bodies due to violations of rights and breaches of the Constitution and laws both in prisons and in the investigation and prosecution stages remain inconclusive. While the Court of Cassation and the Council of State should be guiding and supervising the judicial processes to be carried out fairly and to make decisions in accordance with the provisions of universal law, they have approved the unlawful decisions and practices of the local courts and appellate authorities. They have become a cover-up authority rather than a jurisprudence authority.

In the darkest period of the Turkish judiciary, the Court of Cassation and the Council of State ignored the unlawfulness of the disciplinary and criminal investigations, which were carried out with the most severe protection measures against them by eliminating the constitutional guarantees of the people, by abandoning their past consistent decisions. Rather than preventing and eliminating the unlawfulness in criminal and disciplinary processes, both courts have tried to legitimise them with the language and understanding used by the Erdoğan regime.

The high courts abandoned their jurisprudence and practices, which were shaped within the framework of ECtHR judgements in the past, especially by taking advantage of the chaos created by the State of Emergency period, and started to produce jurisprudence in line with the expectations and desires of the Erdoğan regime. Especially as clearly emphasised by the ECtHR in the Alpaslan Altan and Hakan Baş judgements, the high courts are trying to manage this process with unlawful practices and decisions that completely abrogate constitutional guarantees.

This unlawful behaviour of the higher courts has not only paved the way for arbitrary practices by the lower courts, but has also turned into a means of pressure and intimidation on individuals. The violation judgements of the ECtHR regarding the injustices in this process, particularly those of Osman Kavala, Selahattin Demirtaş and Yüksel Yalçınkaya, have not been implemented and have been ignored by the local courts. The biggest loss in this process is the loss of the gains achieved by the Turkish judiciary with the European Union harmonisation process, and the dominance of lawlessness and arbitrariness in the Turkish judiciary.

The people most affected by the discriminatory attitudes and practices of the higher judiciary are the sick prisoners. Thousands of sick prisoners, who were unlawfully arrested and detained by the local courts, have requested their release to the Supreme Court with the

judgement, but it is observed that the Supreme Court acts more ruthlessly than the local courts in this regard.

d. Efforts of The Constitutional Court to Cover Up Violations of Rights

aa. In General

The unlawful attitude of the high judiciary also applies to the Constitutional Court. The Constitutional Court rejects applications for the annulment of legal provisions that are clearly contrary to universal rules of law and individual applications for the violation of constitutional rights on the basis of unjustified or unlawful pseudo-justifications. Although the Constitutional Court has sometimes ruled on rights violations, especially due to the pressure from domestic and foreign public opinion, the Constitutional Court has in fact continued its function of being the protector and guardian of the systematic and planned hate policies and discriminatory regime practices of the Erdoğan regime.

With its judgement dated 10 January 1991 and numbered K.1991/1, the Constitutional Court ruled that emergency decrees can only be applied during the state of emergency. After the 15 July coup attempt, an annulment case was filed before the Constitutional Court against the state of emergency decree laws, but the Constitutional Court, with its decision dated 12 October 2016 and numbered E.2016/166, K.2016/159, reversed its 1991 case law and decided that it does not have the authority to review the state of emergency decree laws. Thus, the Constitutional Court, which is the highest court in Türkiye, declared that the State of Emergency decrees cannot be taken to the judiciary and that no application can be made to the Constitutional Court for their annulment. In other words, the Constitutional Court has abandoned its 1991 jurisprudence that the State of Emergency decrees cannot amend laws, cannot amend and regulate disciplinary provisions, and that the State of Emergency decrees are valid only during the State of Emergency and can always be reviewed by the Constitutional Court in case of violation of these rules.

The Constitutional Court's decisions on individual applications filed due to violations of rights in prisons, detention centres and during trials show how it has moved away from its original function. The biggest proof of this is the fact that the ECHR has given severe violation judgements in the applications to the ECtHR against the **"inadmissibility"** decisions given in the applications made in order to please the Erdoğan regime; this is the most obvious example of this. In this context, the landmark Yalçınkaya judgement, which contains heavy accusations against the Turkish judiciary, summarises this very well⁴⁸.

bb. Cases Where the Constitutional Court Normalised Violations Stemming from a Culture of Impunity

In order for the execution process in prison to be completed in an effective, rehabilitative and restorative manner, first of all the place and conditions of execution must be in accordance with human dignity. It is not possible to rehabilitate or reintegrate prisoners into society under conditions that are contrary to human dignity. The physical conditions under which the convicted and detained person serves his/her sentence must not constitute torture

⁴⁸ Justice Square, Violation Decisions Against Türkiye By The ECtHR Post-15 July (May 2024), <https://justicesquare.org/violation-by-the-ecthr-15-july-may-2024/>

or cruelty or be contrary to human dignity. The right to accommodation in conditions befitting human dignity and the right of sick prisoners to receive effective health care and treatment is not only a right for the prisoner and detainee but also an obligation for the State.

The most serious situations encountered in prisons during this period are the unlawful arrest of people despite their serious illnesses, the deliberate disruption of the treatment of seriously ill patients, the forcing of seriously ill prisoners who cannot be treated in prison to be treated in prison, their being transported in handcuffs and being treated and examined in this way, the denial or delayed provision of routine medication to patients, the overcrowding of sick prisoners in conditions that are not suitable for human health and inadequate in terms of physical conditions such as overcrowding, heat, light and ventilation. Unfortunately, the applications to the Constitutional Court for the violations of rights caused by these grave situations have remained inconclusive.

This unlawful attitude of the Constitutional Court towards violations of rights has also manifested itself in applications for torture, ill-treatment and violation of the rights of sick detainees in prisons or detention centres. In order to understand the issue, some sample cases are given below.

1. Sinan Büyükorallı Judgement (Ap. No: 2019/17034, 14/9/2022)

The application relates to the allegation that the prohibition of ill-treatment was violated due to the imprisonment of the applicant who has cancer. The applicant was arrested on 31/3/2017 within the scope of the investigation carried out by the İzmir Chief Public Prosecutor's Office with the allegation of being a member of the Gülen Movement and was placed in Menemen T-Type Closed Penal Execution Institution. As a result of the trial held by İzmir 14th High Criminal Court, the applicant was sentenced to 9 years of imprisonment on 4/4/2018 for the offence charged.

In the medical board report dated 26/3/2019 issued by İzmir Kâtip Çelebi University Atatürk Training and Research Hospital for the applicant, it was stated that the condition of the patient diagnosed with nasopharynx (upper pharyngeal cancer) may be life-threatening, the execution should be suspended during chemo-radiotherapy, the disease is a permanent and severe disease and the applicant cannot sustain his life in prison. In the application form dated 15/5/2019, the applicant stated that he wrote a petition to İzmir Chief Public Prosecutor's Office, Karşıyaka Execution Judgeship and Supreme Court of Appeals Chief Public Prosecutor's Office on 6/5/2019 with the request for release based on the medical board report, but his request was not responded and requested a measure from the Constitutional Court.

Based on the response to the letter written by the Constitutional Court to the Penal Execution Institution on 24/5/2019 regarding the applicant's health status, treatment and detention conditions, and the report stating that the applicant has upper pharyngeal cancer and that it is planned to be treated in this context, the First Chapter of the Constitutional Court decided to accept the request for caution with an interim decision dated 29/5/2019, and to take the necessary measures immediately for the applicant to benefit from chemo-radiotherapy and to receive the treatment required by his illness in a specialised hospital. In the decision, it was stated that the Court did not request a report from the Forensic Medicine Institution as to whether the applicant's stay in prison would pose a life-threatening risk, nor did it make a decision on the applicant's request for release, and that it was concluded that the applicant's

stay in prison could have serious consequences on his life. The applicant was released by the Court with the interim decision given on 31/5/2019, which was issued after the Court of Cassation's reversal.

According to the Constitutional Court which examined the merits of the case, the applicant was released on 31/5/2019, after the medical board report was received by the Court on 3/4/2019. The applicant's release took place shortly after 15/5/2019, the date of his individual application to the Constitutional Court. It is understood that the applicant was provided with the necessary examination, tests, examinations and treatment services during the time he was held in the Penal Execution Institution. The applicant has not provided any evidence that his illness has progressed due to the conditions of the Penal Institution or the practices of the authorities and that he has been subjected to anguish and pain beyond the anguish and pain inherent in deprivation of liberty. Nor was it established that the applicant's health had deteriorated as a result of the neglect of his treatment or controls. Nevertheless, the applicant's request for an injunction was accepted and an injunction was issued for the applicant to benefit from chemo-radiotherapy in line with the medical board report and to take the necessary measures immediately in order to receive the treatment required by his illness in a specialised hospital. The applicant does not claim that the injunction of the Constitutional Court was not implemented. The applicant was released two days after the interim injunction.

In the light of the above reasoning and findings, the Court concluded that the applicant's allegation that he had been subjected to ill-treatment due to his detention in prison despite his illness was manifestly ill-founded.

As can be seen, although it is clear that the unjustified continued detention of the applicant, who applied to the Constitutional Court for an injunction despite being seriously ill, is a violation of rights in itself, no criticism or evaluation has been made in this regard. The Constitutional Court considered the release of the applicant with severe cancer as a favour and did not even consider the other claims of violation of rights and decided that they were inadmissible⁴⁹.

2. Kadir Altınışık Judgement (Ap. No: 2021/18544, 15/11/2023)

The application relates to the allegations that the applicant's right to personal liberty and security and the prohibition of ill-treatment were violated due to the continuation of his detention by judgement despite his unfit state of health. The applicant Kadir Altınışık, a member of the Court of Cassation, was detained on 18/7/2016 on the charge of being a member of an armed terrorist organisation and was arrested on 20/7/2016 for the imputed crime. As a result of the trial of the public case against the applicant by the 9th Criminal Chamber of the Court of Cassation as the court of first instance, with the decision dated 27/3/2019, it was decided that the applicant was sentenced to 10-year imprisonment and continued detention on the grounds that he was a member of the Gülen Movement.

The applicant requested release with a petition dated 14/5/2020 due to his eye condition and Parkinson's disease; 9th Criminal Chamber decided to reject the request. Upon the objection of the applicant, the 10th Criminal Chamber of the Court of Cassation decided to

⁴⁹ Sinan Büyükorallı Decision, B. No: 2019/17034, K.T: 14/9/2022,

evaluate the request for release after a medical report was obtained. In the medical report of Selçuk University Faculty of Medicine Hospital dated 3/11/2020, it was stated that the applicant has Parkinson's disease, glaucoma and hereditary retinal dystrophy, that he needs partial support to continue his life in prison conditions due to vision loss, that prison conditions do not endanger his life in terms of Parkinson's disease and that he can maintain his life alone, that the conditions of imprisonment will not progress both diseases, that Parkinson's disease can be treated in prison, and that there is no proven treatment for eye disease. Upon the said health report, the 9th Criminal Chamber decided to reject the applicant's request for release, and the applicant's objection was rejected by the 10th Criminal Chamber on 14/1/2021.

Upon the rejection, the applicant made an individual application to the Constitutional Court on 23/2/2021. The applicant also stated that he had 90% vision loss and that he would be completely blind if he continued to stay in prison, and that there was a possibility that the progression of his disease could be stopped with alternative treatments and requested an injunction for his release.

With the interim decision dated 1/6/2021, the Constitutional Court stated that the applicant should be referred to the Forensic Medicine Institution and a comprehensive report should be obtained in the context of protecting the material and moral integrity of the applicant, and also stated that the necessary measures should be taken immediately to keep the applicant in conditions suitable for his health status in line with the health report of the Hospital.

As a result, the Constitutional Court decided to reject the request for cautionary measures for the release of the applicant, to accept the request for cautionary measures for the protection of his material and moral integrity and to take the necessary measures to keep him in conditions suitable for his health status in line with the hospital report.

Pursuant to the cautionary decision, the applicant was not released and in the letter sent from Konya/Ereğli T-Type Closed Penal Execution Institution where the applicant stayed after the cautionary decision, the health services provided to the applicant after the cautionary decision were reported in detail. Approximately 1 year and 4 months after the cautionary decision, a decision dated 29/9/2022 was issued by the Criminal General Assembly of the Court of Cassation and the conviction of the applicant was overturned. It was decided to release the applicant by applying a judicial control measure in the form of a ban on leaving the country. The applicant was released on the same date in line with this decision.

The applicant, who made an individual application on the grounds of serious illness and unjustified detention, claimed that he should have been released by applying a judicial control decision taking into account his health condition, but that the decision to continue his detention unlawfully violated his right to personal liberty and security. Therefore, the applicant's claims were examined within the framework of the right to liberty and security of person.

According to the Court which examined the application on its merits, Article 19 of the Constitution does not guarantee the release of a person on grounds of serious illness; the fact that a person is seriously ill does not render his/her detention unlawful. The continued detention in prison of persons who are too ill to survive on their own may have consequences contrary to the guarantees of other constitutional rights. However, this situation does not have a direct impact on the guarantees in Article 19 of the Constitution. For the reasons explained

by the Court, this part of the application must be declared inadmissible as *manifestly ill-founded*.

As it can be seen, the Court did not make any assessment of the applicant's pre-trial detention in the context of Article 5 of the ECHR, Article 19 of the Constitution and Article 100 of the Code of Criminal Procedure, despite the fact that the applicant's serious illness had been established and no concrete evidence and no suspicion of flight had been established. The Court stated that, in general, Article 19 of the Constitution does not guarantee the release of a person in case of serious illness. However, the Court did not take into account the principle of proportionality, which is one of the fundamental principles of the Constitution, and that detention should only be resorted to as a last resort in a situation such as severe illness and endangerment of the right to life, although it was established that the applicant had no suspicion of flight and evidence tampering. By considering the fact that the applicant was released 1 year and 4 months after the cautionary decision as a favour, the Court deliberately refrained from conducting an effective unjustified detention assessment in the context of Article 19 of the Constitution and Article 5 of the ECHR.

The applicant, although he had medical reports confirming that the loss of vision in his eye had reached the level of blindness, claimed that his continued detention in prison, which prevented him from receiving effective alternative treatment, put him at risk of blindness and that there had been a violation of the prohibition of ill-treatment as a result of the refusal of his request for release. In the Court's view, the method and process of execution must not cause the prisoners any more distress or suffering than the inevitable level of suffering which is the natural consequence of deprivation of liberty. Adequate safeguards, such as adequate guarantees for the health and welfare of prisoners in the context of the practical requirements of imprisonment and the provision of necessary medical assistance to prisoners, are necessary to ensure conditions of human dignity.

Everyone whose liberty is restricted in accordance with the law has the right to conditions of detention in accordance with human dignity, and the conditions under which the measures are applied must not cause the person to despair to an intensity exceeding the level of inevitable distress caused by the detention (Fatih Hilmioğlu, B. No: 2014/648, 18/9/2014, § 65). Furthermore, it has been stated that the Constitution does not impose any general obligation for the release of a detained person on health grounds, but the authorities may be held responsible if the suffering arising from naturally occurring physical or mental disorders increases due to the conditions of detention and such situations may be evaluated within the scope of the third paragraph of Article 17 of the Constitution.

According to the Court, in the concrete case the applicant had no specific complaint that the State had failed to provide him with the necessary health care during his imprisonment. Moreover, the applicant did not allege in his application form any conditions of detention other than the usual conditions in prison. The applicant's complaint did not concern access to health care but only his continued detention in prison on the basis of his health condition. Therefore, the examination will be limited to an assessment of the impact of the applicant's detention in prison on his state of health.

The Court stated that, contrary to the applicant's statements in the infringement application, he did not claim that his condition had worsened due to certain reasons arising from the prison conditions or the practices of the authorities and that he did not support with concrete facts that he had been subjected to anguish and pain beyond the anguish and pain naturally arising from deprivation of liberty. However, the applicant clearly stated that he faced the risk of blindness due to the fact that he was prevented from being treated with effective alternative treatment methods by continuing to be kept in prison, although he had confirmed that the loss of vision in his eye had reached the degree of blindness with medical reports. Although this was summarised in paragraph 20 of the Court's judgment, the Court ignored this situation. The Court ruled that there was no violation of rights in this respect⁵⁰.

One of the grave issues in the judgement is the Court's finding that '*Considering that there is no general obligation to release a person deprived of his/her liberty due to a final judgement of conviction on health grounds within the scope of these findings, it is concluded that the allegation that the applicant, whose release was decided on 29/9/2022, was subjected to ill-treatment due to the continuation of his/her detention until the date of his/her release despite his/her illness, is clearly unfounded*'. As it is clearly stated in the judgment, there is no finalised judgement of conviction against the applicant and the judgement of conviction was reversed by the Criminal General Assembly of the Court of Cassation. He was released from detention after this reversal. Even though he was detained in pre-trial detention, there is no obstacle for the relevant authority to make a detention assessment in the context of Article 19 of the Constitution and Article 5 of the ECtHR. At this point, the High Court has made determinations that are inconsistent with the material reality in order to cover up the unjust detention and other violations of rights arising therefrom.

3. Fatma Törer Judgement (Ap. No: 2017/14734, 16/9/2020)

The application concerns the allegation that the right to life was violated due to the ineffectiveness of the criminal investigation into the suspicious death in prison. M.T., the applicant's husband, was detained on 23/7/2016 and arrested on 27/7/2016 within the scope of the investigation initiated by the İskenderun Chief Public Prosecutor's Office on the allegation of being a member of the Gülen Movement. M.T. was delivered to İskenderun T-Type Closed Penal Institution at 22.37 on 27/7/2016. M.T. was found dead in his bed at around 06.30 one day after he was taken to the penal institution.

The applicant, who applied to the Constitutional Court due to the death of her husband MT., stated that MT. was not given food despite his request during the police, the Chief Public Prosecutor's Office and the Criminal Judgeship of Peace, where her husband MT. was kept waiting for interrogation and interrogation procedures, and even if he was given food, he was given bagels and packaged fruit juice for all meals, ignoring the fact that he was diabetic. MT. was not given food despite his request, and even if he was, he was given bagels and packaged fruit juice at all meals, ignoring the fact that he is diabetic, the medication given to MT. by his lawyer for the treatment of his diabetes and heart diseases was not taken by the penal execution institution, these issues were not investigated by the Chief Public Prosecutor's

⁵⁰ Kadir Altınışık Decision, B. No: 2021/18544, K.T: 15/11/2023

Office, MT. was kept in the courthouse, at the courthouse, at the courthouse and at the criminal court of peace. MT. was not investigated at the courthouse, before the courthouse and during the security stages, the statements of the officers and prosecutors in charge were not taken, camera recordings were not analysed, it was not investigated whether adverse conditions caused the cardiovascular disease which was determined as the cause of death, and the effect of the non-use of medication on death was not examined, and claimed that his rights guaranteed under Articles 3, 13, 15, 17 and 36 of the Constitution were violated.

According to the Court's general reasoning, the procedural aspect of the State's positive obligations under the right to life requires the conduct of criminal investigations capable of identifying and punishing those responsible for deaths caused intentionally or as a result of assault or ill-treatment (Prg. 39).

After these general explanations, the Court, while evaluating the process regarding the death of the applicant, decided that there was no violation of the right without investigating the allegations regarding the death of the applicant's spouse⁵¹. In particular, the Court held that;

- No research was conducted on the negative effects of the meals given to MT., who had to take insulin medication due to his diabetes, on his health
- It was not investigated at the security and judicial stages why MT., who uses insulin injections, was not allowed to take his medication at the entrance of the prison, and at this point the issue was passed over with witness statements
- Although it is clear from the prison records that the applicant, who was required to take insulin medication regularly, did not receive his medication and that the prison doctors did not give the applicant an insulin injection at this point, the effect of not receiving these medications in the prison on his death was not investigated
- During the registration process at the entrance of the prison, it should have been asked whether the detainees had chronic illnesses or medication that they needed to use regularly and urgent measures should have been taken accordingly, but as it is understood from the records sent to the Constitutional Court, MT. was taken to the harness without making a determination at this point and therefore insulin medication was not provided, but these issues were not investigated.

It is observed that a person with such a serious chronic illness and who needs to take insulin injections regularly Although the fact that a person with such a serious chronic illness, who needs to take insulin injections regularly, was not allowed to take his medication into the prison and was not given insulin injections by the prison doctor was a negligence and ill-treatment in itself, the Court did not make an assessment on this issue. The Court, by ignoring the arbitrary practices of the State of Emergency period with generalised statements, chose to protect public officials who showed negligence and carried out practices that caused the death of people with a motive of hatred.

⁵¹ Fatma Törer Decision, B. No: 2017/14734, K.T: 16/9/2020

4. Sinan Gülsu Judgement, (Ap. No: 2019/34602, 11/5/2022)

The application relates to the allegation that the right to life was violated due to the death of a detainee as a result of not providing the medication he had to use on time, delaying the referral procedures to the hospital and not providing the necessary treatment, and not conducting an effective criminal investigation into this death incident.

Halime Gülsu, the applicant's sister, was detained on 20/2/2018 on allegations of being a member of the Gülen movement. Law enforcement officers from the Anti-Terrorism (TEM) Branch of Mersin Provincial Security Directorate took Halime Gülsu's statement on 28/2/2018 and on 3/3/2018, Mersin Chief Public Prosecutor's Office referred Halime Gülsu for arrest. During her statement, Halime Gülsu stated that she suffers from systematic lupus erythematosus (a condition in which the immune system perceives certain substances of the body as foreign and initiates a chronic inflammatory reaction throughout the body) and requested that this condition be taken into account. Halime Gülsu, whose demands were not taken into consideration, was arrested the same day after an interrogation by Mersin Criminal Judgeship of Peace and was placed in Tarsus Closed Women's Prison.

Halime Gülsu, who was unjustly arrested despite being severely and chronically ill, sent a petition to the Prime Ministry Communication Centre (BIMER), the Ministry of Justice General Directorate of Prisons and Detention Houses and the Penal Execution Institution on 24/4/2018 due to the fact that her treatment in prison could not be carried out urgently and effectively. In her petitions, Gülsu stated that she was only able to take one week's worth of medication due to the rush of TEM Branch law enforcement officers during the detention process, that she realised later that she had not been able to take the medication she was supposed to take, that she was not allowed to inform her family to obtain the medication and that she was unable to take some of her medication for one or two weeks in a period of one month.

She also stated that her disease is a disease that requires follow-up, that her medications should be adjusted by a specialist, that although she was referred to the rheumatology department, she had not yet been taken to the rheumatology department as of the date of the petition, that hygiene is very important in terms of the course of his disease, that she was not taken to the doctor on time, that her infirmary requests were not taken into consideration, that the necessary examinations were not performed and that her treatment was disrupted. He stated that although she had a fatal disease, the officials of the Penal Execution Institution did not take her seriously and that treatment could be delayed.

Despite all her applications, treatment and hospitalisation processes took too long and Halime Gülsu's condition worsened with each passing day. Halime Gülsu, who fell ill at 23.00 on 27/4/2018 in the Penal Institution, was referred to Tarsus State Hospital Emergency Polyclinic after being examined by 112 Emergency Service teams and was taken under treatment there. Halime Gülsu, who was discharged as a result of the examination and examinations, stated that there were no abnormal findings, collapsed when she was taken to the ring vehicle of the Penal Execution Institution, and was taken to the hospital again, but she died despite all interventions.

The applicant complained against the police officers on duty from the day her sister Halime Gülsu was taken into custody until the day she died, against the police officers who took her statement, against the police officers who did not deliver her medication, against the administration of the Penal Execution Institution who provided her medication late, against the doctors at Tarsus State Hospital and the Penal Execution Institution, and against the rheumatology doctor who examined her sister at Mersin City Hospital. As a result of the investigation conducted by the Tarsus Chief Public Prosecutor's Office, a decision of non-prosecution was made and this decision was finalised.

The Constitutional Court, which dealt with the individual application to the Constitutional Court due to violations of rights, ruled that this part of the application was inadmissible due to non-exhaustion of remedies, on the grounds that a document regarding whether the Tarsus Chief Public Prosecutor's Office objected to the decision of non-prosecution on 21/3/2019 against the officials of the Penal Execution Institution for the offence of neglect of duty could not be accessed within the scope of the individual application file⁵². The Court did not carry out any research on this issue and decided only on the grounds that there was no such document in the individual application form. Thus, the Court chose to protect the persons who directly caused the death of Halime Gülsu, who was seriously ill, by delaying her medication and treatment.

Halime Gülsu is a prisoner who announced her death. And she showed this with petitions she wrote everywhere. In her petition, she stated that her medication had run out and that she had not taken the medication she was supposed to take for about a week, and that the administration of the Penal Execution Institution had not provided the medication to her. In his petition to CIMER and other institutions, the statement **"The daily medication I take here has run out and I still haven't received my weekly medication. My petitions, which I can't even remember the number of times to go to the infirmary as required by prison rules and on which I have written 'Urgent', were not answered and I was not taken to the infirmary."** clearly reveals the negligence experienced.

As can be seen, Halime Gülsu, an English teacher, was arrested in a completely unlawful manner despite being a chronic SLE (*Systemic Lupus Erythematosus*) patient. After her unlawful arrest, she was not given her regular medication, her treatment requests were not met and as a result of these negligence, she was deliberately left to die.

It has almost become a routine practice to subject people to inhumane practices in prisons as a part of the hate policy and such severe cases resulting in death. Unfortunately, public officials who carried out all these unlawful and arbitrary practices have been protected by the Constitutional Court.

5. Şerif Ağu Judgement (Ap. No: 2019/14028, 18/1/2022)

The application concerns the claim that deprivation of liberty despite having health problems violates the prohibition of ill-treatment. The applicant was sentenced to 8 years and 9 months of imprisonment on 15/3/2018 by Antalya 2nd Assize Court for allegedly being a

⁵² Sinan Gülsu Decision, B. No: 2019/34602, K.T: 11/5/2022, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2019/34602>

member of the Gülen Movement and his detention was decided to continue. During the process of sending the trial file to the Supreme Court, the applicant underwent a liver transplant operation on 30/3/2019.

The applicant stated that he was being treated in the intensive care unit of the hospital due to liver transplantation, that his wife, who was accompanying him, had cancer and that this situation had a negative impact on the psychology of his family. He also stated that his needs were hardly met in the detainee ward of the hospital, that his life would be in danger if he returned to the Penal Institution, and that the prison conditions would be inadequate during his recovery process. Despite this, he stated that his detention was continued with standardised statements without any concrete grounds for suspicion of flight and claimed that his rights to prohibition of ill-treatment and discrimination and to respect for life and family life were violated.

Following the liver transplantation, a medical report was issued by Antalya Training and Research Hospital on 1/4/2019. Following this report, a medical board report was prepared by the Forensic Medicine Institution on 8/4/2019. In the Forensic Medicine Institution report, it was stated that *"it is not suitable for the patient to stay in prison conditions and it is appropriate to postpone the execution of his sentence for 6 months"*. It was also stated that a health check should be carried out again at the end of the postponement period.

However, Antalya Regional Court of Appeals decided to continue the applicant's detention with an additional decision dated 9/4/2019. The reasoning of the decision included the following statements:

"Considering the offence attributed to the defendant, the current state of evidence, the amount of sentence he has received, the absence of any opinion on whether it would be appropriate for the defendant's health to stay in prison after the transfer, the fact that the defendant is currently receiving inpatient treatment in hospital conditions, the fact that a new report can be prepared for the defendant at any stage after the treatment and his detention status can be re-evaluated, the possibility of the defendant's escape and the inadequacy of judicial control measures, it was decided to continue his detention"

The applicant appealed this decision, but the 3rd Criminal Chamber of the Antalya Regional Court of Justice rejected the appeal with its decision dated 17/4/2019. Thereupon, the applicant filed an individual application on 26/4/2019 and requested an injunction.

According to the Court which dealt with the application, considering that there is no **general requirement for** the release of a person deprived of his/her liberty due to a criminal charge on health grounds, that keeping a sick person in prison can only be considered ill-treatment if the prison conditions or the measures applied are of such a nature as to cause the person more than usual distress, and that there is no concrete evidence in this context, it has been evaluated that the applicant's **detention in prison** cannot be considered ill-treatment on its own⁵³.

⁵³ Şerif Ağu, Decision, B. No: 2019/14028, K.T: 18/1/2022, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2019/14028>

As can be seen, in this case, the discriminatory attitude of the Constitutional Court, which evaluated the application despite the report of the Forensic Medicine Institution, is clearly visible. Despite the report of the Forensic Medicine Institution, which has made many unlawful judgements, stating that the applicant's sentence should be suspended or released, the Court rejected the violation application of the applicant, who had undergone a serious operation such as liver transplantation, had a serious illness and required close treatment, with generalised statements.

6. Deniz Şah (5) Judgement, (Ap. No: 2020/13465, 21/11/2023)

The application concerns the allegation that the prohibition of ill-treatment was violated due to the fact that the applicant, who was in prison, was forced to be examined in handcuffs at the hospital to which he was referred and the criminal investigation into the incident was not effective. The applicant is in Bolu F-Type High Security Closed Penal Execution Institution for attempting to change the constitutional order by force and violence on behalf of an armed terrorist organisation (DHKP-C), attempted intentional killing due to public duty, forgery of official documents and other crimes.

The applicant was referred to Koroğlu State Hospital on 3/2/2020 upon the increase in his complaints due to heart disease in the Penal Execution Institution. Within the scope of the examination on the same date, the applicant was given a **holter** (It is a type of portable electrocardiography device used to detect heart rhythm disorders. This device continuously records a person's heartbeat and this recording is made for a certain period of time. The applicant requested the accompanying law enforcement officers to uncuff him before the holter was fitted. The law enforcement officers informed the applicant that his handcuffs would be uncuffed to allow him to remove his jumper but would then be re-cuffed. Since the applicant refused to be handcuffed again and to be examined in this way, the holter was not inserted.

With a petition dated 4/2/2020, the applicant filed a criminal complaint to the Bolu Chief Public Prosecutor's Office against the specialised gendarmerie personnel who forced him to be examined in handcuffs. The applicant made an individual application to the Constitutional Court due to the decision of non-prosecution and the rejection of his objections to the decision.

After listing its general reasoning, the Court, as in its other judgements concerning political prisoners, decided that the prohibition of ill-treatment guaranteed under Article 17 of the Constitution was not violated in the case based on the explanations from the administration⁵⁴. Here, the Court also relied on the reports of the administration, which did not contain any concrete justification, stating that the convict was dangerous and the offences in the conviction judgement. Although it was possible to remove the handcuffs for the convict to take off his clothes and there was no concrete danger, the court decided without any justification as to how not wearing the handcuffs during the use of the device would pose a danger. In such judgements, it is seen that the Constitutional Court considers political prisoners as dangerous prisoners in advance, even in cases of illness and treatment.

⁵⁴ Deniz Şah (5) Decision, B. No: 2020/13465, K.T: 21/11/2023, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2020/13465>

7. Yusuf Özmen Judgement (Ap. No: 2019/13637, 30/6/2021)

The application relates to the allegations of violation of the prohibition of ill-treatment due to issuing an arrest warrant without taking into account the health status of the detainee, the continuation of detention despite the detainee's health status, and the conditions of detention in prison not being suitable for the detainee's health status.

Yusuf Özmen was arrested on 26/2/2018 on the charge of leading an armed terrorist organisation within the scope of investigations against the Gülen Movement and sent to Iğdır Type B Closed Penal Institution. During the interrogation, the applicant stated, among other things, that he needed to be under constant control in the hospital due to his health condition, that his health condition would worsen if he was arrested and that he wanted to continue his treatment. Without taking into account the applicant's allegations regarding his health condition, the judgeship concluded that the reports submitted by the applicant (it could not be determined which health centres these reports were issued by and what their contents were) were not an obstacle to arrest.

The applicant submitted some documents to the Constitutional Court regarding his health condition and the severity of his illness before his arrest. From these documents, it is understood that the applicant was admitted to Atatürk University Health Research and Application Centre (University Hospital) with the diagnosis of testicular malignant neoplasm (tumour) and underwent left inguinal (groin, groin-related) orchiectomy (testicular removal) surgery on 22/5/2017, three courses of chemotherapy were planned for the applicant, the applicant received two courses of chemotherapy, and the applicant's follow-up and treatment continued as of 14/8/2017.

According to the report dated 3/1/2018 regarding radiological imaging, a relatively smooth-edged 26x16x30 mm hypodense appearance with relatively smooth edges extending from the right hilus (belly) inferior (lower, lower) chapter to the lower lobe in the neighbourhood of vascular (vascular, vascular-related) structures, showing minimal (minimal) regression (regression) (old size 20x28x40 mm), right lung lower lobe lateral (side) in the neighbourhood of the lesion, focal (local, focal) aeration increase in the outer (outer side) and medial (inner side, middle) basal segments, larger than normal liver, hypodense cystic appearance with a diameter of 6 mm in the middle zone (region, girdle) of the left kidney, and several LAPs (lymphadenopathy, lymph node enlargement) in the right paraaortic area, the largest of which was 36x20 mm in size and did not show significant size and nature change (former size 35x20 mm). In the disability health board report dated 28/3/2018 issued by Patnos State Hospital, it was stated that the applicant's whole body function loss was 81% according to his disability status.

The applicant requested release on the grounds that several surgeries and chemotherapies were insufficient in the treatment of his disease, that he was referred to a private hospital in Istanbul for a second surgery before his arrest, that his right to treatment was restricted with the decision to arrest him, that the conditions of the prison caused him to suffer and that he could not have his regular monthly examinations. The applicant's request for release was rejected on the grounds that the applicant did not have a medical board report stating that his detention in prison would be detrimental to his life and that he could be referred to health centres for treatment.

In summary, in the report dated 3/8/2018 issued by the University Hospital, it was stated that the applicant had previously undergone surgery for testicular cancer, according to the examinations performed, it was determined that the lymph nodes *in the retroperitoneal* region (related to the back of the peritoneum) metastasised to the lymph nodes and lung, the lymph nodes in the *retroperitoneal* region grew larger and larger, thus the disease progressed; that the best treatment in this case is the surgical removal of the existing masses, that an operation has been decided, that it is deemed appropriate to refer the applicant to Ankara University Ibn Sina Hospital Urology Department for surgical treatment, that if the operation is performed, a new chemotherapy or radiotherapy protocol may need to be taken according to the postoperative report, that it is vital for the applicant to continue the treatment under normal conditions since the continuation of the treatment of the applicant in prison conditions carries a great risk and that it is appropriate to postpone the execution of the sentence until after the treatment.

In the medical board report dated 18/9/2018 issued by Ankara Numune Training and Research Hospital;

- The applicant's disease was a testicular tumour with lymph node metastasis
- It is necessary to perform the operation, which means removal and pathological sampling of the lymph nodes in the abdomen
- Post-treatment oncological follow-up should be performed outpatient at outpatient clinic level
- The frequency of oncological follow-up should be evaluated by the medical oncology clinic
- It has been stated that it is imperative to continue the execution of the sentence in a centre where there is a specialist for his/her illness.

In the medical board report dated 15/10/2018 issued by Numune Hospital based on the application made on 27/9/2018, it was underlined that the applicant's life is in danger if his sentence is executed in prison.

While the applicant was struggling with cancer, the Criminal Court sentenced him to 10 years and 5 months of imprisonment on 8/12/2018 on the charge of being a member of an armed terrorist organisation, and decided to continue his detention due to the suspicion of flight, the fact that there was no response to the letter written to the Specialised Board, and the ongoing procedures to determine whether the applicant could be kept in prison.

On 15/5/2019, the Constitutional Court ruled that the applicant's treatment should be provided immediately and necessary measures should be taken to obtain a report from the Forensic Medicine Institution on whether his stay in prison would pose a risk to his life.

In the report dated 5/7/2019 issued by the Specialised Board, it was stated that the applicant was followed up without treatment with the diagnosis of testicular cancer, metastasis could not be ruled out, and the applicant's health status was monitored due to the lesions in the lung, and it was explained that the applicant could continue the execution under prison conditions and continue his life alone by providing treatment and regular outpatient clinic

controls at the recommended intervals; however, it was stated that the issue would be re-evaluated in case of progression and change in the nature of his diseases and if the last medical board report was sent. The said report was sent to the Criminal Court on 9/7/2019.

On 13/9/2019, the 16th Criminal Chamber of the Court of Cassation, based on the medical board report issued for the applicant, decided to release the applicant by applying a judicial control measure to prevent the applicant from travelling abroad. The applicant was taken to Erzurum Penal Execution Institution on 6/3/2021 for the execution of his finalised sentence approximately one and a half years after his release.

In the medical board report dated 16/3/2021 issued by the University Hospital while the applicant was in prison, it was stated that it would be appropriate to postpone the execution due to the applicant's illness.

In the report dated 21/4/2021 given by the Expertise Board, in the report dated 26/4/2021 based on the findings of their examination, it was stated that the applicant can continue his life alone, that the execution of the sentence can be continued under prison conditions by providing treatment and regular polyclinic controls at recommended intervals, and that a re-evaluation can be made in case the disease progresses or its nature changes.

In his petition to the Constitutional Court dated 18/5/2021, the applicant stated that he has stage four cancer, he also has heart disease, he was released on 13/9/2019 based on medical reports stating that it was inconvenient for him to be kept in prison; that his disease became stable due to the treatments he received during this process, the moral support of his family, good nutrition and the cleanliness of the environment he was in, but he was taken to prison again upon the finalisation of the conviction sentence against him; that the COVID-19 pandemic posed a high risk to his health, that he was kept in quarantine alone for 75 days as he was frequently taken to health institutions for treatment, that this situation wore him out, that he could not clean the ward due to the lesion in his lungs, that according to the latest examinations, his disease started to relapse again and there was an increase in adrenal lymph again, that despite this, a medical report was issued stating that there was no harm for him to stay in prison and that he needed moral support from his family in order to overcome his illness, and asked for his immediate release or postponement of his execution or conversion of his conviction to house arrest.

The process of the applicant's arrest and his struggle with his serious illness in prison, summarised above, were ignored by both the prosecutor's office, the courts and the health institutions. He had to struggle with his serious illness under severe prison conditions. Although the applicant's prolonged stay in prison in a state of severe illness and then being taken back to prison in a sick state for the execution of the judgement is a serious violation of rights in itself, the Constitutional Court, which is expected to see and correct the injustice, has also ignored this violation of rights.

Although the process summarised above was a case of a grave illness, the Constitutional Court held that there was no violation of the prohibition of ill-treatment guaranteed under the third paragraph of Article 17 of the Constitution in respect of the allegation that the applicant's health condition did not allow him to be kept in prison.

8. Batuhan Gökçe and Others Judgement (Ap. No: 2018/36427, 06/10/2021)

The application relates to the allegations that the right to life was violated due to the ineffectiveness of the criminal investigation into the suspicious death in prison of **Teoman Gökçe**, a former judge and member of the High Council of Judges and Prosecutors; the right to liberty and security of the person was violated due to the decision to arrest and continued detention in violation of constitutional guarantees; and the prohibition of ill-treatment was violated due to the conditions of detention during detention and detention.

Teoman Gökçe, husband of the applicant Samiye Gökçe and father of the other applicants, was serving as a judge at the Ankara Western Courthouse during the 15 July coup attempt. Gökçe was arrested and detained immediately after the coup attempt at around 20.35 on 17/7/2016 and subsequently arrested on 21/7/2016 on a number of charges, primarily for violating the constitution. Gökçe was placed in Sincan T-Type Closed Penal Institution. Between 2010 and 2014, Gökçe was not only unjustly arrested despite the absence of conditions, but was also subjected to solitary confinement in prison in the context of arbitrary and discriminatory practices. Gökçe's appeals against both his unjust arrest and solitary confinement have been fruitless.

Due to unlawful practices and unjust detention in prison, Gökçe made two individual applications to the Constitutional Court on 23/2/2017 (B. No: 2017/13228) and 11/4/2017 (B. No: 2017/21163).

His family was informed that Gökçe died in prison on 02/04/2018 due to his illness. According to the report prepared by the officials of the Penal Execution Institution; on 02/04/2018, at 17:11, upon pressing the emergency call button of room A-7, the correctional officers immediately contacted İTA. who was kept in the said room and learnt that Teoman Gökçe was ill. The guard on duty in the block, who saw Teoman Gökçe lying on the floor when he looked through the crankcase of room A-upper 8, contacted the officers in the central control room and asked them to call a lifeguard. The lifeguard was requested at 17:14. The execution protection officer AA. gave artificial respiration and heart massage to Teoman Gökçe. At 17:18 Teoman Gökçe was taken to the place where the lifeguard was to arrive with the help of a stretcher. CPR and heart massage continued until 17:32 when the lifeguard arrived. After medical intervention by the lifeguards, Teoman Gökçe was taken by lifeguard to Ankara Penal Institutions Campus State Hospital at 17:38 with the arrival of the gendarmes who would accompany the patient transport. According to a medical certificate, Gökçe was brought to the hospital at 17:45 in a state of unconsciousness and with an open vascular access; no signs of beating, cuts or hangings were detected and no pulse could be taken. After approximately 45 minutes of resuscitation efforts proved fruitless, Teoman Gökçe was declared dead at 18:30.

On 14/5/2018, the applicant Samiye Gökçe submitted a petition to the Chief Public Prosecutor's Office with her complaints against the public officials who decided to put her husband in solitary confinement and the public officials who were or should have been involved in the incident after her husband fell ill. In particular, the applicant made detailed complaints about the arrest of her husband Gökçe in violation of constitutional guarantees, his being kept in poor prison conditions, being subjected to isolation in solitary confinement, being subjected to severe pressure in detention and in prison, the lack of a mechanical and digital warning

system that could be used to call for help in cases such as heart attack or loss of consciousness in the solitary confinement where her husband was kept, the fact that it turned out that it was not possible to use the existing system in the event of a heart attack, and the lack of rapid intervention after her husband fell ill.

The applicants claimed that there were deficiencies in the criminal investigation into the death of their relatives and that Articles 2, 17, 19 and 141 of the Constitution had been violated.

According to the applicants, as a result of the examination carried out by the Constitutional Court, the applications numbered 2017/13228 and 2017/21163 made by Teoman Gökçe were dismissed on the grounds that there was no justification for the continuation of the examination of the application since Teoman Gökçe died and the applicants did not submit their requests regarding their wish to continue the application within the thirty-day application period after the period for rejecting the inheritance; that the application no. 2018/15806 filed by the applicants on the violation of the right to personal liberty and security and the prohibition of ill-treatment was inadmissible due to lack of jurisdiction in terms of person, on the grounds that the applicants were not direct victims of the incident.

According to the Court, since the applicants' complaints were about the violation of the right to personal liberty and security and the prohibition of ill-treatment and since it is not possible for the Constitutional Court to examine the allegations that were not raised within the thirty-day application period from the date of learning the final decision given within the scope of the investigation subject to the application, the allegations to be evaluated here can only be the allegations raised in the application form⁵⁵.

In its judgement, the Constitutional Court only directly examined the incident of death and rejected the application without examining many aspects that led to Teoman Gökçe's death, such as prison conditions, psychological pressure, lack of adequate living conditions. Furthermore, the Supreme Court did not examine whether the conditions of detention were effective in the death that occurred as a result of Teoman Gökçe's being kept in solitary confinement, the inadequacy of the delayed intervention and the failure to discuss the reasons that led to Teoman Gökçe's death in the report of the Specialised Board.

9. Zehra Reyhan Güven Judgement (Ap. No: 2021/4587, 22/04/2021)

The application concerns the death of former Police Chief Zeki Güven from a heart attack in solitary confinement 40 days after his arrest, on the grounds that the guarantees provided for in the Constitution were not fulfilled; It concerns the allegations of violation of the right to liberty and security of person, freedom of religion and conscience, prohibition of ill-treatment in terms of torture and ill-treatment by the security forces, freedom of expression, right to life in terms of failure to intervene during a heart attack, right to life in terms of giving salty food, failure to provide the deceased with food determined by the institution physician to protect his health and failure to carry out an effective criminal investigation.

⁵⁵ Batuhan Gökçe and Others Decision B. No: 2018/36427, K.T: 06/10/2021), <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2018/36427>

In the application made by the relative of Mr. Güven, who was declared to have died of a heart attack in prison, it was claimed that Zeki Güven was taken out of prison for interrogation, taken to the police station and tortured. Detailed allegations were made that no intervention was made during the alleged heart attack, no investigation was opened for those who were negligent, his medication was provided late and he was not given diet food for a long time.

In the decision dated 22 April 2021 issued by the Court considering the application:

- **Lack of jurisdiction** in respect of the claims of violation of the right to personal liberty and security, freedom of religion and conscience, prohibition of ill-treatment in terms of torture and ill-treatment by security forces and freedom of expression due to the failure to fulfil the guarantees stipulated in the Constitution
- Failure to exhaust the remedies for the claim that the right to life was violated due to the lack of intervention during a heart attack
- It was decided that the allegation of violation of the right to life in terms of giving salty meals, not providing the deceased with the nutrients to be determined by the institution physician to maintain his health and not conducting an effective criminal investigation was **inadmissible** due to lack of clear grounds⁵⁶.

In this case, as in its other judgements, the Court, on the basis of a two-page printed reasoning, deemed inadmissible the application made due to such a grave and suspicious death. The allegation of violation of the right to life in terms of insistently giving salty food to the deceased despite the fact that it was known that he was ill and a request was made to the prison administration in this direction, not providing the food to be determined by the institution physician to protect the health of the deceased and not conducting an effective criminal investigation, the Court found the allegation of violation of the right to life to be baseless without any research.

The malicious behaviour of the court is clearly understood at this point. In this decision, which was made in a hurry with two judges, it is clearly seen that the aim was to cover up the murder committed.

cc. Evaluation of the Constitutional Court Decisions

As it can be seen from the above cases, many ill prisoners and prisoners who were subjected to severe conditions in prisons due to discriminatory and arbitrary practices against political prisoners during the state of emergency, especially those who were arrested and convicted for alleged membership of the Gülen movement, died in prison or very soon after their release. Despite fulfilling the conditions for release and postponement of execution, many seriously ill prisoners are still fighting for their lives in prisons due to arbitrary and discriminatory practices.

In the applications made to the Constitutional Court regarding these rights violations, it is observed that the court legitimises arbitrary and discriminatory practices in prisons on

⁵⁶ Zehra Reyhan Güven Decision, B.No: 2021/4587, K.T: 22/04/2021, <https://kararlarbilgibankasi.anayasa.gov.tr/Ara?BasvuruAdi=+Zeki+G%C3%BCven>

general and unlawful grounds instead of eliminating the unlawfulness. It is understood that the Constitutional Court rejected the applications regarding deaths, suicides, torture, ill-treatment and similar allegations in detention and prison after 15 July, especially on procedural grounds, did not examine many allegations in the files, and rejected the applications due to the lack of timely application regarding deaths, suicides, torture, ill-treatment and similar allegations in prison.

In the post-15 July environment, it is observed that people may face different accusations when they try to defend their rights, that courts suppress applications with evidence-free and baseless allegations that they are made within the framework of organisational activities, that people hesitate to exercise their legal rights due to such comments of prosecutors' offices and courts, with the fear of "*Will I face another accusation?*", and that criminal complaints are filed against those whose applications are rejected for slander.

It is also observed that witnesses are not heard, suspects' meetings with their lawyers are restricted, and therefore it takes time for allegations of torture, ill-treatment and similar arbitrary practices to come to light; during forensic examinations, in violation of the law, law enforcement officers are prevented from writing torture allegations in the report due to the fact that the suspect is examined together with the law enforcement officers; prosecutor's offices and courts do not examine and ignore the applications made regarding torture allegations.

It is understood that the violations of the rights of seriously ill prisoners due to their inability to receive effective and rapid health care services in a timely manner, not being released despite their serious illness, or not postponing the execution of the sentence are also indifferent.

E. PARDON OF THE SENTENCES OF SICK PRISONERS BY THE PRESIDENT OF THE REPUBLIC AND DISCRIMINATORY DECISIONS IN PRACTICE

As it is known, the special pardon power of the President is regulated in Article 104 of the Constitution. The provision reads as follows: "*The President may commute or lift the penalties of persons due to permanent illness, disability and old age.*" Here, the concepts of permanent illness, disability and old age, which are subject to the President's special pardon power, are not sufficiently explained at the constitutional level, nor are they explained in the law or lower level norms.

These concepts, which are subject to the power of pardon, find application with the decisions of the Third Specialised Board of Forensic Medicine, which was assigned to give its scientific and technical opinions on the procedures regarding the mitigation or lifting of the penalties of certain persons due to permanent illness, disability and old age by the abolished Article 16 of the Law No. 2659 dated 14.04.1982 on the Forensic Medicine Institute and Article 17 of the Presidential Decree No. 4, which replaced this article, and with the discretionary power of the Presidents.

Since the special amnesty power is regulated in the Constitution without giving details and the issue is not addressed at the level of law, the principles regarding the special amnesty process are regulated in the Circulars of the Ministry of Justice. In this context, the special

pardon power of the President is currently carried out within the framework of the circular dated 02.01.2023 and numbered 2023/20-1⁵⁷.

On the other hand, a total of 572 special amnesty decrees have been issued so far, 79 of which belong to the 1961 Constitutional period and 493 to the 1982 Constitutional period (those published in the Official Gazette until 03.05.2023)⁵⁸.

The power of the President of the Republic to *"mitigate or abolish the penalties of persons due to permanent illness, disability and old age"* is an individual special amnesty in nature. In addition, the President's special pardon power is not subject to any limitation of person or subject matter. It can be stated that there is no restriction on the President's special pardon power. In addition, in the circular dated 2023, it is emphasised that the special amnesty process will continue if the convict or his legal representative renounces the special amnesty request, and it is emphasised that it is possible for the Chief Public Prosecutor's Office to initiate the special amnesty process ex officio.

The principle of equality regulated in Article 10 of the Constitution requires those in the same legal situation to be subject to the same rules. In addition, it is also a consequence of the principle of equality that individuals should not be discriminated against due to differences such as language, religion, sect, gender, political opinion⁵⁹. The principle of equality is one of the Constitutional principles that the administration must comply with in its transactions and actions. The principle of equality and the principle of non-discrimination are valid for the actions and decisions of the President of the Republic, who is a part of the administration. At this point, the President must use his discretionary right in accordance with the Constitutional principles and without discrimination. In other words, the President is expected to make a fair, egalitarian and non-discriminatory evaluation in the process of the two prisoners, who are seriously ill in the same way and at this point, the same determinations have been made by the Forensic Medicine Institution, to benefit from the special amnesty.

Although the basic legislative provisions regarding the special pardon power of the President are summarised above, it is observed that the practice is not carried out in this direction. Especially when the profiles of those who have been pardoned by recent presidential decrees are analysed, it is seen that a discrimination is made and a collective discretionary right is used for the prisoners of a certain file. On the other hand, there are hundreds of seriously ill prisoners who are at least as seriously ill as these individuals and whose special amnesty requests from the Presidency are rejected despite the existence of reports to this effect.

