

# Turkey

*Prison conditions*



Ministry of Immigration  
and Integration

The Danish  
Immigration Service

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This brief report is not, and does not purport to be, a detailed or comprehensive survey of all aspects of the issues addressed. It should thus be weighed against other country of origin information available on the topic.

The brief report at hand does not include any policy recommendations. The information does not necessarily reflect the opinion of the Danish Immigration Service.

Furthermore, this brief report is not conclusive as to the determination or merit of any particular claim to refugee status or asylum. Terminology used should not be regarded as indicative of a particular legal position.

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## Executive summary

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Overcrowding of the prisons in Turkey is one of the major issues affecting the prisoners' wellbeing, both in terms of having a personal space and maintaining one's personal hygiene. Furthermore, many prisoners have complained about the nourishment of the food served, and sources have indicated that the daily allowance for the prisoners is insufficient in order to maintain a healthy diet. Remand prisoners and sentenced prisoners are imprisoned together in the same wards and cells, thus, they are living under the same conditions. Prisoners, who are sentenced or charged with serious crimes, such as terror, murder, crimes against national security and against the constitutional order are imprisoned in high security prisons.

During the COVID-19 pandemic, the health care services available to the prisoners has worsened, but sources have pointed to several structural flaws in terms of general adequate health care, including elongated procedures of referrals to hospitals, which adds to the risk of worsening the condition or eventually the death of a prisoner. As such, at least 49 prisoners died in Turkish prisons for several different reasons in 2020, including illness.

As regards to the regime in prisons, prisoners have the right to participate in a variety of different activities, including vocational workshops, though there are limits to these activities, both as a result of the pandemic, but also because of structural flaws and negligence.

In general, prisoners have contact to their families and lawyer, but sources noted the tendency of incarcerating people far away from their regions of origin and in desolate areas, which complicates the immediate contact with the family or lawyers. During the COVID-19 pandemic, contact with families and lawyers have been restricted, and the prison administration is entitled to record a prisoners meeting with his/her lawyer. Furthermore, prisoners sentenced to aggravated life imprisonment do not enjoy the same rights as other prisoners.

The maximum duration of solitary confinement as determined by law exceeds the recommendations of the *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (CPT). Sources noted that disciplinary punishments, including solitary confinement, are used excessively and disproportionately. Besides affecting the wellbeing of a prisoner, this can have a negative effect on the duration of the sentence in terms of qualifying for early conditional release. Furthermore, sources pointed out that prisoners serving aggravated life sentences are living under conditions resembling solitary confinement.

There are many reports of torture, ill-treatment and inter-prisoner violence from NGOs and Turkish media alike. Patterns include, among others, beatings, threats, insults and disproportionate use of strip searches.

Besides the CPT, several national institutions have access to monitor the prisons and report of issues, but sources pointed out several flaws relating to these, among others, that they are not independent. Likewise, complaints mechanisms do exist, but sources do not experience that complaints are ruled in favour of the plaintiff and points to a general culture of impunity in the country.

NGOs confirmed that discrimination against certain groups of prisoners take place, including Kurds, religious minorities, political prisoners, women, juveniles, LGBT persons, sick prisoners and foreigners.

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## Introduction

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This brief report aims to describe current conditions in Turkish prisons. The purpose of the report is to provide updated information for the use of processing of asylum cases to which the findings are relevant in comparison to prison conditions set out by the *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (CPT) as well as the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* ('The Beijing Rules') and the *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* ('The Bangkok Rules'). CPT's standards consist of several different documents divided into themes on prison conditions. In each chapter or section of this report, the relevant CPT document is introduced in short terms but not presented in its full length. However, in accordance with COI principles the brief report at hand is not conclusive as to the determination or merit of any particular claim to refugee status or asylum. Hence, it does not include a discussion on the degree of compliance of the mentioned standards.