In this context, former commanders convicted in the 28 February trial were pardoned by Presidential decrees dated 16 May 2024 due to permanent illness and old age. Accordingly, former commanders convicted in the 28 February trial;

⁵⁷ Güler, Fatih. "Individual Special Amnesty Authorisation and Practice of the President in Turkish Political Life", Journal of Human and Society, 14/3 (2024), 181-209. <https://www.insanvetoplum.org/turk-siyasal-hayatinda-cumhurbaskaninin-bireysel-ozel-af-yetkisi-ve-uygulamasi>

⁵⁸ Güler, p. 185

⁵⁹ Yıldırım, Turan/ Göçgün Muhammed: "The Principle of Equality in Regulatory Actions of the Administration", İstanbul Medipol University Journal of Law Faculty 3 (2), Autumn 2016 p. 39 et seq.

- Fevzi Türkeri has advanced age
- Yildirim Turker is in a state of constant illness
- Cevat Temel Özkaynak has advanced age
- Erol Özkasnak is in a constant state of illness,
- Çevik Bir, Aydan Erol and Çetin Doğan were also pardoned due to the state of has advanced age⁶⁰.

Çevik Bir, whose sentence was finalised due to health problems, was released on 1 August 2022; Aydan Erol on 1 November 2022; Çetin Saner on 9 November 2022; Hakkı Kılınç on 17 February 2023. Retired Air Lieutenant General Vural Avar, whose sentence was approved, died in Sincan Prison on 19 December 2022 at the age of 85. On 26 January 2023, the remaining sentences of İlhan Kılıç and Kenan Deniz and on 3 March 2023, the remaining sentences of Hakkı Kılınç, Ahmet Çörekçi and İdris Koralp were lifted by President Erdoğan based on the authority arising from paragraph 16 of Article 104 of the Constitution of the Republic of Türkiye.

After the 28 February generals were pardoned by Erdoğan, Özgür Özel, the Chairman of the Republican People's Party, the main opposition party, made the following statement: *"I asked Erdoğan for the 28 February commanders. They took care of it, I made a thank you phone call"*⁶¹.

Although the nature of the 28 February generals' health problems that were subject to the special amnesty is not known exactly, considering the fact that not all of them were collectively subject to this special amnesty decision and the statements of the main opposition leader Özgür Özel, it is seen that this decision was made due to political compromise rather than a Constitutional practice.

At this point, according to the report prepared by the Human Rights Association, 522 prisoners lost their lives from the beginning of 2018 until the end of 2023. As far as it can be determined, 76 people lost their lives in prisons in 2022 and 35 of them died due to their illnesses. In 2023, it is understood that at least 42 prisoners died. Of the 42 prisoners who died in 2023, 23 of them died due to illness - five of them shortly after their release⁶². However, it is a well-known fact that the reality is much higher than this due to the intense lack of information/data, as in all rights violations in prisons.

Nusret Muğla, Yusuf Bekmezci, Abdo Baran and Vural Avar, who were among the prisoners over 80 years of age in prisons in 2022, lost their lives in prisons due to their illnesses and their names were publicised. The applications made by these persons either by

⁶⁰ <https://www.resmigazete.gov.tr/eskiler/2024/05/20240517.pdf>

⁶¹ Artı Gerçek, "I wanted 28 February pashas'...", 07 October 2024 , <https://artigercek.com/makale/28-subat-pasalarini-istedim-319426>

⁶² Human Rights Association, Türkiye Prisons Rights Monitoring Report 2023, p.40, <https://www.ihd.org.tr/wp-content/uploads/2024/06/2023-Y%C4%B1%C4%B1-Hapishane-Raporu.pdf>

themselves or through their lawyers remained unanswered and these persons lost their lives in prisons due to their severe illnesses⁶³.

At this point, it is understood that it is a conscious choice not to apply the Presidential amnesty power to certain dissident individuals. It is seen that the amnesty power has been used for political compromise by moving away from the principle of equality and has been applied collectively to certain defendants in certain cases.

F. SYSTEMATIC, DISCRIMINATIVE AND HATE-MOTIVATED PRACTICES IN PRISONS CONSTITUTING CRIME AGAINST HUMANITY

a. The Concept of Crimes Against Humanity in General and the Emergence of this Crime

In all societies, rules of law regulating human relations have always existed. However, the fact that the field of application of legal rules cannot be limited to the borders of nation states was clearly understood at the end of the two world wars in the 20th century. The great brutality and destruction resulting from these wars have forced states to make many regulations in the international arena. One of these areas has been law.

The results of both world wars not only influenced international law, but also paved the way for the emergence of international organisations to ensure the implementation of this law.

As a result of the studies conducted in the field of international criminal law, four groups of crimes have been identified. These are the crime of genocide, crimes against humanity, war crimes and crimes of aggression. Crimes against humanity, after first being included in the *Nuremberg Statute* in response to the actions of the Nazis, evolved in various international texts and found its most detailed definition in the Rome Statute.

The concept of crimes against humanity was first introduced in an international text as the Charter of the Nuremberg Tribunal, then found its place in the statutes of the International Criminal Tribunals for Tokyo, the former Yugoslavia and Rwanda, and took its final form in the Rome Statute⁶⁴. Crime against humanity means to victimise all humanity, to be hostile to mankind⁶⁵. For an act to be considered a crime against humanity, it must be committed as part of a widespread or systematic attack against a civilian population in a region or country. In other words, it is the commission of a large-scale, continuous and wide-ranging act of grave seriousness directly against a mass group of victims by following an organised and orderly system that has become general policy, involving a public or private authority⁶⁶.

⁶³ Human Rights Association, "Our Opinion on the Circular of the Ministry of Justice Regulating the Amnesty Authority of the Presidency on Sick Prisoners", 4 January 2023, <https://www.ihd.org.tr/hasta-mahpuslarla-ilgili-cumhurbaskanliginin-af-yetkisini-duzenleyen-adalet-bakanligi-genelgesi-hakkindaki-gorusumuz/>

⁶⁴ Seymen Çakar, Ayşen: Crimes against Humanity, Journal of TBB, Y. 2012, S.103, p.194-195

⁶⁵ Geras, Norman: Crime Against Humanity-Birth of a Concept, Manchester University Press, 2011, pp. 34,35

⁶⁶ Kirsten, Anderson; "How Effective is the International Convention for the Protection of All Persons from Enforced Disappearance Likely to be in Holding Individuals Criminally Responsible for Acts of Enforced Disappearance?", Melbourne Journal of International Law, Vol.7, p. 258

The Rome Statute does not contain a limiting provision on the perpetrators of crimes against humanity. Therefore, the perpetrator of crimes against humanity can be anyone. They can be state officials or civilians. It is not a requirement that the person or persons commit the crime against humanity as an official of the state or with the explicit or implicit approval or encouragement of the state. Subparagraph (a) of paragraph 2 of Article 7 of the Rome Statute states that the perpetrator may be a state official or a civilian by stating "*an organisation or an extension of state policy*".

According to the Rome Statute, in order for the acts listed in Article 7 to constitute crimes against humanity, the perpetrator must commit these acts systematically or in a widespread manner and must know that these acts are committed against a civilian population in accordance with a specific plan.

b. The Concept of Crimes Against Humanity within the Framework of the Rome Statute and Evaluation of Rights Violations in Turkish Prisons

The first international document regulating crimes against humanity in international law was the Treaty of London, which established the Nuremberg Tribunal, announced at the end of the London Conference held in 1945. The concept and trials of crimes against humanity, which started with the Nuremberg Tribunal, continued with the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and was finalised with Article 7 of the Rome Statute of 17 July 1998⁶⁷.

The Rome Statute has been ratified by 123 countries. There is no the EU member state that has not ratified the Rome Statute. States parties to the Statute have regulated their domestic legislation in accordance with the Rome Statute. Although Türkiye is not a party to the Rome Statute, the Turkish Criminal Code No. 5237, which entered into force in 2006, regulates crimes against humanity in Article 77 and the crime of genocide in Article 78.

Article 7 of the Rome Statute regulates crimes against humanity. According to the Article, for the purposes of this Statute, "*crimes against humanity*" include acts committed as part of a widespread or systematic attack against any civilian population. According to Article 7/1 of the Rome Statute, crimes against humanity include "*acts (enumerated in the article) committed knowingly and as part of a widespread or systematic attack against any civilian population*". The acts listed in Article 7 of the Rome Statute that constitute crimes against humanity are as follows:

- Manslaughter
- Total annihilation
- Enslavement
- Deportation or forced transfer of the population

⁶⁷ Seymen Çakar, Ayşen: "Crimes against Humanity", Journal of TBB, Y.2012, S. 103, p.176

- Imprisonment or other deprivation of physical liberty in violation of fundamental provisions of international law
- Torture
- Rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilisation or other forms of sexual violence of similar gravity
- Persecution against any identifiable group or community, as defined in paragraph 3, on political, racial, national, ethnic, cultural, religious, sexual or other grounds not universally recognisable under international law, in connection with any act referred to in this paragraph or any offence within the jurisdiction of the Court
- Forced losses
- Racial discrimination
- Other inhumane acts of a similar nature that intentionally cause serious suffering or serious damage to bodily or mental or physical health.

There is no difference whether crimes against humanity are committed in peacetime or wartime. If an attack against a civilian population meets the elements of Article 7 of the Statute, it will be considered a crime against humanity, regardless of whether it is committed in peacetime or wartime⁶⁸.

As can be seen, in accordance with Article 7 of the Rome Statute entitled "*Crimes against Humanity*" include acts committed as part of a widespread or systematic attack against any civilian population. In this context, crimes against humanity include systematic, widespread and planned attacks against a specific group of people;

- Detention measures in violation of fundamental provisions of international law
- Torture, ill-treatment and inhuman treatment in prisons and detention centres
- Rape, sexual abuse, forced prostitution, forced pregnancy, forced sterilisation or other forms of sexual violence of similar gravity in prisons and detention centres,
- Other inhumane acts or practices of a similar nature that intentionally cause serious suffering or serious damage to physical or mental or physical health

the acts committed would constitute crimes against humanity under Article 7 of the Statute.

These acts were systematic and planned by the Erdoğan regime against dissident prisoners, in particular members of the Gülen Movement. This situation essentially reveals that the acts carried out are in the nature of crimes against humanity as defined in Article 7 of the Rome Statute and Article 77 of the Turkish Criminal Code. Mass arrests and detentions were carried out mainly against members of the Gülen Movement on the grounds of political, philosophical and religious differences of opinion, ignoring international law and constitutional

⁶⁸ Seymen Cakar, p.180

provisions and guarantees. Hundreds of cases of enforced abduction and disappearance⁶⁹ took place inside and outside the country. Members of the Gülen Movement have been subjected to inhuman treatment, torture, strip searches, rape, forced pregnancies⁷⁰ in detention centres and prisons, which may cause physical, mental and physical damage to their health. Sick prisoners have been deliberately deprived of health and treatment services. Many deaths have occurred as a result. Hundreds of people committed suicide in prisons due to depressions caused by pressure and ill-treatment. The number of people trying to continue their lives with psychological problems is quite high.

On the other hand, **the Working Group on Arbitrary Detention of the United Nations Human Rights Council**, in its many decisions⁷¹ on the applications of the victims of the Gülen Movement volunteers, has clearly emphasised that the mass detention and arrest campaign against the Gülen Movement alone, let alone killings and torture, could constitute crimes against humanity. Similarly, UN independent expert **Alfred de Zayas**, in his article dated 26 February 2021, stated that eight of the ten stages of genocide (classification, symbolisation, discrimination, dehumanisation, organisation, polarisation, preparation, persecution, excluding extermination and denial) have been achieved so far with the attacks against the Gülen Movement volunteers⁷². In short, there is no doubt that the acts against Gülen Movement volunteers constitute crimes against humanity.

ill-treatment, torture, strip search, rape, harassment, forced impregnation, etc., which have become state practice in prisons and detention centres, people are almost deprived of the most fundamental rights and protections such as protection from torture, inhuman and degrading treatment, right to life, right to liberty and security of person, right to fair and public (transparent) trial, right to know the truth, right to recognition of legal status and equal protection before the law⁷³.

It is also a fact that persons unlawfully disappeared during detention, arrest or abduction are generally subjected to torture, inhuman and degrading treatment. These systematic practices have continued in prisons in the form of deprivation of health rights with a conscious preference and forcing sick prisoners to live in conditions that endanger their right to life.

⁶⁹ Justice Square, Kidnapping and Disappearance Cases in Türkiye, Amsterdam 2024, <https://justicesquare.org/turkiyede-adam-kacirma-ve-kaybetme/>

⁷⁰ Türkiye; Individuals associated with the Gülen movement; The Finnish Immigration Service's fact-finding mission to Ankara and Istanbul 2 - 6 October 2023, p. 45, [https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf?t=1723630918594](https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf?t=1723630918594)

⁷¹ United Nations, Human Rights Council Working Group on Arbitrary Detention, https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_51_Advance_Edited_Version.pdf;

⁷² Alfred de Zayas: Crimes Against Humanity in Erdogan's Türkiye, 26.02.2021, https://www.realclearreligion.org/articles/2021/02/26/crimes_against_humanity_in_erdogans_Türkiye_661936.html

⁷³ Gündoğan, Gündoğan, Şerife: Zorla Kaybetme within the Framework of the State's Obligation to Protect the Right to Life of the Individual, Istanbul Şehir University Institute of Social Sciences Department of Public Law Master's Thesis, August 2016, p.69

As a result of these systematic, intensive, hate-motivated policies and practices, many deaths and suicides have occurred. Since the arrested person is deprived of his/her freedom and plunged into a dark uncertainty, the right to liberty and security is ignored, as well as the right to life of the person has been violated by practices contrary to the prohibition of inhuman treatment and torture. Prisons have been turned into centres of revenge and concrete coffins by the Erdoğan regime.

On the other hand, it is sufficient that the act of deprivation of liberty is not committed by any third party, but by persons directly or indirectly linked to the state. These persons may be official officials of the state, such as prison officials, or they may be individuals or groups acting with the order, support, or even with the consent or connivance of the state. What is important is that the person or persons who carry out this act, even if they are not official officials, are somehow connected to the state, even indirectly, or are acting on its behalf and account⁷⁴.

c. The Concept of Crimes Against Humanity in Turkish Law and Evaluation of Rights Violations in Turkish Prisons

Crime against humanity is defined as a special-Type of offence in Turkish Criminal Law. It is regulated in the Turkish Penal Code. Article 77 of the TPC is as follows:

(1) The systematic commission of the following acts in accordance with a plan against a chapter of the population on political, philosophical, racial or religious grounds constitutes a crime against humanity:

- a) Deliberate killing*
- b) Intentional injury*
- c) Torture, persecution or enslavement*
- d) Deprivation of personal liberty*
- e) Subjecting to scientific experiments*
- f) Sexual assault, sexual abuse of children*
- g) Don't make me pregnant*
- h) Forced incitement to prostitution*

(2) If the act described in subparagraph (a) of the first paragraph is committed, the perpetrator shall be sentenced to aggravated life imprisonment; if the acts described in the other subparagraphs are committed, the perpetrator shall be sentenced to imprisonment not less than eight years. However, for the offences of intentional killing and intentional wounding committed within the scope of subparagraphs (a) and (b) of the first paragraph, the provisions of actual aggregation shall apply for the number of victims determined.

(3) Security measures shall also be imposed on legal entities for these offences

(4) The statute of limitations does not run for these offences

⁷⁴ Gündoğan, p.71

As can be seen in the article, the commission of acts of deportation, enslavement, mass and systematic killing of persons, abduction and destruction of persons, subjecting them to torture or inhuman treatment or biological experiments, forced impregnation, forced prostitution against a civilian group of the population through the implementation of a plan and for political, philosophical, racial or religious motives are considered crimes against humanity.

The most significant difference between the definition in the TCK No. 5237 and the crime in the Rome Statute is related to **the moral element**. While general intent is considered sufficient for the commission of crimes against humanity in the Rome Statute, the presence of specific intent is required in the TCK Law No. 5237; crimes against humanity must be committed with discriminatory motives based on political, philosophical, racial or religious motivations⁷⁵.

Especially when the unlawful arrests, detentions, arrests, torture, kidnappings and disappearances in the process after the 15 July coup attempt are considered together with the fact that they were carried out in accordance with a plan and against the Gülen Movement, which was declared "*dissident criminals*" by the government, and the lynching practices carried out through the media; it is clearly seen that what has been done is a crime against humanity. Because these acts contain the elements of crimes against humanity as defined in Article 7 of the Rome Statute and Article 77 of the Turkish Criminal Code.

Erdogan regime labelled a civilian community that it perceived as opposing it as "FETO/PDY" and declared it an armed terrorist organisation, labelling and accusing it of being terrorists, coup plotters and traitors. Subsequently, members of this Movement have been subjected to systematic detentions and arrest measures, torture, strip searches, rape and impregnation⁷⁶ in prisons and detention centres on political, philosophical or religious grounds in line with a plan. Sick prisoners were deliberately left to die. Therefore, these systematic, intensive and planned acts against members of the Gülen Movement constitute a crime against humanity in the context of Article 77 of the TCK.

When the issue is examined within the framework of the above-mentioned legal regulations, the systematic and unlawful detentions, arrests, human rights violations in prisons, acts of torture and ill-treatment, enforced disappearances, and abductions initiated with slanderous accusations such as "coup plotter," "traitor," or "terrorist" targeting journalists, parliamentarians, businessmen, academics, judges and prosecutors, doctors, teachers, religious officials, tradespeople, housewives, students, and, in short, people from all segments of society, as a whole, constitute crimes against humanity under the Rome Statute and Article 77 of the Turkish Penal Code.

⁷⁵ Koç Başar, Cansu: State Policy in Crimes Against Humanity in the Context of the Rome Statute, Oniki Levha Publishing, İstanbul 2019, p.236

⁷⁶ Türkiye; Individuals associated with the Gülen movement; The Finnish Immigration Service's fact-finding mission to Ankara and İstanbul 2 - 6 October 2023, p. 45, [https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf?t=1723630918594](https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf?t=1723630918594)

While crimes against humanity were being committed by the Erdoğan regime, the fundamental principles of the Constitution and the most basic individual rights were deliberately shelved. All mechanisms of the judiciary, especially the Constitutional Court, as well as other public institutions and organisations have become the guardians of this lawless interim period. They have become perpetrators of crimes against humanity.

CHAPTER II:

DECISIONS and REPORTS AGAINST TÜRKİYE FOR DISCRIMINATIVE PRACTICES AGAINST PRISONERS WITH HEALTH ISSUES

A. EUROPEAN COURT OF HUMAN RIGHTS JUDGEMENTS AGAINST TÜRKİYE

a. The ECHR's Perspective on the Issue

States do not have a direct obligation to release prisoners due to health problems, but in very exceptional and serious circumstances, it is possible to take certain humanitarian measures in order to realise good criminal justice and to decide to release the person if necessary. As emphasised by the ECtHR in **Gülay Çetin v. Türkiye**, the clinical picture of the individuals is one of the factors that should be taken into account in forms of execution requiring deprivation of liberty⁷⁷.

According to the ECtHR, although the health care provided in prison hospitals is not always at the same level as the best health institutions available to the general public, States Parties have an obligation to adequately protect the health and well-being of prisoners by providing them with the necessary medical assistance⁷⁸. The ECtHR found that the failure of a convict with cancer to receive adequate medical treatment in prison and the continued execution of his sentence despite the progression of his illness, as well as the handcuffing of the convict during chemotherapy, violated the prohibition of inhuman and degrading treatment⁷⁹.

On the other hand, as emphasised by the Court in *Salakhov and Islyamova v. Ukraine*, in the event of the death of detainees and convicted patients as a result of their inability to benefit from adequate health and treatment facilities, there would be a violation of Article 2 of the Convention, as the respondent States have failed to fulfil their obligation to protect the right

⁷⁷ ECtHR, *Gülay Çetin v. Türkiye*, B. No. 44084/10, KT.05.3.2013, Prg.102

⁷⁸ ECtHR, *Khudobin v. Russia*, B. No: 59696/00, K.T: 26/10/2006 Prg. 93

⁷⁹ ECtHR, *Mouisel v. France*, B. No: 67263/96, K.T: 14/11/2002, Prg. 36-48

to life⁸⁰. Likewise, suicides of persons with physical or mental illnesses in custody, detention centres or prisons may also give rise to the responsibility of States Parties under Articles 2 and 3 of the ECHR⁸¹.

On the other hand, as stated by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which considers health care services provided to persons deprived of their liberty directly within its mandate, "*Inadequate health care services* may lead to the rapid emergence of conditions falling within the scope of the term *inhuman and degrading treatment*". Failure to provide adequate medical treatment may be considered as treatment falling within the scope of Article 3 of the Convention. As a matter of fact, in the ECtHR *Melnick v. Ukraine* judgement⁸², the inadequacies of the prison authorities in the diagnosis and treatment of the applicant's tuberculosis were considered among the factors contributing to the violation of Article 3 of the Convention⁸³.

In its *Pilic v. Croatia* judgement⁸⁴, the ECtHR found that the failure to operate on the convicted applicant, who had been advised by doctors and whose condition was known to the authorities that he needed surgery to get rid of the problem, although it was not urgent due to kidney stones, in order to completely get rid of these kidney pains that came from time to time for a long period of 4 years, was contrary to the obligation to provide the applicant with the necessary medical treatment and ruled that the prohibition of inhuman degrading treatment under Article 3 of the Convention was violated⁸⁵.

b. Sample Violation Judgements of the ECtHR on Türkiye

At this point, in accordance with the purpose of the study, especially the recent violation judgements against Türkiye are included.

The European Court of Human Rights has issued several judgements against Türkiye for violations of the right to health of prisoners. The ECtHR has emphasised that inadequacies and omissions in health care services may violate prisoners' right to life and constitute inhuman treatment. Such judgements were mostly based on deficiencies in the provision of health care in prison conditions, problems of access to emergency medical care and inadequate treatment, particularly for prisoners with chronic conditions.

According to the ECtHR, under Article 3 of the Convention, the State must ensure that a person is held in conditions compatible with respect for human dignity, that the manner and method of applying the measure does not subject the person to an intensity of distress and hardship which exceeds the inevitable level of suffering inherent in detention, and that his or her health and welfare are adequately safeguarded, taking into account the demands of

⁸⁰ ECtHR, *Salakhov and Islyamova v. Ukraine*, B. No: 28005/08, K.T: 14/03/2013, Prg. 164-183

⁸¹ ECtHR, *Ketreb v. France*, B. No: 38447/09, K.T: 19/07/2012

⁸² ECtHR, *Melnik v. Ukraine*, Application No: 72286/01, K.T: 28.03.2006

⁸³ Ülkü, Muhammet Murat: "Positive Obligations of the State in the Scope of Article 3 of the ECHR on the Conditions of Detention of Persons Whose Liberty is Restricted", *Türkiye Adalet Akademisi Dergisi*, S.13, April 2013, p.274

⁸⁴ ECtHR, *Pilic v. Croatia*, Application No: 33138/06, K.T: 17.01.2008

⁸⁵ Doğru, Osman/Nalbant, Atilla: *European Convention on Human Rights Explanation and Important Decisions*, C.1, Council of Europe - T.C. Court of Cassation Presidency Publication, Ankara 2012, p.163

imprisonment. In this regard, the Court emphasised this point in its *Gülay Çetin v. Türkiye* judgment of 5 March 2013.

The case concerned the application of Gülay Çetin, a patient with advanced cancer who had been convicted of manslaughter. In particular, the applicant alleged that she had been refused by the authorities to be released pending trial, to have her sentence suspended or to be granted a presidential pardon, which had increased her physical and mental distress. The applicant died in the prison ward of a hospital due to her illness.

Assessing the application in the context of Article 3 of the Convention, the Court noted that the health of prisoners sometimes required humanitarian measures, in particular when a problem arose in relation to the continued detention of a person whose condition was not suitable for a prison environment in the long term. The Court found that, in the concrete case, the applicant's conviction, both before and after it, amounted to inhuman and degrading treatment contrary to Article 3. It also held that, taken together with Article 14 (prohibition of discrimination), the applicant had been discriminated against because, at the time of his pre-trial detention, he did not qualify for the protective measures applicable to seriously ill prisoners.

Finally, the Court recommended that, in accordance with Article 46 (binding and execution of judgements), the Turkish authorities should take measures to protect the health of detainees with incurable illnesses who were being tried in pre-trial detention or who had a finalised conviction.

B. RESOLUTIONS AGAINST TÜRKİYE BY THE UNITED NATIONS (UN)

a. United Nations Resolutions

As is known, Türkiye is a party to the United Nations ICCPR and the Optional Protocol. In this context, Türkiye has recognised the competence of the Committee to determine whether there has been a violation of the Covenant and, pursuant to Article 2 of the Covenant, has undertaken to guarantee the rights recognised in the Covenant to all individuals within the territory of Türkiye and subject to its jurisdiction and to provide an effective and enforceable remedy where a violation is found to have occurred.

The United Nations Working Group on Arbitrary Detention, CAT have published several reports on the health conditions of prisoners in Türkiye, particularly following the 15 July coup attempt. These reports contain findings that sick prisoners do not receive adequate medical care and are subjected to ill-treatment and torture. In this context, the decisions taken as a result of the applications made to the relevant committees of the UN especially after 15 July will be included.

aa. United Nations Working Group on Arbitrary Detention: Opinion No. 38/2017

In 2017, the United Nations Working Group on Arbitrary Detention issued an opinion on the conditions of detention of several individuals in Türkiye, including those with serious health problems. The Working Group found that arbitrary detention and inadequate medical care violate international human rights standards⁸⁶.

⁸⁶ Human Rights Council Working Group on Arbitrary Detention, Opinion No. 38/2017 concerning Kursat Çevik (Türkiye), 16 June 2017, A/HRC/WGAD/2017/38,

bb. Human Rights Committee: Mukadder Alakuş Decision

The applicant Mukadder Alakuş was detained on 4 September 2018 on charges of membership of an armed terrorist organisation in the context of investigations against the Gülen Movement. During the day she was detained, she was denied food, water and regular medication. The applicant suffers from a number of health problems. She suffers from spondylarthrosis, psoriatic arthritis, gallstones, dental problems, chronic asthma and bronchitis. The applicant, who is a teacher, has also had a meniscus operation. The condition of her spondylarthrosis requires considerable medical follow-up, including regular medication, physiotherapy and visits to specialists (2.1). Some of her problems require considerable medical supervision. The applicant's condition deteriorated during the several months following her arrest as he was forced to sleep on a mattress on the floor and was unable to access her medication.

Between September and October 2018, the applicant made requests to the prison administration to visit a specialist doctor, but these requests remained unanswered. Likewise, he sent petitions to the Manisa High Criminal Court regarding the conditions of detention, lack of access to medication and treatment, as well as his request for conditional release on medical grounds, but to no avail. On 23/11/2018, the applicant's lawyer applied to the prison administration and requested treatment for the applicant's arthritis. On 23 September 2019, the applicant's husband requested the prison administration to allow her wife to see a specialist doctor. On 5 October 2019, he sent a further request to the Presidential Communications Office, requesting appropriate treatment for his wife. In this context, the applicant submitted numerous petitions to the prison administration regarding the conditions of his detention and her health condition, but to no avail. In addition to her requests to the prison authorities, she lodged complaints before the Manisa High Criminal Court, the Regional Court of Appeals and the Court of Cassation.

The matter was referred to the UN Human Rights Committee following the deterioration of the applicant's situation and the failure to obtain results from any of the exhausted domestic remedies. In this context, violations of Articles 6, 7, 9, 10, 14, 15, 18, 19, 21, 22, 25, 26 and 27 of the ICCPR were alleged.

The Committee, which has found numerous violations, has also found violations in respect of the author's state of health and prison conditions. The Committee notes that the State party has not provided any information to refute the author's allegations concerning the conditions of detention in police custody and in Eskişehir H-Type Prison. The Committee notes that the information provided by the State party on the space available in Eskişehir L-Type Prison is presented in general terms, without providing information on the number of inmates with whom the author shared her cell or on the private space available to the author. The Committee further notes that the State party has not refuted the author's allegations

https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session78/A_HRC_WGAD_2017_38.pdf

concerning sleeping conditions, lack of access to adequate nutrition and inaccessibility of toilets, given the state of her knee and the absence of a carer.

In the circumstances described, and in the absence of further information or clarification by the State party, the Committee concludes that certain minimum requirements have not been fulfilled and that the State party has violated the author's rights under article 10 (1) of the Covenant (10.5).

The Committee takes note of the author's allegations that she was not provided with food, water or medication while in police custody; that she was held in an overcrowded cell in the Eskişehir L-Type Prison and Eskişehir H-Type Prison, sharing a seven-person cell with fourteen other inmates. It also notes her allegations that she slept on a bed on the floor, lacked a medically recommended diet and was deprived of hot water and accessible toilets without taking into account her particular health condition (10.4).

Since the detainee's right to be accommodated in conditions compatible with human dignity is a fundamental human right and the State party has a positive obligation to ensure this, the Committee requested the State party to prove that it had fulfilled its obligations. However, since the State party did not provide much information or explanation in response to the author's claims and evidence, the Committee concluded that certain minimum requirements were not fulfilled and that the State party had violated the author's rights under article 10 (1)⁸⁷.

cc. Human Rights Committee: Gökhan Açıkkollu Decision

In its Resolution No. 3730/2020 dated 30/11/2022, the UN Human Rights Committee made important findings and violations regarding the torture, ill-treatment and death in detention of **Gökhan Açıkkollu**, who was detained in the context of investigations into the Gülen Movement immediately after the 15 July coup attempt. Gökhan Açıkkollu, a teacher who was detained on 3/07/2016 after the 15 July coup attempt, was subjected to violence during and while in detention. The ill-treatment suffered by the applicant was recorded in medical reports issued on various dates. Gökhan Açıkkollu was taken to the emergency room on 28/07/2016 and 31/07/2016 following serious panic attacks. According to the emergency room records, Açıkkollu had a heart attack in the detention centre on 05/08/2016 and died.

Açıkkollu died as a result of torture and ill-treatment in detention and the prosecutor's office issued a decision of non-prosecution regarding Açıkkollu's death. After the decision of non-prosecution, an application was made to the Human Rights Committee by his wife Mümüne Açıkkollu for the determination of violations of Gökhan Açıkkollu's right to life and the investigation process after his death.

In the Committee's view, a loss of life in unnatural circumstances during detention is a circumstance that can only be rebutted on the basis of a thorough, prompt and impartial investigation establishing the State's compliance with its obligations under Article 6 of the Convention, and such a loss gives rise to a presumption of deprivation of life by the State

⁸⁷ UN Human Rights Committee, *Alakuş v. Türkiye*, CCPR/C/135/D/3736/2020, 15 November 2022, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F125%2FD%2F2980%2F2017&Lang=en

authorities. It is the responsibility of the State party to provide everyone with the necessary protection against acts prohibited by article 7, such as torture and ill-treatment, which may seriously affect the physical and mental health of the person being ill-treated and may result in the deprivation of life (8.4).

On the basis of the information available in the file, the Committee considers that, although the authorities were aware of the allegations of torture, there is no adequate explanation for the fact that an ex officio investigation was conducted into these allegations, based on the obvious marks on the author's wife's body and medically reported psychological symptoms. The Committee considers that, in the circumstances of the present case, and in particular in the light of the signs of ill-treatment witnessed on numerous occasions and the failure of the State party to make any actual statement that serious investigations had been carried out, the author's allegations should be given due weight.

The Committee concludes that, in view of his current health problems, the State party failed to exercise due diligence in protecting the author's wife from torture and ill-treatment and, ultimately, in protecting her life while in detention, contrary to articles 6 and 7 of the Covenant (8.5).

With regard to the allegations that Gökhan Açikkollu was subjected to torture and ill-treatment while in detention, which resulted in his death, the Committee concluded that, as a result of its assessment:

- That the State party has not demonstrated that the individual remedy before the Constitutional Court would be effective in practice in challenging the legality of the author's husband's detention and subsequent death in custody
- That the derogation, which came into force following the declaration of a nationwide state of emergency in Türkiye on 2 August 2016, cannot suspend fundamental safeguards against arbitrary detention
- That the State party has failed to establish that Gökhan Açikkollu's allegations that he was subjected to physical and psychological trauma while in detention during his medical examination on 3 August 2016 were promptly, impartially and thoroughly investigated
- That the State party, contrary to articles 6 and 7 of the Convention, failed to exercise due diligence to protect Gökhan Açikkollu from torture and ill-treatment and to safeguard his life in detention, taking into account his known pre-existing health problems
- The State Party has failed to demonstrate that a thorough and impartial investigation was conducted into the allegations of torture and the death of Gökhan Açikkollu; nor has it justified why the statements of other witnesses in custody during the

investigation were disregarded or why the allegations of torture prior to his death were not effectively investigated in a timely manner⁸⁸.

b. Reports Prepared by the United Nations

aa. Concluding Observations on the Committee against Torture's Fourth Periodic Report on Türkiye (2016)

In its concluding observations on the fourth periodic report of Türkiye, the Committee against Torture expressed serious concern about the treatment of sick detainees. The Committee found numerous cases of inadequate medical care, poor conditions of detention and ill-treatment of prisoners with health problems. It urged Türkiye to address these problems immediately and to adopt policies in line with international standards.

The Committee noted that prison overcrowding and inadequate health care remain chronic problems in the penal system. It also noted that the State party had failed to mitigate the dramatic increase in the prison population by failing to adequately implement alternative measures to the restriction of liberty.

The Committee regretted the lack of complete information on suicides and other sudden deaths in detention facilities during the period under review. In this regard, it requested Türkiye to take the following steps:

- Ensure that all persons deprived of their liberty receive timely and appropriate medical treatment
- Conduct independent and prompt investigations into allegations of deliberate denial of health care and prosecute or discipline prison officials responsible for such behaviour
- Providing detailed information on cases of deaths in custody and the causes of these deaths
- To take the necessary measures to ensure that all cases of deaths in custody are promptly and impartially investigated by an independent body⁸⁹.

bb. Opinion of the UN Working Group on Arbitrary Detention (September 2022)

Many civil society organisations and politicians have reported unlawful strip searches by the prison administration against them and their visitors when detainees or prisoners are imprisoned for terrorism offences⁹⁰.

⁸⁸ UN Human Rights Committee, 30/11/2022, CCPR/C/136/D/3730/2020, <https://documents.un.org/doc/undoc/gen/g23/012/81/pdf/g2301281.pdf?token=lpkEbBqhWC01HJqBDh&fe=true>

⁸⁹ Committee against Torture: Concluding Observations on the Fourth Periodic Report of Türkiye (2016) , <https://insanhaklarimerkezi.bilgi.edu.tr/tr/content/143-iskenceye-kars-komite/>

⁹⁰ United States Department of State Bureau of Democracy, Human Rights and Labour, "2022 Country Reports on Human Rights Practices, 2022 Human Rights Report - Türkiye Executive Summary", p.8, <https://tr.usembassy.gov/wp-content/uploads/sites/91/insan-haklari-raporu-turkiye-bolumu-2022.pdf>

Furthermore, on the grounds that it was based on the authorisation granted under the Anti-Terror Law, the Chief Public Prosecutors were not allowed to release prisoners who were deemed to pose a threat to public security, despite medical reports. Former HDP Deputy Co-Chair Aysel Tuğluk had been in prison for 5 years on charges of membership of a terrorist organisation. It was reported that her request for release was rejected despite a medical report stating that she suffers from dementia and early stage Alzheimer's disease⁹¹.

cc. Fifth Periodic Report of the UN Committee against Torture on Türkiye (14 August 2024)

The UN Committee against Torture considered the fifth periodic report of Türkiye at its 2123rd and 2125th meetings held on 17 and 18 July 2024 and adopted the present concluding observations at its 2134th meeting held on 25 July 2024. The Committee expressed its concern about torture, ill-treatment and other inhumane acts against Türkiye and made the following recommendations and requests to Türkiye⁹².

• Conditions of Detention:

The Committee emphasises that Türkiye should continue its efforts to improve conditions of detention. It also draws attention to the social interaction of prisoners outside their cells and to the fact that solitary confinement should not be used except in exceptional circumstances.

• Death Cases in Custody:

Concerns have been expressed that deaths in custody have been inadequately investigated. The Committee recommends that Türkiye investigate these deaths independently and in accordance with the Minnesota Protocol.

Reported that deaths in custody were inadequately investigated and that investigations did not ensure adequate involvement of the deceased's family members, legal representatives and independent non-governmental organisations. It regretted the lack of data provided by the State on deaths in custody and the lack of public reporting on these deaths. The Committee finally stated under this heading that the State should promptly and impartially investigate all deaths in custody, including forensic medical examinations, by an independent body and impose appropriate sanctions where relevant, and should keep and publicly report up-to-date and detailed data on deaths in all places of detention, their causes and the results of investigations.

• Allegations of Torture and Ill-Treatment:

The Committee stresses that allegations of torture increased after the attempted coup in 2016 and that ill-treatment such as beatings, sexual assault and electric shocks are common in detention centres.

⁹¹ United States Department of State, "2022 Country Reports on Human Rights Practices Bureau of Democracy, Human Rights and Labour 2022 Human Rights Report - Türkiye Executive Summary", p.11, <https://tr.usembassy.gov/wp-content/uploads/sites/91/insan-haklari-raporu-turkiye-bolumu-2022.pdf>

⁹² UN Committee against Torture, Experts of the Committee against Torture Commend Türkiye on its Strong Commitment to Fight Violence against Women, Ask about Life Sentences in Prison and the Communication of Detainees with Family Members, 18 July 2024

The Committee reported that it was seriously concerned by allegations of widespread torture and ill-treatment in the State, particularly in detention centres. These allegations include beatings, sexual assault and harassment by security and intelligence officials, and in some cases electric shocks and waterboarding.

The Committee is particularly concerned about the increase in allegations of torture and ill-treatment in the aftermath of the attempted coup in 2016, following the earthquakes in the south-east of the country in 2023 and in the context of counter-terrorism operations. Concerns also remain that the Anti-Terrorism Law has been used to limit fundamental legal guarantees, such as access to a lawyer and oversight of the legality of detention, in contravention of international standards.

In this regard, the Committee reminded the State of the following points:

- Investigation of all allegations: Investigate all allegations of torture and ill-treatment in a prompt, impartial, effective and independent manner. Ensure that authorities without hierarchical links to suspected perpetrators initiate investigations. Ensure that persons suspected of such acts are immediately suspended from duty pending investigation.
- Prosecution and punishment of perpetrators: Ensure that perpetrators of torture or ill-treatment are prosecuted and, if found guilty, receive penalties appropriate to the gravity of their acts. Ensure that victims or their family members benefit from appropriate compensation and reparation mechanisms.
- Review of legislation: Review domestic legislation on terrorism and harmonise counter-terrorism policies with the Convention.

The Committee also stated that these allegations should be independently investigated⁹³.

dd. Second Periodic Report of the UN Human Rights Committee on Türkiye

The Human Rights Committee issued its concluding observations on the second periodic report of Türkiye (CCPR/C/TUR/CO/2) on 7 November 2024. The report drew attention to numerous human rights violations in Türkiye and raised various concerns.

The main concerns raised by the Committee are as follows:

- Overcrowding and Inadequate Conditions in Prisons: It was emphasised that prisons continued to be overcrowded. Prisoners lacked access to adequate health care, drinking water, food, heating, ventilation and lighting and suffered from poor sanitary conditions.
- Long-term solitary confinement and political prisoners: It was stated that the practice of long-term solitary confinement continued and that particularly political prisoners were subjected to more severe conditions of detention.

⁹³ <https://www.ohchr.org/en/news/2024/07/experts-committee-against-torture-commend-turkiye-its-strong-commitment-fight-violence>

- Discriminatory Provisions of Law No. 7242: It has been stated that Law No. 7242, which aims to reduce the prison population, contains discriminatory provisions and that political prisoners accused of terrorism are not treated equally with other prisoners in terms of access to probation and parole (31)⁹⁴. The Committee emphasised that these practices are contrary to international human rights standards.

C. REPORTS PREPARED BY THE EUROPEAN UNION

a. 2018 Briefing on EU Enlargement Policy (Türkiye Report 2018)

The Türkiye Report prepared by the EU after the State of Emergency period revealed that prisons had become a centre for acts that could be considered crimes against humanity. Regarding the prison system, the report emphasised that overcrowding and deteriorating prison conditions were a source of deep concern.

As well as this:

- There has been an increase in the prison population at the rate of 290 persons for every 100,000 inmates, and the prison population is currently 234,673
- As of the date of the report, the number of children staying with their detained mothers was over 600
- That the shortage of psychologists, social workers and sociologists continues to have a negative impact on the rehabilitation of prisoners
- Human rights violations in Turkish prisons, including arbitrary restrictions on the rights of detainees and the use of torture, ill-treatment and solitary confinement as disciplinary measures
- It was found that sick detainees were frequently prevented from accessing medical care.

Furthermore, the report clearly states that the state-affiliated bodies responsible for monitoring prison conditions were either dissolved or largely ineffective following the coup attempt, and that prison officers and prison administrations therefore operate largely unchecked⁹⁵.

b. 2020 Briefing on EU Enlargement Policy (Türkiye Report 2020)

The report states that increased prison overcrowding and deteriorating prison conditions remain a cause for concern. The prison population, comprising convicted and non-convicted prisoners, was 249,600 as of July 2020, despite a capacity of 236,755 in prisons. There are a total of 2,500 children in prisons, 405 of whom are staying with their detained mothers.

⁹⁴ Human Rights Committee, Concluding observations on the second periodic report of Türkiye, CCPR/C/TUR/CO/2, 7 November 2024, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FTUR%2FCO%2F2&Lang=en

⁹⁵ European Commission, 2018 Briefing on EU Enlargement Policy, 2018 Türkiye Report, Strasbourg, 17.4.2018, https://www.ab.gov.tr/siteimages/pub/komisyon_ulke_raporlari/2018_turkiye_raporu_tr.pdf

Since the lifting of the state of emergency, Türkiye does not publish statistics on the proportion of those detained on terrorism charges to the total prison population. According to data from the Ministry of Justice, more than 13 per cent of the total prison population is imprisoned for terrorism-related offences.

Allegations of human rights violations, including arbitrary restrictions on the rights of prisoners, impunity, denial of access to medical care, torture, ill-treatment, denial of open meetings and solitary confinement, increased. Prisoners and their lawyers stated that many of their complaints had not been addressed and living conditions had not improved.

According to available reports, 73 people died in prisons from the beginning of 2017 to August 2019, 39 of whom were ill prisoners. It has been reported that prison monitoring committees such as TIHEK have not been able to help resolve the problems⁹⁶.

c. 2021 Briefing on EU Enlargement Policy (Türkiye Report 2021)

The report highlights that the overcrowding and deteriorating conditions in prisons have caused deep concern and emphasizes that Turkey has the highest prison overcrowding rate among Council of Europe member states, with 127 detainees/inmates for every 100 available spaces.

The new Human Rights Action Plan includes a general commitment to improve living conditions in prisons and to ensure the welfare of children. The report also specifically noted the persistence of allegations of human rights violations in prisons, including arbitrary restrictions on the rights of detainees, denial of access to medical care, torture, ill-treatment, denial of open meetings and solitary confinement⁹⁷.

d. 2022 Briefing on EU Enlargement Policy (Türkiye Report 2022)

According to the report, the frequent delay or denial of decisions requiring access to health care and medical care for sick prisoners in pre-trial detention and conviction has led to a number of deaths in prison, and the delay in such decisions has also led to deaths soon after release. Serious doubts and concerns were reported about the independence of the Forensic Medicine Institution, which is responsible for providing reports on detainees and prisoners, as it operates under the Ministry of Justice and often disregards medical reports. It was stated in the report that TIHEK and the prison monitoring boards, which are supposed to work as national prevention mechanisms, do not provide an effective function to correct the violations, that the work of the boards is not transparent and that these boards cannot be audited by bar associations and other organisations⁹⁸.

e. 2023 Briefing on EU Enlargement Policy (Türkiye Report 2023)

The Forensic Medicine Institution, which is constantly criticised with its "can stay in prison" reports on sick prisoners, was discussed in the report. It has been reported that there

⁹⁶ European Commission, "2020 Briefing on EU Enlargement Policy (Türkiye Report 2020)", page 35, 06.10.2020 https://www.ab.gov.tr/siteimages/trkiye_raporustrateji_belgesi_2020/Turkiye_report_30.10.2020.pdf

⁹⁷ European Commission, "2021 Briefing on the EU Enlargement Policy (Türkiye Report 2021)", p. 32, https://www.ab.gov.tr/siteimages/birimler/kpb/2021_turkiye_raporu_tr.pdf

⁹⁸ European Commission, "2022 Briefing on the EU Enlargement Policy (Türkiye Report 2022)", pages 34-35, 12.10.2022, https://www.ab.gov.tr/siteimages/birimler/kpb/2022_turkiye_report_tr_27.11.2022_22.05.pdf

are serious doubts about the independence of the Forensic Medicine Institution in its reports and that there are difficulties in access to medical care services for the continuation of the treatment of ill prisoners. Due to difficulties in access to health care, deaths have occurred in prisons and after the release of prisoners. The report also included allegations of suicide and many suspicions of discriminatory treatment and strip searches by correctional officers⁹⁹.

D. REPORTS ISSUED BY INTERNATIONAL HUMAN RIGHTS ORGANIZATIONS REGARDING SICK PRISONERS IN TURKEY

a. Amnesty International

Amnesty International's post-2016 reports on Türkiye's prisons reveal significant human rights violations, including suspicious deaths and suicides in prisons. The reports highlighted the increased pressure on prisoners, particularly after the 15 July 2016 coup attempt. Many deaths and suicides are reported to have occurred in prisons due to overcapacity, ill-treatment, inadequate health services and deteriorating physical conditions.

Amnesty International, in particular "**Türkiye: Amnesty International's Brief On The Human Rights Situation**"¹⁰⁰ highlighted that a wide range of prisoners, including imprisoned journalists, activists and those dismissed by emergency decree, have limited access to health care and that solitary confinement exacerbates psychological problems. It also noted that health services have become even more inadequate during the pandemic, with many prisoners unable to access treatment and poor conditions being a major factor leading to suicides.

Amnesty International's 2022/23 report¹⁰¹ states that there are serious and credible allegations of torture and other forms of ill-treatment. Under torture and other ill-treatment, *'Eyewitnesses reported that in April a large group of guards beat prisoners and drove them to suicide at Marmara (formerly Silivri) Prison in Istanbul. One prisoner, Ferhan Yılmaz, reportedly died in hospital in April after allegedly being subjected to torture and other ill-treatment by guards. Ten other prisoners were allegedly transferred to different prisons across the country after they reported being beaten by guards. The Silivri District Chief Public Prosecutor's Office announced an investigation into the allegations, but at the end of the year the outcome was not yet known.'*

In its 2021/22 report¹⁰², Amnesty International reported that in January a criminal court of peace in Diyarbakır rejected the appeal of Mehmet Sıddık Meşe against a non-prosecution decision on allegations that he had been severely beaten by guards in Diyarbakır T-Type Prison No. 3 in December 2020, and that similar allegations of torture were reported to the

⁹⁹ European Commission, "2023 Information on the EU Enlargement Policy (Türkiye Report 2023)", 08.11.2023, page 33, <https://www.ab.gov.tr/siteimages/resimler/2023%20T%C3%BCrkiye%20Raporu.pdf>,

¹⁰⁰ Amnesty International, "Türkiye: Amnesty International's Brief On The Human Rights Situation, 1 February 2019, <https://www.amnesty.org/en/documents/eur44/9747/2019/en/>

¹⁰¹ Amnesty International Report 2022/23: The state of the world's human rights", March 27, 2023, <https://www.amnesty.org/en/documents/pol10/5670/2023/en/>

¹⁰² Amnesty International Report 2021/22: The state of the world's human rights", March 29, 2022, <https://www.amnesty.org/en/documents/pol10/4870/2022/en/>

Diyarbakır Bar Association from detainees in the same prison throughout the year. In December, Garibe Gezer, a prisoner in Kandıra Prison for terrorism-related offences, was found dead in her cell and it was alleged that she had committed suicide. It was also reported that Gezer had been systematically subjected to torture and sexual assault by prison guards before her death and that the prosecutor's office had issued a decision of non-prosecution in the case.

In the 2021/22 report released by Amnesty International¹⁰³, it was emphasised that there are problems in prisons regarding access to emergency medical care and examination by forensic medical examiners. In this context, it was reported that **Mehmet Sıddık Meşe**, a detainee in Diyarbakır Prison, was subjected to severe physical violence by prison guards; that Meşe was denied access to emergency medical care and examination by forensic medical examiners; and that the prosecutor's office had not launched an independent investigation into the allegations by the end of the year.

b. Human Right Watch

Human Rights Watch (HRW) has made several important findings on suicides and suspicious deaths in Turkish prisons after 2016. Decrees issued under the State of Emergency (SoE), particularly following the 15 July 2016 coup attempt, are reported to have increased cases of torture and ill-treatment in detention.

"A Blank Check: Türkiye's Post-Coup Suspension of Safeguards Against Torture"¹⁰⁴, it is emphasised that ill-treatment has become widespread with the granting of broad powers to security forces under the state of emergency and the limitation of judicial oversight. The report stated that some deaths and suicides of persons detained in the context of coup investigations were observed, but no independent oversight was carried out.

HRW also reports that prisoners have great difficulty in accessing health care, and that those detained in connection with the coup investigation are often subjected to poor conditions in overcrowded cells and do not receive adequate health care. This environment is cited as a triggering factor, particularly for mental health problems, and is reported to have increased the incidence of suicide in prison. During the pandemic period, human rights violations became more evident as the already limited health services became even more difficult to access.

HRW's data points to a lack of information on deaths and suicides in prisons during this period and calls for greater monitoring and action by the international community¹⁰⁵.

¹⁰³ **Amnesty International Report 2020/21: The state of the world's human rights**", April 7, 2021, <https://www.amnesty.org/en/documents/pol10/3202/2021/en/>

¹⁰⁴ Human Rights Watch, "A Blank Check: Türkiye's Post-Coup Suspension of Safeguards Against Torture", October 25, 2016, <https://www.hrw.org/report/2016/10/26/blank-check/Türkiyes-post-coup-suspension-safeguards-against-torture>

¹⁰⁵ Human Rights Watch, Türkiye: Emergency Decrees Facilitate Torture, October 25, 2016, <https://www.hrw.org/news/2016/10/25/Türkiye-emergency-decrees-facilitate-torture>

HRW's "**Türkiye: COVID-19 Puts Sick Prisoners at Grave Risk**" report¹⁰⁶, which examined the cases of some of the hundreds of prisoners who are at mortal risk of COVID-19 due to underlying health conditions, expressed concern that the Turkish authorities' newly developed plans to deny early parole or house arrest to prisoners at mortal risk because they have been convicted of offences under the anti-terrorism law.

The report states that Türkiye has arrested and convicted thousands of civil servants, lawyers, politicians, activists and journalists for allegedly committing violent crimes, inciting acts of violence or providing logistical support to illegal armed organisations, despite a lack of evidence. The report also stated that due to the general exception in the draft law for offences under the anti-terrorism law, these detainees or prisoners with chronic health problems were not granted any privileges due to the fact that they were at mortal risk of COVID-19.

The Report also notes that following the CPT's visit to Türkiye, a number of non-governmental organisations working in the field of human rights in Türkiye, notably the Human Rights Association and the Association of Lawyers for Freedom, prepared new lists of hundreds of sick prisoners, which were seen by Human Rights Watch, and the lack of access to timely and adequate health care repeatedly raised concerns about and the obstacles faced by prisoners whose health conditions do not allow them to be kept in prison, such as the obstacles they face in postponing the execution of their sentences.

In its 2024 report, HRW reported that "since 2016, the police and gendarmerie have not meticulously investigated allegations of torture and ill-treatment in detention and in prison, and perpetrators have not been adequately prosecuted. It also reported that a person named **Ahmet Güreşçi** was found dead in gendarmerie custody in Altınözü district of Hatay province after he and his brother were subjected to torture and the investigation into the gendarmerie is still ongoing"¹⁰⁷.

HRW reported in its 2023 report that *"there is no indication that the authorities have opened an investigation against military personnel for the torture of two Kurdish men, Osman Şiban and Servet Turgut, who were detained by the Turkish Armed Forces in their village in the south-east in September 2020 and taken away in a helicopter before being found seriously injured in hospital by their families; Turgut died of his wounds, and is currently on trial for 'membership of a terrorist organisation' for allegedly aiding PKK members in Şiban's village"*¹⁰⁸.

In the 2022 report prepared by HRW; *"In the prosecutor's investigations into allegations of torture and ill-treatment in police custody and prisons, which have increased in the last five years, stated that no progress has been made, very few similar allegations have resulted in the prosecution of security forces and generally no punishment has been given. The report also stated that in two judgements in May 2021, the Constitutional Court ruled that the*

¹⁰⁶ HRW, "Türkiye: COVID-19 Puts Sick Prisoners at Grave Risk", [https://www.hrw.org/news/2020/04/03/Türkiye-covid-19-puts-sick-prisoners-grave-risk#:~:text=\(Istanbul\)%20%E2%80%93%20An%20examination%20of,arrest%20despite%20their%20conviction%20under](https://www.hrw.org/news/2020/04/03/Türkiye-covid-19-puts-sick-prisoners-grave-risk#:~:text=(Istanbul)%20%E2%80%93%20An%20examination%20of,arrest%20despite%20their%20conviction%20under)

¹⁰⁷ "Human Rights Watch 2024 Türkiye Report, <https://www.hrw.org/world-report/2024/country-chapters/Türkiye>

¹⁰⁸ "Human Rights Watch 2023 Türkiye Report, <https://www.hrw.org/tr/world-report/2023/country-chapters/383631#2a5507>

prohibition of ill-treatment had been violated and that new investigations should be opened into two criminal complaints filed in 2016, for which the prosecutor's offices had decided not to prosecute at the time, the first of which related to a criminal complaint filed by a male teacher, A.A., alleging that he had been subjected to torture and rape in police custody in Afyon province, and the other by a male teacher, E.B., alleging that he had been tortured by the police in Antalya province to the extent that he required urgent surgery. In the case concerning the death of private security guard Birol Yıldırım in police custody in Istanbul on 5 June, weeks after the publication of CCTV footage of him being beaten by the police, a deputy police chief was arrested and the trial of 11 police officers, including the deputy police chief, is ongoing." 17-year-old Kadir Aktar's death on 19 February in Maltepe Juvenile Prison is still under investigation, the death was reported as a suicide in the media, but Aktar's medical records provide important evidence that he was subjected to ill-treatment while in police custody¹⁰⁹.

In HRW's 2021 report; the increase in allegations of acts of torture, ill-treatment and cruel, inhuman or degrading treatment by police and military in detention centres and prisons over the past four years shows that Türkiye has set back its previous progress in this area, that those targeted include individuals accused of political and ordinary crimes, that prosecutors do not conduct meaningful investigations into such allegations, and that there is a widespread culture of impunity for accused members of the security forces and public officials, that in February and June 2020, two of the six men who reappeared in police custody in Ankara months after their disappearance in February 2019 were forced to sign statements in court hearings confessing to abduction, torture and links to the Gülen movement.

The European Committee for the Prevention of Torture (CPT) stated that it had carried out three visits to Türkiye since the attempted coup in July 2016, and in August, the Turkish *Government* authorised the publication of two CPT reports from its 2017 and 2019 visits describing ill-treatment in police custody and degrading conditions and overcrowding in prisons¹¹⁰.

c. Finnish Immigration Service Report

Many women detained after the coup were subjected to severe torture, rape, ill-treatment, threats, etc. At this point, in the report titled **"Türkiye; Individuals associated with the Gülen movement"** prepared by the Finnish Immigration Office and made public in June 2024, the rape of women in detention is explicitly mentioned. According to information from the Decree Law Victims Platform and other sources, at least 12 women were impregnated in detention and some had to give birth. Women in detention have also been subjected to other inhumane acts such as oral sex with police officers.

According to the report, according to information provided by some sources, persons allegedly associated with the Gülen Movement are likely still being targeted for gross human

¹⁰⁹ "Human Rights Watch 2022 Türkiye Report, <https://www.hrw.org/tr/world-report/2022/country-chapters/Türkiye#38508f>

¹¹⁰ Human Rights Watch 2021 Türkiye Report

rights violations such as abductions, enforced disappearances, torture and other ill-treatment¹¹¹.

According to the findings of the Human Rights Association (HRA) cited in the report, although allegations of torture and ill-treatment have decreased, the association continues to receive applications containing such allegations. For example, there are reports of torture and ill-treatment of women who were arrested on the grounds of 'association and contact' with the Gülen movement. Another issue raised in the report is the situation in prisons. HRA states that individuals imprisoned for their political activities, such as individuals associated with terrorism, are the most discriminated against group and that the release of these individuals can be delayed on the basis of the authorities' (arbitrary) subjective assessment that the individual in question *"does not feel remorse"* and *"may carry out the same activities again"*. The report, which includes data from İHD, states that according to the data collected by the organisation, there are approximately 1550 ill prisoners in Türkiye, 651 of whom are seriously ill. İHD states that the non-release of sick prisoners means torture for them and their families, as they are forced to stay in high-security prisons far away from their families when they really need treatment¹¹².

CHAPTER III:

MAIN PROBLEMS EXISTING IN PRACTICE FOR PRISONERS WITH HEALTH ISSUES

A. MAIN PROBLEMS IN HEALTH SERVICES IN PRISONS IN GENERAL

Human rights organisations and media organs have reported that there are serious problems in the access of prisoners to health and treatment services and that discriminatory and arbitrary practices are used especially against those who are detained and convicted for certain crimes. It is stated that prisoners are subjected to serious violations of rights in accessing and receiving health services and that their treatment is disrupted¹¹³.

In this context, according to the declaration of Human Rights Association dated 01.04.2021; there are around 300 thousand prisoners in Türkiye. There are 1605 ill detainees and prisoners, 604 of whom are seriously ill.

As explained in the relevant chapters, international standards, conventions and protocols impose a positive responsibility on the state to ensure that health services are

¹¹¹ Gergerlioğlu 3 October 2023; İHD 2 October and 22 November 2023; Mazlumder 2 October and 23 December 2023; A human rights representative Organisation 3 October 2023

¹¹² İHD 2 October and 22 November 2023; Türkiye; Individuals associated with the Gülen movement; The Finnish Immigration Service's fact-finding mission to Ankara and İstanbul 2 - 6 October 2023, p. 45, [https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf?t=1723630918594](https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf?t=1723630918594)

¹¹³ Ankara Medical Chamber: "Right to Health in Prisons is a Human Right", 31.08.2021, <https://ato.org.tr/basin-aciklamalari/2021-basin-aciklamalari/print?page,1,524-cezaevlerinde-saglik-hakki-insan-hakkidir.html>

applied equally to individuals whose liberty is restricted, as well as to all segments of society. Despite these positive obligations, arbitrary and discriminatory practices of prison administrations cause serious disruptions in health services. Likewise, administrative problems in prisons, inadequacy and overcrowding in health services lead to an increase in the problems experienced in access to the right to health in prisons. In this context, in many prisons, deaths occur due to diseases that can be prevented by acute intervention, especially heart attacks, due to the lack of adequate health services and personnel, the lack of 24-hour shifts of health personnel or the lack of emergency ambulance services or the lack of timely or regular transportation to examination and treatment centres.

One of the major obstacles to the access of ill prisoners to the right to health is being forced to be examined and treated in handcuffs. Although the convict or detainee is seriously ill or in a coma, they are forced to be treated in handcuffs and kept handcuffed to the bed.

On the other hand, it is clear that the restrictions and arbitrary practices imposed on terrorism prisoners far exceed the purpose of combating terrorism and taking measures against it, and directly target the right to life. Hospital transfers of seriously ill patients and patients with chronic illnesses are not made or are delayed on various grounds such as external security problems, lack of funds, etc. In addition, the lack of a specialised physician to follow up the patient in the hospitals where the prisoners are transferred to other prisons after prison transfers causes serious problems. In particular, it is observed that the treatment of prisoners with cancer and chronic diseases is seriously hampered.

On the other hand, it is observed that prisoners who are not suitable to stay in prison due to chronic or severe illnesses are either not referred to the Forensic Medicine Institution at all or are referred with a delay. Likewise, it is observed that the reports issued by the Forensic Medicine Institution for those referred to the Forensic Medicine Institution are not immediately processed by the prison administration, relevant administrative institutions and judicial authorities. In many cases, although the Forensic Medicine Institution or the hospital designated by the Ministry of Justice has issued a report stating that the prisoner is not suitable to stay in prison, it is observed that these persons have not been released.

Due to unfavourable health conditions in prisons, inadequate health and treatment services, administrative mistakes and discriminatory practices, sick prisoners die either in prison or shortly after their release after their condition worsens. The problems of prisoners with severe and chronic illnesses who cannot stay in prison and whose execution should be postponed as soon as possible are exacerbated by inequalities in access to health care, physical conditions that are not suitable for providing the necessary health care and the negativities triggered by isolation practices.

B. HANDCUFFED MEDICAL EXAMINATION AND TREATMENT

a. The Rule; Unhandcuffed Medical Examination

Pursuant to Article 50 of the Law No. 5275 and the Regulation, prisoners may be handcuffed for medical reasons during examination and treatment, but only under the instruction and supervision of a doctor. In other words, during the examination, diagnosis and treatment to be applied to the convicted or detainee in the institution infirmary or health

institution or in the neighbourhood polyclinics within the prison campus, handcuffs may be applied upon the request and supervision of the prison physician or physician, if deemed necessary for the safe performance of the examination, diagnosis and treatment procedures. Therefore, prisoners must be taken to the examination and treatment area without handcuffs. Another important point here is that the handcuffs must be removed unless there is a concrete danger and security problem that makes it necessary to keep the handcuffs on in the detention centre where the prisoners are kept for examination or treatment.

Pursuant to Article 38 of the Protocol on the Administration, External Protection, Transfer and Transfer of Prisoners and the Provision of Health Services in Penal Execution Institutions signed between the Ministry of Justice, the Ministry of Interior and the Ministry of Health on 26 January 2017, examinations must be conducted in guarded rooms with obstacles against escape. In such guarded rooms, the convict or detainee is taken inside without handcuffs and the gendarmerie must be outside the room during the examination and take the necessary security measures. The gendarmerie may be present in the examination room only if the doctor requests it in writing.

On the other hand, in hospitals that do not have guarded examination rooms, until guarded examination rooms are built for detainees and prisoners, the gendarmerie must take the protection measure by being at a distance that will not hear the conversations between the doctor and the patient in the examination room. However, in the examination of prisoners in places where there are no guarded examination rooms and where there is no examination room large enough to hear the conversations between the doctor and the patient, various problems related to patient privacy are encountered, especially between gendarmerie forces and physicians¹¹⁴.

In particular, the statements *"Handcuffs cannot be opened except in cases of necessity such as death, injury, heart attack, severe illness"* and *"Mandatory needs are met one by one and after taking the necessary measures without opening the handcuffs in any way"* in the Directive on External Protection of Prisons, Transfer and Transport Services of the Gendarmerie General Command are clearly contrary to the provisions of the Law, the Execution Regulation and the Tripartite Protocol as well as international documents and conventions.

According to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Türkiye between 9-21 June 2013, handcuffing a detainee or a convict who is undergoing medical treatment is unacceptable in terms of medical ethics and human dignity. The Committee recommends that steps be taken to end such practices¹¹⁵. According to the General Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the use of a civilian hospital raises the issue of security arrangements. In this context, the CPT emphasises that detainees sent to hospital for treatment should not be physically tied to hospital beds or other objects for reasons of surveillance. Other ways can and should be

¹¹⁴ Tıraşçı/Uysal/Altınal/Akın/Durmaz, p.405-409

¹¹⁵ European Committee for the Prevention of Torture, Report of 9-21 June 2013 Visit to Türkiye, (CPT/Inf (2015) 6, Prg. 94., <https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2015/05/08/2015-06-inf-eng.pdf>

found to adequately meet security needs; the establishment of a surveillance unit in such hospitals could be one such solution.

Similarly, the UN Manual for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, known as the Istanbul Protocol, to which Türkiye is a party, contains important provisions.

Article 124 of the Istanbul Protocol states: *"Every detainee shall be examined in an environment where his or her privacy is respected. Police or other law enforcement officials should never be present in the examination room. This procedural measure may be dispensed with only if the examining physician has convincing evidence that the detainee poses a serious security risk to medical personnel. In such a case, at the request of the examining physician, the security personnel of the health institution, and not the police or other law enforcement officers, should be present during the examination. In this case, the security personnel should be out of hearing distance from the patient, i.e. only within visual range."* The Istanbul Protocol, to which Türkiye is a party, has the force of law in accordance with Article 90 of the Constitution. As can be understood from this, there is a contradiction between the Protocol of 3 and the Istanbul Protocol.

In the Declaration of the Turkish Medical Association (TTB) on Health Services for Prisoners in December 1994, attention was drawn to the following points:

- Patients should be unhandcuffed during examinations, and the clinic should be provided with an environment in full compliance with the conditions of freedom and patients' rights
- For this reason, no one other than the patient and health personnel should be present in the examination environment. This is the right of the patient and the physician and the duty of the physician
- Prisoners should not be shackled or handcuffed to hospital beds or have medical procedures carried out in their presence
- Gendarmerie and guards must not be present in patient rooms. The authority and responsibility in the hospital and its annexes belongs to the physician. Physicians cannot transfer these authorities to non-physicians
- The wards where examinations are carried out and inmates are admitted should be staffed with the necessary number of medical personnel
- All physicians are obliged to take this attitude, and physicians who are harmed by these behaviours should immediately report this situation to the nearest medical chamber and the TMA.

As can be seen, acting in accordance with the rules set out by the Turkish Medical Association within the framework of the Istanbul Protocol is both a right and a duty for the convict and a right and duty for the doctor. As stated in the article titled *"Prisoner and Detainee Examinations, Istanbul Protocol"* of the Human Rights Commission of the Ankara Medical Chamber, it is essential that the examination of the convict and detainee is carried out in an environment where other people cannot see and hear, that the doctor and the person being

examined are alone during the examination, and that the examination is carried out within the framework of doctor and patient relations. Security forces must not be present in the examination room under any circumstances. During the doctor's examination of a prisoner or detainee, any restrictions imposed on the person must be removed. The doctor should never examine or treat a person in handcuffs, chained to a bed or in a similar situation. The examination room is an environment belonging only to the doctor and the patient. Here, the doctor is primarily responsible for carrying out his/her own profession. Law enforcement officers must take security measures outside this room. The issue of how to practice medicine is not defined according to legal and judicial provisions, but according to the universal values of medicine, the TMA Code of Professional Ethics of Medicine, the Medical Deontology Regulation, the Regulation on Patient Rights , International Conventions and the Istanbul Protocol, and should be carried out according to these principles¹¹⁶.

European Court of Human Rights in *Salakhov and Islyamova v. Ukraine*¹¹⁷ the applicant, who was HIV positive, was handcuffed to the bed while being treated in hospital. The Court stated that the use of handcuffs on prisoners does not raise a problem in terms of Article 3 of the ECHR if the handcuffs are applied in connection with a lawful detention order and do not involve the use of more force than is reasonably necessary or are not intended to expose the handcuffed state of the person to the public; however, it emphasised that there was no indication that the applicant had resorted to violence or attempted to escape, moreover, a police officer had continuously accompanied the applicant to the hospital. Moreover, according to the ECtHR, no special medical qualification was necessary to recognise how weak and ill the applicant, who was seriously ill, was. Taking into account the applicant's poor state of health, the Court held that the handcuffing of the applicant on security grounds could not be considered justified and therefore violated the prohibition of inhuman and degrading treatment.

In the ECtHR *Mouisel v. France* judgment¹¹⁸, the applicant, who suffered from cancer, was restrained by his feet and handcuffed to the bed by one wrist during chemotherapy sessions. The Government, citing the applicant's criminal record and the fact that he was being treated in a hospital close to his family, argued that the applicant might attempt to abscond and argued that the handcuffs were justified on security grounds. The Court found the security measure disproportionate in view of the physical weakness of the applicant, who had been taken to the hospital for distressing chemotherapy sessions. The Court found a violation of Article 3 of the Convention, noting that, despite the applicant's criminal record, there was no serious evidence that he was likely to desert or resort to violence.

In its *Henaf v. France* judgement¹¹⁹, the ECtHR found it contrary to the prohibition of inhuman treatment to keep an elderly and sick convict, who was not considered to pose a security risk, chained to the bed by his feet despite two security guards waiting at the door of

¹¹⁶ Civil Society Association in the Penal Execution System (CISST), International and National Legislation for Physicians, Prisoner's Right to Health, TCPS Bookshelf, Brochure 1, Istanbul 2016, <https://docplayer.biz.tr/59406354-Hekimler-cin-uluslararasi-ve-ulusal-mevzuatta-mahpusun-sa-lik-hakki.html>

¹¹⁷ ECtHR *Salakhov and Islyamova v. Ukraine*, B. No: 28005/08, K.T: 14/03/2013, Prg.155-157

¹¹⁸ ECtHR, *Mouisel v. France*, B. No: 67263/01, K.T: 14/11/2003, Prg.35-47

¹¹⁹ ECtHR *Henaf v. France*, B. No. 65436/01, K.T: 27.11.2003

his room after he was transferred in handcuffs to the hospital where he would be operated on the next day.

As can be seen in the judgements of the ECtHR, handcuffing sick prisoners during their examination and treatment without a justified and reasonable justification is a disproportionate intervention and therefore constitutes ill-treatment under Article 3 of the Convention. According to the Court, applying disproportionate measures to a person whose illness and the severity of his illness are clearly known would be contrary to the law and would not be in accordance with equity. This is because the measures taken must not cause the person to suffer an intensity of distress that exceeds the level of unavoidable distress caused by the detention. Despite the legislation and the ECtHR's point of view on the subject, in practice it is reflected in some reports that handcuffs are used disproportionately and without justification in the transfer and treatment of prisoners to hospital¹²⁰.

b. Handcuffing of Seriously Ill Prisoners to Beds and Violations of Rights

The presence of the gendarmerie in the examination room during the examination of detainees and prisoners, or carrying out the examination while the convict or detainee is handcuffed or being handcuffed to the bed is one of the leading violations of the right to health and prohibition of ill-treatment experienced by persons deprived of their liberty¹²¹. It is seen that the practice of examination and treatment in handcuffs, especially for opposition and political prisoners, has become a state practice¹²². Many examples in this field are reflected to the public. In order to understand the issue, a few grave cases will be given below.

aa. Koçer Özdal

In this context, in the report of Human Rights Association (IHD) Ankara Branch Prisons Commission on right violations in prisons in Central Anatolia, it is stated that Koçer Özdal, who was transferred from Bafra T-Type Prison to Sincan F-Type Prison for cancer treatment on July 9, 2018, was kept handcuffed to the bed during treatment, this practice was continued even though he was in intensive care unit, he died on 27 August 2018 and wounds on the wrist of the ill prisoner due to handcuffs were detected¹²³.

bb. L.H.

L.H., who was convicted in a closed prison, was transferred to hospital on 20 February 2019, where he was in coma for about 36 days and it was determined that he was handcuffed during this period. In the application made to the Human Rights and Equality Institution of Türkiye (TİHEK), the Institution stated *the following: "He is being treated in the same department with patients who are not convicted or detained. For this reason, his right arm is handcuffed to the iron of the bed for security reasons. In addition, the gendarmerie watches him 24 hours a day."* In the written opinion given by the hospital administration to the institution,

¹²⁰ Problems Detected in Prisons and Solution Suggestions, https://www.tbmm.gov.tr/komisyoni/insanhaklari/docs/2020/elazig_muhaletet_serhi_2.pdf

¹²¹ Turkish Medical Association, "Information Note on the Examination of Persons Deprived of their Liberty", 21.09.2022, https://www.ttb.org.tr/haber_goster.php?Guid=ec0bcd00-39ad-11ed-8917-d6bd30b70801

¹²² Human Rights Association, Ankara Branch Central Anatolia Region Prisons 2023 Annual Report, 19 April 2024, p.115

¹²³ Evrensel, "Handcuffed examination even in intensive care", 29 October 2018, <https://www.evrensel.net/haber/364674/yogunda-bakimda-bile-kelepceli-muayene>

it was stated that the gendarmerie was verbally warned, while the Provincial Gendarmerie Command stated that no warning was given about not wearing handcuffs in detention. TIHEK Board decided that *"the prohibition of ill-treatment was violated"* by the Provincial Gendarmerie Command and the hospital due to the detainee being treated in handcuffs in intensive care¹²⁴.

cc. Tahir Gurdal

Tahir Grdal, a seriously ill convict who had been imprisoned in Van F-Type High Security Prison for about 10 years, was transferred to Diyarbakır High Security Prison No 1 for treatment and was handcuffed to a bed for 19 days at Gazi Yařargil Training and Research Hospital. Grdal, whose sentence was postponed due to illness, died 13 days after his release¹²⁵.

dd. Veysel Atasoy

Police officer Veysel Atasoy, who was dismissed by a decree with the force of law, was taken to Tavřanlı Public Hospital and Ktahya Health Sciences University Evliya Ćelebi Training and Research Hospital after he got ill in Tavřanlı Prison. On 12 September 2020, he died after 9 days in Tavřanlı Public Hospital and 25 days in Ktahya Public Hospital. Atasoy, who was hospitalised in handcuffs for about 35 days, died handcuffed to the bed. The criminal complaint about Atasoy's being handcuffed to the bed for 35 days was rejected due to the lack of permission for an investigation against public officials¹²⁶.



ee. Ali Aydeniz

In a similar case, Ali Aydeniz, a retired labourer who was convicted through investigations against the Glen Movement, was referred to Bayrampařa State Hospital on 18 September 2017, where he was given a medical board report stating that he was **91% disabled** due to diabetes, blood pressure, cholesterol and heart diseases. On 7 January 2021, the same hospital, upon the request of the prosecutor's office, issued a report stating **that he was '31% disabled in total'**. The Forensic Medicine Institution, in its report dated 1 February 2021,

¹²⁴ Human Rights and Equality Institution of Trkiye, Date / Number of Meeting : 17.07.2019 / 92, Decision Number : 2019 / 43, <https://www.tihek.gov.tr/public/images/kararlar/A44D01.pdf>

¹²⁵ Tr724 News, "Cancer patient prisoner died 13 days after his sentence was postponed", 10 December 2022, <https://www.tr724.com/kanser-hastasi-mahpus-cezasi-ertelendikten-13-gun-sonra-vefat-etti/>

¹²⁶ Yeni Yařam Newspaper, "İHİK did not see negligence in handcuffed death!" 13 September 2022, <https://yeniyaşamgazetesi6.com/ihik-kelepceli-olumde-ihmal-gormedi/>

determined Aydeniz's total disability rate as **31%**, and stated in the report that Aydeniz could manage his life on his own and therefore there was no obstacle to his imprisonment.

On these grounds, Aydeniz's requests for postponement of execution were rejected and he was sent to prison to serve his sentence. Aydeniz, who was in Metris Prison, was transferred from Metris Prison to Başakşehir Çam and Sakura City Hospital on 10 November 2021, where he underwent a by-pass operation due to severe and chronic illnesses, and his left foot was amputated at the wrist due to diabetes. Aydeniz, who is missing a toe on his right foot, spent the intensive care and convalescence days in the hospital handcuffed to the bed. Unable to stand up on his own and unable to walk without crutches, Aydeniz was nevertheless forced to be handcuffed to a bed in a practice that violates human dignity and constitutes ill-treatment¹²⁷.



ff. Mustafa Aytaç

Mustafa Aytaç, who was arrested on 18 October 2022 on charges of membership in a terrorist organisation, on the grounds of providing financial aid to families in need and organising chat meetings within the scope of investigations against the Gülen movement in Afyon, was sentenced to 7 years and 6 months in prison. Mechanical engineer Mustafa Aytaç, who was detained in Afyon T-Type Prison No 1 and diagnosed with lymphoma, was transferred to Afyonkarahisar Health Sciences University Hematology Department due to his aggravated condition. Mustafa Aytaç received chemotherapy treatment and was handcuffed in his hospital bed.

¹²⁷ 91 per cent disabled, one leg amputated, heart surgery but handcuffed to the bed... CRIME: "PROTECTING THE FETO GIRL", 22/12/2021, <https://www.ahmetdonmez.net/yuzde-91-engelli-bir-ayagi-kesik-kalp-ameliyatli-ama-yataga-kelepceli-sucu-feto-kizini-korumak/>



Due to the report "*There is a risk of death*" given to Aytaç by the hospital, no result has been obtained despite the application to the Forensic Medicine Institution for postponement of execution due to illness and release¹²⁸.

C. NON-RELEASE OF SERIOUSLY ILL PRISONERS AND PROBLEMS IN PRACTICE

a. In general

Similar problems to those experienced in the case of sick prisoners are also experienced in the case of sick detainees. Although there is no final judgement of conviction against them and their right to life is under serious threat, sick detainees have been subjected to a separate punishment by the judicial authorities by not releasing them. Although there is no explicit regulation on the release of detainees in the event of the occurrence of a disease that prevents them from staying in prison, both Articles 100 and following articles of the Law No. 5271 and Article 116 of the Law No. 5275 are guiding in this regard.

Pursuant to paragraph (1) of Article 116 of the Law No. 5275, the issue of postponement of execution due to illness within the framework of Article 16 of the Law, which is foreseen for prisoners, can also be applied for detainees. Likewise, in determining whether the detention is proportionate within the scope of Article 101 of the Code of Criminal Procedure dated 4.12.2004 and numbered 5271, and in the application of judicial control measures instead of detention pursuant to Article 109, the health status of the detainee must be evaluated by the court in each detention review. In this context, in the detention review, if the presence of a disease that will prevent the detainee from staying in prison is determined by the health institutions specified in Article 16 of the Law No. 5275, it will be necessary to determine whether the detention is proportionate within the scope of Article 101 of the Law No. 5271 and to apply judicial control measure instead of detention in accordance with Article 109.

¹²⁸ Kronos, "Young engineer undergoing chemotherapy handcuffed in hospital bed", 05 August 2024, <https://kronos37.news/kemoterapi-goren-genc-muhendise-hastane-yataginda-kelepce-taktilar/>

b. Problems and Rights Violations in Practice

It is a well-known fact that mass detentions and arrests were carried out against the opposition, especially the Gülen Movement, especially with the 15 July coup process and the state of emergency declared afterwards. The arbitrariness brought about by the State of Emergency and the fact that people were arrested on unlawful and insufficient grounds has become evident with thousands of rights violation judgements given by the ECtHR in this process¹²⁹. In this process, in which arrest, which is a temporary measure of protection, has been made essential by moving away from the fact that it should be exceptional, many people have been detained and arrested in hospital corridors. Seriously ill patients, whose right to life is clearly in danger, have been deliberately left to die in this way. Patients with no suspicion of fleeing and no possibility of tampering with the evidence were arrested in a hurry. Some seriously ill detainees in intensive care have been kept in hospitals and not released. At this point there are thousands of examples. In this context, sample cases will be given in the next chapter in order to understand the subject.

D. NON-POSTPONEMENT OF EXECUTION OF SENTENCES

a. Basic Regulations Regarding the Postponement of the Sentence in the Event that the Convict Has a Disease that will Prevent the Execution of the Sentence

Since the state of illness directly concerns the right to life, it requires follow-up, necessary measures and interventions at every stage of execution. For this reason, if it is determined that the convict has a disease that requires the postponement of execution or prevents execution during the execution phase, it should be acted according to Articles 16 and 81 of the Law No. 5275.

According to Article 81 of the Law, if the institution physician or the physician in charge determines that the convict has a disease that may prevent him from fulfilling his sentence as a result of the examinations and examinations, the situation is notified to the institution management. Upon this notification, according to the provisions of Article 16 of the Law No. 5275, it will be decided to postpone the execution according to the nature of the convict's illness¹³⁰.

According to Article 16 of the Law No. 5275, which regulates the procedures and principles regarding the postponement of the execution of the imprisonment sentence due to illness, if the conditions in the Law are found in terms of the sentences of prisoners suffering from mental illness, the convict is taken under protection and treatment in a health institution and the execution of the sentence is postponed until he recovers.

In the second paragraph of Article 16 of the Law, there is a regulation in terms of diseases other than mental illness. Accordingly, in the case of diseases other than mental

¹²⁹ Öztürk, Kadir: ECHR's New Decision on Unlawful Detention, <https://www.trkadirozturk.com.tr/post/aihm-bylock-tutuklama-5/>

¹³⁰ Aras/Güverçin, p.607 et seq.

illness, the execution of the sentence shall be continued in the chapters of official health institutions reserved for prisoners. However, even in this case, if the execution of the prison sentence poses a definite danger to the life of the prisoner, the execution of the prisoner's sentence is postponed until he recovers. As can be seen, in order to decide to postpone the execution due to illness, the illness must pose a definite danger to the life of the convict.

On the other hand, in Article 16 of the Law No. 5275, it is also accepted that the execution of the sentence of the prisoner who cannot maintain his life alone in prison conditions due to a severe illness or disability he has suffered and who is considered not to pose a serious and concrete danger to public safety may be postponed. Here, the postponement decision will be made by the Chief Public Prosecutor's Office in the place of execution upon the report issued by the Forensic Medicine Institution or issued by the medical boards of full-fledged hospitals determined by the Ministry of Justice and approved by the Forensic Medicine Institution. Likewise, whether the postponement will continue or not shall be decided by the Chief Public Prosecutor's Office that made the postponement decision. The health condition of the convict shall be examined by the Chief Public Prosecutor's Office which made the decision of postponement or, upon its request, by the Chief Public Prosecutor's Office in the place where he is located or where he is treated, according to the periods specified in the health report or, if there is no period, according to one-year periods. According to the results of the examination, the Chief Public Prosecutor's Office, which issued the postponement decision, will decide whether the postponement will continue or not¹³¹.

The execution of the convict's sentence may be postponed due to illness if the Chief Public Prosecutor's Office decides that the execution of the sentence should be postponed due to illness and that the release of the convict *"will not pose a grave and concrete danger to public safety"* upon the report of the Forensic Medicine Institution that the convict cannot maintain his life alone in prison conditions and that the prison conditions pose a definite danger to the life of the convict.

It is a situation where the state of illness should be taken into consideration before the start of the execution and the execution should be postponed in the presence of conditions. Pursuant to Article 16/6 of the Law No. 5275, in the event that the convict is unable to maintain his/her life alone in prison conditions due to a severe illness or disability and the convict does not pose a serious and concrete danger to public safety, the sentence of the convict may be postponed until he/she recovers according to the procedure determined in the third paragraph of Article 16 of the Execution Law. Here, the decision of postponement shall be made by the Chief Public Prosecutor's Office in the place of execution upon the report issued by the Forensic Medicine Institution or issued by the medical boards of full-fledged hospitals determined by the Ministry of Justice and approved by the Forensic Medicine Institution. Likewise, whether the postponement will continue or not shall be decided by the Chief Public Prosecutor's Office that made the postponement decision. The health condition of the convict shall be examined by the Chief Public Prosecutor's Office which made the decision of postponement or, upon its request, by the Chief Public Prosecutor's Office in the place where he is located or where he is treated, according to the periods specified in the health report or,

¹³¹ Kubat, Adil: Probation and Execution of Sentences, 9th Edition, Ankara 2019, p.73

if there is no period, according to one-year periods. According to the results of the examination, the Chief Public Prosecutor's Office, which made the postponement decision, will decide whether the postponement will continue or not¹³².

At this point, pursuant to Article 81 of the Law No. 5275 titled *"Illness that may prevent the execution of the sentence"*, if, after the execution of the sentence is started, as a result of the examinations and examinations carried out by the institution physician or the physician in charge, it is determined that the convict has a disease that may prevent him/her from fulfilling his/her sentence, the situation is notified to the institution management. Although the text of the article is not clear, the decision on postponement shall be made by the Chief Public Prosecutor's Office in the place of execution upon the report issued by the Forensic Medicine Institution or by the medical boards of full-fledged hospitals designated by the Ministry of Justice and approved by the Forensic Medicine Institution.

On the other hand, pursuant to Article 100 of the Law No. 5275 titled *"Deduction of the time spent in the hospital from the sentence"*, if the convict is hospitalised due to illness after the execution of the sentence is started, the time spent here shall be deducted from the sentence. However, if the convict has deliberately caused his illness in order to stop the execution of the sentence, he cannot benefit from this provision. In this case, the public prosecutor shall request a decision from the execution judge.

b. Postponement of the Execution of the Convicted Person Who Cannot Maintain His Life Alone Due to Illness and Problems in Practice

aa. Suspension of Sentences of Terrorism Prisoners Due to a Serious Illness or Disability

As explained above, Article 16 of Law No. 5275 is a general regulation and there is no restriction in terms of any offence. Terrorism prisoners may also benefit from this provision if the conditions exist. Therefore, pursuant to Article 16/6 of the Law No. 5275, if the terrorist convict is unable to maintain his/her life alone in prison conditions due to a severe illness or disability and does not pose a serious and concrete danger to public safety, the execution of his/her sentence may be postponed until he/she recovers according to the procedure determined in the third paragraph of Article 16 of the Law. Because, although the last paragraph of Article 17 of the Law" entitled ***"Postponement of execution at the request of the convict"*** clearly states that the provisions of this article shall not apply to terrorist offences, Article 16 of the Law" entitled ***"Postponement of execution of prison sentence due to illness"*** does not contain such a restrictive provision.

Therefore, if a person convicted of offences covered by the Anti-Terror Law is unable to manage his/her life alone in prison conditions due to a severe illness or disability and other conditions in the Law are also present, his/her sentence may be postponed until he/she recovers. At this point, being a terrorism convict does not directly mean a grave and concrete danger to public security. According to Article 24 of the Law No. 5275 titled ***"Grouping of prisoners"*** Prisoners

¹³² Kubat, p.73

a) First-time offenders, repeat offenders, habitual offenders or those who have made a profession of committing offences,

b) Those who should be subjected to a special execution regime due to their mental and physical conditions or because of their age,

c) Those in a state of danger,

d) Terrorism offenders,

e) Criminals belonging to criminal organisations or interest-based criminal organisations,

They are divided into groups such as;

(2) Prisoners shall also be grouped according to their age, length of sentence and types of offences.

In the context of Article 9/3 of the Law, **"those who are in a state of danger"** is defined as those who are in a dangerous state due to their actions and attitudes, those who are determined to be required to be under special supervision and control, and those who disrupt the order and discipline in the institutions they are in, or those who persistently resist rehabilitation measures, means and procedures.

"Those who are in a state of danger", i.e. those who stay in other closed prisons and harm themselves, other prisoners, staff and the prison, will start to execute their sentences in high security prisons if the decision of the administration and observation board to be taken about them is approved by the Ministry. This also means that this person is included in the group of those who are in a state of danger and will be serving their sentence in a high security prison in the context of Article 9/3 of the Law.

Therefore, those who are in a state of danger are a separate group of prisoners and a grouping will be made in this direction upon the approval of the decision of the administration and observation board by the Ministry. However, the fact that the person is a terrorist offender does not mean that he/she is in the group of those who carry a state of danger. At this point, it is necessary to determine the grave and concrete danger situation of the individual terrorist convict directly in terms of public security.

The postponement of the execution of the terror convict due to illness shall be decided by the Chief Public Prosecutor's Office in the place of execution. In this decision-making process, the determination of whether the terrorist convict poses a grave and concrete danger to the security of the society should be made according to objective and controllable criteria.

Although the state has an obligation to protect the right to life, which is generally guaranteed by Articles 17/1 of the Constitution, Article 2 of the European Convention on Human Rights and Article 6 of the Covenant on Civil and Political Rights, it is seen that discriminatory and arbitrary practices are used against seriously ill terror prisoners in prison. At this point, although the provisions of Law No. 5275 are clear, it is seen that seriously ill terror prisoners are left to die with a conscious choice by not postponing their sentences.

bb. Case Studies on Terrorism Prisoners Whose Execution is Not Postponed Despite Being Seriously Ill

As explained above, although their right to life is guaranteed under the provisions of national and international legislation, the requests of seriously ill terrorism prisoners to have their sentences suspended are rejected. At this point, with a discriminatory and conscious preference, this group of prisoners is left to die in prison conditions that are not suitable for their health and treatment. In order to understand the issue, some sample cases will be given below.

1. Şerife Sulukan, as a dramatic example

The state, which has the obligation to protect people's right to life, on the contrary, develops unlawful practices for people to die in prison. In this context, Şerife Sulukan, a paralysed teacher with a state of emergency decree, who is a victim of both 28 February and 15 July, needs help in most of her daily life activities due to her eighty-nine percent disability, but the Forensic Medicine Institution gave her a report stating that she "can stay in prison" on the grounds that she is not in a state of permanent illness, disability and old age¹³³. Sulukan is still trying to hold on to life in prison with the help of others.



2. 86-year-old bedridden convict Mustafa Said Türk travelling to prison with a stretcher

Mustafa Said Türk, 86 years old bedridden patient Mustafa Said Türk, whose 10-year prison sentence was upheld by the Court of Cassation in Manisa in the context of the operations against the Gülen Movement, was denied his application for postponement of execution on the grounds of old age and severe illness. Türk was taken from his sick bed on a stretcher and taken to the prison and then hospitalised. 86-year-old philanthropist Mustafa Said Türk, who was transferred between the prison and the hospital for 25 days, was released from Menemen R Type Penal Institution after the Forensic Medicine Institution gave a postponement of execution report. Türk, who was taken to the prison on a stretcher, was brought back to his home on a stretcher¹³⁴. When he was brought to his home, it was observed that his condition had become worse than before; his body was covered with wounds, and the

¹³³ Bold Medya, "Paralysed and 89 per cent disabled teacher Şerife Sulukan had a seizure in prison", 14.06.2022, <https://www.boldmedya.com/2022/06/02/felcli-ve-yuzde-89-engelli-ogretmen-serife-sulukan-cezaevinde-nobet-gecirdi/>

¹³⁴ Bold Medya, "86 paralysed patient was carried on a stretcher to prison and then to hospital", 31.07.2023, <https://www.boldmedya.com/2023/07/31/86lik-felcli-hasta-sedyede-cezaevine-oradan-hastaneye-tasindi/>

hygiene and cleanliness required for a seriously ill patient were not provided. Türk was deliberately left to die.



3. Seriously Ill Prisoner Nusret Muğla Abandoned to Death

As can be seen from the grave examples given above, sick people were arrested within the scope of the investigations launched against the Gülen Movement after the 15 July coup attempt, even though they did not have the necessary conditions. Thousands of people have fallen ill in prison due to poor prison conditions or pressures in prison. Arrested people are deliberately left to die due to poor prison conditions or inadequate treatment services.

Like hundreds of thousands of other innocent people, 84-year-old Nusret Muğla was first arrested, released after undergoing surgeries in prison, and then sentenced to 6 years and 3 months in prison as part of an investigation against him on charges of membership in the Gülen Movement, based on allegations of depositing money in Bank Asya, being a member of the Feza Association in Manisa and forming a group called Nevbahar.

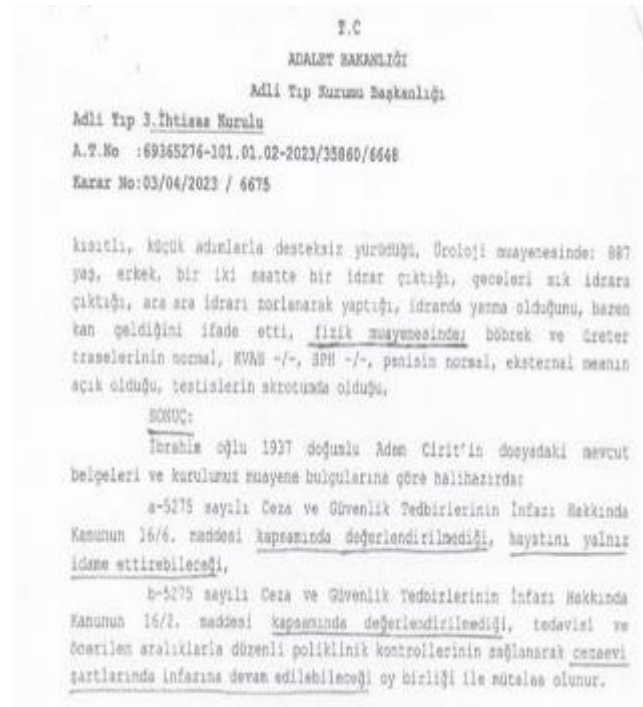
Since Muğla's conviction was upheld by the Court of Cassation, he was re-arrested and placed in Manisa T-Type Penal Execution Institution. Muğla's requests for postponement of execution were not accepted despite the fact that he is 84 years old and takes 14 medications a day for heart, blood pressure, rheumatism, prostate, kidney problems and brain balance disorder¹³⁵.

Nusret Muğla¹³⁶, who worked as a shoemaker in Manisa for years and was a close friend of Bülent Arınç, one of the founders of the AKP and former Speaker of the Grand National Assembly of Türkiye, died shortly after contracting the Covid epidemic in prison. The incarceration of such a seriously ill and elderly person at a time when the Covid outbreak is ongoing is not only inhumane, but it is nothing more than directly aiming for the death of the person. Muğla's death is an important incident that shows that members of the judiciary are blinded by hate speech and consciously turn a blind eye to the death of people in prisons. As seen in the case of Nusret Muğla, sick prisoners are left to die by a conscious choice within the framework of the Erdoğan regime's hate policies.

¹³⁵ Kronos, "He was taking 14 medicines a day: 84-year-old Nusret Muğla died in prison", 13.02.2022, <https://kronos36.news/tr/gunde14-ilac-kullaniyordu-84-yasindaki-nusret-mugla-cezaevinde-hayatini-kaybetti/>

¹³⁶ Ahval News, "Message from Arınç for his friend Nusret Muğla who died in prison at the age of 84: 'I could not be useful to you'", 14.02.2022, <https://ahvalnews.com/tr/nusret-mugla/arinctan-84-yasinda-cezaevinde-olen-dustu-nusret-mugla-icin-mesaj-sana-faydali>

of an official association which is believed to be close to the Gülen Movement, as part of the investigations against the Gülen Movement. Adem Cirit, who was sentenced to 6 years and 3 months, fell in his ward in prison and broke his hip and ankle. Due to the serious deterioration in his health condition, living in prison has turned into torture for him. Adem Cirit told his situation to MP Ömer Faruk Gergerlioğlu and expressed his victimisation by saying that his knees could not fold, he could not sit on the toilet and he could not hold his urine¹³⁸. Although two separate reports from Süleyman Demirel Faculty of Medicine Hospital and Yalvaç State Hospital stated *that "he cannot stay in prison under these conditions"*, the 3rd Specialised Board of the Forensic Medicine Institution reported that Cirit, whose hip and left wrist were broken, *"can stay in prison"*. In addition, Adem Cirit, who also has a prostate problem, has continued to be kept in prison against the law, conscience and reason due to some political motives, despite the fact that he fulfils the conditions in the Circular No. 20/1 titled "Procedures on the Mitigation or Lifting of the Penalties of Persons due to Continuous Illness, Disability and Husbandhood"^{139 140}.



¹³⁸ TR724 News, "Gergerlioğlu carried the call for help of an 87-year-old prisoner who fell and broke both his arm and hip a week apart to the Parliament", 10 November 2023, <https://www.tr724.com/gergerlioglu-birer-hafta-arayla-duserek-hem-kolunu-hem-kalcasini-kiran-87-yasindaki-mahpusun-yardim-cagrisini-meclise-tasidi/>

¹³⁹ Ministry of Justice, Circular No. 20/1 on "Procedures Regarding the Mitigation or Abolition of the Penalties of Persons Due to Permanent Illness, Disability and Hardship", <https://cigm.adalet.gov.tr/Resimler/SayfaDokuman/2012023164238S%C3%BCrekli%20Hastal%C4%B1k,%20Sakatl%C4%B1k%20ve%20Kocama%20Sebebiyle%20Ki%C5%9Filerin%20Cezalar%C4%B1n%C4%B1n%20Hafifletilmesi%20veya%20Kald%C4%B1r%C4%B1lmas%C4%B1%20Hakk%C4%B1nda%20%C4%B0%C5%9FEmirler.pdf>

¹⁴⁰ Kronos, "Judicial Medicine's report on 87-year-old sick prisoner 'can stay in prison'", 22 January 2024, <https://kronos37.news/adli-tiptan-87-yasindaki-hasta-mahpusa-cezaevinde-kalabilir-raporu/>

6. Serious and Chronically Ill Prisoner Hanife Arslan

80-year-old Hanife Arslan was arrested and imprisoned for membership in a terrorist organisation. For Hanife Arslan, who has many chronic and serious illnesses due to her old age, living in prison has turned into torture. Due to arthritis in her knees, she fell and broke her teeth in the prison toilet, which did not have a toilet bowl, and had to have her teeth treated for 2 months. For these two months he could only eat bread by soaking it and this was the only way he was fed. As she could not eat well during this period, her health condition worsened. Hanife Arslan also suffered from chest pains and severe shortness of breath due to COPD. Hanife Arslan contracted the corona virus when she first entered prison and her cough and pain increased even more.

Hanife Arslan continues to be held in prison despite her advancing age and illnesses that turn imprisonment into torture. Arslan's application for a postponement of the execution of her sentence in 2023 was rejected by the execution judge on 12 January 2024 based on the report of Van Regional and Research Hospital stating *that she "can stay in prison"*. On 26 January 2024, Arslan's lawyer applied for a referral to the Forensic Medicine Institution (ATK). Instead of being referred to the Forensic Medicine Institution, Arslan was referred to Van Regional and Research Hospital and was examined again. On 30 January 2024, the hospital renewed *the 'he can stay in prison'* report. A sixth application was made in April 2024 for Arslan to be referred to the ATK, but still no result has been obtained¹⁴¹.



7. Staff Major Mehmet Gürler with MS

Graduating in 1999 from the Air Force Academy, Mehmet Gürler served as a Staff Major and as the Commander of the Cadet Squadron since 2015. On the night of 15 July, Mehmet Gürler was accused of attempting a coup d'état on the night of 15 July, while he was making moral support meetings with prospective students who wanted to quit the school; as a result of the unlawful trial, he was sentenced to aggravated life imprisonment. With the

¹⁴¹ Artı Gerçek, " Reyhan Ören, daughter of ill prisoner Hanife Arslan: Does she have to die in prison to be released?", 23 May 2024 ,<https://artigercek.com/guncel/hasta-tutuklu-hanife-arslanin-kizi-reyhan-oren-tahliye-olmasi-icin-cezaevinde-305501h>

finalisation of the unjust conviction against him, he was taken to a solitary cell in Kocaeli T-Type Closed Prison No. 2.

On the night of 15 July 2016, İstanbul 27th High Criminal Court sentenced Gürler to aggravated life imprisonment for his alleged participation in the coup attempt. On the night of the incident, Mehmet Gürler, who was at Yalova Airport Command, where the cadet selection flights were held, had just returned from an assignment abroad. Upon realising that something abnormal was happening, he forbade the cadets from going outside, thus preventing their deaths by keeping them away from the lynching incidents that some soldiers experienced on the night of the coup. These events were confirmed by the cadets who testified in court. Gürler, who was referred to as a heroic officer¹⁴² in a media organ close to the government - probably unwittingly - was sentenced to life imprisonment without proving his guilt, ignoring the evidence in his favour¹⁴³.

Mehmet Gürler, who suffered from MS while in prison, has progressed to the point where he has difficulty in walking and speaking due to insufficient supply of medication. Mehmet Gürler, who was able to walk by holding on to the walls in prison, due to the lack of adequate medication and treatment, according to two separate reports issued by Kocaeli University Research and Application Hospital on 29 April 2022 and 27 May 2022, the level of his disease increased from level two to level five in just one month.

Unjust detention is not enough, neglecting the necessary treatment causes serious health problems and even the lives of innocent people¹⁴⁴.

Gürler, whose requests for postponement of execution were continuously rejected, was repeatedly transferred to different prisons and could not receive the necessary treatment during this process. Despite his severe illness, he was transferred from Kocaeli to Elazığ rehabilitation-type prison with his hands handcuffed in a prison vehicle called a "*tabutluk*". Since Mehmet Gürler was not given timely and correct treatment, his disability rate increased day by day. Over time, Gürler has become a person who falls several times a week due to loss of balance, loses his sight and cannot walk alone. Despite the fact that he has a disease such as MS, for which there is no definitive cure and whose effects can only be mitigated, his requests for a stay of execution have been persistently rejected¹⁴⁵. Gürler, whose application for a stay of execution was rejected 3 times by the Forensic Medicine Institution, continues his struggle for life in prison¹⁴⁶.