The brief report specifically looks into actors of independent monitoring, types of prisons, living conditions for prisoners, including material conditions, sanitation, health care etc., access to meaningful activities, contact to the outside world, use of solitary confinement, prevalence of ill-treatment and torture, prevalence of inter-prisoner violence, differentiated treatment, and accountability. It should be noted that issues on conditions for women, juveniles and vulnerable groups were included in the ToR, however, scarce information on these issues was found. For this reason, the report contains limited information on these matters.

The terms of reference (ToR) for the report were drawn up by the Danish Immigration Service (DIS), in consultation with the Danish Refugee Appeals Board. The ToR are included at the end of the report (Appendix 2). This report was written according to the EASO COI Report Methodology.<sup>1</sup>

The report is based on a virtual interview with a Turkish human rights organisations, *Civil Society in the Penal System* (CISST), and written answers from another Turkish human rights organisation, *Human Rights Association* (HRA). In addition, written reports by international organisations, NGOs, and news articles are included. It should be noted that DIS requested virtual meetings with the Turkish authorities, however, a final reply to the request was not given before the deadline of this brief report. Thus, it has not been possible to have the Turkish authorities comment on the information presented in this report, but Turkish legislation in force and other official data has been included to the extent possible.

CISST and HRA were briefed about the purpose of the meetings and informed that their statements would be included in a publicly available report in accordance with their preferred referencing.

The minutes of the interview with CISST has been approved (with the possibility to amend, comment or correct the statements) by the source and are included in Appendix 1. Similarly, written answers from HRA are included. The report is a synthesis of the sources' statements and thus does not include all details and all nuances of each statement.

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<sup>1</sup> EASO, *EASO Country of Origin Information (COI) Report Methodology*, June 2019, [url](#)

For the sake of reader-friendliness, transparency and accuracy, paragraphs in the meeting minutes as well as the written answers in Appendix 1 have been given consecutive numbers that are used in the report when referring to the statements of the sources.

Finally, attention should be called to the changeable situation in Turkey due to among other things the COVID-19 situation and the general political developments. Information provided may quickly become outdated. Therefore, the issues addressed in this report should be monitored periodically and be brought up to date accordingly.

The research and editing of this report was finalised on 29 March 2020.

The report can be accessed from the website of DIS, [www.nyidanmark.dk](http://www.nyidanmark.dk), and is thus available to all stakeholders in the refugee status determination process as well as to the general public.

## Abbreviations

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AKP	Justice and Development Party (in Turkish: <i>Adalet ve Kalkınma Partisi</i> )
CHP	Republican People’s Party (in Turkish: <i>Cumhuriyet Halk Partisi</i> )
CISST	Civil Society in the Penal System (in Turkish: <i>Ceza İnfaz Sisteminde Sivil Toplum Derneği</i> )
COI	Country of Origin Information
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DIS	Danish Immigration Service
EASO	European Asylum Support Office
HDP	People’s Democratic Party (in Turkish: <i>Halkların Demokratik Partisi</i> )
HRA	Human Rights Association (by some sources abbreviated IHD. In Turkish: <i>İnsan Hakları Derneği</i> )
HRFT	Human Rights Foundation of Turkey (in Turkish: <i>Türkiye İnsan Hakları Vakfı</i> )
HRW	Human Rights Watch
NGO	Non-governmental Organisation
OHCHR	Office of the United Nations High Commissioner for Human Rights
OPCAT	Optional Protocol to the Convention against Torture
SCF	Stockholm Center for Freedom
TIHEK	Human Rights and Equality Institution (by some sources abbreviated HREI. In Turkish: <i>Türkiye İnsan Hakları ve Eşitliği Kurumu</i> )
UN	United Nations



## Glossary

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### **Aggravated Life Imprisonment**

‘Aggravated life imprisonment is the most severe sentence under Turkish law, replacing the death penalty following its abolition in 2004. An ‘aggravated’ life sentence means no prospect of early release (...)’<sup>2</sup>