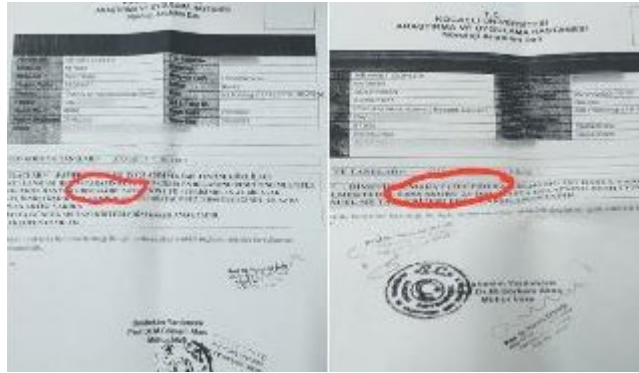
¹⁴² Yeni Çağ, "Terror at the Military Academy and 2 Funerals!", 4 August 2016, <https://www.yenicaggazetesi.com.tr/harp-okulundaki-dehset-ve-2-cenaze-389732h.htm>

¹⁴³ Patreon, "Detained major Mehmet Gürler diagnosed with MS becomes coronavirus", 20 July 2022, <https://www.patreon.com/posts/ms-teshisi-oldu-69327777?l=de>

¹⁴⁴ Bold Medya, "Major Mehmet Gürler, diagnosed with MS, became coronavirus, 3 November 2023, <https://boldmedya.com/2022/07/20/ms-teshisi-konulan-tutuklu-binbasi-mehmet-gurler-koronavirus-oldu/>

¹⁴⁵ VeleV News, "A major with MS in prison: He cannot walk alone, has vision loss, falls...", 30 March 2024, <https://velev.news/gundem/khkli-kurmay-binbasinin-infaz-erteleme-talepleri-surekli-reddediliyor-tek-basina-yuruyemiyor-gorme-kaybi-var-dusuyor/>

¹⁴⁶ Kronos, "He was handcuffed to his bed: Treatment of MS-afflicted major with a state of emergency decree is prevented", 30 August 2024, <https://kronos37.news/yataga-kelepcelenmist-ms-hastasi-khkli-binbasinin-ilaclari-da-verilmiyor/>



8. Muharrem Cankılıç Had Heart Surgery Twice in Prison

Muharrem Cankılıç was arrested and sentenced to imprisonment on charges of donating money to charities allegedly linked to the Gülen Movement, depositing money in Bank Asya, taking part in the management of a student dormitory close to the movement and tweeting in support of a businessman¹⁴⁷.

The case of Cankılıç, who has undergone two operations in prison and suffers from heart disease and high blood pressure, is a striking example of the health crisis in Türkiye's prison system. Cankılıç, who is currently imprisoned in Marmara Prison, has been in prison for more than 7 years and has been struggling with chronic and multiple health problems. Muharrem Cankılıç is trying to survive in prison under difficult conditions and his condition is deteriorating day by day¹⁴⁸.

Cankılıç, whose daily life in prison has turned into a health struggle, spends most of his time in the prison infirmary. This is a clear indication that he is in need of constant medical supervision and care. The seriousness of Cankılıç's health condition brings with it not only physical but also psychological wear and tear. The gravity of Cankılıç's situation becomes even more striking in his own words. His statement *"I will leave this place in a coffin"* reflects the hopelessness and helplessness he is in. These words also question the humanitarian dimension of the practices of the prison system in Türkiye towards sick prisoners¹⁴⁹.

Despite Cankılıç's severe and chronic illnesses and two serious surgeries, his requests for a stay of execution were not accepted. Obviously, Cankılıç is left to die even though it is known that treatment is not possible in prison conditions. Cankılıç's case brings to the fore the serious problems of access to health care in prisons in Türkiye. In particular, the difficulties in meeting the treatment and care needs of chronically ill prisoners raise serious human rights concerns. This case also highlights the need for an assessment of Forensic Medicine Institution reports and a review of current practices regarding the conditions of release of sick

¹⁴⁷ SCF, 'I'll leave this place in a coffin,' ailing prisoner in Türkiye says", 18 June 2024, <https://stockholmcf.org/ill-leave-this-place-in-a-coffin-ailing-prisoner-in-türkiye-says/>

¹⁴⁸ x.com, 12 June 2024, <https://x.com/cezaevihaller/status/1811824050798493844>

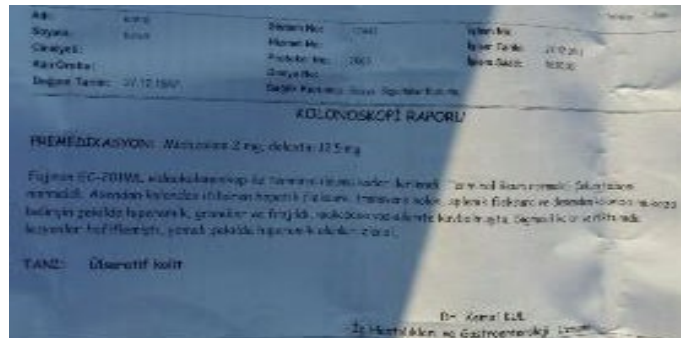
¹⁴⁹ Bold Medya,, "He is chronically ill and underwent surgery twice in prison: He spends every day in the infirmary but is not released", 15 June 2024, <https://www.boldmedya.com/2024/06/15/kronik-hasta-ve-cezaevinde-iki-kez-ameliyat-oldu-her-gunu-revirde-geciyor-ancak-tahliye-edilmiyor/>

prisoners. Cankılıç's case clearly demonstrates the adverse effects of prison conditions on human health, which can lead to irreversible consequences.

9. Ulcerative Colitis Patient Emre Turan

After the 15 July coup attempt, Emre Turan, a teacher who lost his profession when the educational institution he worked for was closed down as a result of the changing political atmosphere in Türkiye, was arrested on baseless allegations, on the grounds that he worked in this educational institution, which was associated with the 2016 coup attempt, and was sentenced to 6 years and 10 months in prison¹⁵⁰. After 3 months in prison, he was taken to Denizli State Hospital due to ulcerative colitis, from where he was transferred to Pamukkale University Research Hospital. Nevertheless, due to the lack of timely provision of necessary assistance and medication, he lost 25 kilograms in these 3 months in prison conditions and was released after this period¹⁵¹. While the judicial process was continuing, Emre Turan was arrested again on 31 July 2023, about 1 year after his release, and is still trying to survive in prison.

Buket Turan, wife of Emre Turan, who was also imprisoned for 5 years, has been struggling for the release of her sick husband both through official channels and social media. Buket Turan, who was separated from her two children¹⁵² during the 5 years she spent in prison, states that her children received psychological support and now they are separated from their father and that they have not been able to live as a family for 8 years¹⁵³. Through social media, she frequently expresses that she is worried that her husband's illness has progressed to the cancer stage, that even prison visits have become unbearable due to the strain on her husband¹⁵⁴ and that she demands his release as soon as possible¹⁵⁵.



¹⁵⁰ SCF, "Woman calls for release of jailed husbands suffering from ulcerative colitis" 30 December 2023, <https://stockholmcf.org/woman-calls-for-release-of-jailed-husband-suffering-from-ulcerative-colitis/>

¹⁵¹ Bold Medya, "Detainee with blood coming from his intestines is not taken to the hospital he was referred to", 2 November 2023, <https://www.boldmedya.com/2020/03/09/bagirsaklarindan-kan-gelen-hasta-tutuklu-sevk-edildigi-hastaneye-goturulmuyor/#:~:text=BOLD%20C3%96ZEL%2D%20C4%B0ki%20ayd%C4%B1r%20Denizli,%C3%9Cniv ersitesi%20Ara%C5%9Ft%C4%B1rma%20Hastanesine%20sevk%20edildi>

¹⁵² SCF, "Woman calls for release of jailed husbands suffering from ulcerative colitis" 30 December 2023, <https://stockholmcf.org/woman-calls-for-release-of-jailed-husband-suffering-from-ulcerative-colitis/>

¹⁵³ Youtube, "mother out of prison, father in, 'we have not been a family for 8 years' mother buket turan talks to KHK TV", 28 July 2024, <https://www.youtube.com/watch?v=pbICiGekfnw>

¹⁵⁴ TR724 News, "Detained patient Emre Turan's wife: One step after cancer, please hear our voice!", 29 December 2023, <https://www.tr724.com/tutuklu-hasta-emre-turanin-esi-bir-adim-sonrasi-kanser-ne-olur-sesimizi-duyun/>

¹⁵⁵ x.com, 2 May 2024, <https://x.com/BuketTu47472809/status/1786098926279389186>

10. Fourth Stage Cancer Patient Yusuf Özmen

After graduating from university, Yusuf Özmen, who is a food engineer, did his master's degree and worked at an educational institution at the same time, but became unemployed as a result of the closure of this institution after the 15 July coup attempt. In March 2017, he was diagnosed with ovarian cancer and underwent surgery and then started chemotherapy treatment. Due to the treatments, she stayed in hospital until October 2017¹⁵⁶.

Yusuf Özmen was detained on 16 February 2018 in Erzurum during a city identity check on the grounds of illegal organisation membership. Detained for 11 days, Özmen was arrested. Özmen had stage 3 cancer at the time of his detention. During 18 months of detention, the cancer progressed to stage 4 and metastasised to the lung and from there spread around the AORT vessel. Since the AORT artery had to be cleaned of cancer cells, he underwent surgery for this purpose. Özmen was handcuffed to the bed even under anaesthesia and sent back to prison only 6 days after the operation¹⁵⁷.

During this 18-month period, Özmen, who struggled to survive in Ağrı Patnos and Erzurum prisons, travelled to 4 cities and 6 hospitals under difficult conditions. Due to these hospital visits, he spent months alone in a quarantine cell. **Despite reports** signed by 40 doctors from 5 hospitals (Erzurum Atatürk University, Erzurum Forensic Medicine Institution, Ankara İbni Sina Hospital, Ankara Numune Hospital, Patnos State Hospital) stating that Özmen **"cannot stay in prison", he was not released** and was finally sent to Istanbul Forensic Medicine Institution. However, the Forensic Medicine Institution issued a report stating that Özmen *"cannot be kept in prison"*¹⁵⁸. After 18 months of hardship Yusuf Özmen was released on the grounds of health problems.

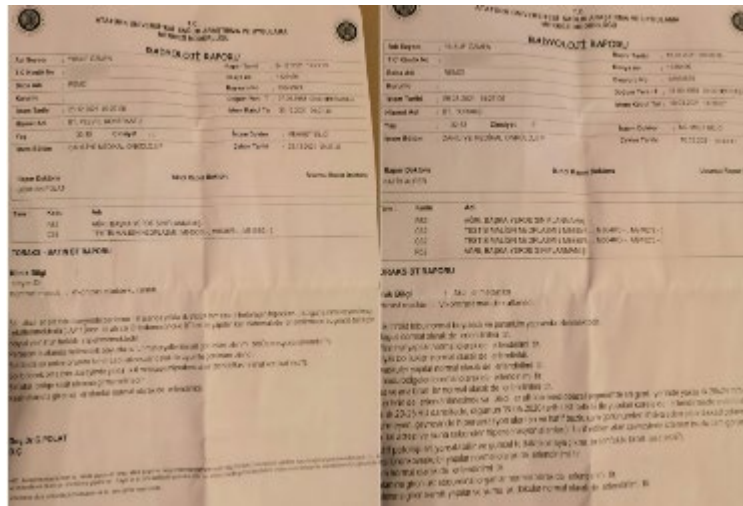
Iğdır 2nd Assize Court sentenced Özmen to 8 years and 9 months of imprisonment on the grounds of using Bylock application and based on witness statements. After the Court of Cassation upheld this sentence, Özmen was sent to prison again on 5 March 2021, despite the 80% disability report issued by Erzurum Atatürk University Yakutiye-Aziziye Research Hospital in February 2021.

Özmen's condition was once again evaluated by the Forensic Medicine Institution due to his severe illness, and this time he was given a report stating *that he 'cannot stay in prison'*, and a letter was sent to the Presidency of the Republic to fulfil the decision. Despite the report, Özmen is still being held in prison.

¹⁵⁶ Bold Medya, "Detained stage 4 cancer patient Yusuf Özmen's wife rebelled: His illness has progressed, when will you hear me?", 3 January 2022, <https://www.boldmedya.com/2022/01/03/tutuklu-4-evre-kanser-hastasi-yusuf-ozmenin-esi-isyan-etti-hastaligi-ilerledi-beni-ne-zaman-duyacaksiniz/>

¹⁵⁷ SCF, "Inmate with late stage cancer taken to emergency ward after condition worsens", 17 August 2021, <https://stockholmcf.org/inmate-with-late-stage-cancer-taken-to-emergency-ward-after-condition-worsens/>

¹⁵⁸ Bold Medya, "3 forensic medicine specialists who gave 'can stay in prison' report to patients were dismissed", 15 September 2022, <https://boldmedya.com/2022/09/15/hastalara-cezaevinde-kalabilir-raporu-veren-3-adli-tip-uzmani-gorevden-alindi/>



The Constitutional Court ignored the violation of Özmen's rights in his individual application, even though his prolonged stay in prison in a state of serious illness and then being taken back to prison in a sick state for the execution of the judgement is a serious violation of rights in itself. Although the case we have summarised is a grave situation, the Constitutional Court decided that the prohibition of ill-treatment, which is guaranteed in the third paragraph of Article 17 of the Constitution, was not unjustly and unlawfully violated in terms of the claim that the prohibition of ill-treatment was violated due to the fact that the applicant's health condition was absolutely unfit to be kept in prison.

11. Advanced Kidney Patient Mehmet Parlak

Mehmet Parlak, who has been suffering from kidney disease since the age of four and has been trying to survive with a kidney transplanted from his mother since 2013, was dismissed from his profession as a court clerk with a decree following the 15 July coup attempt. He was later arrested and sent to prison on the grounds that he was affiliated with the Gülen Movement¹⁵⁹.

Since his kidney transplant in 2013, Parlak's condition has deteriorated in prison, where he has to see a doctor every three months and follow a special diet. Due to poor hygiene conditions in Hatay Prison, he contracted a severe intestinal infection and lost 20 kilograms during this period. As a result of this process, he was transferred to Sincan Penal Institution and taken to Etlik City Hospital, where he was treated with dialysis. Doctors determined that the only kidney he had had a 70 per cent loss of function and stated that this kidney would also fail if the necessary care and treatment was not provided¹⁶⁰. The delay and disruption of transfers to the hospital, being kept in handcuffs in vehicles for long periods of time during transfers, delays in the supply of prescription medication, inadequate nutrition and hygiene conditions put Parlak's life at risk¹⁶¹.

¹⁵⁹ SCF, "Socialmediacampaignurgesparoleforailinginmate", 28 May 2024, <https://stockholmcf.org/social-media-campaign-urges-parole-for-ailing-inmate/>

¹⁶⁰ Yeni Yaşam, "Sick prisoner Parlak may lose his only kidney", 14 October 2023, <https://yeniyasamgazetesi6.com/hasta-tutsak-parlak-tek-bobregini-de-kaybedebilir/>

¹⁶¹ Pirha, "603rd F Sit-in: Release sick prisoner Mehmet Parlak", 14 October 2023, <https://pirha.org/603-f-oturmasi-hasta-mahpus-mehmet-parlak-serbest-birakilsin-video-398256.html/14/10/2023/>



The Human Rights Association Istanbul Branch, which organised a sit-in protest for sick prisoners, stated that the provisions of the Presidential Amnesty and the Law on the Execution of Sentences, which allow sick prisoners and prisoners to have their sentences lifted or postponed, are applied in a biased manner, and that some patients in the same situation are subjected to the law, while others are left to die¹⁶². Mehmet Parlak, for whom social media campaigns have been organised, is still waiting for the decision of the Forensic Medicine Institution in order to access the necessary health services.

E. THE BENEFIT OF SICK PRISONERS FROM SUPERVISORY RELEASE AND CONDITIONAL RELEASE AND PROBLEMS EXISTING IN PRACTICE

a. Benefiting from Probation in the event that the prisoners are not able to maintain their lives alone due to illness, disability or husbandhood

In the Turkish execution system, conditional release and probation measures are subject to different regulations according to the types of offences for which the persons are convicted. However, the general conditions for the convict to benefit from probation are clearly defined in Article 105/A of the Law No. 5275. According to this article;

- The convicted person is in an open prison or a children's education centre
- The convicted person has **one year or less** to be released on parole
- Good behaviour of the convict
- If the convicted person requests, the person may benefit from the probation measure.

¹⁶² Sendika.org, "603rd F Sit-in: Release sick prisoner Mehmet Parlak", 14 October 2023, <https://sendika.org/2023/10/603-f-oturmasi-hasta-mahpus-mehmet-parlak-serbest-birakilsin-694408>

Although these are the general conditions, there are also special conditions according to different convict groups and situations¹⁶³. In this context, special provisions are included in terms of probation for sick prisoners.

The period of probation that can be utilised by prisoners who are ill, disabled or incapable of living their lives due to old age is longer. Pursuant to the third paragraph of Article 105/A of the Law No. 5275, prisoners who are unable to maintain their lives alone due to a severe illness, disability, or old age, and who **have three years or less remaining until** their conditional release, may benefit from the probation execution procedure if they meet the other conditions. However, severe illness, disability or old age must be documented by a report issued by the Forensic Medicine Institution or by the medical boards of full-fledged hospitals determined by the Ministry of Justice and approved by the Forensic Medicine Institution.

On the other hand; Provisional Article 6 has been added to the Law No. 5275 with Article 52 of the Law No. 7242. Pursuant to the 2nd paragraph of the Provisional Article 6, in terms of the crimes committed until 30/03/2020, except for the crimes of intentional killing (Articles 81, 82 and 83), crimes against sexual immunity (Articles 102, 103, 104 and 105), crimes against private life and confidential areas of life (Articles 132, 133, 134, 135, 136, 137 and 138) and crimes defined in the Fourth, Fifth, Sixth and Seventh Chapters of the Fourth Chapter of the Fourth Part of the Second Book Fourth Part and crimes falling within the scope of the Anti-Terror Law;

The periods that prisoners over the age of sixty-five, who are unable to maintain their lives alone due to a severe illness, disability or old age, must spend in prison for their conditional release can be executed by applying the probation measure regulated in Article 105/A, regardless of the maximum time limit. At this point, severe illness, disability or old age must be documented by a report issued by the medical boards of full-fledged hospitals determined by the Ministry of Justice or by the Forensic Medicine Institution.

According to this regulation, convicted of crimes committed until 30.03.2020 and other than the exempted crimes, prisoners who are unable to maintain their lives alone due to severe illness, disability or old age, and who have completed the age of sixty-five will benefit from the probation penalty execution procedure regardless of the time limit they must spend in prison for their conditional release.

b. Terrorism Prisoners Can Benefit from Probation If They Cannot Manage Their Lives Alone Due to Illness, Disability or Husbandhood

Like other prisoners, terrorism prisoners may also benefit from the special-Type of probation under the third paragraph of Article 105/A of the Law if they are unable to maintain their lives alone due to a severe illness, disability or old age and if there are three years or less before their conditional release.

With the provisional article, the 3-year period condition mentioned in the article of the Law has been abolished and it is stated that this provision will not be applied for some offences. Therefore, prisoners who are unable to maintain their lives alone due to a severe illness,

¹⁶³ Aras/Güverçin, p.126 et seq.

disability or old age due to crimes committed until 30.03.2020 and exempted crimes such as terrorist crimes, and who have three years or less remaining until their conditional release, will be able to continue to benefit from the provision in the provisional article if they meet the other conditions.

Although the temporary article cannot be applied in terms of terrorism prisoners, they will benefit from the normal form of the third paragraph of Article 105 / A, regardless of the time condition for those committed until 30.03.2020. Therefore, terrorism prisoners who are unable to maintain their lives alone due to a severe illness, disability or old age and who have three years or less to be conditionally released will be able to benefit from probation. Because there is no provision preventing terrorism prisoners who cannot maintain their lives alone due to a severe illness, disability or old age they have been exposed to **before the Law dated 4/4/2020 and numbered 7242**, which amended the Provisional Article 6, and who have three years or less remaining for conditional release, from benefiting from the three-year period in the third paragraph of Article 105/A.

On the other hand, in Article 17 of the Anti-Terrorism Law" titled "*Conditional Release*", it is stated that the provisions of the fourth paragraph of Article 107 and Article 108 of the Law No. 5275 on the Execution of Criminal and Security Measures shall apply to those convicted of offences covered by the Anti-Terrorism Law in terms of conditional release and the implementation of probation measures.

At this point, no exception is foreseen in Article 105/A of Law No. 5275 for those convicted of offences covered by the Anti-Terror Law. In fact, the fact that the offences within the scope of this Anti-Terrorism Law benefit from probation for one year is based on this provision. Likewise, terrorism prisoners who benefit from the first paragraph of Article 105/A of the Law can also benefit from the provision in the third paragraph of the article in the presence of conditions. Already in the paragraph " (3) *From the execution procedure regulated in the paragraphs above;*

a) Female prisoners who have children in the age group of zero to six years and who have two years or less to be conditionally released,

b) Prisoners who are unable to maintain their lives alone due to a severe illness, disability or old age and who have three years or less remaining for their conditional release,

Terror prisoners who meet the conditions of probation in the first and second paragraphs of Article 105/A, but who are unable to maintain their lives alone due to a severe illness, disability or old age and who have three years or less remaining until their conditional release will be able to benefit. Since the Law does not stipulate an exception for those convicted of offences covered by the Anti-Terror Law, terror prisoners will also be able to benefit. This conclusion can also be reached by comparing Articles 16 and 17 of the Law. Because, although the last paragraph of Article 17 of the Law" entitled "***Postponement of execution at the request of the convict***" clearly states that the provisions of this article shall not apply to terrorist offences, Article 16 of the Law" entitled "***Postponement of execution of imprisonment sentence due to illness***" does not contain such a restrictive provision.

For the reasons explained, terrorism prisoners who have been convicted of offences within the scope of the Anti-Terrorism Law but who are unable to maintain their lives alone due to a severe illness, disability or old age and who have three years or less to be conditionally released can benefit from the probation period for three years.

c. Benefiting from Conditional Release for Terrorism Prisoners

Conditional release refers to a system that enables the convict to spend the remaining period outside the prison under certain conditions if he/she spends part of his/her sentence in prison with good behaviour, and at the end of this period, the entire sentence will be deemed to have been executed. The principles regarding conditional release are regulated in Article 107 of the Law No. 5275. Article 107 of the Law No. 5275. Accordingly, those sentenced to aggravated life imprisonment can benefit from conditional release if they serve thirty years of their sentences, twenty-four years of their sentences, and half of their sentences in the execution institution. However, different arrangements have been made for some offences. In this context, according to the fourth paragraph of Article 107 of the Law No. 5275, *the conditional release rate is applied for offences with a conditional release rate of more than two thirds*. Accordingly, the conditional release rate shall be applied as three fourths for those sentenced to a term of imprisonment under the Anti-Terrorism Law No. 3713.

Article 107 of the Law No. 5275 titled "*Conditional release*" stipulates that in order to benefit from conditional release, the convict must spend the execution period in the institution in good behaviour. Prisoners who spend the periods specified in the article in good behaviour can benefit from conditional release. In the decision to execute the sentences of the prisoners by applying the conditional release provisions, a good behaviour assessment shall be made by the Prison Administration and Observation Board in accordance with Article 89 of the Execution Law No. 5275. The Regulation on Observation and Classification Centres and Evaluation of Prisoners regarding the principles that will be the basis for this evaluation was published on 29.12.2020 and entered into force.

The Administrative and Observation Board must make the evaluation of the convict's good conduct based on the provisions of Article 89 of the Law No. 5275 and Article 16 of the Regulation on Observation and Classification Centres and Evaluation of Prisoners. It is not possible for the Administration and Observation Board to go beyond the legal regulations in the legislation and make the assessment of good behaviour according to the evidence in the file in which the convict was tried and sentenced and his position within the organisation. As a matter of fact, the 1st Criminal Chamber of the Court of Cassation, in its decision dated 03.03.2023 dated 2023/473 E. 2023/794 K., referred to this issue and stated that the justification shown in the decision of the Administrative and Observation Board that the convict cannot adapt to the society by taking into account the evidence in the file in which he was tried and sentenced and his position within the organisation and therefore he is not in good behaviour is not appropriate, appropriate and legal. The 1st Criminal Chamber of the Court of Cassation has evaluated in detail how the assessment of good behaviour will be made in the relevant decision¹⁶⁴:

¹⁶⁴ Court of Cassation 1st CD, 2023/473 E. , 2023/794 K., 03.03.2023 T. <https://karararama.yargitay.gov.tr/>

Before the last administrative and observation board meeting where the good behaviour assessment for leaving the prison will be made, the development score of the convict will be determined by dividing the sum of the period scores received until that day by the total number of assessment periods, and the development score will be taken as a good behaviour criterion in the good behaviour assessment made for the conditional release of the convict in closed or open prison without probation. As a result of the calculation to be made, the convict whose development score is below the threshold score determined by the General Directorate will not be given a good behaviour decision for direct conditional release from prisons.

On the other hand, with the letter of the General Directorate of Prisons and Detention Houses dated 18.11.2021, the point application has started as of 01.01.2022. According to the content of the letter, the lower threshold score for determining good behaviour has been determined as 45. In this context, good behaviour will not be decided for those whose development score is below 45 determined by the General Directorate, and good behaviour will be decided for those with a development score of 45 and above.

Although the legal regulations are in this way, there are problems in practice in terms of conditional release as in probation. Especially in terms of terror prisoners, it is seen that the good behaviour evaluations for conditional release are not made objectively and fairly and the scoring system is used unfavourably.

d. Deprivation of Probation and Conditional Release of Seriously Ill Terrorism Prisoners

As it is known, although prisons are institutions where the final sentence is executed for prisoners, with the discriminatory practices that started after 15 July, they have turned into revenge centres of the Erdoğan regime.

Unlawful practices such as harbouring arrested or convicted people in inhumane conditions, subjecting them to solitary confinement in solitary cells, restricting their right to receive visitors and telephone calls, depriving them of social and cultural activities, not providing adequate health facilities¹⁶⁵, not allowing them to benefit from probation and conditional release despite their conditions, not postponing the execution of sick detainees are the most serious hate-motivated and discriminatory prison practices of this period.

As explained in the chapter above, it is seen that many political prisoners, especially those convicted for belonging to the Gülen Movement, are systematically and deliberately not benefited from these rights despite the conditions for probation and conditional release. At this point, the arbitrary and unlawful decisions of the administrative and observation boards have been legitimised by the local courts, the Court of Cassation and the Constitutional Court by a conscious choice by not conducting effective legal supervision.

After 15 July, all the practices of discriminatory regime policies have unfortunately been brutally exhibited in prisons. The most serious of all these practices is that sick prisoners and

¹⁶⁵ Aras, p.5 vd

prisoners are left to die by being deprived of access to treatment and health facilities with a conscious policy. Hundreds of people were first arrested and then left to die in prisons despite being too seriously ill to stay in prison or having chronic severe illnesses. These prisoners, who were not released due to their illnesses and whose sentences were not postponed, were not benefited from the rights of probation and conditional release on unlawful grounds, almost as if the death of sick prisoners in prison was desired.

Many sick political prisoners in prison are deprived of this opportunity, although they should be able to benefit from probation due to their inability to maintain their lives alone due to a severe illness, disability or old age in accordance with the third paragraph of Article 105/A of Law No. 5275. Likewise, many sick political prisoners have not benefited from the one-year general supervised release in the first paragraph of Article 105/A. Likewise, many sick terrorism prisoners are still unable to benefit from conditional release on arbitrary grounds, although they meet the conditions required by law.

Prisons have recently been one of the places where the discriminatory regime in Türkiye has most brutally demonstrated its effects. Public officials, motivated by hate and discriminatory policies, have resorted to torture, ill-treatment and discriminatory practices against inmates on the grounds that they are members of the Gülen Movement. Although there are conditions for probation and conditional release due to conviction, people are systematically and deliberately denied these rights on the grounds that they are members of the Gülen Movement. Although the legal conditions are appropriate and there is not a single act in prison that violates the conditions of good behaviour, there are discriminatory practices against convicted citizens on the allegation of being a member of the Gülen Movement.

In this chapter, cases of sick prisoners whose probation and parole rights are arbitrarily violated will be discussed. However, although there are many grave cases beyond those mentioned in this chapter, due to the large number of cases and the lack of sufficient open sources, only pilot cases will be included for now.

aa. A Cancer Patient, Dismissed Judge Mustafa Başer,

Mustafa Başer, a dismissed judge who has been imprisoned in Sincan F1 Type Penal Institution since 1 May 2015, has not benefited from his right to probation, although he is entitled to probation and has bladder cancer. After a serious surgery, he is now entitled to conditional release as of 27 September 2022, but he has not benefited from this right either. Although thousands of prisoners in the same position in prisons benefit from probation and conditional release, dismissed judge Mustafa Başer is not benefiting from these legal rights. In the current situation, Mustafa Başer's cancer has relapsed for the third time¹⁶⁶.

¹⁶⁶ Samanyolu Haber, "His illness relapsed for the third time in prison: Başer's son calls on authorities to apply the law", 11.01.2023, <https://www.shaber3.com/cezaevinde-hastaligi-3-kez-nuksetti-baser-in-oglu-yetkilileri-hukuku-uygulamaya-cagirdi-haberi/1404643/>



HDP Kocaeli MP Ömer Faruk Gergerlioğlu submitted a parliamentary question on the issue. In the case subject to the study, Mustafa Başer, a dismissed judge, is subjected to discriminatory and arbitrary practices because he decided on the release of the police officers who carried out the 17/25 December operations involving the ministers of the current government and who were unlawfully arrested for this reason. As if it is not enough that he is unlawfully serving his sentence in solitary confinement, a severe cancer patient is deliberately left to die out of revenge and hatred. The prison administration and members of the judiciary, who are in a position to make decisions on this issue, make decisions against him based entirely on these motives. Although Mr. Başer is a stage 3 cancer patient, he is deliberately left to die.

bb. Halil Karakoç, 84 years old, seriously ill prisoner

Halil Karakoç, who was detained 10 days after the coup attempt on 15 July 2016, was arrested on 01.08.2016 on the charge of "*Being a Member of an Armed Terrorist Organisation*" on the grounds of his relationship with the Gülen Movement and was put in Manisa T-type Penal Institution and was released on 17.11.2017. Karakoç was sentenced to 7 years and 6 months of imprisonment as a result of the trial held at Manisa 2nd Assize Court and his sentence was confirmed by the Court of Cassation and finalised. Karakoç was detained at the address where he was residing on 06.01.2021 on the charge of "*Being a Member of an Armed Terrorist Organisation*" due to his finalised sentence and was sent to prison.

Although 84-year-old Karakoç has heart, diabetes, prostate and many other diseases and is in need of serious care, he was not released because the Forensic Medicine Institution gave reports stating *that he could stay in a rehabilitation hospital or in prison*. Although he had a heart attack in prison, Karakoç was not released¹⁶⁷. Despite these serious illnesses, he served his sentence in good behaviour and applied for supervised release in May 2024. However, the prison administration and observation board rejected the request of the seriously ill and elderly Karakoç for supervised release without any concrete justification and without any concrete action preventing him from benefiting from supervised release.

¹⁶⁷ TR724 News, "84-year-old ill prisoner Halil Karakoç had a heart attack in prison: He takes 14 medicines a day", 14 July 2023, <https://www.tr724.com/84-yasindaki-hasta-mahpus-halil-karakoc-cezaevinde-kalp-krizi-gecirdi-gunde-14-ilac-kullaniyor/>



As the ECtHR has emphasised in a number of judgments, Article 3 of the Convention cannot be interpreted as imposing a general obligation to release a detainee on medical grounds or to transfer him to a public hospital, even if he is suffering from a particularly incurable illness. It does, however, require the State to ensure that prisoners are held in conditions compatible with human dignity, that the manner and method of the measure do not subject them to an intensity of distress or hardship exceeding the threshold of unavoidable suffering associated with imprisonment, and that their health and well-being are adequately safeguarded in respect of requests for the imposition of a sentence of imprisonment, for example by providing them with necessary medical assistance (*Grimailovs v. Latvia*, 2013, § 150; *Yunusova and Yunusov v. Azerbaijan*, 2016, § 138). Thus, in particularly serious cases, situations may arise where the proper administration of criminal justice requires recourse to remedies in the form of humanitarian measures (*Enea v. Italy [GC]*, 2009, § 58). In this case, Halil Karakoç was not treated and cared for in humane conditions and was not released from prison despite the completion of his sentence. Within the framework of the ECtHR's perspective, it would be a measure in accordance with human dignity for Karakoç, who served his sentence in good behaviour, to benefit from probation and conditional release within the scope of his treatment. However, these humane measures are not applied to Karakoç, as is the case in many prisons and for many sick prisoners.

cc. Ali Odabaşı, a lawyer who underwent 4 surgeries in prison

Especially as a result of the investigations that started after 15 July, many people were unjustly arrested and unlawfully punished. People who were punished without a fair trial in accordance with universal law, the Constitution and the law were subjected to the same unlawfulness during the execution process. One of the victims of these practices is lawyer Ali Odabaşı, former Managing Editor of Zaman Newspaper, which was appointed a trustee by the Erdoğan regime after the 17/25 December operations and closed down after 15 July. Although Odabaşı has undergone four serious surgeries in prison, both his right to probation and his right to conditional release have been taken away.

Odabaşı, who was arrested within the scope of investigations against the Gülen Movement, was sentenced to 6 years and 3 months in prison for being a member of an illegal

organisation. On 22 November 2022, although he was entitled to supervised release, had good behaviour conditions and no disciplinary penalties, he was deprived of this right on unlawful grounds by the Sincan T-Type Prison Administration and Observation Board.

Odabaşı's right to probation was usurped and his right to conditional release was also taken away. As of 22 November 2023, although he had spent the time required for conditional release in good behaviour as per Law No. 5275, the Prison Administration and Observation Board decided to keep him in prison for 3 more months on the abstract and unlawful grounds **that he would not be able to 'adapt to society'** if released. In the subsequent review, an extension decision was made for another 3 months. On 20 February 2024, Odabaşı, who was expected to be released on conditional release on 20 February 2024, was once again prevented from being released on conditional release due to the decision that he was not in good behaviour one day later¹⁶⁸.



Odabaşı, who underwent 4 surgeries in prison, had serious health problems. During the pandemic period, he was hospitalised in Dışkapı State Hospital due to internal abdominal rupture. After the operation, he was kept in bed with his arm handcuffed to the bed. One day later, he was discharged and sent to prison. Odabaşı, who had such severe health problems, still has the same health problems. Although Odabaşı spent most of his prison term struggling with illnesses and had no disciplinary penalties, the prison administration and observation board arbitrarily usurped Odabaşı's right to conditional release¹⁶⁹.

dd. Deprivation of Supervised Release of İsmet Özçelik, who was kidnapped from Malaysia, for making rosary beads from olive seeds despite being ill

İsmet Özçelik, an educator living in Malaysia for many years, was illegally abducted by MIT in 2017 and brought to Türkiye. On the same date, other educators were also abducted by MIT in Malaysia. In its Özçelik and Karaman judgement, the UN Human Rights Committee concluded that the detention in Türkiye of two Turkish nationals abducted from Malaysia by Turkish intelligence did not meet the criteria of reasonableness and necessity and violated

¹⁶⁸ Kronos, "Sincan Prison arbitrarily keeps lawyer Ali Odabaşı in prison", 11 April 2024, <https://kronos37.news/tutuklu-avukatin-esi-sincan-cezaevine-sesleniyorum-esimin-yasam-hakkiyla-oyunuyorsunuz/>

¹⁶⁹ International Journalists Association (IJA), "Zaman Former Managing Editor Ali Odabaşı Arbitrarily Detained", 13 May 2024, <https://internationaljournalists.org/zaman-eski-yazi-isleri-muduru-ali-odabasi-keyfi-olarak-tutuklu-tutuluyor/>

their right to liberty and security under Article 9(1-3) of the UN Covenant on Civil and Political Rights¹⁷⁰.



Özçelik, who suffers from heart disease and diabetes, was sentenced to 9 years and 11 months in prison in a trial within the scope of Gülen Movement investigations.¹⁷¹ İsmet Özçelik, whom MİT kidnapped from Malaysia and brought to Türkiye, was reported on the grounds that he made rosary beads by piercing olive pits with a plastic fork, which many prisoners and prisoners do and which is permitted by the prison administration. Özçelik was given a disciplinary punishment of 15 days in solitary confinement due to this report. Özçelik was sentenced to 10 months imprisonment for making a rosary by piercing olive pits in prison. Although İsmet Özçelik, who is also a diabetic and heart patient, served his sentence with good behaviour and without any disciplinary penalty, he was prevented from benefiting from probation 6 days before he was to benefit from probation on the grounds of this disciplinary investigation opened arbitrarily¹⁷². At this point, Özçelik's state of illness was not taken into consideration.

F. AS OF 2024 BALANCE SHEET OF SICK PRISONERS AND INMATES IN PRISONS

As of 2024, the situation of sick prisoners in Türkiye is quite serious. According to various sources, Türkiye has the highest prison population among the member states of the Council of Europe. This population constitutes one third of the total number of prisoners in European prisons. Conditions are particularly challenging for prisoners with health problems¹⁷³.

¹⁷⁰ UN Human Rights Committee, Communication No 2980/2017, İsmet Özçelik and Turgay Karaman v. Türkiye, UN Doc. CCPR/C/125/D/2980/2017., 23 September 2019, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2F2017%2F2980%2F2017&Lang=en

¹⁷¹ .Advocates of SilencedTürkiye (AST): "Global Purge": 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad", June 23, 2021, <https://silencedTürkiye.org/global-purge-1-144-abductions-conducted-by-the-turkish-government-in-türkiye-and-abroad>

¹⁷² Stockholm Centre for Freedom, "Man imprisoned on Gülen linkstospend 10 moremonthsbehindbarsformaking prayerbeads", November 8, 2023, <https://stockholmcf.org/man-imprisoned-on-gulen-links-to-spend-10-more-months-behind-bars-for-making-prayer-beads/>

¹⁷³ PrisonInsider.Türkiye: Prisons in 2024. <https://www.prison-insider.com/en/articles/turkiye-prisons-in-2024>

There are approximately 348,265 prisoners in Türkiye, which is a very high number in relation to the country's total population. Access to prison healthcare in Türkiye is severely limited. Problems such as shortage of medical staff, long waiting times, lack of privacy and limited access to appropriate treatment are common in prisons. The duration of medical examinations is sometimes less than one minute. Health care as well as hygiene conditions in prison are inadequate. In many prisons, prisoners struggle with poor ventilation, lack of natural light, insufficient clean drinking water and poor quality food¹⁷⁴.

This information summarises the situation of sick prisoners in Turkish prisons as of 2024 and the institutions that have conducted research on this issue. The details provided in the sources reveal the difficulties in accessing health care in prison and general prison conditions.

As of 2023, according to the current data of the Human Rights Foundation of Türkiye (HRFT)¹⁷⁵ and Human Rights Association on the number of ill prisoners in Türkiye, many prisoners with serious health problems are still in prisons. According to the findings of the HRA Documentation Unit, as of 30 November 2023, there are 1517 ill prisoners, 651 of whom are seriously ill. HRA also reported that as of 2023 there are 163 seriously ill prisoners in prisons

As a matter of fact, according to MED-TUHADFED data, 52 people died in prisons in 2021, 78 in 2022, 43 in 2023 and 26 in the first six months of 2024¹⁷⁶. According to the data of the Ministry of Justice, a total of 2,258 prisoners died in prisons between 2018 and 2023.

According to the data of Civil Society in the Penal System (CISST), the number of prisoners and prisoners who lost their lives in prison was **107** in 2019, **95** in 2020, **128** in 2021, **101** in 2022 and **108** in 2023¹⁷⁷.

According to the findings of İHD, at least 42 prisoners lost their lives in 2023. However, as in all rights violations in prisons, it is stated that the reality is much higher than this due to the intense lack of information/data. 23 of these deaths were due to illness. 5 of the 23 prisoners died shortly after their release, while 10 prisoners died suspiciously. Four of them allegedly committed suicide¹⁷⁸.

According to the İHD report, these prisoners are at serious risk of various health problems and are not receiving proper medical care. The reports include serious violations such as the lack of adequate medical staff in prisons, denial of their right to access to treatment and delayed hospital referrals. The HRFT has similarly drawn attention to the situation of prisoners with health problems in prisons. In particular, prisoners with serious health problems

¹⁷⁴ Turkish Minute, "Morethan a third of inmates in Europe are in Turkish prisons, CoE data reveal". <https://www.turkishminute.com>

¹⁷⁵ Human Rights Foundation of Türkiye (HRFT), 10 December 2023 Human Rights Violations in Türkiye in 2023, <https://tihv.org.tr/wp-content/uploads/2023/12/EK-Verilerle-2023-Yilinda-Turkiyede-Insan-Haklari-Ihlalleri-2.pdf>

¹⁷⁶ 'Prisons Rights Violations Report' by Mezopotamya Agency, ÖHD and MED TUHAD-FED, 27 April 2024, <https://mezopotamyaajansi.net/tum-haberler/content/view/240335>

¹⁷⁷ Civil Society in the Penal Execution System Association (CISST), Prison Statistics, <https://cisst.org.tr/hapishane-istatistikleri/>

¹⁷⁸ Human Rights Association, 2023 Rights Monitoring Report on Prisons in Türkiye, 1 June 2024, <https://www.ihd.org.tr/wp-content/uploads/2024/06/2023-Y%C4%B1%C4%B1-Hapishane-Raporu.pdf>

such as cancer and heart disease do not have access to appropriate medical care in prison. This is also evidenced by the number of prisoners who have died in prison.

On 21 June 2023, CHP Aydın MP Süleyman Bülbül submitted a parliamentary question to the Ministry of Justice on how many prisoners died in prisons between 2018 and the date of the parliamentary question. According to the answer given to the parliamentary question; between 2018 and 2023, a total of **2,258** prisoners died in prisons as of **24.07.2023**.

Again, between 31 May 2023 and 31 May 2024, 275 prisoners applied to the Turkish Medical Association (TTB) from different prisons on the grounds of problems in access to health care, imposition of examination in handcuffs, insistence of law enforcement officers to be present in the examination environment and violation of privacy.

These data reveal the inadequacy of health services in Turkish prisons and the serious problems faced by sick prisoners. The reports of both national and international human rights organisations contain important warnings about violations of the right to health in prisons.

As can be seen from the data and information obtained from reports of different years, hate speech and discriminatory practices are constantly targeting opposition and political prisoners in the form of illness within the framework of a systematic and planned policy.

CHAPTER IV:

DEATH CASES AND SUICIDES

A. IN GENERAL

When the provisions of the existing legislation in Türkiye are analysed, the State has a positive obligation to ensure that the health services of prisoners are provided in an adequate and expeditious manner. In this context, the State has a positive obligation in relation to the right to access to health care;

- To provide "*fit for purpose and adequate*" physical spaces for the health services to be provided in the institutions, to organise these spaces in accordance with the service, to provide the necessary medical equipment and other equipment "*for the uninterrupted execution of the service*"
- To carry out general maintenance, repair, cleaning and security services of the places where health services are provided
- To ensure that "*sufficient number and quality*" of personnel are assigned to carry out health services in prisons

- To ensure that the relevant legislation is complied with in respect of prisoners who need to be transferred to hospitals or health units elsewhere.

On the other hand, one of the issues particularly monitored by CPT is the right of prisoners to health care. In other words, health care services provided to persons deprived of their liberty are directly related to the mandate of the CPT. Inadequate health care services in prisons may lead to the rapid emergence of conditions that fall within the scope of the term "*inhuman and degrading treatment*". Moreover, the health care provided in a particular prison is an important factor in the prevention of ill-treatment in that prison, as well as having a positive impact on the general living conditions in the facility in which it is provided.

According to Article 24 of the Nelson Mandela Rules, one of the international instruments containing important rules on the rights of prisoners, the provision of health care to prisoners is a responsibility of the State. Prisoners should have access to the same standards of health care available in the community and should have free access to necessary health care services without discrimination on the basis of their legal status. Similarly, the European Prison Rules set out important rules on the right of prisoners to health care. According to the European Prison Rules, firstly, the prison authorities must protect the health of all prisoners and ensure that they have access to the health care services available in the country **without discrimination on the grounds of their legal status**.

According to the ECtHR, although the health care provided in prison hospitals is not always at the same level as the best health care facilities available to the general public, States Parties have an obligation to adequately protect the health and well-being of prisoners by providing them with the necessary medical assistance¹⁷⁹.

The ECtHR found that the inability of a convict with cancer in prison to receive adequate medical treatment and the continued execution of his sentence despite the progression of his disease, as well as the handcuffing of the convict during chemotherapy, violated the prohibition of inhuman and degrading treatment¹⁸⁰.

On the other hand, as emphasised by the Court in *Salakhov and Islyamova v. Ukraine*, in the event of the death of detainees and convicted patients as a result of their inability to benefit from adequate health and treatment facilities, there will be a violation of Article 2 of the Convention, as the respondent states have failed to fulfil their obligation to protect the right to life¹⁸¹. Likewise, suicides of persons with physical or mental illnesses in custody, detention centres or prisons may also give rise to the responsibility of States Parties under Articles 2 and 3 of the ECHR¹⁸².

On the other hand, as stated by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which considers health care services provided to persons deprived of their liberty directly within its mandate, "*Inadequate health care services* may lead to the rapid emergence of conditions falling within the scope of the term *inhuman and degrading treatment*". Failure to provide adequate medical treatment

¹⁷⁹ ECtHR *Khudobin v. Russia*, B. No: 59696/00, K.T: 26/10/2006 Prg. 93

¹⁸⁰ ECtHR, *Mouisel v. France*, B. No: 67263/96, K.T: 14/11/2002, Prg. 36-48

¹⁸¹ ECtHR *Salakhov and Islyamova v. Ukraine*, B. No: 28005/08, K.T: 14/03/2013, Prg. 164-183

¹⁸² ECtHR *Ketreb v. France*, B. No: 38447/09, K.T: 19/07/2012

may be considered as treatment falling within the scope of Article 3 of the Convention. As a matter of fact, in the ECtHR *Melnick v. Ukraine* judgement¹⁸³ the inadequacies of the prison authorities in the diagnosis and treatment of the applicant's tuberculosis disease were considered among the factors contributing to the violation of Article 3 of the Convention¹⁸⁴.

B. HEALTH PROBLEMS IN PRISONS DUE TO COVID-19 PANDEMIC

The Covid-19 pandemic, which started in 2020 in our country, as in the whole world, has negatively affected the health of detainees, prisoners and prison staff in prisons as well as everyone else. There have been deaths in prisons due to the pandemic. At this point;

- Lack of continuous and urgent health checks and tests in terms of detection of the disease during the epidemic process
- Failure to provide adequate treatment medicines and medical assistance
- Failure to quarantine those with Covid-19 in a timely manner to prevent the transmission of the disease to other detainees and prisoners
- Quarantine of Covid-19 patients in poor physical conditions
- The fact that vaccination activities developed for the treatment of Covid-19 and carried out in our country did not start in prisons caused these deaths and severe disease processes.

In addition, due to the disproportionate measures developed in prisons within the scope of the Covid-19 pandemic, prisoners have been subjected to a process of isolation. The complete abolition of open visits, limitation of closed visits, complete cancellation of educational, social, cultural and sports activities have turned this process into severe isolation conditions¹⁸⁵. Severe isolation conditions have driven people to suicide.

In the statement made by the Ministry of Justice, General Directorate of Prisons and Detention Houses on 19/02/2021, it is stated that 19 detainees/prisoners who lost their lives since 14 March 2020, when Covid-19 pandemic was effective in Türkiye, were treated in hospitals before or during the pandemic due to chronic diseases (diabetes, hypertension, tuberculosis, COPD, asthma, renal failure, cerebral haemorrhage, chest diseases) and 9 prisoners died due to complications in the immune system due to Covid-19 virus¹⁸⁶.

According to the notifications made by the Chief Public Prosecutor's Offices, the total number of Covid-19 cases among the prisoners as of the date of the statement was 240; 33 of these detainees and prisoners, including 2 in intensive care, were hospitalised and their treatment continued within the framework of the Ministry of Health treatment algorithm; there were no intubated detainees/prisoners; and the other 207 prisoners whose treatment continued in prisons did not have any symptoms in terms of Covid-19. In addition, it was stated

¹⁸³ ECtHR *Melnick v. Ukraine*, B. No: 72286/01, K.T: 28.03.2006

¹⁸⁴ Ülkü, p.274

¹⁸⁵ DW, "Covid-19 in Prisons: How were prisoners affected?", <https://www.dw.com/tr/cezae-vlerinde-covid-19-mahpuslar-nas%C4%B1l-effektendi/a-56818951>

¹⁸⁶ Ministry of Justice, "Kovid-19 Pandemi Sürecinde Ceza İnfaz Kurumları-III", https://cte.adalet.gov.tr/Home/SayfaDetay/kovid-19-pandemi-surecinde-ceza-infaz-kurumlari-iii180220210659_2_8

in the statement that necessary planning and arrangements were made for the administration of vaccines to prisoners and Covid-19 vaccine was started to be administered to prisoners according to the order determined in line with the National Covid-19 vaccination programme of the Ministry of Health.

Especially due to inadequate health facilities, physical and technical inadequacies in prisons, discriminatory and arbitrary attitudes of the prison administration towards sick detainees and prisoners, the condition of sick prisoners became even more severe and eventually deaths occurred. At this point, the slow referral procedure has led to grave and often irreparable consequences for emergency patients

On the other hand, the lack of "sick prisoner wards" in the hospitals to which sick prisoners are transferred from prison to hospital causes other problems. Prisoners are kept waiting in prison vehicles, which are not suitable for human health, until a suitable room is arranged at the hospital. In hospitals with sick prisoner wards, it is observed that these wards are located in basements, the rooms are airless and access to doctors and nurses is difficult due to the distance to the relevant department.

C. DEATH CASES IN PRISONS DUE TO INADEQUATE HEALTH SERVICES

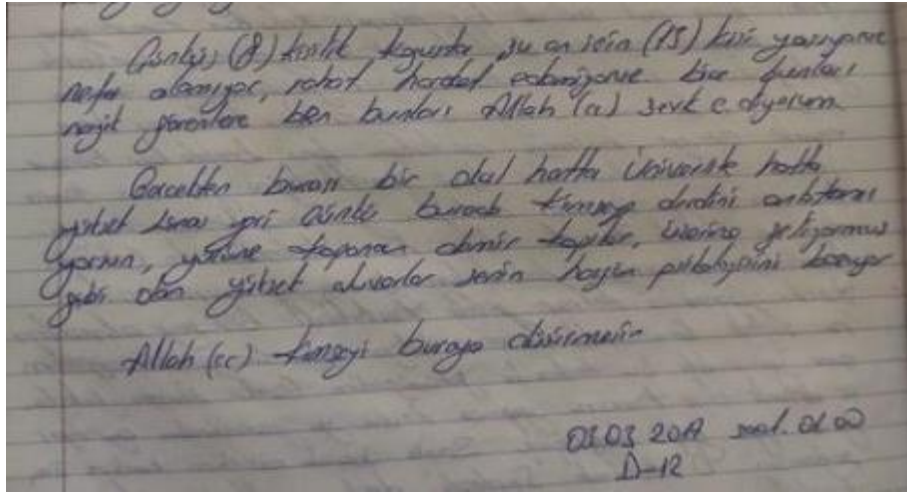
a. Death in the White Chair: Mustafa Kabakçioğlu

As a result of discriminatory and arbitrary practices against terrorism prisoners, many people have been left to die despite being ill. Although there are many examples, one of the most serious examples is the death in prison of Mustafa Kabakçioğlu, a police officer who was dismissed from his profession with a decree law during the State of Emergency and then arrested.

Kabakçioğlu, who was dismissed from his profession as a sergeant in Giresun Security Directorate by a decree with the Force of Law dated 1 September 2016, died on 29 August 2020 in a solitary cell on a white plastic chair in Gümüşhane Prison, where he was held on charges of being affiliated to the Gülen Movement.

In 2017, Kabakçioğlu, who contracted diabetes in prison and whose health deteriorated after that day, wrote in his diaries that he was ill but the administration was not interested in his treatment with the following words: *"...Let these experiences be a lesson for me and a problem for you ... I cannot have my health checks done and I cannot live healthy ... May God not let anyone fall here."* Kabakçioğlu wrote in his petition addressed to the prison doctor due to his illness; *"...I have used the medication you gave me continuously, but I think the medication has side effects. I have swelling especially in my left mouth and left leg and I have speech problems. And I have numbness in my arm. I have numbness below the waist. Below the waist does not work in any way..."*, the prison doctor clearly stated his discomfort, and the prison doctor replied *"...I referred him to internal medicine. I think he should be evaluated with further examinations. I strongly recommend him to go for referral. I also wrote a referral and prescription yesterday. Take the medication..."* and decided that he should be urgently referred to hospital. Despite this decision of the doctor, he was not taken to hospital

by the prison administration¹⁸⁷ . Kabakçioğlu was also not taken to hospital on 20, 24 and 27 August 2020, although he reported his illness, and was kept in solitary cell. Kabakçioğlu was found dead on **a white chair** on 29 August 2020 .¹⁸⁸



The photograph taken during the investigation following Kabakçioğlu's death shows that the cell was damp, the bed was under the stairs, the food was on a dustbin and the toilet was in contact with the room¹⁸⁹ . Kabakçioğlu's death under these conditions shows that the minimum requirements for human life are not met in prisons and access to health services is prevented.

¹⁸⁷ "KHK police officer's funeral from quarantine cell: Death in a plastic chair", 14.10.2020, <https://artigercek.com/guncel/khk-li-polisin-karantina-hucresinden-cenazesi-cikti-plastik-sandalyede-olum-141301h>

¹⁸⁸ "Mustafa Kabakçioğlu: The death of former police officer with a state of emergency decree brought up allegations of negligence in prison," 15.10.2020, <https://www.bbc.com/turkce/haberler-turkiye-54561319>

¹⁸⁹ Bold Medya, "His funeral came out of the quarantine cell: Death in a plastic chair!" , 08.11.2020, <https://www.boldmedya.com/2020/10/14/karantina-hucresinden-cenazesi-cikti-plastik-sandalyede-olum/>



The death of Mustafa Kabakçioğlu on a white plastic chair with his head thrown back, his fingernails bruised and his hands resting on his legs is a picture of political prisoners being left to die and the ultimate target of the state's hate policy, which has made them the target of discriminatory and arbitrary practices in prisons in Türkiye. The death of Mustafa Kabakçioğlu on a white plastic chair in the quarantine cell of the prison where he was imprisoned for 4 years is not the result of illness, but rather the result of the reflection of the hate policies against the opposition, especially the Gülen Movement, in prisons. As people are left to civilian death here, sick prisoners are also left to physical death under the cover of hate.

b. Prisoner Announcing His Own Death: Halime Gülsu

It has almost become an administrative routine that political prisoners are not provided with the necessary medical assistance and treatment. In this context, another grave case is the death of Halime Gülsu, an English teacher with a state of emergency decree, who was detained in prisons for allegedly being a member of the Gülen Movement and left to die due to her illness.

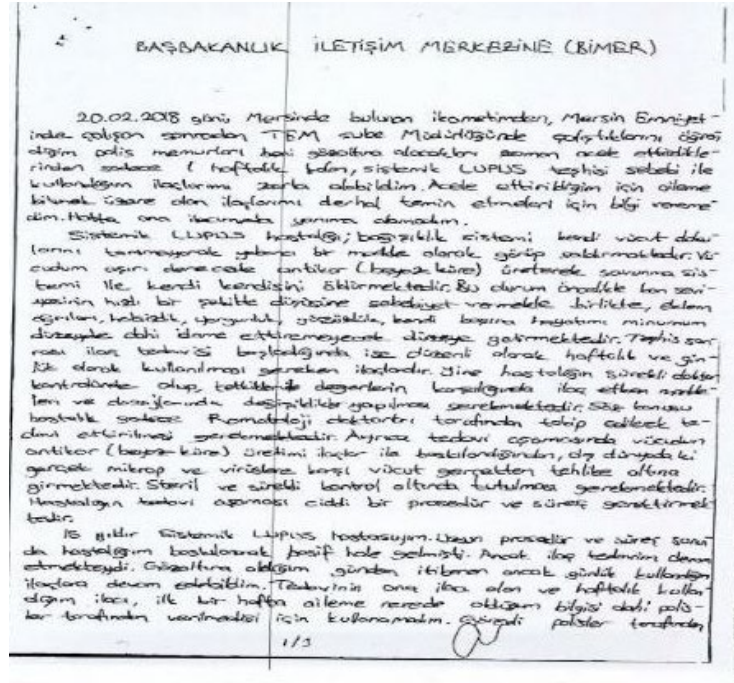
Halime Gülsu, an English teacher with SLE (Systemic Lupus Erythematosus), was arrested on 3 March 2018 on the charge of making and selling stuffed meatballs for families whose spouses are detained by state of emergency decrees, and died on 28.04.2018 in Tarsus Women's Closed Prison, where she was being held because she was not given medication, was not taken to infirmary and was not treated¹⁹⁰.

¹⁹⁰ TR724 News, "Another apparent death in prison: Halime Gülsu teacher passed away", 28.04.2018, <https://www.tr724.com/cezaevinde-goz-gore-gore-bir-olum-daha-halime-gulsu-vefat-etti>,



In her letter to the Prime Ministry Communication Centre (BIMER) just a few days before her death, Halime Gülsu described the unlawfulness she experienced as follows "...*The treatment phase of the disease requires a serious procedure and process. For 15 years I have been suffering from Systemic LUPUS. After a long procedure and process, my disease was suppressed and became inactive. However, my drug treatment continued. Since the day I was detained, I was only able to continue my daily medication. **I could not use the main medication of the treatment, which I take weekly, for the first week because the police did not even inform my family where I was.***

*I signed a paper given by the police officers on duty saying that they had called my family. However, after I was arrested and sent to prison, during my meeting with my brother, he told me that 'I was not called at that time and that he had no information about the medication'. While I was in custody, my medication, which was one week and then daily, could not be delivered to me because of the police officers on duty because I could not send it with a written paper. **Neither the Public Prosecutor in charge nor the Criminal Judge of Peace took any action regarding my illness during the hearing in which I was arrested by the Mersin 4th Criminal Judgeship of Peace.** I was arrested and sent to Tarsus Women's Closed C.İ.K. Directorate, **where my daily medication ran out and I still haven't received my weekly medication.** My petitions, which I can't even remember the number of times I wrote '**Urgent**' to go to the infirmary as required by prison rules, were not answered and I was not taken to the infirmary..."*



Halime Gülsu, an English teacher, was unlawfully arrested despite being a chronic SLE (Systemic Lupus Erythematosus) patient. After her unlawful arrest, she was deliberately left to die because she was not given the medication she needed to take regularly and her treatment requests were not responded to. As a part of hate-motivated, discriminatory and arbitrary practices, subjecting people to these inhumane practices in prisons and ultimately resulting in the death of such severe cases has almost become a routine practice.

c. Non-Release of detained Court of Cassation Judge Mustafa Erdoğan until his death

Judge **Mustafa Erdoğan**, a member of the Court of Cassation, was arrested without any justification on 3 February 2017 by Antalya 3rd Criminal Court of Peace based on an arrest warrant issued against him while he was in hospital for brain tumour surgery.

Erdoğan, who had undergone a major operation, spent six months in the detention ward of the hospital where he was held, half of his body paralysed. Since the day of his arrest, Erdoğan has requested his release through his lawyers on the grounds of his health condition, but these applications have remained inconclusive.

Erdoğan's requests for release were rejected and his applications to meet with his family were not responded to. The application to the Constitutional Court for Erdoğan's release on the grounds of health problems was also rejected on the grounds that *"the detainee is not in any danger"*.



Erdoğan, who was ordered to be kept in solitary confinement in these inhumane conditions until his death, was first taken to intensive care unit in August 2017 due to the progression of his illness. Erdoğan, who was not allowed to meet with his family there either, was released on 18 August 2017 upon the request of the public prosecutor and the court's decision after he lost consciousness. However, Erdoğan struggled for life in intensive care unconscious for four days after his release and died on 23 August 2017¹⁹¹.

d. Death of Former CJP Judge Teoman Gökçe

The death of Judge Teoman Gökçe, a former member of the High Council of Judges and Prosecutors, is one of the deaths caused by the heavy pressure, inhumane conditions and isolation in prison. Judge Teoman Gökçe was working as a judge in Ankara West Courthouse during the 15 July coup attempt. Immediately after the coup attempt, Gökçe was arrested on 17.07.2016 and was subsequently arrested on 21.07.2016 on a number of charges, primarily for violating the Constitution. Arrested Gökçe was placed in Sincan T-Type Closed Prison. Between 2010 and 2014, Gökçe, who was a member of the High Council of Judges and Prosecutors, was not only arrested arbitrarily, unlawfully and illegally, but also subjected to arbitrary and discriminatory practices in prison. In this context, he was subjected to isolation in solitary confinement. Gökçe's appeals against both his unjust arrest and solitary confinement have been fruitless. He was subjected to isolation in solitary confinement in the poor conditions of the prison.

His family was informed that Gökçe died in prison on 02.04.2018 due to illness.

According to the minutes kept after his death; Teoman Gökçe, who had fallen ill in his solitary cell and after medical intervention by the lifeguards, was taken by lifeguard to Ankara Penal Institutions Campus State Hospital at around 17:38 with the arrival of the gendarmes to accompany the patient transfer. According to a medical certificate, Teoman Gökçe was brought to the hospital at around 17:45 in a state of unconsciousness and with an open blood vessel; no signs of beating, cuts or hangings were detected and no pulse could be taken.

¹⁹¹ TR724 News, "Persecution of a high judge by the Supreme Court of Appeals and the courts: Detention until death", 24.08.2017, <https://www.tr724.com/aym-mahkemeler-eliyle-bir-yuksek-yargica-yapilan-zulum-olene-kadar-tutuklama/>

Resuscitation efforts lasting approximately 45 minutes did not yield any results and Gökçe died¹⁹².

After his arrest, Gökçe was placed in Sincan T-Type Closed Execution Institution and was put in solitary confinement as of 9 December 2016. **He was kept in this solitary cell for sixteen months** until his death. Gökçe, who died at the age of 49, struggled for sixteen months to get out of cell No. 8, where he died in inhumane conditions. It is also known that the windows of the cell were covered with a wire fence.

He wrote petitions to the Ankara Western Execution Judge and appealed twice to the Constitutional Court on the unlawfulness of his detention, violation of the prohibition of ill-treatment and the principle of equality. However, all his petitions and appeals were rejected.



His wife made complaints about Teoman Gökçe's detention in violation of constitutional guarantees, his being kept in poor prison conditions, being subjected to isolation in solitary confinement, being subjected to heavy pressure in detention and in prison, the lack of a mechanical and digital warning system in the solitary confinement cell that could be used to call for help in cases such as heart attack or loss of consciousness, the fact that it turned out that it was not possible to use the existing system in the event of a heart attack, the lack of rapid intervention after his illness, but no results were obtained.

¹⁹² TR724 News, "Another suspicious death in prison: Former HSYK member Teoman Gökçe lost his life", 02.04.2018, <https://www.tr724.com/cezaevinde-supheli-bir-olum-daha-eski-hsyk-uyesi-teoman-gokce-hayatini-kaybetti/>



In the individual application to the Constitutional Court, a decision of inadmissibility was given¹⁹³. In its judgement, the Constitutional Court only directly examined the death incident and rejected the application without examining many aspects that led to Gökçe's death, such as prison conditions, psychological pressure, lack of adequate living conditions. In addition, the Supreme Court decided without conducting the necessary examination and research on whether the conditions of being kept in isolation in the cell for a long time were effective in Gökçe's death, whether the intervention was late and inadequate, and whether the reasons leading to death were not discussed in the report of the Specialised Board.

e. Suspicious Death of Police Chief Zeki Güven

In 1992, Zeki Güven graduated from the Police Academy with top honours and worked in terrorism and intelligence units in Ankara. In 2013, he was awarded the first prize for the services provided by the Community Supported Policing Branch Directorate to the people of the region in Şırnak. As the deputy chief of police in charge, he received the award from then President Abdullah Gül. After the major bribery and corruption operations of 17/25 December 2014, he was suspended and his weapon and identity card were confiscated. This unlawful decision was overturned by the administrative court and Güven was appointed as Bolu Deputy Police Chief in September 2014. However, he was dismissed this time as well. Zeki Güven's wife, former judge Sevda Güven, was arrested after 15 July 2016 and sent to Samsun Prison.



¹⁹³ Batuhan Gökçe and Others Decision, B. No: 2018/36427, K.T: 06/10/2021), <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2018/36427>

Zeki Güven, who was kept in a cell in Sincan Penal Institution for 40 days after his arrest, was given salty food for 15 days despite the fact that he suffers from blood pressure and petitioned for salt-free food. In addition, he was not given the blood pressure medication he needed. Zeki Güven expressed the difficulties he was subjected to during this 40-day period in a letter to his wife. Zeki Güven, who fought against terrorism for years, was kept in solitary confinement under conditions to which no criminal is subjected and was forced to isolation. His right to go out to the garden during the day was restricted to 1 hour and he was not even allowed to have a television in his room¹⁹⁴.

Zeki Güven, described by the Erdoğan-directed media as the 'golden boy of the Brotherhood' and 'black box', was described by Hanefi Avcı, a former police chief, as a "critical figure" in both his books and newspaper statements. Hanefi Avcı practically targeted him by the statement made about him, suggesting that "if he is interrogated properly he will talk."

In 1992, after graduating from the Police Academy with top honours, Güven started to work in terrorism and intelligence units in Ankara and took part in many critical operations. He was one of the people who led the Hezbollah operations in 2001. Zeki Güven was also the police chief who exposed the famous "wiretapping" scandal in 2002. Zeki Güven is also one of the names most familiar with the corruption and bribery networks surrounding Ankara. He played an active role especially in al-Qaeda and Ergenekon operations. Zeki Güven played a key role in the Ergenekon case and his testimony caused discomfort for the ruling circle and some other circles. In short, Zeki Güven is a name that the Erdoğan regime and other elements supporting this regime are uncomfortable with¹⁹⁵.



As it can be understood from the above, the death of Zeki Güven, who was still young and in generally good health, due to a heart attack on the day before the hearing in which he was to be brought to testify, is highly suspicious and raises allegations that he was tortured to death.

His children learnt of their father's death from the press when they set off for their open visit the next day. The wife of the detained judge came to Samsun Penal Execution Institution after a long journey in handcuffs and was able to attend Güven's funeral under police and

¹⁹⁴ Patreon, "Last letter of Zeki Güven, accused in a tape conspiracy and found dead in a cell", 21 June 2021, <https://www.patreon.com/posts/kaset-suclanan-52749577>

¹⁹⁵ TR724 News, "Who killed Zeki Güven and why? ", 04 July 2018, <https://www.tr724.com/zeki-guveni-kim-neden-oldurdu/>

gendarmerie blockade. However, she was not even allowed to approach the grave of her husband.

An individual application was made to the Constitutional Court by Güven's relatives regarding this suspicious death. In the application made by the relatives of Mr Güven, who was declared to have died of a heart attack in prison, it was claimed that Zeki Güven was taken out of prison for interrogation, taken to the police station and tortured. They made detailed allegations that he was not intervened during the alleged heart attack, that those who were negligent were not investigated, that his medication was deliberately provided late, and that he was not given diet food for a long time.

In its decision dated 22 April 2021, the Court considered the application;

- Lack of jurisdiction in respect of the allegations of violation of the right to personal liberty and security, freedom of religion and conscience, prohibition of ill-treatment in terms of torture and ill treatment by security forces and freedom of expression due to the failure to fulfil the guarantees stipulated in the Constitution
- Failure to exhaust the remedies for the claim that the right to life was violated due to the lack of intervention during a heart attack
- It was decided that the allegation of violation of the right to life in terms of giving salty meals, not providing nutrients determined by the institution physician to maintain the health of the deceased and not conducting an effective criminal investigation was inadmissible due to lack of clear grounds¹⁹⁶.

f.Adil Somalı Died While Waiting for Probation

Adil Somalı, who was arrested in Ödemiş district of İzmir within the scope of investigations against the Gülen Movement, was released after one year of imprisonment. Somalı, a father of two who supports his family by selling vegetable and flower seeds in Ödemiş, was sentenced to 6 years and 3 months in prison. Upon the finalisation of the prison sentence, Adil Somalı was sent back to prison. As of 11 July 2024, he was entitled to benefit from supervised release. Therefore, he was transferred to open prison. Somalı requested to benefit from supervised release in Ödemiş T-Type Penal Execution Institution, but when the Administration and Observation Board did not convene, his stay in prison was automatically extended by 15 days. Somalı, who learnt that his stay in prison had been extended, was psychologically devastated and fell into a coma with convulsions. Somalı was hospitalised and died on 20 July 2024 at the age of 58¹⁹⁷.

¹⁹⁶ Zehra Reyhan Güven Decision, B.No: 2021/4587, K.T: 22/04/2021, <https://kararlarbilgibankasi.anayasa.gov.tr/Ara?BasvuruAdi=+Zeki+G%C3%BCven>

¹⁹⁷ Kronos, "He was selling vegetable seeds: Shopkeeper denied release dies in prison" , 23 July 2024, <https://kronos37.news/sebze-tohumu-satiyordu-tahliyesi-engellenen-esnaf-cezaevinde-hayatini-kaybetti/>



g. Kadir Eyce, a Young Policeman Driven to Death by Poor Detention and Penal Institution Conditions

Kadir Eyce was detained in October 2016 while working as a police officer in Zara district of Sivas province. Kadir Eyce, who was detained because he had deposited money in Bank Asya, was pressurised to give the names of members of the Gülen Movement during the detention process. Kadir Eyce, who defended his innocence, was left in a cold area during his detention. Kadir Eyce, who was psychologically worn down, developed severe pain in his abdomen due to the cold. Although Kadir Eyce petitioned for medical assistance due to the pain in his abdomen, no medical assistance was provided. On 01.10.2016, Sivas Criminal Judicature of Peace arrested Kadir Eyce for depositing his own money to Bank Asya, and during his detention, his petitions for medical support were not responded to. Kadir Eyce's abdominal pains became increasingly severe and he was unable to walk alone. Following this situation, Eyce was sent to Sivas Numune Hospital, from where he was referred to Cumhuriyet University Research Hospital. However, Kadir Eyce, who was not subjected to the necessary examinations during his stay in the hospital, was sent back to prison without any treatment and was told to come back another day. In prison, Kadir Eyce became completely incapacitated from the waist down and could not even go to the toilet by himself. After his family and his lawyer petitioned that Kadir Eyce was about to die and that the authorities would be responsible for this situation, Kadir Eyce was released from prison weighing 60kg and unable to go to the toilet without help.

Kadir Eyce was taken to Mersin University State Hospital by Eyce's family and it was learnt that a small mass he had at the beginning had grown rapidly and completely collapsed his digestive system due to late intervention, lack of treatment and poor nutritional conditions. Kadir Eyce, who the doctor said could not be intervened after this stage, died a short time later on 11.04.2017 at the age of 33 due to his illness¹⁹⁸.

¹⁹⁸ TR724 News, "Prison martyr buried next to the son he lost 2 years ago", 12 April 2017, <https://www.tr724.com/cezaevi-sehidi-2-yil-kaybettigi-oglundun-yani-basina-defnedildi/>



As can be seen, sick prisoners are left to die with a conscious choice within the framework of the Erdoğan regime's hate policies.

h. Fahrettin İşgüder, 73, Died in Prison

Fahrettin İşgüder, a businessman living in Bandırma, was put in Bandırma T-Type Prison No 1 after his 6 years and 3 months prison sentence was approved by the Court of Cassation. İşgüder, who was 73 years old at the time of his imprisonment, died due to inhumane prison conditions.



İşgüder was taken to the emergency ward of the hospital when his health deteriorated due to the overcrowded ward and the hot weather, and he died in the intensive care unit where he was admitted on 22.07.2024. İşgüder's death demonstrates once again that prisons in Türkiye do not have humane conditions and that this situation has reached a level that threatens the lives of prisoners¹⁹⁹.

i. Former Police Chief Necip Bulut Died Due to Lack of Treatment

Following the 17-25 December corruption and bribery operations, Necmi Bulut was dismissed from his position as Erzurum Asayiş Branch Director and appointed as Aziziye District Police Chief. Bulut was dismissed from his position by a decree with the force of law issued on 29 October 2016 as part of the purge in state institutions following the coup attempt in Türkiye on 15 July 2016²⁰⁰.

¹⁹⁹ Kronos News, "Businessman taken to the emergency room in prison died", 22 July 2024, <https://kronos37.news/cezaevinde-acile-kaldirilan-is-insani-hayatini-kaybetti/>

²⁰⁰ SCF, "Ailingformerpolicechiefdies of heartattack in prisonvehicle", January 20, 2023, <https://stockholmcf.org/ailing-former-police-chief-dies-of-heart-attack-in-prison-vehicle/>



The process that led Bulut, who had platelet deficiency (chronic ITP) in prison for six years, to his death started in July 2021. After vomiting blood in prison, Bulut underwent a 14-hour operation in Izmir, where he was transferred. Bulut was fitted with a prosthetic heart valve and a prosthetic aortic vein, and was kept handcuffed to the bed by his foot during the operation and by his hand during the one-month intensive care period. The Medical Board of Izmir Katip Çelebi Hospital gave the report "Bulut can stay in prison" despite the fact that he appeared before the board in a wheelchair²⁰¹.

T.C. İZMİR VALİLİĞİ İL SAĞLIK MÜDÜRLÜĞÜ İzmir Atatürk Eğitim ve Araştırma Hastanesi SAĞLIK KURULU RAPORU			
Rapor Tarihi - No	20/10/2021	R.No:-2004	Adı Soyadı
Hasta / Protokol No	2021052888 / 33190253	Baba Adı	NECİP BULUT
T.C. Kimlik No		Doğum Tarihi - Yeri	10/10/1971-ELEŞKÖRT
Kurumu			
Adres	MEHMET AKİP ERSOY MAH. 2410 SK. No: 403 KEMALPAŞAİZMİR		
Muayene Talebine Eriş Olan Yeri	İZMİR 2 NOLU F TİPİ YÜKSEK GÜVENLİKLİ CEZA İNFAZ KURUMU MÜDÜRLÜĞÜ		
TANI	HİPERTANSİYON BENTHAL EF 40 ASMEAN GRAD 21		
BULGULAR	KALP VE DAMAR CERRAHİSİ: BENTALL OPERASYONU EF% İÇ HASTALIKLARI: HİPERTANSİYON TA140/94 mmHg.		
KARAR	İNFAZIN ERTELENMESİNE GEREK YOKTUR. SÜREKLİ HASTALIK KOCAMA, SAKATLIK YOKTUR. CEZA İNFAZ KURUMUNDA HAYATINI YALNIZ İDAME ETTİREBİLİR.		

Bulut was sent back to prison after the operation and his health demands were ignored by the wardens and prison administration.

Bulut died on 17 January in the ambulance in which he was being transferred to a hospital due to his health condition requiring urgent intervention. It is clear that Bulut's right to treatment was denied and that the treatment process did not continue under humane conditions.

j. Muzaffer Cengiz Died in Solitary Confinement

Muzaffer Cengiz, a teacher in Izmir, was dismissed from public service by a state of emergency decree and was arrested on 07 April 2017. Cengiz was placed in Çorum T-Type Closed Prison and was put in solitary confinement as of 28 February 2018. **He was kept in this solitary cell for fourteen months until his death.** A few days before his death, Cengiz wrote a petition to the Çorum Execution Judge stating that he had hyper blood pressure, thyroid, diabetes, prostate, herniated disc, herniated cervical disc, severe hearing loss and

²⁰¹ Bold Medya, "He told about his father's sufferings: This is how they killed a 22-year police officer in prison", 02.01.2023, <https://boldmedya.com/2023/04/05/babasinin-acilarini-anlatti-22-yillik-polisi-cezaevinde-boyle-oldurduler/>

psychiatric illnesses and that he wanted to be transferred to multiple wards. Although Cengiz's family has also submitted several petitions on this issue, no results have been obtained²⁰².



Cengiz, who was kept in solitary confinement despite of the doctor's report that "he cannot stay in solitary confinement", died of a heart attack in his cell on 26 April 2019.

k. İsa Yaşar

İsa Yaşar, a police officer with a state of emergency decree, was sentenced to 6 years and 3 months in prison within the scope of Gülen Movement investigations and was arrested and put in Kırıkkale Keskin T-Type Prison. On 6 February 2022, he died at the age of 57 due to a heart attack in the 10th month of his imprisonment²⁰³.



I. Kemal Bilici

Kemal Bilici, who was dismissed from his profession as a classroom teacher for twenty-five years with a decree law issued in 2016, was arrested on 18 August 2016 and put into Manisa T-Type Prison. Bilici, who had no health problems when he was arrested, started to

²⁰² Bold Medya, "4-page petition of Muzaffer Özcengiz who died alone in solitary confinement: I am unable to breathe, move or stand", 02.11.2023, <https://boldmedya.com/2019/05/01/hucrede-tek-basina-olen-muzaffer-ozcengizin-4-sayfalik-dilekcesi-nefes-almaz-hareket-edemez-ayakta-duramaz-haldeyim/>

²⁰³ Aktif Haber, "Another suspicious death in prison! Police officer İsa Yaşar died", 9 February 2022, <https://aktifhaber.com/gundem/cezaevinde-bir-supheli-olum-daha-khkli-polis-memuru-isa-yasar-yasamini-yitirdi-h172204.html>

experience psychological problems due to the problems he faced in prison, and then he was diagnosed with "confinement-induced depression" and started to be given psychological medication.



After Bilici started to use the medication, he developed disturbances in his thinking, limitations and slowdowns in his movements. Following applications to the Public Prosecutor's Office, the prison administration also observed that Bilici's condition had worsened and referred him to Manisa Psychiatric and Nervous Diseases Hospital on 22 August. Bilici started inpatient treatment at the hospital and the dosage of the medication he was taking was reduced and it was observed that Bilici started to recover. Bilici died of a heart attack in the hospital on 11.09.2019²⁰⁴.

m. Brigadier General Kemal Mutlum, who contracted cancer in prison

Brigadier General Kemal Mutlum, former Head of Air Defence and Command Control Department of the Air Forces Command, was sentenced to 79 times aggravated life imprisonment and 3,901 years and 6 months by the Ankara 4th High Criminal Court to 79 times aggravated life imprisonment. Mutlum, who contracted brain cancer in prison, was taken to intensive care due to the progression of his disease. Mutlum, whose release requests were not accepted in this process, died in prison on 23 November 2022²⁰⁵.

²⁰⁴ Bold Medya, "Another death in prison: Kemal Bilici, a teacher with a state of emergency decree has lost his life", 03/11/2023, <https://www.boldmedya.com/2019/09/14/cezaevinde-yine-bir-olum-khkli-ogretmen-kemal-bilici-hayatini-kaybettiler/>

²⁰⁵ TR724 News, "Sick prisoner Brigadier General Kemal Mutlum died in prison", 24 November 2022, <https://www.tr724.com/hasta-mahpus-tuggeneral-kemal-mutlum-cezaevinde-vefat-etti/>



The Court ignored the unanimous report of the Forensic Medicine Institution that Mutlum is not suitable to stay in prison and did not release him. Instead of taking the Forensic Medicine report into consideration, the Court rejected the request for the postponement of the execution of the sentence of Brigadier General Kemal Mutlum, who was intubated in intensive care, and for his release, based on the letter prepared by the law enforcement units stating that he was "*dangerous for public safety*".

This incident in itself clearly demonstrates the discriminatory, arbitrary and hate-motivated practices in prisons in Türkiye²⁰⁶.

n. Businessman Ünal Takmaklı

77-year-old Ünal Takmaklı, one of the owners of Uğur Soğutma A.Ş., was arrested on 28 July 2016 for allegedly providing financial support to the Gülen Movement within the scope of the investigations launched against the Gülen Movement after the 15 July coup attempt.



Takmaklı was taken to Menemen State Hospital by medical teams after he collapsed while he was being held in Menemen T-Type Penal Institution. Despite all interventions, Takmaklı passed away. It was stated in the press release that Takmaklı died on 29 November 2016 due to a heart attack²⁰⁷.

²⁰⁶ Doğru Açı, "Cancer patient Brigadier General Kemal Mutlum Died in Prison", 27/11/2022, <https://dogruaci.com/Haberler/kanser-hastasi-tuggeneral-kemal-mutlum-cezaevinde-vefat-etti-251>

²⁰⁷ Aljazeera, "Businessman dies in prison", 29 November 2016, <https://www.aljazeera.com.tr/haber/isadami-cezaevinde-hayatini-kaybetti>

o. Businessman Vahyettin Yahya Bayat

Vahyettin Yahya Bayat, 65 years old businessman who was arrested through the investigation against Gülen Movement, died on 9 February 2018 due to a heart attack in his cell in Diyarbakır Prison. Although it was known that Bayat had a heart condition, he was arrested and his release requests were ignored²⁰⁸.



p. Police Chief Ahmet Tatar

Ahmet Tatar, a retired police chief, was arrested within the scope of investigations against the Gülen movement and placed in Osmaniye T-Type Closed Prison No 2. Tatar has a chronic heart disease and his release requests were repeatedly rejected by the court. On 01.08.2017, Tatar was taken to Osmaniye State Hospital with chest pain and despite all interventions, he died of a heart attack²⁰⁹.



q. Businessman Hasan Hayri Alp

Hasan Hayri Alp, a businessman who was imprisoned in Sincan F-Type Prison in connection with the Revolutionary People's Liberation Party/Front (DHKP/C) investigation, died on 19.07.2016 due to a heart attack²¹⁰. The necessary treatment and care process for Alp was neglected and ignored by the State.

r. Academician Ahmet Turan Özcerit

²⁰⁸ Advocates of Silenced Türkiye, These Are Their Stories, <https://silencedTürkiye.org/wp-content/uploads/2019/10/AST-booklet-4th-of-Final-version-WEB-VIEW-.pdf>

²⁰⁹ TR7/24 News, "Police chief Ahmet Tatar who died in prison was buried", 06 August 2017, <https://www.tr724.com/cezaevinde-kalp-krizi-gecirip-vefat-eden-emniyet-muduru-topraga-verildi/>

²¹⁰ TR724 News, Who killed Zeki Güven and why, 4 July 2018, <https://www.tr724.com/zeki-guveni-kim-neden-oldurdu/>

Academician Ahmet Turan Özcerit, who works in the Department of Computer Engineering at Sakarya University, was dismissed by a state of emergency decree and subsequently arrested. Diagnosed with lung and colon cancer in prison, Özcerit was kept in prison for 14 months without treatment. When he was taken to hospital, it was learnt that his disease had reached stage 4. Time, unfortunately, worked against Ahmet Turan Özcerit and he eventually underwent surgery, but even then he was kept handcuffed in the hospital. Özcerit was released close to his death after long efforts. Özcerit died on 14 February 2018 in Ankara, approximately 5 months after his release²¹¹.



s. Colonel Adnan Cetin

Adnan Çetin, who served as a colonel in the Air Force, died on 16 February 2018 as a result of a cerebral haemorrhage he suffered in Istanbul Silivri Penal Institution, where he had been imprisoned for about 18 months.



According to witnesses in the same ward, Colonel Adnan Çetin, who collapsed, was forcibly taken to the infirmary because it was a little after working hours. Here, without a proper diagnosis and examination, he was only given a serum, which could be dangerous for brain haemorrhage, and left back to his ward. When he became ill again in the ward, although the wardens were informed, no urgent intervention was made. Upon the insistence of his ward

²¹¹ Yeni Asya, "Özcerit passed away", 14 February 2018, https://www.yeniasya.com.tr/gundem/ozcerit-vefat-etti_453715

mates, he was taken out of the ward and transferred to Silivri State Hospital and from there to another hospital. However, after a long time Colonel Çetin died from brain haemorrhage²¹².

t. Geography Teacher Lokman Ersoy

Lokman Ersoy, a geography teacher, was arrested during the state of emergency and was imprisoned in Balıkesir Kepsut Prison. Ersoy submitted eight separate petitions requesting to go to the infirmary due to his illness in prison, but his request to go to the infirmary was rejected. Ersoy collapsed in prison and was taken by ambulance to İzmir Katip Çelebi Hospital, where he was diagnosed with stage 4 colon cancer. Ersoy, who was released afterwards, died on 8 January 2018, 3 days after his release²¹³.



u. Dr. Ali Özer

Ali Özer, who was working as assistant chief physician at Ankara Nallıhan State Hospital, was arrested and put in Çorum L-Type Closed Prison and Execution Institution. On 23 March 2017, Özer had a heart attack in his ward and despite all interventions he could not be saved and died²¹⁴.

v. Dentist Mehmet İnam

Mehmet İnam, a dentist in Kemalpaşa district of İzmir, was arrested within the scope of investigations against the Gülen Movement and placed in Menemen Penal Institution. On 05 November 2017, İnam had a heart attack in his ward and died²¹⁵.

w. Businessman Mustafa Törer

Mustafa Törer, a shopkeeper in Iskenderun district of Hatay, was arrested in connection with investigations against the Gülen Movement and placed in Iskenderun Closed Prison. Törer died in prison on 28 July 2016 as a result of a heart attack.

x. Businessman Ahmet Ok

²¹² Bold Medya, "How Colonel Adnan Çetin was sent to his death in Silivri," 01/12/2019, <https://boldmedya.com/2019/12/01/albay-adnan-cetin-silivride-nasil-olum-gonderildi/>

²¹³ Tr724 News, "Another death in prison in the State of Emergency: Arrested teacher petitioned 8 times, they did not even take her to the infirmary", 08.01.2018, <https://www.tr724.com/ohalde-cezaevinde-bir-olum-daha-tutuklu-ogretmen-8-defa-dilekce-verdi-revire-bile-cikarmadilar/>

²¹⁴ Samanyolu Haber, "Detained doctor dies in prison", 24.03.2017, <https://www.samanyoluhaber.com/tutuklu-doktor-cezaevinde-hayatini-kaybetti-haberi/1283364/>

²¹⁵ https://x.com/bitene_hayatlar/status/1081511336578826240

Ahmet Ok, a businessman from Mersin's Bozyazı district, had a heart attack on 20 October 2016 in Anamur Prison and Execution Institution where he was being held in connection with investigations against the Gülen Movement and died in hospital²¹⁶.

y. Businessman Ahmet Kemal Kaya

Ahmet Kemal Kaya, a businessman in Isparta, was arrested within the scope of the investigations against the Gülen movement and his treatment was interrupted despite the fact that he had cancer and was 71 years old. Kaya's condition worsened in Isparta Prison and Execution Institution and he died on 19 November 2016²¹⁷.

D.TORTURE AND ILL-TREATMENT OF PATIENTS IN DETENTION CENTRES AND HORRIFIC CASES

a. In General

The hate speech dominated by the Erdoğan regime manifests itself in detention centres or prisons in the form of torture, ill-treatment, insult, threats, oppression, discriminatory and arbitrary practices; in social life, it manifests itself in acts that are legally criminal, such as deprivation of state facilities, denial of public services, discriminatory practices.

Motivated by the policy of hatred that has become state policy, public officials have committed grave crimes against humanity, especially against members of the Gülen Movement, in detention centres and prisons for various motives.

Immediately after the 15 July coup attempt, detention lists prepared in advance by intelligence units within the scope of the operations launched against the Gülen Movement were immediately put into action. Thousands of people who had nothing to do with the coup and who were working in public or private organisations under the supervision and control of the state, or who were engaged in free trade, sought refuge in justice as soon as they learned that there was a detention order against them, and in the days that followed, they were subjected to harsh and inhumane practices while waiting to be proven innocent and exonerated as soon as possible. These people were labelled "**coup plotters**" and "**terrorists**" by the highest state officials and the media without even a trial. Nihat Zeybekçi, the then Minister of Economy, said during a rally: *"We will give them such a punishment that they will say, 'I wish we were dead and gone'. They will not see a human face, they will not hear a human voice."* With these words, he clearly recognised what has happened and what will happen in detention and prisons²¹⁸.

²¹⁶ Anamur Gündem, "Ahmet Ok Died in Prison", 20 October 2016, <https://www.anamurgundem.com.tr/ahmet-ok-cezaevinde-yasamini-yitirdi/#:~:text=Ahmet%20Ok%2C%20%C3%A7ok%20say%C4%B1da%20%C3%B6%C4%9Fretmen,m%C3%BCdahalelere%20ra%C4%9Fmen%20kurtar%C4%B1lamayarak%20ya%C5%9Fam%C4%B1n%C4%B1%20yitirdi>.

²¹⁷ Hizmetten, How many people with cancer are currently in prison?, 26/01/2021, <https://hizmetten.com/su-anda-cezaevinde-kac-kanserli-var/>

²¹⁸ Hürriyet, "Bakan Zeybekci: We will give them such a punishment...", 01.08.2016, <https://www.hurriyet.com.tr/gundem/bakan-zeybekci-bunlara-oy-le-bir-ceza-verecegiz-ki-40177470>,

The increase in torture and ill-treatment in Türkiye, especially after the declaration of the State of Emergency, has also been expressed by various international organisations. Amnesty International and Human Rights Watch have published critical reports in this regard. Although the exact number of torture and ill-treatment victims is not known, the numbers reflected in the reports of international human rights organisations show that all examples of torture and ill-treatment that can be applied in the context of destroying the Gülen Movement have been exhibited with the State of Emergency. Amnesty International reported in 2016 that there is credible evidence that some of those detained in Türkiye after the coup attempt on 15 July were beaten and tortured, and that police raped some senior military officials in custody with batons or fingers²¹⁹. In this context, Human Rights Watch's study on the **"Suspension of Protections against Torture in Türkiye after the Coup Attempt"**, which was prepared by the Human Rights Watch, demonstrated how torture was legitimised under the pretext of the coup²²⁰.

In many reports published by Human Rights Watch (HRW), it is emphasised that torture and ill-treatment has become a widespread problem in Türkiye especially after the 15 July coup attempt and that one of the most affected groups is the Gülen Movement. In its report **"Police Torture and Abduction in Custody in Türkiye"**, HRW emphasised that there has been an increase in allegations of torture and cruel, inhuman or degrading treatment in police custody and prisons, and that prosecutors' offices have not initiated meaningful investigations into such allegations and that a widespread culture of impunity prevails for security and public officials implicated in such incidents²²¹.

Similarly, in Amnesty International's report covering the year 2020/21²²², it was emphasised that acts of torture and ill-treatment continued in Türkiye. In this context, Gökhan Türkmen, one of the seven people who disappeared in 2019 and was accused of being linked to the Gülen Movement, was subjected to torture and other forms of ill-treatment for 271 days during his enforced disappearance.

On the other hand, it is stated in the report that 12 out of 616 applicants to the Human Rights Foundation of Türkiye in 2017 were subjected to torture abroad and 564 applicants were subjected to torture in single or multiple places. Of these, 272 applicants stated that they were subjected to torture in official detention centres such as security directorates and 55 in police stations. In 2017, 226 of the applicants stated that they were subjected to torture and ill-treatment in open spaces and during demonstrations, while 70 of them were subjected to

²¹⁹ BBC Türkiye, "Af Organisation's accusation of 'beating, torture and rape' against Türkiye", 25.07.2016, <https://www.bbc.com/turkce/haberler-turkiye-36880689>,

²²⁰ Human Rights Watch, "Open Cheque on the Suspension of Measures to Protect against Torture in Türkiye after the Coup Attempt", October 2016, https://www.hrw.org/sites/default/files/report_pdf/Türkiye1016turkish_web.pdf,

²²¹ Human Rights Watch, "Police Torture and Abduction in Custody in Türkiye", October 2017, p.1 et seq., https://www.hrw.org/sites/default/files/report_pdf/Türkiye1017tu_web.pdf,

²²² Amnesty International, 2020/21 Report, Amnesty International 2021, p.65, <https://www.amnesty.org/en/wp-content/uploads/2021/06/Tu%CC%88rk%CC%A7e.pdf>,

torture and ill-treatment at home and at work. It is seen that the practices in unofficial detention centres have reached a grave dimension²²³.

As a result of applications and researches made to the Human Rights Association (IHD), 5,268 people were identified as having been tortured in 2017. According to the data released by IHD on 30 May 2017, there were 11 cases of abduction and disappearance, mostly in Ankara. Four of these people were released afterwards, one of them committed suicide. In 2018, there was one more case of enforced abduction²²⁴. There are still missing members of the Gülen Movement who have not been found. It is considered that they are being held in secret detention centres by intelligence officers.

Another discriminatory regime practice that has recently come to the public agenda is the practice of strip searches in detention centres and prisons. Following the intense reaction after the interviews in which the victims expressed their stories, which were also brought to the agenda by HDP MP Ömer Faruk Gergerlioğlu, state institutions, especially the Ministry of Interior, hastily started to deny the allegations and made statements that these were isolated incidents. The practice of strip search, which state units are trying to cover up, is a systematic torture and ill-treatment practice of the discriminatory regime that started with the State of Emergency and still continues.

It should not be forgotten that a mental infrastructure has been created in Türkiye that enables the systematic use of torture and ill-treatment against members of the Gülen Movement, despite the pressure and supervision of the international community. In fact, the pressure and supervision of the international public opinion is cited as the biggest obstacle to the elimination of the right to life of members of the Gülen Movement. In an environment where the country has returned to the 1990s when the deep state structuring was effective, where all the gains achieved with the EU harmonisation process have been reset and turned into an open prison, the applications made to local courts, high courts and the Constitutional Court regarding the systematic human rights violations have remained inconclusive. Instead of determining torture and inhuman treatment, the high courts and the Constitutional Court have systematically covered up these serious hate crimes and discriminatory regime practices with political pressure and instructions.

Although there are thousands of examples in this context, how hate policies manifest themselves in these institutions will be discussed through recent examples.

b. Teacher Died of Heart Attack After Torture in Detention: Gökhan Açikkollu

Gökhan Açikkollu, a history teacher at Ümraniye Atatürk Vocational and Technical Anatolian High School, was detained at his home on 23 July 2016 on the allegation of being a member of the Gülen Movement following the 15 July coup attempt and taken to Istanbul Security Directorate. Açikkollu, who was also ill, was subjected to severe torture for 13 days

²²³ Human Rights Association, "2017 Human Rights Violations Report: A Year Under the State of Emergency", 26.06.2018

²²⁴ Human Rights Association, "2017 Human Rights Violations Report: A Year Under the State of Emergency", 06.04.2020, <https://www.ihd.org.tr/2017-insan-haklari-ihlalleri-raporu-ohal-altinda-gecen-bir-yil/>

in the detention room of Vatan Security Directorate, was not given his diabetes medication and finally died of a heart attack at 04:35 on the morning of 5 August 2016²²⁵.

As a result of the examination of the footage of Açıkkollu's collapse and death in custody, it is seen that Açıkkollu, who was kept in a solitary cell with five other people, called the police officers on duty after he collapsed, the police officers did not come, he lay down on his bed again and died writhing²²⁶.



During 13 days of detention, Açıkkollu was not given any official statement and was subjected to psychological and physical pressure through continuous beatings. Although he has diabetes and panic attacks, he was not given his medication. During his detention, he was taken to hospital twice after suffering from seizures and each time he was taken out of the hospital and brought back to the detention centre. Açıkkollu, 42 years old, could not withstand the treatment he was subjected to in the Anti-Terror Branch Directorate of Istanbul Police and died on 5 August 2016²²⁷.



²²⁵ Ahval News, 'Gökhan Açıkkollu's death linked to torture', 12.03.2018, <https://ahvalnews.com/tr/iskence/gokhan-acikkollunun-olumu-iskenceyle-ilintili>

²²⁶ Bold Medya, "First time published images of the moment of death of Gökhan Açıkkollu", 02.08.2019, <https://www.boldmedya.com/2019/08/02/gokhan-acikkollunun-olum-anina-iliskin-ilk-kez-yayinlanan-goruntuler/>

²²⁷ TR724 News, "Gökhan teacher's death by torture told by his ward mate teacher", 03.09.2018, <https://www.tr724.com/gokhan-ogretmenin-iskenceyle-olumunu-kogus-arkadasi-ogretmen-anlatti/>

The public prosecutor's office decided not to prosecute the criminal complaint filed against Açıkkollu for his death as a result of torture, which is an argument of hate politics.

An application was made to the United Nations Human Rights Committee by his wife Mümüne Açıkkollu for the determination of violations of Gökhan Açıkkollu's right to life and the investigation process after his death. In its decision on Gökhan Açıkkollu dated 30/11/2022 and numbered 3730/2020²²⁸; the UN Human Rights Committee made important findings and violations regarding the allegations that Açıkkollu was subjected to torture and ill-treatment which resulted in his death in detention.

As a result of the Committee's evaluation:

- That the State party has not demonstrated that the individual remedy before the Constitutional Court would be effective in practice in challenging the legality of the author's husband's detention and subsequent death in custody
- That the derogation, which entered into force after the declaration of a nationwide state of emergency in Türkiye on 2 August 2016, cannot suspend fundamental safeguards against arbitrary detention
- That the State party has failed to establish that Gökhan Açıkkollu's allegations that he was subjected to physical and psychological trauma while in detention during his medical examination on 3 August 2016 were promptly, impartially and thoroughly investigated
- That the State party, contrary to articles 6 and 7 of the Convention, failed to exercise due diligence to protect Gökhan Açıkkollu from torture and ill-treatment and, ultimately, to preserve his life in detention, taking into account his known pre-existing health problems
- It found that the State party had failed to demonstrate that a thorough and impartial investigation into the allegations of torture and the death of Gökhan Açıkkollu had been carried out, nor had it justified why the testimony of other witnesses who had been in custody during the investigation had not been taken into account or why allegations of torture prior to his death had not been effectively investigated in a timely manner.

E. SUICIDE CASES IN PRISONS

Deaths and suicides in prisons have increased dramatically in Türkiye since the 15 July coup attempt. Human rights organisations report that factors such as ill-treatment, overcrowding and inadequate health care in prisons have contributed to an increase in suicide rates among prisoners. In particular, suicides by detainees or prisoners have been cited as one of the main reasons for widespread criticism of the authorities in Türkiye for violating prisoners' rights. Reports in this field emphasise that many suicides occur due to reasons such

²²⁸ Güneş, Gökhan: "Evaluation of the United Nations Human Rights Committee's Decision on Gökhan Açıkkollu", 02.12.2022, <https://www.drgokhangunes.com/makale/birlesmis-milletler-insan-haklari-komitesinin-gokhan-acikkollu-kararina-iliskin-degerlendirme/>

as unfair conditions of detention, lack of health and psychological support. In this period, allegations of torture and ill-treatment in detention have also increased and it is stated that torture and ill-treatment, especially against political prisoners, have increased suicide cases.

The adverse conditions of prisoners in prisons have worsened, particularly in the aftermath of the attempted coup. Torture, ill-treatment, inadequate health care and psychological pressure in prisons and detention centres continue to have a negative impact on prisoners. This situation leads to an increase in suicide cases. It is estimated that the number of prisoners who lost their lives in prisons is also high.

a. Increasing Suicide Cases in Türkiye After 15 July

After the 15 July coup attempt, the systematic, intensive and planned detentions, arrests and dismissals that started with the State of Emergency process have caused deep concern and destruction in the society. In this oppressive and unlawful process carried out by the state, hate speech and discriminatory practices have reached their peak. The opposition has become the target of great pressure, threats and hate speech. A certain segment of the society has suffered great material and psychological devastation.

The Erdoğan regime, which is in power, has directly targeted the opposition, together with its other components consisting of nationalist and nationalist groups, and finally launched a cleansing and extermination operation. With the State of Emergency decrees, the Constitution and laws were overruled and a process in which the most basic human rights were ignored was entered.

Although the opposition was generally targeted in this process, the main target was the Gülen Movement, which the Erdoğan regime declared *the perpetrator of the coup* on the night of the coup without waiting for any investigation, inquiry or trial. In fact, the Gülen Movement, which was targeted by the Erdoğan regime with the 17/25 major bribery and corruption operations, was placed at the centre of a purge/elimination operation under the pretext of the coup.

On the one hand, the government has dismissed hundreds of thousands of people from public office without trial through the State of Emergency Decree Laws issued by the state of emergency decrees on the basis of abstract concepts such as organisational ties, affiliation, liaison and similar abstract concepts, while causing hundreds of thousands of people to be detained and arrested. In order to justify all these actions, the government and its constituents have launched a massive propaganda campaign through their affiliated non-governmental organisations, the media and some institutions and organisations such as the Directorate of Religious Affairs. In this process in which the judiciary has lost its independence, the media has turned into a press and information organisation of the government. The government, through the media, has carried out a terrific policy of hate. This policy was also accepted by public institutions and society. Thus, hate speech against the opposition, especially the members of the Gülen Movement, who were targeted in this process, resonated in all layers of society and the state. These hate policies have caused heavy damages for the victims of this process.

Those who have been detained, arrested, dismissed and dismissed from their professions within the scope of investigations against the Gülen Movement and their family members have been the most affected by this process. Members of the Gülen Movement and their families, who have been excluded from society, marginalised, devalued and identified with crime due to hate speech and discriminatory regime practices implemented as state policy, have become the target of very serious psychological and physical violence. Especially due to the increasing psychological pressure on the members of the Movement, the practices of leaving them to civilian death and the hate speech carried out as propaganda; both prisons and civilian life have become unbearable for these people. As a result of these heavy pressures from the political institution and society, many suicides have taken place.