### **Enforcement Judgeship (*Infaz* :**

‘These offices are not considered as a court, rather they are institutions established to make decisions on the issues related with the rights of convicts and detainees in prisons and detention houses. However, judges serve in these offices and the decisions are taken by them. One should bear in mind, in cities where specialized courts do not exist, courts of general jurisdiction, with which they are at equal level, may deal with the cases they are authorized to.’<sup>3</sup>

### **Heavy Criminal Court (*Ağır Ceza Mahkemesi*)**

‘Heavy Criminal Courts are composed of three judges. In addition to the crimes referred to in laws, those involving a penalty of ten years of imprisonment are tried by the Heavy Criminal Courts. Juveniles under the age of eighteen are tried for the same crimes in specialized Juvenile Heavy Criminal Courts composed of three judges.’<sup>4</sup>

### **Political Prisoner**

‘A person who is imprisoned because that person’s actions or beliefs are contrary to those of his or her government. This is the most general sense of a term that can be difficult to define. In practice, political prisoners often cannot be distinguished from other types of prisoners. (...) Defining the term political prisoner in a strictly legal sense is, at present, a task that is simply not possible. The problem of defining the term is related to several factors, and lacking a standard legal definition, the term has been employed in a variety of differing contexts.’<sup>5</sup> The NGO, *Civil Society in the Penal System* (CISST), defines a political prisoner as a person trialled or sentenced according to the Turkish Anti-Terror Code.<sup>6</sup>

### **Remand Prisoner**

‘When someone is held in custody while they wait for their trial or sentencing it’s called being on remand. A remand prisoner could be held in police cells, court cells, psychiatric facilities or in prison.’<sup>7</sup>

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<sup>2</sup> Article 19, *Turkey: Aggravated life sentences in Altans trial confirm absence of rule of law*, 3 October 2018, [url](#); CISST, *Aggravated Life Imprisonment*, 2016/17, [url](#), p. 42

<sup>3</sup> Aksel, I., *Turkish Judicial System: Bodies, Duties, and Officials*, Ministry of Justice, Ankara, 2013, [url](#), p. 64

<sup>4</sup> Turkey, Ministry of Justice, *The Judicial System of Turkey and Organisation of the Ministry of Justice*, n.d., [url](#), p. 11; For further details on specifics cases that are processed within the jurisdiction of the Heavy Criminal Court, see Av. Baran Doğan Hukuk Bürosu, *Ağır Ceza Mahkemesi Nedir? [What is the Heavy Criminal Court?]*, n.d., [url](#)

<sup>5</sup> Dallier, D.J., *Political prisoner*, in *Encyclopedia Britannica*, 23 November 2015, [url](#)

<sup>6</sup> CISST: 13, cf. footnote

<sup>7</sup> New Zealand, Department of Corrections, *Remand*, n.d., [url](#)

# 1. Actors granted access to prisons and complaint mechanisms

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Turkey has ratified the *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*. This allows the *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (CPT) unlimited access to places of detention.<sup>8</sup> CPT carries out periodic and ad hoc visits, but there is no automatic publication procedure in the cooperation between Turkey and CPT. CPT's latest publicly available findings on prisons in Turkey are based on their visits in 2017 and 2019, which were both published together with the government response in August 2020.<sup>9</sup> Still awaiting approval from the Turkish government, CPT's findings from their visit in August 2016 have not yet been published.<sup>10</sup> CPT carried out a monitoring visit in January 2021, and these findings are yet to be published.<sup>11</sup>

In the CPT's view, complaints mechanisms constitute a fundamental safeguard against torture and inhuman or degrading treatment of persons deprived of their liberty by a public authority, regardless of the place or situation concerned (police stations, prisons, penal institutions for juveniles, (...) etc.).<sup>12</sup>

Turkey ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1988<sup>13</sup> and the Optional Protocol to the Convention against Torture (OPCAT) in 2011.<sup>14</sup>

Pursuant to OPCAT, the Turkish government established the Human Rights and Equality Institution (*Türkiye İnsan Hakları ve Eşitliği Kurumu*, TIHEK) as the national prevention mechanism. Thus, TIHEK is mandated to investigate, resolve and pursue the resolutions of those complaints they receive from persons deprived of their liberty by carrying out announced or unannounced visits to places of detention and forward their findings to other relevant institutions and the public.<sup>15</sup> However, the European Commission and two NGO's have pointed out that there are several inadequacies with the institution, among others that the institution is not independent, because the president directly appoints its members. Furthermore, the European Commission raises concerns regarding the speed and effectiveness of the institution and points out that there is no oversight over human rights abuses in prisons.<sup>16</sup> In December 2020, TIHEK carried out

<sup>8</sup> CPT, *Chart of signatures and ratifications of Treaty 126*, 3 February 2021, [url](#); CPT, *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Text of the Convention and Explanatory Report*, European Treaty Series - No. 126. Text amended according to the provisions of Protocols No. 1 (ETS No. 151) and No. 2 (ETS No. 152) which entered into force on 1 March 2002, [url](#), Article 8

<sup>9</sup> CPT, *Council of Europe anti-torture Committee publishes two reports on Turkey*, 5 August 2020, [url](#); CPT, *The CPT and Turkey*, n.d., [url](#)

<sup>10</sup> Hürriyet Daily News, *European anti-torture committee says Ankara does not allow report on Turkey to be published*, 21 April 2017, [url](#); CPT, *The CPT and Turkey*, n.d., [url](#)

<sup>11</sup> CPT, *Council of Europe anti-torture Committee visits Turkey*, 27 January 2021, [url](#)

<sup>12</sup> Further details on the standards can be found in this document: CPT, *Complaints mechanisms*, CPT/Inf(2018)4-part, Extract from the 27th General Report of the CPT, 2018, [url](#), section 68 and 87

<sup>13</sup> UN Treaty Collections, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 3 February 2021, [url](#)

<sup>14</sup> UN Treaty Collections, *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 3 February 2021, [url](#)

<sup>15</sup> Turkey, Law no. (6701) of the year 2016: *Türkiye İnsan Hakları Ve Eşitlik Kurumu Kanunu [The Law on The Human Rights and Equality Institution]*, 2016 (amended 2018), [url](#), section 9/i-l

<sup>16</sup> European Commission, *Turkey 2020 Report [SWD(2020) 355 final]*, 6 October 2020, [url](#), p. 29-32; HRA: 1; HRFT, *Ulusal Önleme Mekanizması 2019 Yılı Değerlendirme Raporu [2019 Evaluation Report on the National Prevention Mechanism]*, December 2019,

monitoring visits in two prisons in which they interviewed both prisoners and the administration. TIHEK is yet to publish their findings.<sup>17</sup>

Apart from TIHEK, a number of other national institutions can monitor and carry out inspections in the penal institutions. These are, among others:

Prison Monitoring Boards (*Ceza İnfaz Kurumları ve Tutukevleri İzleme Kurulları*) established in 2001 with the purpose of monitoring and reporting on prisons and detention houses and Provincial and County Human Rights Committees (*İl ve İlçe İnsan Hakları Kurulları*), acting with the mandate to investigate human rights violations complaints in public institutions and report their findings to the chief public prosecutor's office or another relevant administrative authority. The European Commission has stated that the Prison Monitoring Boards remain largely ineffective.<sup>18</sup> Regarding both institutions, CISST points to the lack of transparency in the application process to be a member of the boards, lack of political independence, and the lack of methodological transparency in terms of how their monitoring and reporting is conducted. Finally, their findings are not published.<sup>19</sup>