In the report titled "**Suicides during the State of Emergency**", which was made public by CHP MP Veli Ağbaba on 20 April 2017²²⁹, it was stated that 35 people committed suicide in the first nine months of the state of emergency declared after the coup attempt, **including 17 police officers, 4 soldiers, 4 teachers, 2 correction officers, 1 guidance counsellor, 1 district governor, 1 mosque imam, 1 prosecutor, 1 engineer, 1 student, 1 doctor and 1 dentist**. Seven of the suicides occurred in prisons and one in a detention centre. According to the findings in this report, which presents the balance sheet of the first 9 months of the State of Emergency, suicides of people directly affected by hate policies and systematic discriminatory regime practices and suicides of their family members are not included in the figures mentioned. Similarly, the number of people who lost their health and died due to severe psychological and physical conditions caused by discriminatory regime practices is still unknown. According to recent research²³⁰; 92 of those who were prosecuted on the grounds that they were associated with the Gülen Movement committed suicide.

The SoE period, during which people were almost left to civilian death, has been a period of suicide for many people. Dozens of people who could not withstand the unlawfulness of the State of Emergency and the perception and pressure against them in the society committed suicide. The actual number is still unknown. However, in order to demonstrate the impact of the process on suicides, in the following part of the article, some of the grave suicide cases that took place immediately after the 15 July coup attempt and that we were able to access from open sources are given²³¹.

- **Petty Officer Ferhat Daş (15 July 2016):** According to the testimony of Tank Specialist Sergeant İbrahim Donat about the night of 15 July, Petty Officer Sergeant Ferhat Daş shouted "*Aren't you sons of the motherland? There is a coup d'état going on!*", he shouted "*We are not traitors!*" and committed suicide by firing one shot with his personal pistol from the bottom towards his chin²³².

²²⁹ Cumhuriyet, "OHAL is killing: Number rises to 35", 29.04.2017, <https://www.cumhuriyet.com.tr/amp/haber/ohal-olduruyor-sayi-35e-yukseldi-730232>,

²³⁰ Solidarity with Others, Erdoğan Regime's Hate Speech: "Fetö", April 2023, https://tr.solidaritywithothers.com/_files/ugd/b886b2_a19495c590774e08a3bec5433be47b02.pdf.27

²³¹ TR724 News, "Erdoğan regime executions disguised as suicides", 29 November 2016

²³² Cumhuriyet, "The soldier who killed himself on 15 July was acquitted... Thought to be a traitor, turned out to be a hero", 15.07.2018, <https://www.cumhuriyet.com.tr/haber/15-temmuzda-canina-kiyan-asker-aklandi-hain-sanildi-kahraman-cikti-1027143>

• **Lieutenant Colonel Hasan Yücel (20 July 2016):** Lieutenant Colonel Hasan Yücel, Commander of the General Staff Service Battalion, was one of the officers who lived through the night of 15 July at the General Staff Headquarters. As a result of a depression, Lieutenant Colonel Yücel took his life on 20 July 2016 at 10:30 in the morning in his room at the Headquarters in the presence of two of his friends²³³.

• **District Governor Necmi Akman (20 July 2016):** One of the first suicides heard after the coup attempt was that of Necmi Akman, the district governor of Ahmetli district of Manisa. District governor Akman, who had been suspended from duty due to the coup attempt, committed suicide with the pistol of his bodyguard²³⁴.

• **Assistant Commissioner Mutlu Çil (20 July 2016):** Deputy Commissioner Mutlu Çil, who was among the 900 police officers suspended in Ankara Security Directorate, committed suicide by shooting himself with a gun while Gündül Police Chief was being processed²³⁵.

• **Police Chief Muhammet Mertoğlu (22 July 2016):** Mertoğlu, who was appointed to Bartın's Ulus district in place of Police Chief Levent Mustafaoğlu, who was arrested after the coup attempt, committed suicide by saying "*Are you suspecting me too?*" during a search of his room on 22 July within the scope of the investigation launched against him²³⁶.

• **Lieutenant Colonel Levent Önder (22 July 2016):** Lieutenant Colonel Levent Önder, who was serving as the Deputy Chief of Staff of the 3rd Commando Brigade Command in Siirt, committed suicide with his personal pistol because he was depressed due to his inability to prevent the developments in Siirt during the coup attempt. Lieutenant Colonel Önder had been appointed to replace Colonel Alican Erkilitlioğlu, who was arrested due to the coup attempt²³⁷.

• **Police Officer Halil Gök (22 July 2016):** Police officer Halil Gök committed suicide in Akçakoca district of Düzce when he learnt that he would be suspended after the coup attempt. According to the allegations, Gök went to the equipment store in the basement of the building and committed suicide by putting his pistol to his head²³⁸.

• **Police officer Hidayet Meral (30 July 2016):** After the coup attempt, Deputy Security Director of Ulus district of Bartın committed suicide and Selçuk Şakar, the district governor of the district, was arrested. Hidayet Meral, a bodyguard at the district governor's office, also committed suicide²³⁹.

²³³ Diken, "Third after the coup attempt: A lieutenant colonel commander commits suicide in the general staff building", 29/07/2016,

²³⁴ Anadolu Agency, "Dismissed district governor commits suicide", 26.07.2016,

²³⁵ Karar, "Deputy commissioner Mutlu Ç. committed suicide during an operation", 20/07/2016,

²³⁶ Yurtsever, "District Police Chief who was angry about the search of his office committed suicide", 21-07-2016,

²³⁷ NTV, "Colonel appointed to replace arrested commander commits suicide", 22.07.2016, <https://www.ntv.com.tr/turkiye/siirte-albay-intihar-etti>,

²³⁸ Sözcü, "A policeman who learned that he would be suspended committed suicide", 21 July 2016, <https://www.sozcu.com.tr/aciga-alinacagini-ogrenen-polis-intihar-etti-wp1324385>

²³⁹ Yeni Akit, "The bodyguard of the detained district governor committed suicide", 2016-07-30,

• **Police Chief Ahmet Beşli (10 August 2016):** Police Chief Ahmet Beşli, who was detained in Hatay, committed suicide by shooting himself in front of his police officers with his personal pistol²⁴⁰.

• **Teacher Mustafa Güneyler (2 September 2016):** Mustafa Güneyler, a teacher who was dismissed from his profession after being suspended in Osmaneli district of Bilecik, committed suicide. It was announced that Güneyler' was depressed after being dismissed from his profession with the Decree Law No. 672 the same night and committed suicide by turning on a gas cylinder at his home²⁴¹.

• **Teacher Ali Derebaşı (19 September 2016):** Ali Derebaşı, a kindergarten teacher in Kayseri, took his own life on 19 September at the school where he was working after his wife, a teacher, was suspended from her profession on charges of being a member of the Gülen Movement²⁴².

• **Police Officer Emrah Oğuz (3 October 2016):** Emrah Oğuz, 32-year-old police officer in charge of Bayburt Security Directorate, who was among the 12,800 police officers suspended, committed suicide by shooting himself with a pistol near Bayburt Security Directorate where he had gone to hand in his pistol²⁴³.

• **Police Officer Adem Tıraş (4 October 2016):** Adem Tıraş, 26, who was among the suspended police officers in Mersin, shot himself with a pistol in a park and ended his life²⁴⁴.

• **Imam Hasan Taştan (11 October 2016):** Hasan Taştan, 53, imam of a mosque in Mersin, who was arrested in an operation against the Gülen Movement, took his own life²⁴⁵.

• **Enver Şentürk (13 October 2016):** Enver Şentürk, 31 year old Enver Şentürk, a guard on duty at Adıyaman Prison Execution Institution who was suspended in Adıyaman was found hanged on the 8th floor of the building where he lived²⁴⁶.

• **Teacher Ergülü Yıldız (25 November 2016):** Ergülü Yıldız, 47, an assistant principal at a school in Sungurlu district of Çorum, was first suspended and then detained on the grounds that she belonged to the Gülen Movement, but was released with judicial control. Teacher Yıldız committed suicide as a result of depression due to the extraordinary conditions she was living in²⁴⁷.

• **DBP District Organisation executive Segvan Yaman:** DBP district organisation executive Segvan Yaman who was arrested during the operations conducted in March 2016 in Uludere district of Şırnak on the allegations of "being member of an illegal organisation" and sent to Kalkandere (Rize) L-Type Prison allegedly committed suicide on 18 July 2016. Reacting to the allegations that Segvan Yaman committed suicide on 18 July 2016, the older

²⁴⁰ Yeni Akit, "Hatay da police chief Beşli committed suicide", 2016-08-10 ,

²⁴¹ CNN Türk, "Dismissed teacher Mustafa Güneyler committed suicide", 06.09.2016,

²⁴² Hürriyet, "Kindergarten director whose teacher husband was suspended ended his life at school", 19 September 2016,

²⁴³ Diken, "Bayburt'ta 'FETÖ' suspended police officer committed suicide, 06/10/2016,

²⁴⁴ "Suspended Police Officer Commits Suicide",

²⁴⁵ NTV, "Imam whose son was arrested on FETÖ charges commits suicide", 11.10.2016 ,

²⁴⁶ Diken, 'Enforcement protection officer suspended for FETÖ commits suicide', 13/10/2016

²⁴⁷ Hürriyet, "Teacher suspended for FETÖ committed suicide", 25 November 2016

brother Ekrem Yaman underlined that the marks on his brother's body and neck indicate that he was killed and claimed that his brother did not have any problem other than the pressures in prison²⁴⁸.

- **Teacher Canan Deniz (17 June 2019):** Canan Deniz, who worked as a primary school teacher for 15 years in educational institutions affiliated to the Gülen Movement, became unemployed when the school she worked for was closed down with the decree laws issued during the state of emergency, and she could not teach due to the restriction of her rights. She committed suicide at her home after visiting her husband Yılmaz Deniz, also a teacher in prison²⁴⁹.

- **Nurse Sevgi Balcı (27 August 2017):** Sevgi Balcı, a nurse and mother of 3 children, was suspended on 4 August 2016 after 15 July 2016 due to her alleged links with the congregation while working in Keçiborlu, Isparta. Sevgi Balcı, who was dismissed from the public sector with a Decree Law on 29 October 2016, went into psychological depression as a result of the difficulties she experienced. On 27 August 2017, Sevgi Balcı ended her life leaving behind her 3 children, one of whom was 8 months old. Sevgi Balcı was reinstated by the State of Emergency Commission after 5 years²⁵⁰.

- **Mehmet Koşar (9 March 2018):** Mehmet Koşar, a computer teacher in Muğla, was dismissed from his profession by the State of Emergency Decree Law issued after 15 July. Koşar, whose teacher husband was also dismissed from his profession by a state of emergency decree, was arrested after his dismissal and was released after a while. Unable to bear the psychological pressure he was under, Mehmet Koşar committed suicide on 9 March 2018 in Muğla Fethiye²⁵¹.

- **Ali Bozdağ (23 March 2018):** 32-year-old non-commissioned officer Ali Bozdağ was suspended from duty due to an investigation against him for alleged membership in a terrorist organisation. Bozdağ, who was psychologically depressed due to the investigation, committed suicide by hanging himself with a rope in his house in Onikişubat district of Kahramanmaraş²⁵².

- **Adalet Betül Çağdır (29 March 2018):** English teacher Adalet Betül Çağdır, whose husband was also a former judge, committed suicide by jumping from her house in Başakşehir as a result of depression²⁵³.

²⁴⁸ Human Rights Association, 15 July Coup Attempt and State of Emergency, 20 October 2016, <https://www.ihd.org.tr/15-temmuz-darbe-kalkismasi-ve-ohal-surecinde-yasanan-hak-ihlalleri-bilancosu/>

²⁴⁹ Bold Medya, "Canan teacher commits suicide on return from prison visit", 02/11/2023, <https://boldmedya.com/2019/06/18/canan-ogretmen-cezaevi-ziyareti-donusu-intihar-etti/>

²⁵⁰ Aktif Haber, Suicide nurse Sevgi Balcı reinstated after 5 years, 25 September 2022 <https://aktifhaber.com/iskence/intihar-eden-khkli-hemsire-sevgi-balci-5-yil-sonra-goreve-iade-edildi-h179972.html>

²⁵¹ Bold Medya, "Service Movement volunteers who died or were killed as a result of pressure in 2018", 01.01.2019, <https://www.boldmedya.com/2018/12/31/2018de-baski-sonucu-olen-ya-da-oldurulen-hizmet-hareketi-gonulluleri/>

²⁵² Aksu TV, "Non-Commissioned Officer Committed Suicide", <https://www.aksutvhaber.net/astsubay-intihar-etti>

²⁵³ Yeni Asya, "Don't push people into such a corner!", 29 March 2018, https://www.yeniasya.com.tr/gundem/insanlari-bu-kadar-koseye-sikistirmayin_457444

- **Serkan Kılıç (8 April 2018):** Specialised Sergeant Serkan Kılıç, who was dismissed from his profession in Turkish Armed Forces after the coup attempt due to an unfounded denunciation against him, could not bear the pressure of being dismissed from the profession he loved, being isolated from his social environment and family problems, and committed suicide on 8 April 2018 in Kumluca district of Antalya, at the age of 28²⁵⁴.

- **Tuncer Özkan (24 July 2020):** Tuncer Özkan, a retired police chief living in Çivril, Denizli, ended his life by committing suicide in the garden of his house after being taken into custody and giving a statement within the scope of congregation investigations. It is claimed that Özkan committed suicide because he could not bear the accusations attributed to him, and it is stated that he left a letter describing his experiences before his death²⁵⁵.

- **İdris Köle (25 May 2021):** İdris Köle, a 33-year-old graduate of Selçuk University Faculty of Communication, Department of Press and Broadcasting, who was arrested on 31 August 2016 as part of investigations against the Gülen Movement and released after 18 months in prison, committed suicide on 25 May²⁵⁶.

- **Lawyer Emine Üzel Ahmadi (02 May 2022):** Emine Üzel Ahmadi, a lawyer with a state of emergency decree, committed suicide in Istanbul. Ahmadi, a 29-year-old young lawyer who had a 4-month-old son at the time of her suicide, committed suicide under the influence of the process of lawlessness in Türkiye²⁵⁷.

- **Colonel Gökhan Ünyeli (27 March 2023):** On 27 March 2023, Lieutenant Colonel Gökhan Ünyeli, who had been suspended from the Turkish Armed Forces due to alleged calls from payphones, which were used as justification for the dismissal and arrest of thousands of soldiers from the Turkish Armed Forces as part of investigations into the Gülen Movement, committed suicide at his home. It was reported that Lieutenant Colonel Ünyeli, who was serving in the Ankara MEBS School and Training Centre Command, committed suicide after he was notified of the decision to suspend him as part of an investigation conducted against him through a payphone call²⁵⁸.

- **Oğuz Doğan (28 October 2024):** A police officer in Samsun's Atakum district, who was dismissed 1.5 months ago for allegedly being a member of the Gülen Movement, ended his life by jumping from his house on the 8th floor²⁵⁹.

²⁵⁴ <https://biten hayatlar.com/serkan-kilic/>

²⁵⁵ D20 News, "Retired Police Chief Detained and Released in Denizli for Fetö Committed Suicide", 26 July 2020, <https://d20haber.com/denizli/ilceler/civil/denizlide-fetoden-gozaltina-alinip-serbest-birakilan-emekli-polis-amiri-intihar-etti/>

²⁵⁶ Bold Medya, "Couldn't stand the injustice: İdris Köle committed suicide after 18 months in prison", 28.05.2021, <https://boldmedya.com/2021/05/28/hukuksuzluga-dayanamadi-18-ay-hapis-yatan-idris-kole-intihar-etti/>

²⁵⁷ Bold Medya, "Unable to bear the unlawful process, lawyer Emine Üzel Ahmadi committed suicide", 03/05/2022, <https://boldmedya.com/2022/05/03/hukuksuz-surece-dayanamayan-khkli-avukat-emine-uzel-ahmadi-intihar-etti/>

²⁵⁸ Cumhuriyet, "Yarbay committed suicide: What he wrote in the letter he left behind after ending his life drew attention", 29.03.2024, <https://www.cumhuriyet.com.tr/siyaset/yarbay-intihar-etti-yasamina-son-verdikten-sonra-arkasinda-biraktigi-2190933>

²⁵⁹ Cumhuriyet, "Police officer dismissed from FETO commits suicide", 28.10.2024, <https://www.cumhuriyet.com.tr/turkiye/fetoden-ihrac-edilen-polis-memuru-intihar-etti-2262768>

The main reason for these suicides directly caused by the SoE process is the severe unlawfulness suffered by the victims and the traitor discourse and similar perceptions created against them in the society. People who were stigmatised by the State of Emergency Decree Laws and who were accused of organisations overnight with abstract concepts such as organisational ties, affiliation and contact, experienced severe traumas and could not bear these injustices and saw suicide as an option. The state of depression and depression caused by the SoE process could not be eliminated with the subsequent reinstatement or acquittals or releases. Because people have experienced the devastation of being stigmatised and targeted in society. Many people committed suicide because they could not get out of the psychological depression they were in despite being reinstated or acquitted or released. For example, to give a few examples in this regard;

- **Police officer Zeki Cezayirlioğlu (16 January 2017):** Cezayirlioğlu, a 23-year police officer at Karabük Police Vocational Training Centre, was suspended for alleged links to the Gülen Movement. Although Cezayirlioğlu was later reinstated, he was unable to overcome the severe depression he was going through and first attempted suicide by drinking pesticides, but failed; a week later, on 16 January 2017, he ended his life by committing suicide with his personal pistol.

- **Police officer İzzet Akdağ (4 August 2016):** İzzet Akdağ, a police officer working at Osmaniye Police Station in Mersin, was suspended in connection with an investigation into the Gülen Movement but was later reinstated. Akdağ committed suicide with his personal pistol in his car 2 months after his reinstatement due to the depression he suffered during the investigation²⁶⁰.

- **Police officer Fatih Ezber (2 July 2017):** Ezber, 36, who had been suspended in connection with an investigation against the Gülen Movement while working at the Çarşı Police Station in Trabzon province, was reinstated in January. Ezber, a married father of two, who was appointed as Sürmene Police Chief, committed suicide with his service pistol, leaving behind a note saying *"My family and relatives, I didn't want to upset you, forgive me"* ²⁶¹.

On the other hand, the ongoing hate speech, marginalisation and the perception of traitors in the society have caused suicides to come to the forefront, especially among family members. Especially suicides of children whose parents are detained or convicted have increased significantly. Unfortunately, there have been many suicide cases in this field. For example;

- **Kamil İsmail Aydın (25 March 2017):** Kamil İsmail Aydın, 19-year-old Kamil İsmail Aydın, who was enrolled in Boğaziçi University Business Administration Department after ranking in the top 500 in the Higher Education Transition Examination, committed suicide on 25 March 2017 in his student dormitory after his father Prof. Dr. Nasuhi Engin Aydın was arrested for having an account in the closed Bank Asya²⁶².

²⁶⁰ İzzet Akdağ,

²⁶¹ Evrensel, "Report on those accused of FETÖ: 35 suicides", 29 April 2017,

²⁶² Evrensel, "Report on those accused of FETÖ: 35 suicides", 29 April 2017, <https://www.evrensel.net/haber/317685/fetoden-suculanlara-iliskin-rapor-35-intihar-yasandi>

• **Süeda Çeliktürk (16 January 2020):** Süeda Çeliktürk, a 19-year-old university student, who was the daughter of a father with a state of emergency decree, could not bear the injustices she suffered and the pressure she faced from the society, and ended her life on 16 January 2020. Süeda Çeliktürk, who was studying at university in Eskişehir, committed suicide by leaving herself to the void from the fifth floor of an apartment building in Istanbul, where she went for medical treatment²⁶³.

• **Emir Said Inam (14 April 2019):** 29-year-old lawyer Emir Said Inam, who was working as a lawyer with a friend in Çaycuma, ended his life with a shotgun at his father's house in Pınarönü village of Devrek on Sunday evening, 14 April 2019. Lawyer Gürkan Altun, President of Bursa Bar Association, where he was previously registered, stated in his post about Inam that his father was a teacher who was dismissed by a state of emergency decree and said, *"He was tired of being labelled as a traitor"*²⁶⁴.

• **Bahadır Odabaşı (13 January 2021):** Bahadır Odabaşı, son of Nurettin Odabaşı, a with a state of emergency decree, who was also detained in Elazığ E Type Prison within the scope of investigations against Gülen Movement, committed suicide on 13 January 2021, because he was very sad about his father's detention and had difficulty in coping with these feelings during his adolescence²⁶⁵.

• **Nahit Emre Güney (12 October 2022):** In another recent case, Nahit Emre Güney, the son of former Council of State member Haşim Güney, who was sentenced to 10 years in prison for membership in the Gülen Movement, committed suicide by jumping off the Galata Tower on 12 October 2022²⁶⁶. The Erdoğan regime's hate practices continued in the funeral ceremony of the suicide brought by hate speech and his father Haşim Güney was brought to the funeral in handcuffs.

Many such suicide cases have occurred and continue to occur.

b. Suicides in Prisons and Detention Centres

Suicide of prisoners is regarded as a serious human rights problem at both national and international level. Especially after the 15 July 2016 coup attempt in Türkiye, the prison population has increased and suicide cases in prisons have also increased. Research on these cases clearly reveals the psychosocial conditions of detainees and prisoners, negligence and arbitrary practices of the prison administration, inadequate health services and human rights violations.

²⁶³ "Couldn't bear what his father, a member of the Justice and Development Council (KHK), committed suicide.", **10 February 2020**, <https://bitenhayatlar.com/khkli-babasinin-yasadiklarina-dayanamadiintihar-etti/>

²⁶⁴ Cumhuriyet, "Decree of Emergency Decree shared by Bursa Bar Association President: That's why that lawyer took his life", 16.04.2019, <https://www.cumhuriyet.com.tr/haber/bursa-barosu-baskanindan-khk-paylasimi-avukat-bu-yuzden-canina-kiydi-1348093>

²⁶⁵ "The bitter truth that came to light with Bahadır's suicide: The discrimination that pushed those with state of emergency decrees and their families to their deaths", 18/01/2021, <https://boldmedya.com/2022/01/18/bahadirin-intihariyla-gun-yuzune-cikan-aci-gercek-khklilar-ve-ailelerini-olum-iten-ayrimcilik/>

²⁶⁶ Relatives of Nahit Emre who took his life at the Galata Tower: They were evicted from their lodgings overnight, they had no home to go to", 15/10/2022, <https://boldmedya.com/2022/10/15/galata-kulesinde-canina-kiyan-nahit-emrenin-yakinlari-bir-gecede-lojmandan-cikardilar-gidecek-evleri-yoktu/>

The lack of a mechanism where people deprived of their liberty can claim their rights against the injustices they have suffered, together with the systematic, discriminatory and hate-motivated practices against them in prisons have brought them to the brink of suicide.

aa. An Outlook of Suicide Cases in Prisons

Cases of suicide in prisons are often attributed to the difficult conditions in which prisoners are held and inadequate support mechanisms. Many human rights organisations, notably the Human Rights Association of Türkiye (IHD), have reported that since 2016 dozens of prisoners have died in prisons from various causes, some of which were reported as suicides ²⁶⁷. This is considered to be directly linked to inadequate access to physical and psychological health care for prisoners. Likewise, the public perception of the arrests made during this period, and the climate of hatred that was created, also contributed greatly.

bb. Causes of Suicide Cases and Psychological Factors

1. Poor Prison Conditions

There are many reasons for the effects on the psychological health of prisoners who commit suicide in prisons. Inadequate prison conditions, isolation, restrictions on visits and lack of psychological support increase the feeling of hopelessness and helplessness among prisoners. According to IHD reports, mental health services in prisons are very inadequate and many prisoners are suicidal. The inadequacy of these services, especially when combined with prolonged isolation and ill-treatment, can lead to psychological problems that may cause suicidal tendencies in detainees and prisoners. As a matter of fact, during this period, many people committed suicide due to discriminatory and arbitrary practices against political prisoners, especially members of the Gülen Movement, and forcing them to live in poor prison conditions.

2. Inadequacy of Health and Psychological Support Services

One of the most serious reflections of poor conditions in prisons is inadequate health and psychological support services. This is one of the most important factors affecting suicides in prisons. The lack of adequate health and psychosocial support in prison has a direct impact on the mental health of prisoners. Although there are many sick prisoners in prisons in Türkiye, it is known that these prisoners often do not receive adequate health care support, thus increasing their physical and psychological problems.

Many prisons do not have sufficient medical staff to ensure that prisoners receive psychological support. This results in a lack of support for particularly suicidal prisoners, further increasing the risk of suicide ²⁶⁸.

3. Abandonment to Civilian Death and Hate Practices

It is known that people who have been arrested within the scope of the coup investigation and dismissed by emergency decree have experienced a great deal of social and psychological exclusion and trauma. Analyses conducted on people with Statutory Decree Laws reveal that factors such as profession loss and social pressure also trigger suicide cases.

²⁶⁷ Human Rights Association, 2016 Human Rights Violations in Türkiye: De facto Authoritarian Presidency Period, 14 April 2017, <https://www.ihd.org.tr/2016-yili-turkiye-insan-haklari-ihlalleri-filili-otoriter-baskanlik-donemi/>

²⁶⁸ Handbook on Prisoners with Special Needs, Criminal Justice Handbook Series, United Nations, New York, 2009, pp. 160 et seq.

In addition to the harsh conditions in prisons, the lack of social support is one of the important factors that increase suicide rates²⁶⁹.

After the coup attempt, with the intensive detentions and arrests under the state of emergency after the coup attempt, the prison capacity was exceeded, leading to increased stress and psychological pressure among inmates²⁷⁰.

Especially the harsh words of politicians towards the detainees in this period and the fact that these words were perceived as instructions by the prison administrations turned the prisons into extrajudicial execution centres. This situation led the detainees to psychological destruction. In this context, Nihat Zeybekci, former Minister of Economy, said at the democracy watch in Çivril District of Denizli Province *"...They will die like sewage rats in 1.5-2 square metres of space....We will give them such a punishment that they will say 'I wish we had died and gone'. They will not see a human face, they will not hear a human voice..."*²⁷¹, which have been turned into action, are still in existence. These and similar hate speeches are unfortunately reflected to the society as suicides in prisons. As can be seen, the victims, who are considered guilty in advance in the climate of hate created by the state, have chosen suicide as a way out. In addition to the loneliness, uncertainty and hopelessness they experience in the eyes of society and the state, the difficulties in prison conditions and constant psychological pressures have been the cornerstones of the process leading to suicide.

The alleged coup d'état and discriminatory practices against detainees and prisoners, especially those linked to the Gülen Movement, and the violence and ill-treatment they face in prisons are also triggers for suicide. Reports of torture and ill-treatment in prisons worsen the psychological state of prisoners and lead them to suicide²⁷².

cc. Measures to be taken to reduce suicide cases

Various measures are needed to reduce suicide in prisons, in line with national and international human rights standards. International organisations such as the European Court of Human Rights (ECtHR) and the United Nations demand the protection of the fundamental human rights of prisoners. In this context, measures that can be taken in Turkish prisons include the following:

- **Provision of Psychosocial Support:** Increasing mental health services in prisons is an important preventive measure for suicidal prisoners. Specialised psychologists and social workers should be regularly employed in prisons.
- **Review of Isolation Practices:** Isolation has a negative impact on the mental health of prisoners. CPT also states that isolation has a negative impact on the

²⁶⁹ Bianet, "Tanrıkulu Announces Rights Violations After 15 July", 21 October 2016, <https://bianet.org/haber/tanrikulu-15-temmuz-sonrasi-hak-ihlallerini-acikladi-179866>

²⁷⁰ Bianet, "Tanrıkulu Announces Rights Violations After 15 July", 21 October 2016, <https://bianet.org/haber/tanrikulu-15-temmuz-sonrasi-hak-ihlallerini-acikladi-179866>

²⁷¹ Birgün, "Bakan Zeybekçi: They will beg you to kill us", 01.08.2016

²⁷² Human Rights Association, 2016 Human Rights Violations in Türkiye: De facto Authoritarian Presidency Period, 14 April 2017, <https://www.ihd.org.tr/2016-yili-turkiye-insan-haklari-ihlalleri-fiili-otoriter-baskanlik-donemi/>

psychological health of prisoners²⁷³. Therefore, more humane methods should be used instead of prolonged isolation.

- **Precautions against Torture and Ill-Treatment:** Allegations of torture and ill-treatment in prisons are frequently reported and increase the psychological pressure on prisoners. There should be zero tolerance for torture and ill-treatment in prisons and such allegations should be rigorously investigated.
- **Development of Suicide Prevention Programmes:** Various programmes should be developed to prevent suicide in prisons. These programmes should be structured to identify risk factors and provide support to suicidal prisoners.
- **Ending Discriminatory Practices and Hate Speech:** Statements containing direct discrimination and hate speech, especially against political detainees and prisoners, cause them to be under serious pressure in prisons and to be adversely affected psychologically. Discriminatory practices and hate speech, which have almost become state policy, cause the prison administration to implement arbitrary practices against political prisoners and prisoners. At this point, regardless of the identity and offence of the person, care should be taken to execute the sentence under conditions in accordance with fundamental human rights.

c. Suicide Cases in Detention Centres and Prisons

The responsibility for the care and supervision of prisoners is under the obligation of the state. Therefore, the duty and responsibility to protect the right to life, to ensure basic health and safety conditions, to minimise the negative effects of imprisonment and to ensure that they return to society as healthy and productive individuals belongs to the state institutions that carry out the execution of sentences²⁷⁴.

The ECtHR has interpreted the state's obligation to protect life under Article 2(1) of the ECHR broadly enough to cover the protection of individuals against suicide in detention, prison or during compulsory military service. Likewise, suicide in custody, detention centre or prison by persons suffering from physical or mental illnesses may also give rise to State Parties' obligations under Articles 2 and 3 of the ECHR²⁷⁵. The ECtHR states that the state is liable if it knew or should have known that the individual posed a risk to itself and failed to take reasonable measures.

In this context, the ECtHR in its judgements on the subject;²⁷⁶

- That any deprivation of liberty, by its very nature, leads to a deterioration in the psychological state of the detainee or convict

²⁷³ Euronews, "CPT warns 'countries with overcrowded prisons' including Türkiye", 21/04/2022, <https://tr.euronews.com/2022/04/21/cpt-turkiye-nin-de-icinde-bulundugu-as-r-dolu-cezaevine-sahip-ulkeleri-uyardi>

²⁷⁴ Caliskan, Suat: "Suicide of Convicts or Prisoners in Prison: Precautions, approach and intervention principles", 27.12.2022, https://www.hukukihaber.net/hukumli-veya-tutuklularin-cezaevinde-intihar-etmesi-onlemler-yaklasim-ve-mudahale-ilkeleri#_ftn10

²⁷⁵ ECtHR Ketreb v. France, Application No: 38447/09, K.T: 19/07/2012

²⁷⁶ ECtHR Tanrıbilir v. Türkiye, KT: 16/11/2000; Kılavuz v. Türkiye, K.T: 21/10/2008

- That due to the restriction of freedom, a person who remains vulnerable and unprotected may have an increased risk of suicide
- That national legislation imposes a duty on public officials to be more sensitive and vigilant with regard to such persons
- That it is imperative to take measures to prevent unnecessary endangerment of the lives of detained or convicted persons
- That public officials should ensure that persons arrested on suspicion of a criminal offence should be kept by public officials free of items that such persons might use to commit suicide, and that they should be kept under more effective and strict surveillance and under medical supervision
- It is emphasised that all kinds of protective measures must be taken by state institutions in order to protect their right to life and their physical and mental integrity²⁷⁷.

The Constitutional Court also made an important determination in an individual application made due to suicides in prisons. In the Fener Bozkurt and Sıraç Bozkurt Decision²⁷⁸ on the application of the parents of A.B., who ended his life in Tarsus T-Type Closed Prison on 8 July 2018, the Court made an important decision registering the responsibility of the state in the increasing suicides in prisons. According to the Court, the right to life and the right to protect one's material and spiritual existence are closely interconnected, inalienable and inalienable rights and the state has positive and negative obligations in this regard. As a positive obligation, the State has the obligation to protect the right to life of all individuals within its jurisdiction against risks that may arise from the actions of public authorities, other individuals or the individual himself. The deprivation of many of the freedoms they previously enjoyed and the serious change in their daily lives may deteriorate their psychological state, thus increasing the suicide risk of these individuals who are in a vulnerable and unprotected position. Therefore, legal and secondary legislation should impose a duty on prison authorities to be more sensitive and vigilant about these persons and ensure that measures are taken to prevent the endangerment of the lives of detainees or convicted persons.

Within the framework of these principles, the Court assessed the medical reports of A.B., who was being treated for depression, the internal correspondence and the statements of the officials and concluded that the prison administration failed to take necessary and sufficient measures to protect the life of the sick prisoner.

As explained above, it is observed that suicides increased intensely during the state of emergency after the coup attempt. Mass detentions and arrests after the operations, the systematic use of hateful and accusatory expressions by state officials and the motivation of the society at this point have led people to suicide.

²⁷⁷ Caliskan, Suat: "Suicide of Convicts or Prisoners in Prison: Precautions, approach and intervention principles", 27.12.2022, https://www.hukukihaber.net/hukumlu-veya-tutuklularin-cezaevinde-intihar-etmesi-onlemler-yaklasim-ve-mudahale-ilkeleri#_ftn10

²⁷⁸ Fener Bozkurt and Sıraç Bozkurt, B. No: 2019/22743, K.T: 2/2/2022, Prg. 43-46

On the other hand, discriminatory and arbitrary practices of public officials in prisons and detention centres are also important factors triggering suicide mechanisms. There are many grave and suspicious cases of suicide in detention centres and prisons. It is necessary to investigate the nature and reality of suicides that occur as a result of torture and ill-treatment in detention centres, pressure on people to become confessors and especially 30-day detention periods or unlawful arrests. It is stated that there are serious suspicions in many cases.

In the Council of Europe's Annual Penal Statistics (SPACE), Türkiye reported 57 cases of suicide in prisons. Türkiye is among the top 5 countries in the Council with the highest suicide rate in prisons²⁷⁹.

d. Suicides in Prisons in the light of Statistical Data

The repressive rule in Türkiye, which started with the 15 July coup attempt and the state of emergency declared afterwards, has also affected the suicide rates in Türkiye in general. Looking at the distribution of suicide cases in Türkiye over the years, it is seen that there is a continuous upward trend.

According to TurkStat data, suicide cases, which hovered around 2,000 between 2001 and 2011, rose above 3,000 in 2012 and increased steadily in the following years. The number of suicide cases in Türkiye increased from 2,301 in 2002 to 3,342 in 2018 and 3,406 in 2019²⁸⁰. This number was determined to be 3,710 in 2020, 4,195 in 2021 and 4061 in 2023²⁸¹.

Yıl Year	İntihar sayısı Number of suicides	Kaba İntihar hızı Crude suicide rate (Yüz binde) (Per hundred thousand)
2001	2 504	3,87
2002	2 301	3,49
2003	2 706	4,06
2004	2 707	4,00
2005	2 703	3,85
2006	2 828	4,08
2007	2 793	3,68
2008	2 818	3,98
2009	2 898	4,02
2010	2 833	4,01
2011	2 677	3,61
2012	3 287	4,87
2013	3 252	4,27
2014	3 188	4,11
2015	3 246	4,15
2016	3 193	4,03
2017	3 198	3,94
2018	3 342	4,11
2019	3 406	4,21
2020	3 710	4,45
2021	4 194	4,98
2022 ^(a)	4 218	4,98
2023	4 061	4,76

(a) İntihar verileri güncel idari kayıtlarla revize edilmiştir.
(a) Suicide data were revised with updated administrative records.

On the other hand, there has been a significant increase in suicide rates in prisons as a result of the State of Emergency. After the 15 July coup attempt, the decrees issued, mass detentions and arrests, and hate policies created during the State of Emergency caused deep trauma to the victims of the process. The Rights and Justice Platform, which has conducted

²⁷⁹ Council of Europe, Annual Penal Statistics, SPACE I 2022 Report, <https://wp.unil.ch/space/space-i/annual-reports/>

²⁸⁰ Terzi, Hülya: "In suicide cases in Türkiye", September 3, 2020, <https://www.institute.org/opinion/intihar-vakalari-acisindan-turkiye>

²⁸¹ TUIK, Death and Cause of Death Statistics, 2023, 14 June 2024

important research on this issue, has made public its report titled **"Social Problems and Social Dimensions of Rights Violations in the State of Emergency after 15 July 2016"**. The platform, founded by former Mazlum-Der President Ömer Faruk Gergerlioğlu, Cihangir Islam, one of the founders of Mazlum-Der and a victim of the Emergency Decree, and Fatma Bostan, one of the founders of AKP, interviewed 2173 people, 1465 of whom were victims of the Emergency Decree, 342 of whom were relatives of victims, and 366 of whom were not directly victims.

According to the report, 16.7% of *"victims detained in prison"* stated that they had attempted or thought about suicide, while 6.9% stated that they had planned or attempted suicide. In addition, 92% of these people stated that they had financial difficulties, 81% of the victims of the State of Emergency thought that the investigations were unfair and 50% of them suffered from nervous disorders or mood disorders²⁸².

Since 15 July 2016, there has been a high rate of suicides in prisons among the prisoners under emergency decree laws and coup investigations. According to reports prepared by human rights organisations and some MPs, it has been claimed that there have been many suspicious suicide cases after this date, especially among those arrested within the scope of the coup investigation. Since 2016, it has been stated in many reports that the number of deaths in prisons due to suicide, torture or neglect has increased. It is also claimed that such cases have occurred frequently, especially among prisoners with emergency decree laws and coup defendants.

Due to the increasing number of suicides after the coup attempt, then CHP MP Barış Yarkadaş asked in a written parliamentary question to be answered by the Ministry of Justice how many people have committed suicide in prisons since the declaration of the State of Emergency. In the answer given by the Ministry on 19 October 2017; 39 people committed suicide in 2009, 46 in 2010, 34 in 2011, 40 in 2012, 44 in 2013, 53 in 2014, 43 in 2015. The Ministry reported that **66** people committed suicide in 2016 and 40 more people committed suicide between 15 July 2016, the date of the coup attempt, and the date of the reply to the parliamentary question²⁸³.

According to another report prepared by Kocaeli MP Dr. Ömer Faruk Gergerlioğlu, at least 73 people lost their lives in prisons between 1 December 2021 and 1 December 2022. While 34 of those who lost their lives were suicide cases, 39 ill prisoners died in prison²⁸⁴.

²⁸² Rights and Justice Platform, "Social Problems Experienced in the State of Emergency after 15 July 2016 and Social Dimensions of Rights Violations" https://www.sivilsayfalar.org/wp-content/uploads/2018/01/HAP_OHAL_RAPOR_2017.pdf; DW News, "16 percent of State of Emergency detainees considered suicide", 27.12.2017, <https://www.dw.com/tr/rapor-ohal-tutuklular%C4%B1n%C4%B1n-y%C3%BCzde-16s%C4%B1-intihar%C4%B1-d%C3%BC%C5%9F%C3%BCnd%C3%BCn%C4%B1n-a-41945448>

²⁸³ Birgün, "The number of suicides in prisons is increasing", 20.10.2017, <https://www.birgun.net/haber/cezaevlerinde-intihar-edenlerin-sayisi-artiyor-185609>

²⁸⁴ Bianet, "73 people lost their lives in prisons, 34 of them suspicious deaths", 2 December 2022, https://static.bianet.org/system/uploads/1/files/attachments/000/003/714/original/Cezaevinde_Hayat%C4%B1n%C4%B1_Kaybedenler.pdf?1669979942

On the other hand, in the report prepared by Gülizar Biçer Karaca, Denizli MP Gülizar Biçer Karaca, then CHP Deputy Chairperson for Human Rights, titled **"The Right You Seek Is Not Accessible!: Access to Health in Prisons"**, prepared by Gülizar Biçer Karaca, then CHP Deputy Chairperson for Human Rights, drew attention to suicide cases in prisons and obstacles to access to health. The report, based on data from the Ministry of Justice and the Civil Society in the Penal Execution System (CISST), also includes statistics on the capacity problem in prisons.

The report includes important problems under the heading of the right to access to health in prisons. It is emphasised that the most common health problems in prisons are endocrine disorders, neurological system disorders, musculo-joint problems, urogenital system disorders and respiratory system disorders. The report also states that based on the statement of Human Rights Association dated 01.04.2021, 1605 of the prisonersin Türkiye are struggling with various health problems, 604 of which are severe.

Another important issue in the report is the suicide cases in prisons. The report emphasises that psychological disorders as well as physical illnesses in prisons do not receive the necessary attention and that the prison administration acts arbitrarily. According to the report, according to the data of the Ministry of Justice, a total of 544 prisonerscommitted suicide in prisons in Türkiye between 1997 and 2014. According to the data of CISST, the number of people who committed suicide between 2014 and today is recorded as 97.

According to the data obtained from the Ministry of Justice, including deaths due to old age, 2 thousand 545 prisoners died in prisons between 1997 and 2014. According to the data of CISST, the number of deaths in prisons since 2014 is recorded as 125. Accordingly, the number of detainees and inmates who lost their lives in prisons in the last 25 years was 2 thousand 670.

The report emphasises that the Ministry of Justice does not keep statistics on health conditions in prisons and does not carry out effective studies on how many patients are ill and how many of them have access to treatment²⁸⁵.

e. Some Cases of Suicide in Prisons during the State of Emergency

There have been many suicides in prisons and detention centres during the State of Emergency. Since the Ministry of Justice and the Interior do not disclose transparent and auditable data, the real numbers are still unknown. However, some of the grave cases of suicide in prisons that we have access to from open sources will be presented below.

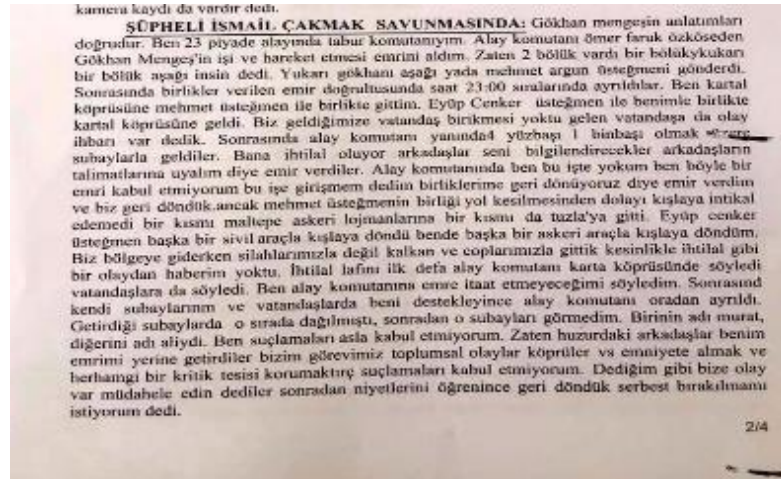
aa. Lieutenant Colonel İsmail Çakmak

İsmail Çakmak was detained due to his alleged involvement in the coup attempt and was arrested by Istanbul 4th Criminal Judgeship of Peace on the charge of *'attempting to overthrow the constitutional order'* and sent to Silivri Penal Institutions. Unable to withstand

²⁸⁵ Republican People's Party, "The Right You Seek Is Inaccessible!" Access to Health in Prisons" 28.12.2021, <https://chp.org.tr/haberler/chp-den-aradiginiz-hakka-erisilemiyor-raporu>

the pressure of the extraordinary conditions in his ward, Çelik committed suicide by hanging himself with a sheet in the stairwell on 23/07/2016 and died in the hospital²⁸⁶.

After the coup attempt, many people were unlawfully arrested even though they were not related to the coup attempt or the Gülen Movement. The climate of hatred created by these unlawful practices has led people to commit suicide. In this context, Çakmak, in his statement to the police, said: *"I was absolutely not aware of an event such as a revolution. When we learnt about their intentions, we went back"*²⁸⁷.



bb. Enforcement Officer Ömer Çubuklu

Ömer Çubuklu was serving as a correctional officer at Kırıklar F-Type Prison No 1 and was arrested within the scope of investigations against the Gülen Movement. Ömer Çubuklu, a correctional officer, committed suicide by hanging himself with shoelaces and tracksuit laces on 1 September 2016 in the temporary admission chapter of İzmir F-Type Prison No 2 where he was kept alone²⁸⁸.

cc. Public Prosecutor Seyfettin Yiğit

Seyfettin Yiğit, a public prosecutor working in Bursa, was found dead in Bursa E-Type Prison where he had been arrested in connection with an investigation against the Gülen Movement. The family of Yiğit, who allegedly committed suicide with a clothesline, claimed that the death of prosecutor Yiğit was not suicide but murder. Although prosecutor Seyfettin Yiğit committed suicide in prison on 15 September 2016 following his unlawful arrest, the then criminal judge of peace Yunus Süer decided to continue his detention on 09/11/2016, two months after his suicide. This was because during the State of Emergency, there was no real assessment of detention. The lists received from the chief public prosecutor's offices were

²⁸⁶ Diken, "A lieutenant colonel arrested for coup plotting commits suicide in prison", 23/07/2016, <https://www.diken.com.tr/darbecilikten-tutuklanan-bir-yarbay-cezaevinde-intihar-etti/>

²⁸⁷ Diken, "The testimony of the lieutenant colonel who committed suicide in prison: I did not know, we returned when we learnt their intentions", 25/07/2016, <https://www.diken.com.tr/silivri-cezaevinde-intihar-eden-yarbayin-ifadesi-haberim-yoktu-niyetlerini-ogrenince-donduk/>

²⁸⁸ Hürriyet, "FETÖ detained execution protection officer commits suicide", 01 September 2016

automatically finalised. Therefore, it was decided to continue the detention of Seyfettin Yiğit, who had a death certificate even in UYAP records²⁸⁹.

[illegible]

dd. Petty Officer Önder Irmak

Irmak, a 39-year-old non-commissioned sergeant, who was detained by Eskişehir Provincial Security Directorate for alleged links to the Gülen Movement, allegedly took his life on 10 October 2016 by drinking cleaning materials in the toilet where he was taken while in custody²⁹⁰.

ee. Engineer Burak Açıkalın

Burak Açıkalın, who was working as an engineer in the Intelligence Department of the General Directorate of Security before the coup d'état, reportedly committed suicide on 8 November 2016 in his ward at the F-Type Closed Prison in Hacılar town of Kırıkkale. Açıkalın was among the engineers from the Intelligence Department who were arrested after 15 July for allegedly providing intelligence to Twitter phenomenon Fuat Avni. Açıkalın's death, which was claimed to be a suicide, was among the suspicious suicide cases in prison²⁹¹.

The main reason for Burak Açıkalın's suicide was the severe torture he was subjected to in detention. Burak Açıkalın and some of his fellow engineers were subjected to severe, systematic torture by intelligence officers for days on end at the premises of the Intelligence Department, which is also reflected in the court records.

According to the court minutes in question, the fact that the statements taken from Engineer Burak Acıkalın in detention were taken as a result of severe torture has been

²⁸⁹ Bold Medya, "Justice in Türkiye: Judge Yunus Süer orders continuation of detention of prosecutor who died in prison", 15/09/2023, <https://boldmedya.com/2023/09/15/turkiyede-adalet-hakim-yunus-suer-cezaevinde-olen-savcinin-tutuklulugunun-devamini-istemis/>

290 Milliyet, "FETÖ suspect non-commissioned officer committed suicide", 11.10.2016,
<https://www.milliyet.com.tr/gundem/feto-suphelisi-astsubay-intihar-etti-2324910>

²⁹¹ TR724 News, "Erdoğan regime executions disguised as suicides", 29 November 2016

established by his own statement, the statement of the lawyer present at the statement and the Forensic Medicine Institute report. Açıkalın stated in the Court that he was subjected to severe and systematic torture that trampled on human rights between 17 July and 21 July 2016 and that the statement taken at the Intelligence Department and signed by him was forcibly signed. Lawyer Ferda Çalgın, whose signature was on Burak Açıkalın's statement taken at the Intelligence Department, also confirmed the torture in court. Lawyer Çalgın stated that she had been summoned by the Security Police as a CMK lawyer on the night of the coup d'état and that Burak Açıkalın had been subjected to serious torture that night and that she had annotated the statement report because of this. In his testimony in court, lawyer Çalgın stated: *"That night, I was called to the Intelligence Department to sign the statement report. Although I requested it there, I was not presented with any documents regarding the detention report and health checks. I was only allowed to see my client for a short period of time, during which time I witnessed that he was subjected to severe torture. I annotated the statement report prepared that night with traces of torture and ill-treatment"*

A document dated 21 July 2016 prepared by forensic medicine experts reveals that Burak Açıkalın was detained at the Intelligence Department and was subjected to severe torture after 17 July. The official document, signed by Specialist Doctor Zehra Güvençetin, states that Burak Açıkalın's body shows signs of violence. The report clearly states that *"there is beating and force"*. In this report, which determines the existence of torture, it is recorded that the traces of beating and force are at least 2-3 days old, and that there is significant bleeding and swelling in the right and left eye, especially due to the blows to the face²⁹².

As can be seen, it is clear that the trauma caused by the torture and oppression he was subjected to was one of the main reasons that drove Engineer Burakaçık to suicide in Kırıkkale Prison.

ff. Colonel İrfan Kızılaslan

Arrested within the scope of the investigation into the 15 July coup attempt and dismissed from the Turkish Armed Forces, former Kastamonu Gendarmerie Regional Command Chief of Staff Colonel İrfan Kızılaslan was sent to Tokat Çamlıbel T-Type Prison approximately 35 days before his death. Kızılaslan, who was in solitary confinement, was found dead in his ward on 5 November 2016. It was claimed that Kızılaslan committed suicide by hanging himself from a window with a shoelace²⁹³.

gg. Dr İbrahim Halil Özyavuz from Harran

Doctor İbrahim Halil Özyavuz was arrested on 4 May 2018 through investigations on charges of membership to Gülen Movement. It was announced by the prison administration that Yavuz committed suicide in prison on 3 June 2018, 27 days after his arrest. On his last visit to his family in Silivri Prison, İbrahim Halil Özyavuz told his family that he was innocent of any crime, that he missed his children and that he was waiting to be taken to the prosecutor's

²⁹² TR724 News, "Severe systematic torture behind suicide; Tortures inflicted on Burak Açıkalın in doctor's report", 20 February 2023, <https://www.tr724.com/intiharin-ardinda-agir-sistemik-iskence-cikti/>

²⁹³ Milliyet, "Found Dead in Prison, Former Colonel Kızılaslan's Funeral Sent to Ankara", 05.11.2016, <https://www.milliyet.com.tr/yerel-haberler/tokat/cezaevinde-olu-bulunan-eski-albay-kizilaslanin-cenazesi-ankaraya-gonderildi-11630872>

office to give some information. A few days after this hopeful speech, it was announced that Özyavuz had committed suicide. However, Özyavuz's family stated that there were many suspicious circumstances surrounding Özyavuz's suicide.