The Human Rights Inquiry Committee of the Grand National Assembly (*Türkiye Büyük Millet Meclisi İnsan Haklarını İnceleme Komisyonu*) and the Subcommittee for the Rights of Sentenced and Remand Prisoners established in 1990 under law no. 3686 is comprised of Turkish MPs and has the authority to visit and investigate penal institutions upon complaints received from prisoners and NGOs. They can also request information from the relevant administrative authorities, namely the Ministry of Justice and the General Directorate of Prisons and Detention Houses.<sup>20</sup>

The purpose of the Turkish Ombudsman Institution is to establish an independent and efficient complaint mechanism regarding the delivery of public services and investigate, research and make recommendations about the conformity of all kinds of actions, acts, attitudes and behaviours of the administration with law and fairness under the respect for human rights. Natural and legal persons including foreign nationals may lodge complaints to the Ombudsman Institution.<sup>21</sup> As explained in a UN report, TIHEK pays on-site visits without permission from the authorities, whereas the Ombudsman Institution informs the authorities in advance.<sup>22</sup>

[url](#), p. 6; Turkey, Law no. (6701) of the year 2016: *Türkiye İnsan Hakları Ve Eşitlik Kurumu Kanunu [The Law on The Human Rights and Equality Institution]*, 2016 (amended 2018), [url](#), section 8/1 and section 10/2

<sup>17</sup> TIHEK, *Bolu F Tipi Kapalı Ceza İnfaz Kurumuna Ziyaret Düzenlendi [A visit was carried out to the F-type prison in Bolu]*, 29. December 2020, [url](#); TIHEK, *Elmadağ Kadın Açık Ceza İnfaz Kurumuna Ziyaret Düzenlendi [A visit was carried out to the open women prison in Elmadağ]*, 7. december 2020, [url](#)

<sup>18</sup> European Commission, *Turkey 2020 Report [SWD(2020) 355 final]*, 6 October 2020, [url](#), p. 29-32

<sup>19</sup> CISST, *İnsan Hakları İhlalleri Başvuru Cevapları Raporu [Report on replies on applications regarding human rights violations]*, June 2020, [url](#), pp. 6-11; Turkey, law no. (4681) of the year 2001: *Ceza İnfaz Kurumları ve Tutukevleri İzleme Kurulları Kanunu [Law on the Prison Monitoring Boards]*, 2001 (amended on 2018), [url](#); Turkey, Regulation no. (4643): *İl ve İlçe İnsan Hakları Kurullarının Kuruluş, Görev ve Çalışma Esasları Hakkında Yönetmelik [Regulation on the establishment, duties and working principals of the Provincial and County Human Rights Committees]*, 2003, [url](#)

<sup>20</sup> CISST, *İnsan Hakları İhlalleri Başvuru Cevapları Raporu [Report on replies on applications regarding human rights violations]*, June 2020, [url](#), p. 14

<sup>21</sup> Turkey, Ombudsman Institution, *About us*, [url](#)

<sup>22</sup> Turkey, Ministry of Foreign Affairs, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*, published by HRC – UN Human Rights Council (formerly UN Commission on Human Rights), [A/HRC/WG.6/35/TUR/1], 14 November 2019, [url](#), section 103

NGOs are not granted access to prisons in Turkey.<sup>23</sup> Both CISST and HRA collect information on the prisons either by sending out lawyers, in which case the lawyers are only granted access to the lawyer-client conference rooms, or by communication via letters or through relatives of the prisoners.<sup>24</sup> According to HRA, no one but the CPT has access to the high-security F-type prison on Imralı island.<sup>25</sup> In 2019, CPT carried out a visit to the prison on Imralı island.<sup>26</sup>

## 1.1. Authorities to investigate complaints of torture/ill-treatment

In each Turkish provincial centre and district with a court, there is an office of chief public prosecutor.<sup>27</sup> The tasks of the public prosecutor are defined in the Criminal Procedure Code, section 160: ‘As soon as the public prosecutor is informed of a fact that creates an impression that a crime has been committed, either through a report of crime or any other way, he shall immediately investigate the factual truth, in order to make a decision on whether to file public charges or not.’<sup>28</sup>

## 1.2. Impunity

Pursuant to the Turkish Penal Code, sections 94 and 95, torture and ill-treatment is punishable.<sup>29</sup> However, other provisions prevent perpetrators of torture and ill-treatment from being convicted.

Three human rights organisations noted in a joined report that, according to Turkish law, personnel of the State Intelligence Services (MIT) and the National Intelligence Agency (NIA) have full immunity from criminal proceedings unless the president of the NIA issued an authorisation of prosecution.<sup>30</sup> According to a UN report, another law requires the authorisation of the political authorities for the investigation of soldiers or public officials who are suspected of having committed crimes in the context of counter-terrorism operations.<sup>31</sup> Furthermore, laws enacted by decree during the emergency rule from 2016 to 2018 hindered the prosecution of government employees and civilians who suppressed the coup attempt or terror incidents.<sup>32</sup> After the emergency rule, these decree laws were approved by the parliament and thus became ordinary laws. They were also later upheld by the constitutional court.<sup>33</sup>

<sup>23</sup> USDOS, *Country Report on Human Rights Practices 2019 - Turkey*, 11 March 2020, [url](#), p. 9; HRA: 1

<sup>24</sup> HRA: 8; CISST: 2-4

<sup>25</sup> HRA: 7

<sup>26</sup> CPT, *Council of Europe anti-torture Committee publishes two reports on Turkey*, 5 August 2020, [url](#)

<sup>27</sup> Turkey, law no. (5235) of the year 2004: *Adli Yargı İlk Derece Mahkemeleri ile Bölge Adliye Mahkemelerinin Kuruluş, Görev ve Yetkileri Hakkında Kanun [Law on the Establishment, Duties and Jurisdiction of First Instance Courts and Regional Courts of Appeal]*, 2004, (amended 2020), [url](#), sections 16, 17 – cited after ACCORD, *Turkey COI Compilation 2020*, August 2020, [url](#), p. 138

<sup>28</sup> Turkey, law no. (5271) of the year 2004: *Ceza Muhakemesi Kanunu [Criminal Procedure Code]*, 2004 (amended 2020), [url](#), section 160

<sup>29</sup> Turkey, law no. (5237) of the year 2004, *Türk Ceza Kanunu [The Turkish Penal Code]*, 2004 (amended 2015), [url](#), sections 94 and 95

<sup>30</sup> Reference was made to Law no. 2937, 2011: *Arrested Lawyers Initiative (The) et al., Impunity: An Unchanging Rule in Turkey*, 19 June 2020, [url](#), p. 29

<sup>31</sup> Reference was made to Law no. 6722, amending law no. 5442 on Provincial Administration, adopted in 23 June 2016: OHCHR, *Report on the human rights situation in South-East Turkey*, July 2015 to December 2016, February 2017, [url](#), section 62

<sup>32</sup> Reference was made to decree laws no. 667, 668, 696: *Arrested Lawyers Initiative (The) et al., Impunity: An Unchanging Rule in Turkey*, 19 June 2020, [url](#), p. 30-31

<sup>33</sup> *Arrested Lawyers Initiative (The), Turkish Constitutional Court upholds the impunity provisions introduced with emergency decrees*, 11 November 2020, [url](#)

In addition, article 265 in the Penal Code criminalises the act of preventing the police from performing their work.<sup>34</sup> This, according to HRFT, is used for intimidation and prevents people from taking perpetrators of torture to court.<sup>35</sup>

HRA commented that administrative investigations into cases of torture and ill-treatment often end up in non-prosecution/dismissal of charges decisions. Criminal investigations initiated after criminal complaints filed by prisoners end up in non-prosecution as well, or they are not effectively investigated, which was confirmed by Human Right Watch. Victims' accounts are not taken, and witnesses and perpetrators of torture and ill-treatment are not heard before the courts.<sup>36</sup> NGOs further pointed to the fact that there is a rise in allegations of torture, ill-treatment, and cruel and inhuman or degrading treatment in police and military custody and prisons over the past four years, and that there is a pervasive culture of impunity for members of the security forces and implicated public officials.<sup>37</sup>