It was alleged that the young doctor Özyavuz was tortured to death after giving information to the prosecutor's office about the doctor İlyas Kaya, husband of former AKP minister Fatma Betül Kaya.

In the autopsy report prepared after the death, it was found that Özyavuz had a fatal beating mark and bruises on the nape of his neck, below the Sella Turcica, known in Latin as the Turkish saddle. In the identification made by his family at the Forensic Medicine Institution, it was stated that there were bruises and marks of beating on his body²⁹⁴.

hh.Aysel Koç

It is declared that Aysel Koç, a heavy life sentence prisoner on Maoist Communist Party (MKP) case, committed suicide in Sincan Prison on 02 March 2020.

While his family claimed that there were suspicions of suicide, it was announced that he was subjected to sexual assault in the hospital where he was taken from Gebze Prison in 2016²⁹⁵.

ii. Garibe Gezer

Garibe Gezer was arrested in 2016 within the scope of an investigation launched against her on the allegation of *"disrupting the unity and integrity of the state"* due to incidents that took place during curfews in Mardin's Nusaybin district.

Garibe Gezer was transferred from Kayseri Prison to Kandıra Prison on 15 March 2021. Upon her arrival, she was isolated in a cell for 22 days, and then transferred to a three-person cell upon her request. However, on 21 May it was decided that he should be returned to a single cell, and when he objected, he was dragged on the floor by female guards by his hair and arms, and his shalwar (a type of trousers) was removed and he was deliberately exposed in front of male guards. She continued to be beaten by the guards in the cell where she was placed. He was then taken to a cell with padded walls. At the door of the cell, he was searched by taking off his clothes and then he was sexually assaulted. The ill-treatment continued in the infirmary and he was deprived of medical treatment. After these traumatising events, she was locked in a solitary cell again. Due to sexual violence, Garibe Gezer attempted to take her own life. On 7 June, she attempted to burn her cell and was again put in a padded cell for 24 hours. As a result of all these severe ill-treatment and sexual abuse, Garibe Gezer committed suicide on 10 December 2021²⁹⁶.

²⁹⁴ Bold Medya, "The mystery in the suspicious death of Özyavuz, a doctor from Harran whose body was recovered from Silivri, is coming to light: Skull injury marks", 02/11/2023, <https://boldmedya.com/2022/06/03/silivriden-cenazesi-cikan-halil-ibrahim-ozyavuzun-olumundeki-sir/>

²⁹⁵ Evrensel, "Prisoner Aysel Koç lost her life, prison claims it was suicide", 03 March 2020, <https://www.evrensel.net/haber/398609/tutuklu-aysel-koc-yasamini-yitirdi-cezaevi-intihar-oldugunu-iddia-ediyor>

²⁹⁶ Bianet, "Garibe Gezer suspiciously loses her life in prison", 10 December 2021, <https://bianet.org/haber/garibe-gezer-suspiciously-loses-her-life-in-prison-254601>

F. PRACTICES CONTRARY TO HUMAN DIGNITY FOR THOSE WHO DIE IN PRISON OR DETENTION DUE TO ILLNESS

a. Graveyard of Traitors

The period when hate policies were most intensely implemented in Türkiye was after the 15 July coup attempt. During this period, not only the living, but also political prisoners and prisoners who died in detention or in prison were subjected to the most severe practices of this discourse. The gravest example of this is *the "Traitors' Cemetery" practice*.

After the 15 July coup attempt, the Istanbul Metropolitan Municipality Assembly unanimously decided on 20 July 2016 to build a cemetery named *"Traitors Cemetery"* for those who were allegedly killed during the coup attempt. The cemetery was built on the site of an animal shelter in the Tepeören neighbourhood of Tuzla and those who allegedly participated in the coup attempt were buried in this cemetery²⁹⁷.

Declaring a deceased person, a coup plotter before any trial has taken place and before it has been finalised whether the person is a coup plotter or not is the heaviest accusation not only against the person himself/herself but also against his/her family. As if this were not enough, burying a person who dies with this allegation in the cemetery of traitors is a practice against human dignity that not only increases social hatred but also exposes the person and his/her family. After the coup attempt, many soldiers who were declared as coup plotters were later reinstated on the grounds that they were not coup plotters, on the contrary, they were martyred. For example, Chief Petty Officer Ziya İlhan Dağdaş, who was shot dead in front of the General Staff Headquarters on the night of 15 July and whose funeral prayer was not performed on the grounds that he was a coup plotter, was declared a martyr 152 days later²⁹⁸.

This unlawful and unconscionable practice drew reactions from the society. Upon this, former Istanbul Metropolitan Municipality Mayor Kadir Topbaş announced this practice by saying, **"...You will set aside a place and call it the graveyard of traitors, and those who pass by will curse. Let every one who passes by curse and let them not be able to lie in their graves."** Former Istanbul Metropolitan Mayor Kadir Topbaş announced that he had discussed this issue with Mehmet Görmez, the head of Religious Affairs, and that they had decided to remove the cemetery signs, stating that it would be right to remove the sign on the grounds that it would negatively affect the families of the deceased.

²⁹⁷ NTV, "The first burial was made in the Graveyard of Traitors to the Fatherland Cemetery", 26.07.2016, https://www.ntv.com.tr/galeri/turkiye/vatan-hainleri-mezarlighina-ilk-defin-yapildi,iUecJlXpd0S7q-26_dLLEQ

²⁹⁸ NTV, "The non-commissioned officer who was thought to be a coup plotter was declared martyr after 152 days", 13.12.2016, <https://www.ntv.com.tr/turkiye/darbeci-sanildi-152-gun-sonra-sehit-ilan-edildi,ttFuV5DONEGN905JrWKUg>



Although no traitors' cemeteries were established elsewhere for those who died during the coup attempt, their funeral prayers were not performed by mosque imams or they were not allowed to be buried in normal cemeteries.

In this context, the funeral of Gökhan Açıkkollu who collapsed in the detention room where he was detained during the investigation launched after the coup attempt in Istanbul and died in the hospital where he was taken to, was buried in Büyükdüz neighbourhood of Konya's Ahırlı district, the hometown of his wife, as he was not allowed to be buried in Istanbul. The funeral prayer of teacher Açıkkollu was performed by one of the residents of the neighbourhood because the imam of the mosque refused to perform it²⁹⁹.

On the other hand, in the light of constitutional guarantees, everyone has the right to be buried in accordance with their beliefs and human dignity. This right is independent of the identity of the person. There are also some regulations that protect this right. In this context, burial law is regulated in domestic law by the Law No. 1593 on Public Hygiene, the Regulation on the Construction of Cemetery Sites and Funeral Transport and Burial Procedures, and the circulars of the Ministry of Health General Directorate of Primary Health Care Services dated and numbered 2000/41, 2000/42 and 2000/43. However, there is no provision in any of these regulations that legitimises the prevention of the burial of the dead, nor is there any regulation that allows the dead to be exposed and buried in abnormal places, such as the cemetery of traitors, in violation of human dignity³⁰⁰.

The right to be buried and the right to bury one's relatives are not explicitly regulated in the Constitution and the ECHR. However, the ECtHR examined this issue within the scope of the right to respect for private and family life protected under Article 8 of the ECHR. According to the Court, everyone has the right, in accordance with the customs and traditions of his or her family, to be buried with dignity, to bury a relative or a person very close to him or her, to have the opportunity to fulfil his or her moral duties and to show his or her human qualities, to send him or her on his or her last journey, to grieve, The right to mourn and commemorate the dead, as well as the right to a grave, which in all civilisations, regardless of how it is viewed by

²⁹⁹ Yeni Asya, "They did not give imam or grave to the teacher who died in detention", 07.08.2016, https://www.yeniasya.com.tr/gundem/gozaltinda-olen-ogretmene-imam-da-mezar-da-vermediler_406193

³⁰⁰ Molu, Benan: "The Right of People to Bury Their Relatives", <https://www.sosyalhukuk.org/2016/03/benan-molu-yazdi-kisilerin-yakinlarini-gomebilme-hakki/>

society and the state, has a sacred value and a symbol of remembrance, and this right is so natural and indisputable that it does not even require written regulation by law³⁰¹.

Essentially, the state, security forces and other public officials should not violate the right to be buried in a manner befitting human dignity and the right of people to bury their relatives, regardless of the justification³⁰². However, the practices of the traitors' cemetery, which were put forward in order to increase the impact of the hate policies initiated and to glorify hatred in the society, have been one of the most painful examples of hate policies.

b. Bloody Coffin

The inadequacy of health services in prisons and the arbitrary practices of prison administrations and judicial authorities towards sick prisoners and prisoners have unfortunately turned into an inhumane state practice. These discriminatory policies were not limited to the state of illness, but also continued after the death of the detainee and convict. In this context, Şefik Esen, who was in Afyon Bolvadin T-Type Closed Prison, died in Eskişehir hospital after 40 days of treatment. The request for postponement of execution of Esen, who was arrested on the grounds of making propaganda for an illegal organisation, was not accepted despite the fact that he had many chronic diseases and struggled for life for 40 days. This hostile attitude towards Şefik Esen continued during his 40-day struggle for life in hospital.



Esen, who was serving his sentence under discriminatory practices, died due to the hostile execution regime, and his lifeless body was subjected to a treatment full of hatred and hatred. Esen's body was handed over to his family with open wounds without any medical measures. The body, which was brought to Ankara Esenboğa Airport to be taken to Diyarbakır, was covered in blood while being shrouded at the hospital, the wounds were not covered

³⁰¹ ECHR Sabanchiyeva and Others v. Russia , B. No: 38450/05, K.T: 06/06/2013, Prg.138, [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22Sabanchiyeva%22\],%22languageisocode%22:\[%22TUR%22\],%22appno%22:\[%2238450/05%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-148662%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22Sabanchiyeva%22],%22languageisocode%22:[%22TUR%22],%22appno%22:[%2238450/05%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-148662%22]})

³⁰² Molu, Benan: "The Right of People to Bury Their Relatives", <https://www.sosyalhukuk.org/2016/03/benan-molu-yazdi-kisilerin-yakinlarini-gomebilme-hakki/>

despite the insistence of Esen's father, and images of blood dripping from the coffin were reflected in the press³⁰³. The disrespect shown to Esen's funeral clearly demonstrates the inhumane, degrading and discriminatory treatment of dissident prisoners under the name of terrorism trials in prisons in recent times. Unfortunately, there are many cases similar to Esen's example.

³⁰³ Evrensel, "The body of a sick prisoner was handed over to his family with open wounds", 28 June 2024, <https://www.evrensel.net/haber/522000/hasta-tutsagin-cenazesi-yaralari-acik-bir-sekilde-aillesine-teslim-edildi>

CHAPTER V:

ILLEGAL PRACTICES AGAINST PREGNANT, POSTPARTUM, SICK and WOMEN WITH CHILDREN IN PRISONS

A. ILLEGAL PRACTICES AGAINST PREGNANT, POSTPARTUM, SICK, AND WOMEN WITH CHILDREN IN PRISONS

Women and children are among the social groups most affected by hate policies. It is a grave situation that these children are subjected to the same treatment as their mothers due to arbitrary, discriminatory and hate-motivated detentions and arrests. In this context, the fact that children experience detention in prison with their mothers is an important situation that negatively affects both their physiological development and their psychological and emotional state of mind³⁰⁴. Children who are imprisoned with their mothers cannot meet their needs for nutrition, ventilation and psychosocial support; access to health services, routine vaccinations, kindergarten and nursery services are also often not provided.

Failure to provide the child with opportunities that are of great importance in terms of education and preparation for life outside prevents his/her physical and mental development. Therefore, not only the mother is sent to prison as a product of a policy of hatred, but also a newborn child is sent to prison to be punished as a requirement of the same policy of hatred. Similar negativities are also valid for mothers who are imprisoned while pregnant or with their babies.

Pursuant to Article 5 of the ECHR, Article 19 of the Constitution and the provisions of the Criminal Procedure Code No. 5271 regulating detention and arrest, these measures must be applied in a proportionate and equitable manner. In this context, although it is possible to carry out investigations against pregnant women and women who have recently given birth, measures should be applied in a way to minimise their vulnerable and diseased conditions.

Measures such as summoning to testify, detention and arrest should be applied in accordance with fairness. Especially in terms of arrest, the arrest of pregnant women and women who have recently given birth, for whom there is no reasonable suspicion and no possibility of tampering with the evidence, would also be contrary to Article 100 of the Code of Criminal Procedure.

On the other hand, Article 109/4 of the Code of Criminal Procedure No. 5271 was amended by Article 15 of Law No. 7242. With the amendment, the following provision has been introduced: *"A decision may be made to place under judicial control instead of arresting the suspect identified pursuant to the third paragraph of Article 16 of the Law on the Execution of Criminal and Security Measures, and a female suspect who is pregnant or who has not been under judicial control for six months since she gave birth."* With this regulation, the judge

³⁰⁴ Çengelköylü, Ceyda/Bademci, Özden/Çelik, Dilek/Karadayı, Esmâ Figen : "Investigation of the Living Conditions and Experiences of 0-6 Year Old Children Staying in Penal Institutions with Their Mothers from the Perspective of Their Mothers", Toplum ve Sosyal Hizmet Volume 33, Issue 4, October 2022; p.1164

and the court are given discretionary authority to arrest pregnant women and women who have recently given birth.

As explained above, in order to decide on detention, there must be reasonable suspicion, there must be a suspicion of flight and the detention measure must be proportionate to the concrete case. In the absence of these conditions, trial without detention is essential. Moreover, with the regulation in Article 109/4 of the Criminal Procedure Code, it is possible for pregnant women and women who have recently given birth to be tried without arrest with judicial control measures. Although the legal regulations are so clear, thousands of pregnant women and women who have recently given birth have been detained and arrested within the scope of arbitrary and discriminatory practices that started especially with the 15 July process. As in the case of other persons, with such arbitrary practices, arrest has been transformed from a measure into a mechanism of punishment in advance.

On the other hand, according to the regulation in the fourth paragraph of Article 16 of the Law No. 5275 on the Execution of Criminal and Security Measures, the execution of the imprisonment sentence is postponed for women who are pregnant or one year and six months have not passed since the birth of the child. If the child dies or is given to someone other than the mother, the sentence shall be executed when two months have passed since the birth. According to the fifth paragraph of the article, the provisions of the fourth paragraph shall not apply to those who become pregnant after entering a closed prison and who have more than six years remaining before their conditional release and to those who are considered dangerous due to their actions and attitudes. The part of the sentence of these persons stipulated in the fourth paragraph shall be executed in appropriate places organised for them in the prison.

While it is possible to postpone the execution for a certain period of time for pregnant women and women who have recently given birth within the scope of Article 16 of the Law No. 5275, it is observed that this provision is almost never applied in practice, especially for political prisoners.

Thousands of women who have been unlawfully arrested or imprisoned for execution despite being pregnant or having recently given birth have suffered severe victimisation and rights violations. At this point, there are many cases of women who lost their children or became ill in prisons. The following are some of the grave cases in this regard.

B. DETENTION AND EXECUTION OF SENTENCES OF PREGNANT WOMEN OR WOMEN WHO HAVE RECENTLY GIVEN BIRTH AND EXPERIENCED PROBLEMS

a. In General

Pregnancy is another issue that is as difficult as illness for convicted women in prison conditions. The harsh prison conditions, physical inadequacies, overcrowded wards and inadequate health services in Türkiye pose serious risks to the life of convicted women during pregnancy.

Pursuant to the fourth paragraph of Article 16 of the Law No. 5275, the execution of the imprisonment sentence of women who are pregnant or one year and six months have not passed since the date of delivery is postponed. Here, the execution of the sentence is postponed for 1 year and 6 months during pregnancy or from the date of birth. However, if the child dies or is given to someone other than the mother, the execution of the sentence will begin when two months have passed since the birth. If the female convict does not surrender within the period specified in the decision, an arrest warrant will be issued against her. On the other hand, the provisions on postponement of execution cannot be applied to those who become pregnant after entering a closed prison, those who have more than six years left to their conditional release and those who are considered dangerous due to their actions and attitudes. The part of the sentence of these persons stipulated in the fourth paragraph of Article 16 shall be executed in suitable places organised for them³⁰⁵.

b. Situation Regarding Terrorism Prisoners

Article 16 of the Law regulating the postponement of the execution of the prison sentence due to illness is a general regulation and should be applied to all prisoners who meet these conditions. Restrictions are already clearly stated in the article. Here, as in cases of illness, it is essential that the convict is pregnant and has given birth, rather than the type of offence and punishment. Therefore, it is also deferred for female prisoners who are convicted of offences covered by the Anti-Terrorism Law but who are pregnant as of the date of execution or one year and six months have not passed since the date of delivery.

Although the legal regulation is clear, there are discriminatory and arbitrary practices in Türkiye, especially towards terrorism prisoners. Thousands of women have been arrested in the context of investigations into alleged membership of the Gülen Movement, despite being pregnant or having a newborn baby or a child in need of maternal care. Many women took their children to prison with them instead of leaving them outside.

Although the arrested women did not meet the conditions for arrest under Article 100 of the Code of Criminal Procedure and had babies and children in need of care, they were arrested by the criminal judgeships of peace, which have turned into regime courts, in order to be punished in advance before the judgement. The most recent example of this happened in Edirne. Abdülkadir and Nurcan Arslan, **a couple with six children, including seven-year-old quintuplets and a 13-year-old daughter**, were arrested in Edirne.

Although there were six children in need of maternal care and affection and most importantly one of the quintuplets was disabled, the court arrested both the mother and the father. Since it was not possible to take these children left behind to prisons according to the legal regulation, they were left with relatives³⁰⁶.

³⁰⁵ Kubat, p.74

³⁰⁶ "Mother and father of quintuplets, one of whom was born disabled, also arrested", 30.09.2023, <https://kronos36.news/tr/hukuksuzluk-devam-ediyor-besizlerin-anne-ve-babasi-tutuklandi/>, 03/10/2023

C. THE CONSTITUTIONAL COURT'S DISCRIMINATORY ATTITUDE

Although there were no conditions for arrest, many pregnant women and women who had recently given birth were arrested on the basis of prejudice and hatred. When the grounds for their arrest are analysed, it is seen that these grounds are not tangible and are based on printed justifications. At this point, criminal judgements of peace, heavy penal courts, appeal authorities and the Court of Cassation did not take into account the problems experienced by the detainees in prisons due to pregnancy, postpartum, having recently given birth and related illnesses and the objections they voiced.

Likewise, the Constitutional Court has ignored the objections and applications for violation of rights on the grounds that there were no conditions for detention, that the detention measures were disproportionate, and that the prison environment posed a danger to their health and lives because they were pregnant or had recently given birth. There are dozens of examples in this regard. For a better understanding of the issue, the inadmissibility decisions of the Constitutional Court in this regard will be analysed.

In Beyza Demir judgement³⁰⁷, the Court ruled inadmissibility of the application on the allegations of violation of the right to liberty and security of person due to the unlawfulness of the detention and arrest measures applied to a pregnant person; the decision to arrest and the continuation of the detention despite the legal prohibition on the arrest of pregnant women; the inadequacy of the health services provided in the prison and the prohibition of ill-treatment due to the fact that the conditions of detention in the prison were not appropriate to the situation of the prisoner.

The applicant and his defence counsel raised the following points in their objections on different dates. The applicant was 35 weeks pregnant, had stomach discomfort and anaemia; that it was not possible for her to raise a newborn baby under the conditions of the Penal Institution because the wards were crowded and cold and the journey to and from the hospital was long and troublesome. The applicant also stated that she was pregnant for the first time and according to the doctor, a difficult birth process awaited her; the reports issued as a result of the examinations carried out by gynaecologists and family doctors included the diagnoses of pregnancy status, anaemia, vitamin deficiency, urinary tract infection, reflux disease (gastroesophageal reflux) and dyspepsia. The applicant claimed that she feared for her and her baby's life due to these ailments and that she should not be detained in pre-trial detention in accordance with Article 16, paragraph (4) of the Law on the Execution of Criminal and Security Measures No. 5275 dated 13/12/2004, which can also be applied to detainees, by reference to Article 116 of the same Law.

The court considering the application,

- There was no information in the application file that the applicant's pregnancy-related illnesses had increased due to the conditions of detention for which the

³⁰⁷ Beyza Demir Judgement, B. No: 2019/1463, K.T:11/1/2023, § 82-83, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2019/1463>

authorities could be held responsible, that there was a risk in this direction and that this situation threatened the applicant's life

- That there was no evidence in the application file that the applicant had a risky pregnancy
- That no provision in Turkish legislation prohibits the arrest of a pregnant suspect
- Stating that the arrest or continued detention of a pregnant suspect does not in itself constitute ill-treatment, the Court ruled that the applicant's allegation that the prohibition of ill-treatment was violated due to her arrest and continued detention despite being pregnant was **manifestly ill-founded**.

In its general reasoning and in its assessment of the applicant's situation, the Court, **with an understanding far from the principle of proportionality**, basically emphasised the absence of a legal regulation preventing detention and assessed that the procedure was in accordance with the law. However, the Court did not feel the need to make an assessment as to whether the conditions for detention existed for the applicant individually and whether the imprisonment of the applicant, who was pregnant and suffering from serious illnesses, was proportionate in the context of Articles 13 and 19 of the Constitution.

While it is possible to release a pregnant woman with judicial control measures such as house arrest or a ban on leaving the country and the city, and to carry out the trial process in this way, the court did not take into account the violations of rights that would arise from not doing so.

D. PREGNANT WOMEN, PUERPERANT WOMEN AND WOMEN WITH CHILDREN IN PRISONS

In Türkiye, there are many cases of unlawful detention and arrest of pregnant women and mothers who have recently given birth, especially in the context of investigations and operations launched after the 15 July 2016 coup attempt³⁰⁸. As explained above, this situation is contrary to both national legislation and international human rights standards.

The 993-page comprehensive report prepared by the Justice for Victims Community on 21 January 2019 addresses in detail the situation of children aged 0-6 and their mothers in prisons. The report draws attention to the fact that children are deprived of their basic rights and that the physical and psychological conditions in prisons create serious problems for both mothers and children.

According to the report³⁰⁹ ;

- Very frequent and irregular ward searches are carried out as a deliberate means of psychological pressure. 63 per cent of the respondents confirmed this practice.

³⁰⁸ Boldmedya.com, 'AKP's pride table: 80 pregnant and postpartum women detained or arrested in 6 years', 3 November 2023

³⁰⁹ Indyturk.com, 'Türkiye's imprisoned children. Why are 700 children in prison, what kind of life do they lead?', 13 May 2019, <https://www.indyturk.com/node/27266/haber/t%25C3%25BCrkiyenin-hapisteki-%25C3%25A7ocuklar%25C4%25B1-700-%25C3%25A7ocuk-neden-cezaevinde-nas%25C4%25B1-bir-hayatlar%25C4%25B1-var>

- Three times more prisoners are placed in wards than their capacity. This was confirmed by 86 per cent of the respondents.
- 46% of the participants stated that they had heating problems in winter and 83% stated that they had cooling problems in summer.
- 55 per cent stated that there is no access to regular water and 52 per cent stated that there is no access to clean water.
- 65% stated that there are problems in hot water supply.
- 54% stated that they were not sufficiently taken out to common areas.
- 92% stated that they were not provided with opportunities for hobby activities where they could spend time.
- 57.5 per cent stated that there is no regular access to health services and 73 per cent stated that there are not enough physicians in the infirmaries.
- 80.4 per cent stated that they were forced to be examined in handcuffs during medical examinations.
- 68% stated that emergencies were not responded to in a timely manner.
- 84 per cent of the participants stated that they did not find the physical conditions of prisons suitable for human life, and 67.8 per cent stated that they thought that prison staff did not treat prisoners humanely.

According to a 2017 BBC report, Yağmur Balcı, a resident of Trabzon's Çaykara district, was arrested on 21 November with her 3-month-old baby on charges of being a member of the Gülen Movement and transferred to Trabzon Bahçecik. However, although she has been detained for nine months, her indictment has not yet been prepared. During this time, Balcı's baby, Selim, was reported to be in unsuitable prison conditions. Balcı's sister Zehra stated that the baby's basic needs were not met; even the most basic facilities such as supplementary food and a crawling space were not provided. She stated that materials such as wet wipes and nappies were delivered to the prison late, and that necessary items such as walkers and high chairs were given to the baby only four months after Balcı entered prison. Balcı was transferred to Ankara Sincan Prison in July, where conditions remained unchanged. His nephew's high chair and walker could not be provided, and when he asked for them, he was told that they were prohibited. Although it was stated that the European Union Commission came to inspect the prison and put pressure on the prison to improve conditions, it was noted that even after this initiative, the situation in Sincan Prison did not improve.³¹⁰

Independent Turkish stated that children staying with their mothers in prisons has become a major problem due to inadequate infrastructure and human rights violations. The news report emphasised that the rule that the mother cannot be imprisoned until the baby is 6 months old is not applied and the law is clearly violated many times.

³¹⁰ BBC Turkish, 'Mothers on remand in the state of emergency: Babies under 6 months are also in prison', 11 August 2017

MP Ömer Faruk Gergerlioğlu made the following statements on the subject:

“For thousands of years, traditions, religious understandings, humanity says, pregnant women cannot be touched. They are two living beings, they are in a difficult situation; they should be allowed no matter what. However, in this era, during the State of Emergency, this rule has been violated, and in a brutal way. We are experiencing the most important prison violations in history”³¹¹.

a. Baby Enis

It illustrates the humanitarian impact of the post-coup arrests in Türkiye on society and the tragedies they have caused, particularly for women and children. On 7 October 2023, Zarf and Sümeyye Tercanlioğlu were detained and arrested in Edirne on the grounds of "suspicion of fled". Enis baby, who was only three months old at the time, was separated from his mother and handed over to his aunt at a time when he should have been breastfed³¹². Mother Tercanlioğlu's walk through the corridors of the courthouse with her baby accompanied by gendarmes after her statement was taken and her farewell to her son had a great resonance on social media³¹³.



Sümeyye Tercanlioğlu, a social studies teacher, was charged with membership of an illegal organisation based on the testimonies of her friends from her student years. The evidence against her consisted only of witness statements and actually she had been acquitted in the first hearing. However, upon the objection of the prosecutor, she was retried and sentenced to 6 years and 3 months in prison.

³¹¹ Indyturk, 'Türkiye's imprisoned children. Why are 700 children in prison, what kind of life do they lead?', 13 May 2019

³¹² Bold Medya, 'Left motherless at 3 months old: Enis baby in need of breast milk', 5 November 2023

³¹³ Kronos, 'Arrested parents say goodbye to baby Enis like this', 8 October 2023, <https://kronos37.news/tutuklanan-anne-ve-babasi-enis-bebege-boyle-veda-etti/>

Her husband, Zarif Tercanlioğlu, was also sentenced to 7 years and 6 months in prison on the grounds that his name was on the ByLock list. Both files were sent to the Court of Cassation on appeal upon the request of the defendants³¹⁴.

After baby Enis was handed over to his aunt, it was stated that the baby's needs were tried to be met with formula, but the lack of his mother was seriously felt. Aunt Gamze Yörük stated in her statement that the baby cried frequently at night due to hunger and that the smell of mother and mother's milk cannot be replaced.

The mother Sümeyye Tercanlioğlu, considering the risks of Enis' separation from her on his health and psychological development, demanded that he be taken to prison. Thus, after staying with his aunt for about three months, Enis had to enter the prison environment with his mother³¹⁵.

After about 10 months in prison, the Court of Cassation overturned the court decision infavor Sümeyye Tercanlioğlu and thus mother Sümeyye was released in August 2024. However, her husband Zarif Tercanlioğlu remains in detention³¹⁶. In this process, baby Enis was first deprived of his mother and then of normal growth and development conditions and forced to live in prison.

This case is an example not only for the Tercanlioğlu family, but for hundreds of children whose parents are in detention in Türkiye. The United Nations Human Rights Committee has requested a defence from the Turkish authorities on Enis' case and called for a precedent-setting decision on mothers with infants in detention³¹⁷. While the story of baby Enis has drawn attention to the problems in the justice system and violations of children's rights in Türkiye, it has once again brought to the agenda the need to adopt a more humane approach that favours the best interests of children.

b. Nurhayat Yıldız, a mother who lost her twin babies in prison

Nurhayat Yıldız, a 28-year-old housewife, was arrested on 29 August 2016 as part of the operations against the Gülen Movement. Yıldız, who was 2.5 months pregnant and expecting twins when she was arrested, was put in a ward for 25 people in Sinop Closed Prison and 40 days later, in the 19th week of her pregnancy, she lost her babies. After two days in hospital, she was not released and was sent back to prison. The babies were not given to the family for burial. Sinop High Criminal Court sentenced Nurhayat Yıldız to 7 years and 6 months in prison after 1.5 years of imprisonment and ordered her to remain in pre-trial detention³¹⁸.

Nurhayat Yıldız, had been detained in Samsun 19 Mayıs district on her way to a medical check-up to find out the sex of her babies. The joy of Yıldız, who learnt that the babies

³¹⁴ VeleV.News, 'Enis baby reunited with his mother after 10 months', 3 August 2024

³¹⁵ Bold Medya, 'His mother took him in: 6-month-old Enis baby in prison', 4 January 2024

³¹⁶ VeleV.News, 'Enis baby reunited with his mother after 10 months', 3 August 2024, <https://velev.news/gundem/enis-bebek-10-ay-sonra-annesine-kavustu/>

³¹⁷ Samanyolu Haber, 'UN asks Ankara for defence for Enis baby', 25 December 2023, <https://www.samanyoluhaber.com/bm-enis-bebek-icin-ankara-dan-savunma-istedi-haberi/1455757/>

³¹⁸ Bold Medya, "Look at this photo well: Whose 28 February is this?", 20/02/2021, <https://boldmedya.com/2019/02/28/bu-fotografa-iyi-bakin-bu-kimin-28-subati/>

were twins when she was in prison, did not last long. Writing about the process she went through, the mother described the situation with the words “*My babies could not stand the prison conditions*”³¹⁹.



Yıldız, who was kept with 22 people in a ward for 10 people in Sinop Prison, had to sleep on the floor in front of the toilet downstairs. Yıldız, who could not eat due to nausea, repeatedly complained that she could not eat healthy food during her pregnancy and that the prison conditions were inappropriate for her pregnancy, but she did not receive any response. Yıldız was taken to a doctor after she did not feel the movements of her babies for a few days, and she learnt that her twins had died during an ultrasound scan. During the period when doctors expected her to have a miscarriage, she tried to live through this pain with the support of her family. Yıldız, who experienced a great psychological devastation after the miscarriage, stated that she was depressed for months when she returned to prison and had difficulty recovering³²⁰.

Nurhayat Yıldız's story strikingly reveals the inhumane conditions faced by pregnant and vulnerable individuals in prison and the failures in the justice system.

c. Law enforcement Officer at the Maternity Ward Gate

Hacer Yıldırım, who had been dismissed from her profession at the Social Assistance and Solidarity Foundation in September 2016 with a decree law, went to Ankara Keçiören Medical Park Hospital because she was due to give birth. The police came to Hacer Yıldırım's hospital room on the grounds that she had an arrest warrant for allegedly using ByLcok,

³¹⁹ Bold Medya, 'Nurhayat Yıldız's account of losing her twin babies in prison', 3 November 2023

³²⁰ Samanyolu News, 'Now I am waiting for delayed justice!', 12 September 201

searched the room of the woman in labour and waited to detain her. In the meantime, the newborn baby was taken to intensive care after water got into his lungs³²¹.

This situation was met with great reaction on social media platforms. A large campaign was organised with the hashtag "*Lohusa Hacer cannot be arrested*". Afterwards, the prosecutor's office took Hacer Yıldırım's statement at the hospital and released her³²².



Another victim of a labour ward case is Ayşe Ateş, a revenue specialist. Ateş, who was dismissed with a state of emergency decree, was 5 months pregnant when she was arrested. When it was time for her to give birth, Ateş was taken to Çiğli Regional Hospital, the prosecutor's office rejected the doctors' recommendation for an attendant after the birth and soldiers and police officers started to wait in front of Ayşe Ateş's room³²³. Later, the feared happened and Ayşe Ateş was discharged and taken to Şakran Prison with her baby³²⁴.

³²¹ Boldmedya.com, 'Police at the delivery room door again: Baby in intensive care', 1 January 2021

³²² TR724 News, 'Puerperant mother Hacer Yıldırım, who was waiting for police to detain her, released', 1 January 2021

³²³ Kronos, 'Shame' vigil for puerperant Ayşe Ateş at the door of the delivery room', 16 January 2018,

³²⁴ Bold Medya, 'AKP's pride table: 80 pregnant and postpartum women detained or arrested in 6 years', 3 November 2023, <https://www.boldmedya.com/2022/07/14/akpnin-iftihar-tablosu-6-yilda-hamile-ve-lohusa-80-kadin-gozaltina-alindi/>



d. 20-month-old Ayşe Ercengiz arrested with her baby

Ayşe Ercengiz, a teacher with a state of emergency decree, was sentenced to 2 years and 1 month in prison for depositing money in Bank Asya. Ayşe Ercengiz, whose sentence was upheld, had to live in prison with her premature baby, who is 20 months old and still breastfed.



Ayşe Ercengiz is one of hundreds of mothers who were unjustly arrested and imprisoned and had to live in prison with their babies³²⁵.

e. Arrest of Parents of Six Children Together

Thousands of women have been arrested as part of investigations into alleged membership of the Gülen Movement, despite being pregnant or having a newborn baby or a child in need of maternal care. Many women took their children to prison with them instead of leaving them outside.

³²⁵ Bold Medya, "Another baby in prison: 20-month-old Ela, born prematurely, went to prison with her mother", 26/06/2024, <https://boldmedya.com/2024/06/26/bir-bebek-daha-hapiste-premature-dogmus-20-aylik-ela-bebek-annesiyle-cezaevine-girdi/>

Although there were no conditions for arrest in the sense of Article 100 of the Code of Criminal Procedure for the arrested women, and although they had babies and children in need of care, they were arrested by the criminal judgeships of peace, which turned into regime courts, in order to be punished in advance before the judgement.



The most recent example of this happened in Edirne. Abdülkadir and Nurcan Arslan, a couple with 6 children, including 7-year-old quintuplets and a 13-year-old daughter, were arrested in Edirne. Although there are 6 children in need of maternal care and affection and most importantly one of the quintuplets is disabled, the court arrested both the mother and the father. Since it is not possible to take these children left behind to prisons according to the legal regulation, they were left with their relatives³²⁶.



Nurcan and Abdülkadir Arslan were charged with "membership of the Gülen Movement" as part of the investigations following the coup attempt in 2016. Nurcan Arslan, the mother, was sentenced to 6 years and 3 months in prison on the grounds that she had used ByLock, deposited her money in Bank Asya and worked at a closed down school. The father, Abdülkadir Arslan, was sentenced to 9 years in prison for similar allegations and for organising religious chat meetings. However, while both sentences had not yet been finalised

³²⁶ Kronos, "The parents of the quintuplets, one of whom is congenitally disabled, were also arrested", 30.09.2023, <https://kronos36.news/tr/hukuksuzluk-devam-ediyor-besizlerin-anne-ve-babasi-tutuklandi/>, 03/10/2023

and their cases were still pending before the Court of Cassation, the couple were arrested on the grounds of "suspicion of fled"³²⁷.

The couple's arrest left their 7-year-old son and 13-year-old sister, Türkiye's third set of quintuplets, unaccompanied. The children were handed over to relatives in Malatya after a period of waiting at the police station. One of the quintuplets is disabled and needs regular health checks. Family relatives argued that it was very difficult to care for these children without a mother and father and that the arrest decision was unjust³²⁸. The increasing victimisation of the children in particular has led to calls for the immediate release of their parents³²⁹.

The case has received widespread public attention as an example of the injustices suffered by those with emergency decrees and in cases of terrorist organisation membership. The situation of the children has also been raised by political representatives and human rights defenders. Mustafa Yeneroğlu, MP for the DEVA Party, visited the children and stated that what happened was a summary of the tragedy experienced by tens of thousands of families and emphasised the need to return to the rule of law³³⁰. Relatives close to the family urgently demanded the release of their parents, especially due to the health problems and psychological state of the children³³¹. The case has re-ignited deep debates on the right to a fair trial, fundamental rights and freedoms and the protection of children.

E. CHILDREN IMPRISONED WITH THEIR MOTHERS

The Ministry of Justice does not regularly share with the public data on how many pregnant women and mothers with children have so far been arrested or sentenced in the investigations against the Gülen Movement, which were launched after 15 July and number in the millions.

Most of the data on this issue can be found in the answers given to parliamentary questions or in the statements given to the media organs of the Erdoğan regime. Therefore, it is not possible to obtain reliable data on this issue. We have tried to make an evaluation based on the data obtained from open sources.

According to the 2016 Annual Report of the Ministry of Justice, the number of children between the ages of 0-6 staying with their mothers in prison is 529³³². According to the data submitted by the General Directorate of Prisons and Detention Houses to the Human Rights Investigation Commission of the Grand National Assembly of Türkiye on 14 November 2018, 743 children stayed with their mothers in prisons as of 2018, 543 of these children were in the

³²⁷ Serbestiyet, 'Mother and father of Türkiye's third set of quintuplets arrested due to "suspicion of flight"', 5 October 2023

³²⁸ See Youtube video. <https://www.youtube.com/watch?v=rM2gyvNiGh0&t=338s>

³²⁹ Bold Medya, 'Five children whose parents are detained in KHK TV's documentary', 4 December 2023,

³³⁰ Velev News, 'DEVA Party's Yeneroğlu visits quintuplets whose parents are detained: 'A summary of the story of tens of thousands of families'', 10 August 2024

³³¹ Aktif Haber 'Aunt of the quintuplets whose parents are detained: We are talking about the Palestinians. What is the persecution of these children?', 4 December 2023

³³² Teyit Org, Number of children aged 0-6 staying in prison with their mothers, 23.04.2018, <https://teyit.org/analiz/annesiyle-birlikte-cezaevinde-kalan-0-6-yas-cocuklarin-sayisi>

0-3 age group and 200 of them were in the 4-6 age group, and 37 of 543 babies aged 0-3 were younger than 6 months³³³.



According to the information given by the Director General of Prisons and Detention Houses to Anadolu Agency, the number of children staying in prison with their mothers in 2019 is **780**³³⁴. In 2021, with the arrangements made in the execution system due to the pandemic, it is seen that the number of prisoners/detainees in prison decreased in general and the number of children in prison with their mothers was **345**³³⁵. According to the data of the Ministry of Justice dated 31 March 2023, the number of children staying in prisons with their mothers as of 1 March 2023 is **396**³³⁶.

According to the answer to the parliamentary question to the Ministry of Justice, as of **30/05/2024**, the number of women in prison with their husbands for terrorism offences is **488** and the number of children in prison with their mothers is **706**.

³³³ Ministry of Justice General Directorate of Prisons and Detention Houses, Press Release, **09.03.2021**, <https://cte.adalet.gov.tr/Home/SayfaDetay/basin-aciklamasi09032021045708>

³³⁴ Euronews, 286 thousand prisoners in prison in Türkiye, 780 children, 15.11.2019, <https://tr.euronews.com/2019/11/15/turkiye-de-cezaevindeki-hukumlu-ve-tutuklu-sayisi-286-bin-cocuk-sayisi-78>

³³⁵ Ministry of Justice, General Directorate of Prisons and Detention Houses, Press Release, **09.03.2021**, <https://cte.adalet.gov.tr/Home/SayfaDetay/basin-aciklamasi09032021045708>

³³⁶ Serbestiyet, "396 children between the ages of 0-6 entered this holiday in prison", 28.06.2023, <https://serbestiyet.com/featured/0-6-yas-arasi-396-cocuk-bu-bayrama-hapishanede-girdi-134049/#:~:text=Adalet%20Bakanl%C4%B1%C4%9F%C4%B1n%C4%B1n%20son%20istatisti%C4%9Fi%201,cezaevinde%20iseler%20anneleriyle%20birlikte%20kalabiliyorlar>



T.C.
ADALET BAKANLIĞI
Mevzuat Genel Müdürlüğü



Sayı : E-56020453-510-865-2870/4204
Konu : Yazılı soru önergesi

SÖ / 55/2024

Sayın Ömer Faruk GERGERLİOĞLU
Kocaeli Milletvekili
TBMM

Bakanlığımıza yöneltilip yazılı olarak cevaplandırılması istenilen 7/5038 Eas Nolu soru önergesinin cevabı aşağıda sunulmuştur.

I- 10/07/2018 tarihli ve 30476 sayılı Resmî Gazette'de yayımlanan 1 sayılı Cumhurbaşkanlığı Teşkilatı Hakkında Cumhurbaşkanlığı Kararnamesinin "Görev" kısmı başlıklı 38. maddesinin birinci fıkrasının (ç) bendinde, adli sicil tutulmasıyla ilgili hizmetleri yürütmek Bakanlığımız görevleri arasında sayılmaktadır. Bu çerçevede istenilen ayrıntıda bilgi bulunmamakta birlikte; Cumhuriyet başsavcılarında cinsiyete göre açılan ve karara bağlanan dosya ve şüpheli sayılarına ve ceza mahkemelerinde cinsiyete göre açılan ve karara bağlanan dosya ve sanık sayılarına ait istatistiklere Bakanlığımız Adli Sicil ve İstatistik Genel Müdürlüğü'nün "<https://www.adlisicil.adalet.gov.tr>" adresli internet sitesinden ulaşılması mümkün olabilecektir.

II- Bakanlığımız kayıtlarının incelenmesinde;

A) 30/05/2024 tarihi itibarıyla ceza infaz kurumlarında terör suçlarından eşiyile beraber barındırılan kişi sayısının 498 olduğu,

B) 30/05/2024 tarihi itibarıyla ceza infaz kurumlarında annesi ile birlikte kalan çocuk sayısının 706 olduğu,

Anlaşılmıştır.

Bilgilerinize sunar.

Yılmaz TUNÇ
Bakan

The United Nations Office of the High Commissioner for Human Rights (OHCHR), which evaluated these data, which increased many times over after the 15 July coup attempt in Türkiye, stated in its January-December 2017 report in March 2018 that it was alarming that there were women who were arrested some time before or immediately after giving birth and that nearly 600 women were arrested with their young children³³⁷.



³³⁷ Office of the United Nations High Commissioner for Human Rights , Report on the impact of the state of emergency on human rights in Türkiye, including an update on the South-East , January - December 2017, March 2018, p.3

Although according to the standards set by the CPT, it is a generally accepted principle that children should not be born in prison³³⁸, as can be seen especially from the statistical data, the number of children imprisoned with their mothers has increased considerably with the witch hunt that started after 15 July. Within the scope of the Erdoğan regime's operations against the Gülen movement and hate policies, hundreds of innocent children are in prison with their mothers.

F. POSTPONEMENT OF THE EXECUTION OF THE SENTENCE OF A FEMALE CONVICT DUE TO THE ILLNESS OF HER CHILD

As important as the illness of the convicted person is, the illness of the family members of the convicted person, especially children, is also one of the issues to be taken into consideration in the execution process.

With Article 23 of the Law No. 7445 published in the Official Gazette on 05.04.2023, Article 16/A titled "postponement of the execution of the sentence of the female convict due to the illness of her child" was added to the Law No. 5275 to come after Article 16. Article 16/A added to the Law No. 5275 regulates the postponement of the execution of the sentence of female prisoners whose child is ill, regardless of whether the execution of the sentence is started or not. With Article 16/A added to the Law No. 5275, the procedures and principles regarding the postponement of the execution of the sentences of female prisoners with sick children have been determined.

In the article, some conditions must be fulfilled in order for the execution of the sentence of the female convict to be postponed. In order to benefit from the regulation, **firstly**, the female convict's sentence must be a total of ten years imprisonment or less, or the judicial fine sanction must have been converted into a prison sentence during the execution process. **Secondly**, the child of the female convict must be in need of care due to disability or be exposed to severe illness and be under the age of eighteen. **Another point is that** the postponement of the execution of the female convict's sentence should not pose a grave and concrete danger to public safety. The assessment that the postponement of the execution of the execution will not pose a grave and concrete danger will be made by the Chief Public Prosecutor's Office. The fact that the child of the female convict is in need of care due to disability or severe illness will be determined by the report to be issued by the Forensic Medicine Institution or by the report issued by the medical boards of full-fledged hospitals determined by the Ministry of Justice and approved by the Forensic Medicine Institution.

If the above-mentioned conditions are fulfilled, the sentence of the female convict may be postponed up to one year by the Chief Public Prosecutor's Office in the place of execution. The postponement period may be extended at most four times, each time not exceeding six

³³⁸ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), CPT Standards, CPT/Inf/E (2002) 1 - Rev. 2010, p.80, <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=4d78827e2>

months. The execution of the female convict's sentence can be postponed for a total of three years within the scope of the regulation. In addition, the statute of limitations will not run during the postponement period.

The public prosecutor shall, during the period of postponement of the execution of the sentence of a female convicted person;

- Not to leave a certain residential area
- To apply regularly to the designated places within the specified time limits
- The public prosecutor shall decide to subject the convict to at least one of the obligations such as depositing the amount of security determined by taking into account his/her economic situation. In addition, the public prosecutor shall impose an obligation on the convict not to travel abroad.

Although the introduced regulation is generally positive, it is erroneous to leave the postponement of the execution of the sentence to the discretion of the Chief Public Prosecutor's Office. In the event that it is determined by a forensic medical report that the child of the female convict is in need of care due to disability or severe illness, the Chief Public Prosecutor's Office should immediately decide to postpone the execution. Again, the article does not regulate how to act in case the child's illness continues despite the three-year postponement period. This issue should also be regulated by an amendment to the law.

The article also states that the Chief Public Prosecutor's Office shall evaluate whether the postponement of the execution of the sentence of the female convict poses a grave and concrete danger to public security. However, the regulation does not specify how and according to what this evaluation will be made by the Chief Public Prosecutor's Office. Therefore, the evaluation criteria should be clearly defined.

G. POSTPONEMENT OF THE EXECUTION OF THE SENTENCE OF A WOMAN CONVICTED OF TERRORISM DUE TO THE ILLNESS OF HER CHILD

Before the amendment of Article 16/A of the Law No. 5275, there was no provision allowing for the postponement of execution, especially for mothers of terror prisoners. Postponement decisions were not given even in very grave cases. However, with the general regulation made in Article 16/A of Law No. 5275, it became possible to postpone the sentences of female prisoners, including terror prisoners, whose children are ill.

According to this regulation, the execution of the sentences of women convicted of terrorism who have been sentenced to imprisonment for a total of 10 years or less, even if their execution has already begun, may be postponed by the Chief Public Prosecutor's Office if they have a child under the age of 18 who is in need of care due to disability or who is exposed to a serious illness and if it is assessed that they will not pose a serious and concrete danger to public safety.

As explained in the chapter above, the fact that a person is a terrorist offender does not automatically mean that he/she is in the group of those who are in a state of danger. At this

point, it is necessary to determine whether the individual terrorist convict poses a grave and concrete danger to public security. It cannot be decided to reject the postponement request of a woman convict on abstract grounds.

Pursuant to Article 65 of Law No. 5275, it is observed that women in prison face serious problems with regard to their children over the age of 6 who cannot be with them. Especially for political prisoners, it is noteworthy that arbitrary decisions are taken in practice. It has been observed that women with disabled or sick children are subjected to disproportionate arrest measures.

Similarly, it is understood that prior to Article 16/A of Law No. 5275, **the** courts did not provide any solutions for women with seriously ill children. Although partial solutions have been introduced with the entry into force of Article 16/A, the problems experienced in practice reveal that these solutions are insufficient.

For a better understanding of the issue, some case studies will be given below.

a. Yusuf Kerim Sayın

The case that led to the enactment of Article 16/A of Law No. 5275 is Yusuf Kerim Sayın, a child with cancer. While his mother Gülten Sayın was convicted on charges of being a member of the Gülen Movement, her son Yusuf Kerim Sayın was suffering from **Ewing Sarcoma**, a type of cancer. Yusuf Kerim's separation from his mother during his treatment caused great reactions in print, visual and social media. The mother, who visited her son with special permission, was sent back to prison after the visit³³⁹.

With the entry into force of Article 16/A of the Law No. 5275, the way was paved for 6-year-old Yusuf Kerim, a cancer patient, to be reunited with his mother. After the enactment of the bill, Yusuf Kerim was reunited with his mother on 18 April 2023. Unfortunately, this reunion was short-lived and Yusuf Kerim passed away shortly afterwards³⁴⁰. After Yusuf Kerim's death, his mother Gülten Sayın was sent back to prison.



³³⁹ Euronews, "Legislation passed to reunite cancer patient Yusuf with his mother", 28/03/2023, <https://tr.euronews.com/2023/03/28/kanser-hastasi-yusufu-annesine-kavusturacak-duzenleme-kabul-edildi>

³⁴⁰ Gazete Duvar, "He had become a symbol: Cancer patient Yusuf Kerim was buried", 02 October 2023 <https://www.gazeteduvar.com.tr/sembol-olmustu-kanser-hastasi-yusuf-kerim-topraga-verildi-haber-1640518>

Yusuf Kerim Sayın has become a symbol of the social solidarity shown in Türkiye for Yusuf Kerim to be with his mother while battling cancer as a child. Yusuf Kerim, who is battling **Ewing's Sarcoma**³⁴¹, a rare and aggressive form of cancer, was separated from his mother Gülten Sayın during the difficult stages of his illness. Gülten Sayın was sentenced to nearly six years in prison as part of investigations into the Gülen Movement and was unable to be with Yusuf Kerim during his treatment. This separation caused serious problems for Yusuf Kerim's mental health and morale³⁴².

The campaign for Yusuf Kerim to be reunited with his mother had a great impact on social media. Many artists, politicians and human rights defenders called for the mother to be with her child. As a result of this strong public pressure, in March 2023, the Turkish Grand National Assembly adopted **Article 16/A of Law No. 5275**³⁴³, which allows for the postponement of sentences of convicted mothers with sick children. This regulation granted female prisoners with sick children the right to postpone their execution for up to one year and was referred to as the "Yusuf Kerim law" in public opinion. However, the implementation of the regulation was delayed after its publication in the Official Gazette, and therefore Yusuf Kerim could only spend long periods of time with his mother in the last stages of his illness³⁴⁴.

Yusuf Kerim's struggle against the disease was constantly on the agenda on social media and created sensitivity among large masses. However, due to the gradual deterioration of his health during the treatment process and the delays in the implementation of the law, Yusuf Kerim passed away on 2 October 2023. While his death was met with great sadness, public reactions were expressed that the law should have been implemented earlier. Yusuf Kerim's body was buried by his family and supporters and this process turned into a great tragedy for his mother Gülten Sayın³⁴⁵. Shortly after Yusuf Kerim's death, his mother was taken back to prison for the execution of the judgement.