The Turkish Ministry of Justice published statistics on article 94 of the Turkish penal Code during the period of 2013 to 2018. In 2018, the number of non-prosecution cases was 646; whereas the number of decisions to prosecute was 83; the number of acquittals was 38 and the number of decisions for incarceration was 10.<sup>38</sup>

In October 2019, the Ministry of Justice, answering a parliamentary question by an MP of one the opposition parties, stated that by 18 July 2019 no prison personnel had been removed from duty as part of investigations opened by claims of ill-treatment.<sup>39</sup> The time span was not clarified.

## 2. Types of prisons

Law no. 5275 regulates prisons in Turkey. Sections 8-15 defines the different types of penal institutions.<sup>40</sup> As of 10 March 2021, there are 374 prisons in Turkey, including 267 closed prisons, 80 detached open prisons, 9 closed prisons for women, 7 open prisons for women, 4 education houses for children, and 7 closed prisons for children. The capacity of these prisons is 250,756. Closed prisons and high-security prisons are further subdivided into types, e.g. A-type closed prisons or F-type high security prisons.<sup>41</sup> The following table based on information provided by the General Directorate of Prisons and Detention Houses lists the different types of prisons that currently exist:

<sup>34</sup> Turkey, law no. (5237) of the year 2004, *Türk Ceza Kanunu [The Turkish Penal Code]*, 2004 (amended 2015), [url](#), section 265

<sup>35</sup> UK Home Office, *Report of a Home Office Fact-Finding Mission, Turkey: Kurds, the HDP and the PKK; Conducted 17 June to 21 June 2019*, October 2019, [url](#), section 7.16.5

<sup>36</sup> HRA: 75; HRW, *World Report 2021 - Turkey*, 13 January 2021, [url](#)

<sup>37</sup> CISST: 72; HRW, *World Report 2021 - Turkey*, 13 January 2021, [url](#); UK Home Office, *Report of a Home Office Fact-Finding Mission, Turkey: Kurds, the HDP and the PKK; Conducted 17 June to 21 June 2019*, October 2019, [url](#), section 7.16.5

<sup>38</sup> Arrested Lawyers Initiative (The) et al., *Impunity: An Unchanging Rule in Turkey*, 19 June 2020, [url](#), p. 31

<sup>39</sup> Turkey, Ministry of Justice, *Reply to parliamentary question by M. Sezgin Tanrikulu*, 7/15914, 11 October 2019, [url](#)

<sup>40</sup> Turkey, Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin İnfazı Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url](#), sections 8-15

<sup>41</sup> Turkey, CTE (Ceza ve Tevkifevleri Genel Müdürlüğü, General Directorate of Prisons and Detention Houses), *Ceza İnfaz Kurumları Tipleri [Types of Penal Institutions]*, n.d., [url](#); Turkey, CTE (Ceza ve Tevkifevleri Genel Müdürlüğü, General Directorate of Prisons and Detention Houses), *Ceza İnfaz Kurumlarımız: Genel Bilgi [Our Penal Institutions: General Information]*, 10 March 2021, [url](#)

Table 1: Types of penal institutions as per 25 March 2021<sup>42</sup>

Type	Subtype	Capacity	Quantity
Closed prison	A	24	2
	A1	24	2
	A2	40	2
	A3	60	7
	B	62	2
	C	164	1
	D	400	1
	E	400-500	41
	H	480	4
	K1	42	20
	K2	60	10
	L	Not stated	28
	M	150	22
	R	Not stated	1
	S	Not stated	3
T	200-748	78	
	Various closed	Not stated	19
High-security prison	D	400	1
	F	368	14
	H	480	1
		Various high-security	Not stated
Open prisons	Various open	Not stated	80
Women prison	Closed prison	Not stated	9
	Open prison	Not stated	7
Juvenile prison	Closed prison	Not stated	7
	Education house	150-625	4
<b>Total</b>			<b>378</b>
Annex facilities within other institutions	Open prison annex in closed prison	Not stated	74
	Closed prison annex in open prison	Not stated	1
	Rehabilitation centre in closed prison	Not stated	1