Yusuf Kerim's story has raised important awareness not only about the right to care for sick children, but also about the psychological impact of separating children from their parents. Many people remember Yusuf Kerim's life of struggle and hardship and advocate for more inclusive legislation to prevent such victimisation in the future.

b. Ahmet Burhan Ataç

The case of Ahmet Burhan Ataç is another example of the sensitive situation in Türkiye regarding the separation of sick children from their families and their right to treatment. When 8-year-old Ahmet was diagnosed with bone cancer, his father, Harun Reha Ataş, had been arrested in connection with investigations into the Gülen Movement and was in Tarsus Prison. His mother, Zekiye Ataç, was also detained within the scope of the same investigation and

³⁴¹ Wikipedia, "Ewing's sarcoma," *Wikipedia, The Free Encyclopedia*, https://tr.wikipedia.org/w/index.php?title=Ewing_sarkomu&oldid=32806502, (accessed November 21, 2024)

³⁴² Euronews, '20 per cent chance of survival': Cancer patient Yusuf's father calls on judiciary to 'reunite him with his mother', 12 January 2023

³⁴³ Euronews, 'Legislation passed to reunite cancer patient Yusuf with his mother', 28 March 2023

³⁴⁴ Gazete Duvar, 'He was a symbol: Cancer patient Yusuf Kerim was buried', 2 October 2023

³⁴⁵ Rudav, 'His mother had become a symbol for detained children: Yusuf Karim, a cancer patient, dies', 3 October 2023

later released. However, the mother could not accompany her son during the treatment process due to a ban on leaving the country. This situation caused serious difficulties in Ahmet's access to treatment. Public pressure and social media campaigns were repeatedly organised to lift the ban on the mother³⁴⁶.

Ahmet had to go to Germany for cancer treatment; with the support of artists and the public, the treatment process started in Germany. However, since Zekiye Ataç's ban on travelling abroad was not lifted, Ahmet was initially accompanied by his 70-year-old grandmother. Ahmet, on the other hand, constantly expressed his wish to see his mother with him during the treatment. Following calls and initiatives to lift the ban, Zekiye Ataç was granted permission to leave the country, albeit with a long delay³⁴⁷.

In March 2020, Zekiye Ataç was granted leave and travelled to Germany with Ahmet. However, Ahmet's health deteriorated due to the failure to start treatment on time and the setbacks experienced during this process. After receiving short-term treatment in Germany, Ahmet returned to Türkiye³⁴⁸ and died a few months later, before the treatment process was completed³⁴⁹.



This has led to widespread public opinion on the rights of sick children and detained family members and calls for more humane measures by the state in such cases.

³⁴⁶ Brokenchalk, 'Ahmet Burhan Ataç: The Story of the Child Who Got Killed Collectively', 24 September 2018

³⁴⁷ SCF, 'Death of Ahmet Burhan Ataç reveals plight of children caught up in Türkiye's massive purge', 10 May 2020

³⁴⁸ Euronews, 'Mother Zekiye Ataç fails to get passport, cancer patient Ahmet returns to Türkiye after treatment was suspended', 9 February 2020

³⁴⁹ Euronews, 'Cancer patient 8-year-old Ahmet Ataç passed away', 7 May 2020, <https://tr.euronews.com/2020/05/07/kanser-hastasi-8-yasindaki-ahmet-atac-hayata-veda-etti-anne-zekiye-baba-harun-adana-tarsus>

CONCLUSION

Prisons in Türkiye have become areas where serious deficiencies are experienced in terms of the protection of fundamental human rights. In particular, the conditions faced by prisoners who are ill, pregnant and with children constitute a remarkable human rights problem. This situation shows that general practices in prisons are incompatible with the rule of law and human rights standards.

In recent years, serious human rights violations have been reported in prisons, such as problems in access to treatment for sick prisoners, living conditions of pregnant women and prisoners with children, prison deaths and suicides. Such problems are considered not only as violations of the rights of individuals, but also as indicators of a systematic structural deficiency.

Especially in the aftermath of the coup attempt on 15 July 2016, rights violations in prisons have gained a systematic and widespread character with the increase in repression against certain groups. The intensive targeting of opposition groups, particularly members of the Gülen Movement, has also been criticised by international human rights mechanisms. During this period, it was widely believed that prisons were used as an instrument of political revenge and discrimination.

This report provides a detailed analysis of rights violations in prisons in Türkiye and presents the following main findings:

- 1. Situation of Sick Prisoners:** Basic needs such as access to treatment, medication and hygiene are not met.

- 2. Death cases and Suicides in Prisons:** Deaths and suicides in prisons reveal the gravity of the conditions in prisons.
- 3. Pregnant Women:** The health and security needs of pregnant prisoners are not taken into consideration and alternative judicial control measures are rarely applied.
- 4. Prisoners with Children:** The conditions of children staying with their mothers in prisons are alarming in terms of their physical and psychological development.

These findings once again bring to the agenda the importance of a penal execution system based on human rights, fair and in accordance with the rule of law. In this context, it is necessary to make arrangements in accordance with national and international standards and to have prisons effectively monitored by independent mechanisms.

- **Exposure of prisoners with health problems to serious violations of their rights**

The situation of sick prisoners in Turkish prisons is extremely critical. In particular, it has been found that individuals with serious illnesses face serious obstacles in accessing health services. Inadequate health services in prisons, lack of regular check-ups and difficulties in accessing treatment lead to further deterioration in the health conditions of detainees and prisoners. According to data provided by human rights organisations and medical reports, many prisoners with serious illnesses are held in conditions that are not suitable for prison conditions. This situation violates the prohibition of treatment contrary to human dignity and ill-treatment as guaranteed by Article 17 of the Constitution and Article 3 of the ECHR.

Especially in the period after the 15 July coup attempt, it has been observed that many political prisoners with health problems, especially members of the Gülen Movement, have been deprived of proper treatment and health services. Deliberate obstructions in access to treatment, poor hygiene conditions and overcrowded wards have further aggravated the health conditions of ill prisoners. Inadequate health and treatment services in prisons, coupled with poor conditions, led to the deaths of many ill prisoners either in prison or shortly after their release.

As stated in the relevant chapters of the reports, ill-treatment practices such as restricting access to health care in prisons, denying the right to an infirmary, handcuffing prisoners while being taken to the Forensic Medicine Institution, courthouse or hospital, and forcing them to be treated in handcuffs on a stretcher or in the infirmary have prevented the timely and effective resolution of health problems of prisoners. This has become a chronic problem in Turkish prisons. In particular, political prisoners who have difficulties in their treatment processes are subjected to discriminatory and arbitrary practices, such as being exiled to other prisons, which seriously undermines the right to access to health care.

Due to the problems in the justice system, thousands of sick prisoners and prisoners are struggling to survive in prisons. Many people who are seriously ill and in need of treatment face the risk of losing their lives due to poor prison conditions. Likewise, many sick prisoners whose sentences have been finalised are sent to prison without the possibility of postponement of execution.

Seriously ill prisoners sent to prison or detained without a stay of execution were subjected to discriminatory and arbitrary treatment in prison. In particular, members of the Gülen Movement and opposition political prisoners faced serious obstacles in accessing treatment and health care and were deliberately deprived of these services. Many seriously ill prisoners died as a result of the progression of their illnesses due to lack of timely or inadequate treatment.

In this process, thousands of sick prisoners and prisoners have suffered serious rights violations as a result of the impact of the Erdoğan regime's hate policies and discriminatory practices of prison administrations. These structural problems in access to health services are in clear violation of both national and international standards.

Prisons have turned into centres of revenge for the Erdoğan regime with the hate speech that started after 15 July. Unlawful practices such as harbouring arrested or convicted people in inhumane conditions, **subjecting them to isolation in solitary cells, restricting their right to receive visitors and telephone calls, depriving them of social and cultural activities, not allowing them to benefit from release, postponement of execution, probation and conditional release despite their conditions, not postponing the execution of sick prisoners**, not allowing them to benefit from health facilities or not providing adequate health facilities³⁵⁰, are the most serious hate-motivated prison practices of this period.

The state, which has the obligation to protect people's right to life, on the contrary, develops unlawful practices for people to die in prisons. In this context, the Forensic Medicine Institution gave **Şerife Sulukan**, a paralysed teacher and victim of both 28 February and 15 July, a report stating that she "can stay in prison" on the grounds that she does not have a permanent illness, disability or old age, even though she needs help in most of her daily life activities due to her **89 percent disability**³⁵¹. Sulukan is still trying to hold on to life in prison with the help of others.

Mustafa Said Türk, 86 years old bedridden patient Mustafa Said Türk, who was sentenced to 10 years in prison in Manisa as part of unlawful operations against the Gülen Movement and whose sentence was upheld by the Court of Cassation, was denied his application for postponement of execution on the grounds of old age and severe illness. Türk was taken from his sick bed on a stretcher to the prison and was hospitalised shortly afterwards.

86-year-old philanthropist Mustafa Said Türk was transferred between prison and hospital for 25 days. After the Forensic Medicine Institution issued a postponement of execution report, he was released from Menemen R Type Prison, but during this period he was taken to the prison on a stretcher and brought back to his home on a stretcher.

³⁵⁰ Aras, p.5 vd

³⁵¹ Bold Medya, "Paralysed and 89 per cent disabled teacher Şerife Sulukan had a seizure in prison, 14.06.2022, <https://www.boldmedya.com/2022/06/02/felcli-ve-yuzde-89-engelli-ogretmen-serife-sulkan-cezaevinde-nobet-gecirdi/>

When he returned home, his health condition deteriorated even more, his body was covered with wounds, and it was observed that the basic needs of a seriously ill patient, such as hygiene and cleanliness, were not provided. Mustafa Said Türk was almost left to die.

- **Violations of rights in prisons leading to death cases and suicides**

The discriminatory, arbitrary and hate-motivated practices of the Erdoğan regime have led to alarming levels of suicide and mortality in prisons. Ill-treatment, neglect, psychological pressure and harsh prison conditions lead to serious mental and physical breakdown among detainees and prisoners. In the majority of suicide cases, there are serious allegations of negligence or ill-treatment by the prison administration. This reveals the inadequacy of prison supervision systems in Türkiye.

After 15 July 2016, with the mass arrests, human rights violations have increased and the suicide and death rates in prisons have risen even higher. Torture, physical and psychological pressure, ill-treatment, isolation and inadequate health services endanger the lives of prisoners and trigger suicides and deaths. According to Council of Europe reports, Türkiye has one of the highest suicide rates in prisons. Especially political prisoners have become targets of discriminatory and hateful policies and have lost their lives due to poor prison conditions.

The Erdoğan regime, through its hate policies, has both encouraged violence and unlawfully subjected innocent people in prisons to discriminatory practices. These practices have left sick prisoners to physical death. After the 15 July coup attempt, sick people were arrested within the scope of the investigations initiated after the coup attempt, even though they did not have the conditions, and thousands of people became ill or died in prisons due to poor prison conditions or pressures.

As a result of hate policies, sick prisoners are deliberately left to die due to poor prison conditions and inadequate treatment services. One of the most striking examples of this situation is the tragic death of **Mustafa Kabakçioğlu**, a police officer who was dismissed from his profession with a decree law during the State of Emergency and then arrested. Kabakçioğlu, who was seriously ill, died on 29 August 2020 in a solitary cell on a white plastic chair in Gümüşhane Prison, where he was held on charges of belonging to the Gülen Movement. Kabakçioğlu's requests for treatment and release were deliberately ignored, and this chain of negligence led to his death.

It has almost become an administrative practice not to provide necessary medical aid and treatment to those detained in prisons on the allegation of being a member of the Gülen Movement. In this context, the death of Halime Gülsu, an English teacher with a state of emergency decree, who was detained in prisons on the allegation of being a member of the Gülen Movement and left to die due to her illness, is another grave case. **Halime Gülsu**, an English teacher with SLE, was arrested on 3 March 2018 on the accusation of making and selling stuffed meatballs for the families whose spouses were detained and died on 28.04.2018

in Tarsus Women's Closed Prison because she was not given medication, was not taken to the infirmary and was not treated³⁵².

Like hundreds of thousands of other innocent people, 84-year-old **Nusret Muğla** was arrested as part of an investigation into his alleged membership of the Gülen Movement, based on allegations of depositing money in Bank Asya, membership of the Feza Association in Manisa and founding a group called Nevbahar, all of which do not involve any criminal offence. He was released after undergoing surgeries in prison and was subsequently sentenced to 6 years and 3 months in prison. Since Muğla's conviction was upheld by the Court of Cassation, he was re-arrested and placed in Manisa T-Type Prison. Muğla's requests for postponement of execution were not accepted despite the fact that he is 84 years old and takes 14 medications a day for heart, blood pressure, rheumatism, prostate, kidney problems and brain balance disorder³⁵³. Muğla³⁵⁴, who worked as a shoemaker in Manisa for years and was a close friend of Bülent Arınç, one of the founders of the AKP and former Speaker of the Grand National Assembly of Türkiye, died shortly after contracting the Covid epidemic in prison.

In another case, **Yusuf Bekmezci**, an 82-year-old philanthropic businessman from İzmir, was denied release while he was unconscious in intensive care and died soon afterwards in hospital. Bekmezci had gone to İzmir Katip Çelebi University İzmir Atatürk Training and Research Hospital for eye surgery on 4 January 2022 from Kırıkkale F-Type Prison where he was imprisoned, his heart stopped during the operation and he was then treated in intensive care. Despite the suggestion of the Forensic Medicine Institution to 'postponement of the execution' due to his treatment in intensive care, İzmir 2nd High Criminal Court rejected his request for release. Bekmezci died on 20 January 2022 without being released from the hospital where he was in intensive care³⁵⁵.

During this period, the presence of the gendarmerie in the examination room during the examination of sick detainees and prisoners, or conducting the examination while the convict or detainee is handcuffed or being handcuffed to the bed, are among the violations of the right to health and prohibition of ill-treatment experienced by persons deprived of their liberty³⁵⁶. It is seen that the practice of examination and treatment in handcuffs, especially for opposition and political detainees and prisoners, has become a state practice³⁵⁷.

Many examples in this field are reflected to the public. In order to understand the issue, a few grave cases will be mentioned below. **Veysel Atasoy**, a police officer who was

³⁵² TR724 News, "Another apparent death in prison: Halime Gülsu teacher passed away", 28.04.2018, <https://www.tr724.com/cezaevinde-goz-gore-gore-bir-olum-daha-halime-gulsu-vefat-etti>

³⁵³ Kronos, "He was taking 14 medicines a day: 84-year-old Nusret Muğla died in prison", 13.02.2022, <https://kronos36.news/tr/gunde14-ilac-kullanliyordu-84-yasindaki-nusret-mugla-cezaevinde-hayatini-kaybetti/>

³⁵⁴ Ahval News, "Message from Arınç for his friend Nusret Muğla who died in prison at the age of 84: 'I could not be useful to you'", 14.02.2022, <https://ahvalnews.com/tr/nusret-mugla/arinctan-84-yasinda-cezaevinde-olen-dostu-nusret-mugla-icin-mesaj-sana-faydali>

³⁵⁵ TR724 News, "Yusuf Bekmezci, who was not released even when he was unconscious, passed away", 20.02.2022, <https://www.tr724.com/bilinci-kapali-haldeyken-bile-tahliye-edilmeyen-yusuf-bekmezci-hakka-yurudu/>

³⁵⁶ Turkish Medical Association, "Information Note on the Examination of Persons Deprived of their Liberty", 21.09.2022, https://www.ttb.org.tr/haber_goster.php?Guid=ec0bcd00-39ad-11ed-8917-d6bd30b70801

³⁵⁷ Human Rights Association, Ankara Branch Central Anatolia Region Prisons 2023 Annual Report, 19 April 2024, p.115

dismissed by a decree with the Force of Law, was taken to Tavşanlı State Hospital and Kütahya Health Sciences University Evliya Çelebi Training and Research Hospital after he fell ill in Tavşanlı Prison. On 12 September 2020, he died after 9 days in Tavşanlı Public Hospital and 25 days in Kütahya Public Hospital. Atasoy was handcuffed to the hospital bed for about 35 days before his death and died handcuffed to the bed again. In the criminal complaint filed by Atasoy's family regarding the handcuffing of Atasoy to the hospital bed for 35 days, it was decided that there was no ground for an investigation against public officials³⁵⁸.

- **The attitude of the Turkish judiciary towards rights violations in prisons**

In the chaotic and totalitarian order created by the Erdoğan regime with the State of Emergency, the Turkish judiciary has turned into a regime judiciary. Judicial authorities, which have a positive obligation to prevent rights violations, ignore the rights violations committed by the Erdoğan regime as a whole and make arbitrary and unlawful decisions in order to legitimise these violations.

The Turkish judiciary is unable to provide an effective oversight mechanism against rights violations in prisons. Complaints of prisoners are not taken into account sufficiently and in most cases not even investigations are opened. The attitude of the judiciary towards legitimising the unlawfulness in prisons feeds the culture of impunity and prevents the solution of problems.

The biased attitude of the judiciary, especially in political cases, seriously undermines confidence in justice. Release requests of sick prisoners are largely rejected, leading to violations of the right to a fair trial and the right to life being ignored. The fact that the Constitutional Court often finds applications concerning pregnant and sick prisoners "inadmissible" renders the victims' quest for justice fruitless. This further undermines confidence in the rule of law.

The attitude of the Turkish judiciary towards rights violations in prisons has become part of the problem. Decisions of the European Court of Human Rights (ECtHR) and other human rights organisations are ignored. The judiciary, which is the only recourse mechanism against arbitrary and discriminatory practices against sick prisoners, has paved the way for an increase in rights violations in this process.

Structures such as criminal judgeships of peace have lost their impartiality due to systematic pressure and political influence. Criminal judgeships of peace have arrested seriously ill prisoners despite the absence of arrest conditions. Similarly, the Assize Criminal Courts, which carry out the main trial, have ignored the demands of sick prisoners. Execution judges, who are in charge of overseeing the unlawfulness in prisons, have displayed the same discriminatory and arbitrary stance.

Many sick prisoners who are treated in severe and poor prison conditions, often handcuffed to stretchers, and who do not have the slightest negative impact on the security, peace and discipline of the prison, are not benefited from the opportunities such as probation, conditional release and postponement of execution. The above-mentioned cases illustrate that

³⁵⁸ "İHIK did not see negligence in handcuffed death!" 13 September 2022, <https://yeniyaamgazetesi6.com/ihik-kelepceli-olumde-ihmal-gormedi/>

the judicial authorities in charge of this issue, especially in the case of political prisoners, deprive them of these rights on the grounds of abstract and abstract justifications.

At this point, the Constitutional Court, which is the centre for individual applications against violations of rights, has endeavoured to cover up these violations of rights rather than performing a remedial function. The Court, which evaluated the individual applications of persons who were not treated on time, who were treated handcuffed to bed or who were left in prison for years in a sick state, concluded the applications with a decision of inadmissibility, considering it sufficient that these persons were released later.

- **Systematic violations of rights in prisons constitute crimes against humanity**

Discriminatory practices in prisons can be considered as crimes against humanity under international law. The Rome Statute and Article 77 of the Turkish Penal Code strictly prohibit such acts. The systematic violations revealed by the report may constitute 'crimes against humanity' under Article 7 of the Rome Statute. Acts of detention, discrimination, torture, deprivation of health care and ill-treatment against a group of people are systematic, massive and widespread. This situation calls on the international community to take action. Given the dysfunctionality of the Turkish judiciary, international mechanisms need to step in.

- **Prison administrations become the centre of arbitrary and discriminatory practices**

The discriminatory, arbitrary and hate-motivated policies of the Erdoğan regime have been ruthlessly implemented in prisons. Prison administrations have been the implementers of these policies. Especially for political prisoners and prisoners, they have turned prisons into concrete coffins. They have taken decisions to deprive political prisoners from social, cultural and educational activities that even the most notorious prisoners benefit from. On arbitrary grounds, they have prevented sick prisoners from accessing health facilities and treatment. Similarly, practices such as ill-treatment, arbitrary disciplinary penalties, restrictions on visitors and solitary confinement show systematic violations of the rights of detainees and prisoners. In particular, discriminatory policies against political prisoners are contrary to the fundamental principles of the rule of law.

- **Serious violations of the rights of sick, pregnant, puerperant and women with children**

The problems faced by sick, pregnant, puerperant and women with children reveal fundamental human rights violations in prisons. It has been reported by many organisations that pregnant women cannot benefit from appropriate health services and children are kept in conditions that adversely affect their development. Children in prison are deprived of education, health and social services appropriate to their age. This situation is contrary to the standards of both national and international law on children's rights.

Pregnant women, puerperant women and women with children are subjected to inhumane conditions in prisons. The imprisonment of these women is contrary to national and international human rights norms. Cases have been reported of pregnant women miscarrying in poor prison conditions and puerperant women having to live with their babies in

inappropriate conditions. Children's basic needs are not met and their imprisonment with their mothers has caused serious physical and psychological harm.

Similar problems faced by sick prisoners are also experienced by sick, pregnant, postpartum and infant women. Women who were unlawfully arrested in haste despite being pregnant or postpartum were forced to give birth in poor prison conditions or to care for their newborn babies in unsuitable prison conditions. Many courts have ruled that women in this situation should remain in pre-trial detention. Similarly, many women with children in need of care, who had no suspicion of flight or tampering with evidence, were detained. Those whose sentences were finalised were subjected to discriminatory and arbitrary treatment at this point with a conscious discretion, while it was possible to suspend their sentences. Therefore, patients, women and children have been the most victimised segments of the unlawful order of the Erdoğan regime that dominated Türkiye with the 15 July coup process. The Erdoğan regime, motivated by hatred, has made these disadvantaged people go through hell, especially in prisons.

Pregnancy is another issue that is as difficult as illness for convicted women in prison conditions. Severe prison conditions in Türkiye, physical inadequacies, crowded wards and inadequate health services cause pregnancy to be a serious risk and life-threatening for convicted women. There are many cases of unlawful detention and arrest of pregnant women and mothers who have recently given birth in Türkiye, especially in the context of investigations and operations launched after the 15 July 2016 coup attempt ³⁵⁹.

Twenty-eight-year-old housewife **Nurhayat Yıldız** was 2.5 months pregnant and expecting twins when she was arrested on 29 August 2016 as part of operations against the Gülen Movement. She lost her babies in the 19th week of her pregnancy on the 40th day of her incarceration in a ward for 25 people in Sinop Closed Prison. After two days in hospital, she was not released and was sent back to prison. It was not deemed appropriate to give the babies to the family for burial. Sinop High Criminal Court sentenced Nurhayat Yıldız to 7 years and 6 months in prison after 1.5 years of imprisonment and ordered her to remain in pre-trial detention³⁶⁰.

As can be seen, the policies implemented by the Erdoğan regime in prisons are far from human rights standards. The repression, arbitrary practices and ill-treatment of political prisoners reflect the authoritarian tendencies of the regime. These policies are also criticised by the international community.

As explained above, arbitrary and discriminatory practices against sick, pregnant and juvenile prisoners are in violation of both national legislation and international human rights standards. These people are left to die by a conscious choice within the framework of the Erdoğan regime's hate policies.

- **Basic recommendations for the prevention of rights violations in prisons:**

³⁵⁹ Bold Medya, 'AKP's pride table: 80 pregnant and postpartum women detained or arrested in 6 years', 3 November 2023

³⁶⁰ Bold Medya, "Look at this photo well: Whose 28 February is this?", 20/02/2021, <https://boldmedya.com/2019/02/28/bu-fotografa-iyi-bakin-bu-kimin-28-subati/>

The situation of sick prisoners, prisoners, as well as pregnant women, puerperant women and women with children is very grave. The state must take active action to fulfil its obligations to protect the fundamental rights of every individual, especially the right to life and the right to health. In this context;

- Independent monitoring mechanisms should be established in prisons. Human rights organisations and independent inspectors should be given access to prisons.
- All seriously ill prisoners and prisoners currently in prisons should be released immediately on the basis of a full-fledged hospital report, their treatment should be continued with their families and their health insurance should be covered by the state.
- The Forensic Medicine Institution should be removed from being the final and sole authority for reports on postponement of execution due to health reasons.
- The Forensic Medicine Institution should make decisions in line with medical science and ethics, not according to the pressure of political authority.
- Effective legal mechanisms against violations of rights in prisons should be developed. An independent authority should be established to quickly and effectively evaluate the complaints of detainees and prisoners.
- The discretionary power of public prosecutors should be abolished in decisions on postponement of execution due to health reasons, and the execution of sentences should be postponed on the basis of the reports given by hospitals.
- The criterion of "danger in terms of public safety" for the postponement of execution of sick prisoners should be removed from the law. The regulation in Article 25 of the Law No. 5275 on "no suspension of execution" and the regulation in paragraph 16 of Article 107, which constitute an obstacle to the postponement of execution, should be removed.
- Arbitrary and discriminatory practices against the rights of sick prisoners to probation and conditional release must be stopped immediately.
- The ECtHR's ruling in *Gülay Çetin v. Türkiye* should be followed and it should be kept in mind that not releasing sick prisoners is a violation of Article 3 of the ECHR.
- The Constitutional Court, the Court of Cassation and the local judicial authorities should evaluate the requests of sick prisoners in accordance with the principles of fair trial and equity, and should refrain from making discriminatory, arbitrary and hate-motivated decisions.
- The circular regulating the President's authority to grant amnesty to prisoners on health grounds should be amended, the Forensic Medicine Institution should be removed from being the sole determinant, and the President should use his authority regarding seriously ill prisoners without discrimination³⁶¹.

³⁶¹ IHD, Sick Prisoners, press release dated 31 March 2020, <https://www.ihd.org.tr/hasta-mahpuslar/>

SOURCES

Books and Articles

Agai, Bekim: The Fethullah Gülen Movement's Project to Bring Islamic Ethics to Education, 27.02.2003, <https://fgulen.com/tr/hayati-tr/hareketi-incelemeler/Bekim-Agai-Fethullah-Gulen-Hareketinin-Egitime-Islami-Etik-Kazandirma-Projesi>

Alfred de Zayas: Crimes Against Humanity in Erdogan's Türkiye, 26.02.2021, https://www.realclearreligion.org/articles/2021/02/26/crimes_against_humanity_in_erdogans_Türkiye_661936.html

Altıok, Zeynep: State of Emergency Balance Sheet Rights Violations Report, pp.15-16, <https://content.chp.org.tr/file/33743.pdf>

Aras, Bahattin: "The Right of Prisoners to Accommodation in Conditions Suitable for Human Dignity", Yaşar Law Journal, Volume:4, Issue:2, Year:2022

Aras, Bahattin/ Güverçin, Sezgin: Execution Law, 2nd Edition, Yetkin Publishing, Ankara 2024

Arslan, Serdar/Aslantürk, Hüsnunur/Ulucan Özkan, Elvan/Öztürk, Yusuf: "Evaluation of Treatment Requests and Complaints of Prisoners Regarding Health Service Provision", Journal of Tıbbi Sosyal Hizmet, Y.2017

Guide to the Case Law of the European Convention on Human Rights, Prisoner Rights, Ankara 2019,
<https://inhak.adalet.gov.tr/Resimler/Dokuman/482020134215mahpus%20haklar%C4%B1%20olarak%20de%C4%9Fi%C5%9Ftirelim%20ba%C5%9FI%C4%B1%C4%9F%C4%B1.pdf>, p.70

Bulut, Nihat: Industrial Revolution to Globalisation Social Rights, XII Levha Publications, 2009
Civil Society Association in the Penal Execution System (CISST), International and National Legislation for Physicians, Prisoner's Right to Health, TCPS Bookshelf, Brochure 1, Istanbul 2016, <https://docplayer.biz.tr/59406354-Hekimler-c-n-uluslararası-ve-ulusal-mevzuatta-mahpusun-sa-lik-hakki.html>

Caliskan, Suat: "Suicide of Prisoners in Prison: Precautions, approach and intervention principles", 27.12.2022, https://www.hukukihaber.net/hukumlu-veya-tutuklularin-cezaevinde-intihar-etmesi-onlemler-yaklasim-ve-mudahale-ilkeleri#_ftn10

Çengelköylü, Ceyda/Bademci, Özden/Çelik, Dilek/Karadayı, Esmâ Figen: "An Investigation of the Living Conditions and Experiences of 0-6 Year-Old Children in Penal Institutions with Their Mothers from the Perspective of Their Mothers", Toplum ve Sosyal Hizmet Volume 33, Issue 4, October 2022

Demirbaş, Timur: Execution Law, Seçkin Publishing, Ankara 2013

Doğru, Osman/Nalbant, Atilla: European Convention on Human Rights Explanation and Important Decisions, C.1, Council of Europe - T.C. Court of Cassation Presidency Publication, Ankara 2012

Döner, Ayhan/Kelek, Mücahit: "The Right to Health in terms of Negative Obligations", EÜHFD, Y.2015, C. XIX, S. 3-4

Ergil, Doğu: Fethullah Gülen & The Gülen Movement in 100 Questions, Blue Dome Press, 17 Dec. 2012

Geras, Norman: Crime Against Humanity-Birth of a Concept, Manchester University Press, 2011

Güler, Fatih. "Individual Special Amnesty Authorisation and Practice of the President in Turkish Political Life", Journal of Human and Society, 14/3 (2024), 181-209.
<https://www.insanvetoplum.org/turk-siyasal-hayatinda-cumhurbaskaninin-bireysel-ozel-af-yetkisi-ve-uygulamasi>

Gündoğan, Gündoğan, Şerife: Zorla Kaybetme within the Framework of the State's Obligation to Protect the Right to Life of the Individual, Istanbul Şehir University Institute of Social Sciences Department of Public Law Master's Thesis, August 2016

- Güneş, Gökhan: "Evaluation of the United Nations Human Rights Committee's Decision on Gökhan Açıkkollu", 02.12.2022, <https://www.drgokhangunes.com/makale/birlesmis-milletler-insan-haklari-komitesinin-gokhan-acikkollu-kararina-iliskin-degerlendirme/>,
- Karakaş Doğan, (Execution Law), p.6-8; Demirbaş, Timur: "Evaluation of the Law No. 5275 on the Execution of Criminal and Security Measures (CeGİK) in terms of Contemporary Principles of Criminal Execution Law", Journal of Criminal Law, April 2008, (Principles)
- Karakul, Selman: "The Right to Health in the Decisions of the European Court of Human Rights - I", Istanbul Medipol University Journal of Faculty of Law 3 (2), Autumn 2016
- Kirsten, Anderson; "How Effective is the International Convention for the Protection of All Persons from Enforced Disappearance Likely to be in Holding Individuals Criminally Responsible for Acts of Enforced Disappearance?", Melbourne Journal of International Law, Vol.7
- Koç Başar, Cansu: State Policy in Crimes Against Humanity in the Context of the Rome Statute, Oniki Levha Publishing, Istanbul 2019
- Kubat, Adil: Probation and Execution of Sentences, 9th Edition, Ankara 2019
- Molu, Benan: "The Right of People to Bury Their Relatives", <https://www.sosyalhukuk.org/2016/03/benan-molu-yazdi-kisilerin-yakinlarini-gomebilme-hakki/>
- Özdalga, Elisabeth: 'Worldly Asceticism in Islamic Casting: Fethullah Gülen's Inspired Piety and Activism', Critique, no. 17 (Fall 2000)
- Handbook on Prisoners with Special Needs, Criminal Justice Handbook Series, United Nations, New York, 2009
- Öztürk, Kadir: ECHR's New Decision on Unlawful Detention, <https://www.trkadirozturk.com.tr/post/aihm-bylock-tutuklama-5/>
- Seymen Çakar, Ayşen: Crimes against Humanity, Journal of TBB, Y. 2012, S.103, p.194-195
- Terzi, Hülya: "In suicide cases in Türkiye", 3 September, 2020, <https://www.institute.org/opinion/intihar-vakalari-acisindan-turkiye>
- Turam, Berna: 'Between Islam and the State: The Politics of Engagement: The Engagements between the Gülen Community and the Secular Turkish State', McGill University, Montreal, 2001
- Ülkü, Muhammet Murat: "Positive Obligations of the State in the Scope of Article 3 of the ECHR on the Conditions of Detention of Persons Whose Liberty is Restricted", Türkiye Adalet Akademisi Dergisi, S.13, April 2013
- Wikipedia: "Ewing's sarcoma," *Wikipedia, the Free Encyclopedia*, https://tr.wikipedia.org/w/index.php?title=Ewing_sarkomu&oldid=32806502

Wikipedia: "17-25 December Corruption and Bribery Operation",

<https://tr.wikipedia.org/wiki/17->

[25_Aral%C4%B1k_Yolsuzluk_ve_R%C3%BC%C5%9Fvet_Operasyonu](https://tr.wikipedia.org/wiki/17-25_Aral%C4%B1k_Yolsuzluk_ve_R%C3%BC%C5%9Fvet_Operasyonu),

Wikipedia: "15 July Coup Attempt",

https://tr.wikipedia.org/wiki/15_Temmuz_Darbe_Giri%C5%9Fimi

Wikipedia: Cumhuriyet (newspaper), [https://tr.wikipedia.org/wiki/Cumhuriyet_\(newspaper\)](https://tr.wikipedia.org/wiki/Cumhuriyet_(newspaper))

Yeneroğlu, Mustafa: "Ordinarisation of Lawlessness: Armed Terrorist Organisation Membership Trials", September 2021

<https://cdn.devapartisi.org/422/Hukuksuzlugun-Siradanlasmasi.pdf>, p.2

Yıldırım, Turan/ Göçgün Muhammed: "The Principle of Equality in Regulatory Actions of the Administration", Istanbul Medipol University Journal of Faculty of Law 3 (2), Autumn 2016

Yıldız, Ali/Spencer, Leighann: The Erosion of Property Rights in Türkiye, 28.05.2020

Zengin, Nazmi: "Right to Health" and Presentation of Health Services, Journal of Performance and Quality in Health, Y.2010, C. 1, S. 1

National and International Institutions and Organisations Reports and Documents

Ministry of Justice, General Directorate of Prisons and Detention Houses, Press Release, 09.03.2021, <https://cte.adalet.gov.tr/Home/SayfaDetay/basin-aciklamasi09032021045708>

Ministry of Justice "Kovid-19 Pandemic Sürecinde Ceza İnfaz Kurumları-III", https://cte.adalet.gov.tr/Home/SayfaDetay/kovid-19-pandemi-surecinde-ceza-infaz-kurumlari-iii180220210659_2_8

Advocates of Silenced Türkiye (AST): "Global Purge: 144 Abductions Conducted By The Turkish Government In Türkiye And Abroad", June 23, 2021, <https://silencedTürkiye.org/global-purge-1-144-abductions-conducted-by-the-turkish-government-in-Türkiye-and-abroad>

Advocates of Silenced Türkiye, These Are Their Stories, <https://silencedTürkiye.org/wp-content/uploads/2019/10/AST-booklet-4th-of-Final-version-WEB-VIEW-.pdf>

United States Department of State Bureau of Democracy, Human Rights and Labour, "2022 Country Reports on Human Rights Practices, 2022 Human Rights Report - Türkiye Executive Summary", p.8, <https://tr.usembassy.gov/wp-content/uploads/sites/91/insan-haklari-raporu-turkiye-bolumu-2022.pdf>

Amnesty International Report 2020/21: The state of the world's human rights", April 7, 2021, <https://www.amnesty.org/en/documents/pol10/3202/2021/en/>

Amnesty International Report 2021/22: The state of the world's human rights", March 29, 2022, <https://www.amnesty.org/en/documents/pol10/4870/2022/en/>

Amnesty International Report 2022/23: The state of the world's human rights", March 27, 2023, <https://www.amnesty.org/en/documents/pol10/5670/2023/en/>

- Amnesty International, "Türkiye: Amnesty International's Brief On The Human Rights Situation, 1 February 2019, <https://www.amnesty.org/en/documents/eur44/9747/2019/en/>
- Ankara Medical Chamber: "Right to Health in Prisons is a Human Right", 31.08.2021, <https://ato.org.tr/basin-aciklamalari/2021-basin-aciklamalari/print:page,1,524-cezaevlerinde-saglik-hakki-insan-hakkidir.html>
- European Committee for the Prevention of Torture, Report of 9-21 June 2013 Visit to Türkiye, (CPT/Inf (2015) 6, Prg. 94., <https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2015/05/08/2015-06-inf-eng.pdf>
- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), CPT Standards, CPT/Inf/E (2002) 1 - Rev. 2010, p.80, <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=4d78827e2>,
- European Commission, "2023 Information on the EU Enlargement Policy (Türkiye Report 2023)", 08.11.2023
<https://www.ab.gov.tr/siteimages/resimler/2023%20T%C3%BCrkiye%20Raporu.pdf>,
- European Commission, "2021 Briefing on the EU Enlargement Policy (Türkiye Report 2021)", p. 32, https://www.ab.gov.tr/siteimages/birimler/kpb/2021_turkiye_raporu_tr.pdf
- European Commission, "2022 Information on the EU Enlargement Policy (Türkiye Report 2022)", pages 34-35, 12.10.2022
https://www.ab.gov.tr/siteimages/birimler/kpb/2022_turkiye_report_tr_27.11.2022_22.05.pdf
- European Commission, 2018 Briefing on EU Enlargement Policy, 2018 Türkiye Report, Strasbourg, 17.4.2018
https://www.ab.gov.tr/siteimages/pub/komisyon_ulke_raporlari/2018_turkiye_raporu_tr.pdf
- European Commission, "2020 Briefing on EU Enlargement Policy (Türkiye Report 2020)", page 35, 06.10.2020
https://www.ab.gov.tr/siteimages/trkiye_raporustrateji_belgesi_2020/Turkiye_report_30.10.2020.pdf,
- UN Committee against Torture: Concluding Observations on the Fourth Periodic Report of Türkiye (2016) , <https://insanhaklarimerkezi.bilgi.edu.tr/tr/content/143-iskenceye-kars-komite/>
- Independent Commission on Türkiye, Türkiye in Europe The Inevitability of Change, Third Report, March 2014, p.25 et seq.
https://www.ab.gov.tr/files/ardb/evt/Avrupa_da_Turkiye_Degisiminin_kacinilmazligi_Bagimsiz_Turkiye_Komisyonu-Ucuncu_Raporu-2014-.pdf
- Civil Society in the Penal Execution System Association (CISST), Prison Statistics, <https://cisst.org.tr/hapishane-istatistikleri/>

Council of Europe, The European Prison Rules,
[https://search.coe.int/cm#{%22CoEIdentifier%22:\[%2209000016809ee581%22\],%22sort%22:\[%22CoEValidationDate%20Descending%22\]}](https://search.coe.int/cm#{%22CoEIdentifier%22:[%2209000016809ee581%22],%22sort%22:[%22CoEValidationDate%20Descending%22]})

Council of Europe, Annual Penal Statistics, SPACE I 2022 Report,
<https://wp.unil.ch/space/space-i/annual-reports/>

Republican People's Party, "The Right You Seek Is Inaccessible!" Access to Health in Prisons"
 28.12.2021, <https://chp.org.tr/haberler/chp-den-aradiginiz-hakka-erisilemiyor-raporu>

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), <https://www.coe.int/en/web/cpt/council-of-europe-publications>

Rights and Justice Platform, "Social Problems Experienced in the State of Emergency after 15 July 2016 and Social Dimensions of Rights Violations"
https://www.sivilsayfalar.org/wp-content/uploads/2018/01/HAP_OHAL_RAPOR_2017.pdf; DW News, "16 percent of State of Emergency detainees considered suicide", 27.12.2017,
<https://www.dw.com/tr/rapor-ohal-tutuklular%C4%B1n%C4%B1n-y%C3%BCzde-16s%C4%B1-intihar%C4%B1-d%C3%BC%C5%9F%C3%BCnd%C3%BC/a-41945448>

Human Rights Committee, Concluding observations on the second periodic report of Türkiye, CCPR/C/TUR/CO/2, 7 November 2024
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR%2FC%2FTUR%2FCO%2F2&Lang=e

Human Rights Council Working Group on Arbitrary Detention , Opinion No. 38/2017 concerning Kursat Çevik (Türkiye), 16 June 2017, A/HRC/WGAD/2017/38,
https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session78/A_HRC_WGAD_2017_38.pdf

Human Rights Watch 2021 Türkiye Report

Human Rights Watch 2022 Türkiye Report

Human Rights Watch 2023 Türkiye Report, <https://www.hrw.org/tr/world-report/2023/country-chapters/383631#2a5507>

Human Rights Watch 2024 Türkiye Report

Human Rights Watch, "Police Torture and Abduction in Custody in Türkiye", October 2017, p.1 et seq., https://www.hrw.org/sites/default/files/report_pdf/Türkiye1017tu_web.pdf.

Human Rights Watch, "A Blank Check: Türkiye's Post-Coup Suspension of Safeguards Against Torture", October 25, 2016, <https://www.hrw.org/report/2016/10/26/blank-check/Türkiyes-post-coup-suspension-safeguards-against-torture>

Human Rights Watch, "Open Cheque on the Suspension of Measures to Protect against Torture in Türkiye after the Coup Attempt", October 2016
https://www.hrw.org/sites/default/files/report_pdf/Türkiye1016turkish_web.pdf.

Human Rights Watch, "Türkiye: COVID-19 Puts Sick Prisoners at Grave Risk", [https://www.hrw.org/news/2020/04/03/Türkiye-covid-19-puts-sick-prisoners-grave-risk#:~:text=\(Istanbul\)%20%E2%80%93%20An%20examination%20of,arrest%20despite%20their%20conviction%20under](https://www.hrw.org/news/2020/04/03/Türkiye-covid-19-puts-sick-prisoners-grave-risk#:~:text=(Istanbul)%20%E2%80%93%20An%20examination%20of,arrest%20despite%20their%20conviction%20under)

Human Rights Watch, Türkiye: Emergency Decrees Facilitate Torture, October 25, 2016, <https://www.hrw.org/news/2016/10/25/Türkiye-emergency-decrees-facilitate-torture>

International Covenant on Civil and Political Rights, Adopted 16 December 1966, General Assembly resolution 2200A (XXI), <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

International Journalists Association (IJA), "Zaman Former Managing Editor Ali Odabaşı Arbitrarily Detained", 13 May 2024

Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 edition), https://www.ohchr.org/sites/default/files/documents/publications/2022-06-29/Istanbul-Protocol_Rev2_EN.pdf

Human Rights Association, Sick Prisoners, press release dated 31 March 2020, <https://www.ihd.org.tr/hasta-mahpuslar/>

Human Rights Association , Ankara Branch Central Anatolia Region Prisons 2023 Annual Report, 19 April 2024

Human Rights Association , Ankara Branch Central Anatolia Region Prisons 2023 Annual Report, 19 April 2024

Human Rights Association, 2023 Rights Monitoring Report on Prisons in Türkiye, 1 June 2024, <https://www.ihd.org.tr/wp-content/uploads/2024/06/2023-Y%C4%B1l%C4%B1-Hapishane-Raporu.pdf>

Human Rights Association, "2017 Human Rights Violations Report: A Year Under the State of Emergency", 26.06.2018

Human Rights Association, "2017 Human Rights Violations Report: A Year Under the State of Emergency", <https://www.ihd.org.tr/2017-insan-haklari-ihlalleri-raporu-ohal-altinda-gecen-bir-yil/>, 06.04.2020

Human Rights Association, "Our Opinion on the Circular of the Ministry of Justice Regulating the Amnesty Authority of the Presidency on Sick Prisoners", 4 January 2023, <https://www.ihd.org.tr/hasta-mahpuslarla-ilgili-cumhurbaskanliginin-af-yetkisini-duzenleyen-adalet-bakanligi-genelgesi-hakkindaki-gorusumuz/>

Human Rights Association, 2016 Human Rights Violations in Türkiye: De facto Authoritarian Presidency Period, 14 April 2017, <https://www.ihd.org.tr/2016-yili-turkiye-insan-haklari-ihlalleri-fiili-otoriter-baskanlik-donemi/>

Human Rights Association, Türkiye Prisons Rights Monitoring Report 2023

Justice Square, Violation Decisions Against Türkiye By The ECtHR Post-15 July (May 2024), <https://justicesquare.org/violation-by-the-ecthr-15-july-may-2024/>

Justice Square, Kidnapping and Disappearance Cases in Türkiye, Amsterdam 2024, <https://justicesquare.org/turkiyede-adam-kacirma-ve-kaybetme/>

Office of the United Nations High Commissioner for Human Rights , Report on the impact of the state of emergency on human rights in Türkiye, including an update on the South-East , January - December 2017, March 2018

Prison Insider, Türkiye: Prisons in 2024. <https://www.prison-insider.com/en/articles/turkiye-prisons-in-2024>

Solidarity with Others, Erdoğan Regime's Hate Speech: "Fetö", April 2023, https://tr.solidaritywithothers.com/files/uqd/b886b2_a19495c590774e08a3bec5433be47b02.pdf.27

Teyit Org, Number of children aged 0-6 staying in prison with their mothers, **23.04.2018**,

The Finnish Immigration Service, Türkiye; Individuals associated with the Gülen movement; The Finnish Immigration Service's fact-finding mission to Ankara and Istanbul 2 - 6 October 2023
[https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+\(2\).pdf?t=1723630918594](https://migri.fi/documents/5202425/5914056/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf/a14fa35f-a65a-9339-e331-fec99e9cd8c3/FIS_Türkiye_Individuals+associated+with+the+G%C3%BClen+movement_June_2024+(2).pdf?t=1723630918594)

The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf

TUIK, Death and Cause of Death Statistics, 2023, 14 June 2024, <https://data.tuik.gov.tr/Bulten/Index?p=Olum-ve-Olum-Nedeni-Istatistikleri-2023-53709>

Turkish Medical Association, "Information Note on the Examination of Persons Deprived of their Liberty", 21.09.2022, https://www.ttb.org.tr/haber_goster.php?Guid=ec0bcd00-39ad-11ed-8917-d6bd30b70801

Turkish Medical Association, "Information Note on the Examination of Persons Deprived of their Liberty", 21.09.2022, https://www.ttb.org.tr/haber_goster.php?Guid=ec0bcd00-39ad-11ed-8917-d6bd30b70801

Human Rights Foundation of Türkiye (HRFT), 10 December 2023 Human Rights Violations in Türkiye in 2023, <https://tihv.org.tr/wp-content/uploads/2023/12/EK-Verilerle-2023-Yilinda-Turkiyede-Insan-Haklari-Ihlalleri-2.pdf>

UN Committee against Torture, Experts of the Committee against Torture Commend Türkiye on its Strong Commitment to Fight Violence against Women, Ask about Life Sentences in Prison and the Communication of Detainees with Family Members, 18 July 2024,

UN Human Rights Committee, 30/11/2022, CCPR/C/136/D/3730/2020, <https://documents.un.org/doc/undoc/gen/g23/012/81/pdf/g2301281.pdf?token=lpkEbBqhWC01HJqBDh&fe=true>

UN Human Rights Committee, *Alakuş v. Türkiye*, CCPR/C/135/D/3736/2020, 15 November 2022,

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F125%2FD%2F2980%2F2017&Lang=en

UN Human Rights Committee, Communication No 2980/2017, *İsmet Özçelik and Turgay Karaman v. Türkiye*, UN Doc. CCPR/C/125/D/2980/2017., 23 September 2019,

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F125%2FD%2F2980%2F2017&Lang=en

UN Human Rights Committee, General Comment 21, Article 10 ((Humane Treatment of Persons Deprived of Their Liberty)

United Nations, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 10 December 1984, General Assembly resolution 39/46, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

World Health Organization (WHO), Health in Prisons, A WHO Guide To The Essentials In Prison Health

European Court of Human Rights Decisions

- *Sabanchiyeva and Others v. Russia*, B. No: 38450/05, K.T: 06/06/2013, Prg.138
- *Kudla v. Poland*, Application No: 30210/96, K.T: 26/10/2000, Prg.94
- *Tanrıbilir v. Türkiye*, KT: 16/11/2000; *Kılavuz v. Türkiye*, K.T: 21/10/2008
- *Mouisel v. France*, B. No: 67263/96, K.T: 14/11/2002, Prg. 36-48
- *Henaf v. France*, B. No. 65436/01, K.T: 27.11.2003
- *Melnik v. Ukraine*, B. No: 72286/01, K.T: 28.03.2006
- *Khudobin v. Russia*, B. No: 59696/00, K.T: 26/10/2006 Prg. 93
- *Pilcic v. Croatia*, B. No: 33138/06, K.T: 17.01.2008
- *Ketreb v. France*, B. No: 38447/09, K.T: 19/07/2012
- *Gülay Çetin v. Türkiye*, Application No: 44084/10, K.T: 05/03/2013
- *Gülay Çetin v. Türkiye* Judgement, B. No. 44084/10, KT.05.3.2013, Prg.102.
- *Varnas v. Lithuania*, Application No: 42615/06, K.T: 09/07/2013
- *Raffray Taddei v. France*, Application No: 36435/07, K.T: 21.12.2010
- *Cătălin Eugen Micu v. Romania*, Application No: 55104/13, K.T: 05/01/2016
- *Salakhov and Islyamova v. Ukraine*, B. No: 28005/08, K.T: 14/03/2013

Constitutional Court Decisions

- Cezmi Demir and Others Decision, Application No: 2013/293, K.T: 17/7/2014, Prg.90
- 2010/29 E., 2010/90 K., 16.07.2010
- Hayati Kaytan Decision, Application No: 2014/19527, K.T: 16/11/2016, Prg. 44
- Hüseyin Yılmaz Decision, Application No: 2014/3718, K.T: 9/5/2018, Prg.39
- Fatma Törer Decision, B. No: 2017/14734, K.T: 16/9/2020
- Zehra Reyhan Güven Decision, B.No: 2021/4587, K.T: 22/04/2021
- Şerif Ağu, Decision, B. No: 2019/14028, K.T: 18/1/2022
- Fener Bozkurt and Sıraç Bozkurt, B. No: 2019/22743, K.T: 2/2/2022, Prg. 43-46
- Sinan Gülsu Decision, B. No: 2019/34602, K.T: 11/5/2022
- Sinan Büyükorall Decision, B. No: 2019/17034, K.T: 14/9/2022
- Beyza Demir Decision, B. No: 2019/1463, K.T: 11/1/2023, § 82-83
- Kadir Altınışık Decision, B. No: 2021/18544, K.T: 15/11/2023
- Deniz Şah (5) Decision, B. No: 2020/13465, K.T: 21/11/2023
- Batuhan Gökçe and Others Decision B. No: 2018/36427, K.T: 06/10/2021)