Source: Turkey, CTE (Ceza ve Tevkifevleri Genel Müdürlüğü, General Directorate of Prisons and Detention Houses), *Ceza İnfaz Kurumları Tipleri [Types of Penal Institutions]*, n.d., [url](#), accessed 25 March 2021

## 2.1. Which prisoners/crimes are allocated in the different types of prisons

High-Security prisons, including F-type, D-type and T-type prisons, accommodate persons convicted or charged for crimes committed within the scope of the Turkish Anti-Terror Code,<sup>43</sup> persons sentenced to aggravated life imprisonment, and persons sentenced or charged with establishing or leading a criminal

<sup>42</sup> Concerning the total amount of prisons, note that there is a divergence between the total amount of prisons presented in the table (378) and the number presented in the beginning of chapter 2 ‘Types of prisons’ (374). The figures are from the same source, the General Directorate of Prisons and Detention Houses, but from two different places. While there is no source date on the figures listed here other than the day the source was accessed, the number 374 was updated on 10 March 2021.

<sup>43</sup> HRA: 13

organisation or, within the framework of such an organisation, sentenced or charged under any of the following sections in the Turkish Penal Code:

- crimes against humanity (77, 78),
- murder (81, 82),
- drugs production and trafficking (188),
- crimes against the security of the state (302, 303, 304, 307, 308),
- and crimes against the constitutional order and its functioning (309 to 315).<sup>44</sup>

Women are either held in prisons for women or in the women's wards in the high-security F-type or D-type prisons.<sup>45</sup>

Furthermore, prisoners constituting a risk to the security, violating the order or resisting rehabilitation measures can be transferred to high-security prisons.<sup>46</sup>

### 3. Living conditions for prisoners

#### 3.1. Separation of sentenced and remand prisoners

According to the CPT's standards, efforts should be made to accommodate remand prisoners separately from sentenced prisoners.<sup>47</sup> Both CISST and HRA pointed out that sentenced and remand prisoners are confined together in the same prisons for which reason the following outline applies to both categories.<sup>48</sup>

Pursuant to the Turkish Criminal Procedure Code, the maximum period of detention varies according to the character of the crime a person is charged with. In cases outside the jurisdiction of the Heavy Criminal Court (*Ağır Ceza Mahkemesi*) the maximum period is one year and can be extended for six months if necessary. In cases within the jurisdiction of the Heavy Criminal Court, the maximum period is two years and can be extended by a maximum of three years. However, according to a decree law adopted in 2017 during the state of emergency, and which was later passed as formal law, cases involving crimes against the state or crimes within the scope the Anti-Terror Code, the period can be extended by a maximum of five years totalling a maximum of seven years.<sup>49</sup> In February 2021, the Turkish Constitutional Court found that there was no rights violations when a former news editor arrested under terrorism charges for membership in the Hizmet movement (also known as the Gülen movement)<sup>50</sup> was held in remand detention for four-

<sup>44</sup> HRA: 13; Turkey, Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin Infazi Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url](#), section 9, subsection 2

<sup>45</sup> HRA: 13

<sup>46</sup> Turkey, Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin Infazi Hakkında Kanun [Law on the the execution of penalties and security measures]*, 2004 (amended 2020), [url](#), section 9, subsection 3

<sup>47</sup> Further details on the standards can be found in this document: CPT, *Remand detention*, CPT/Inf(2017)5-part, Extract from the 26th General Report of the CPT, published in 2017, [url](#), section 55

<sup>48</sup> HRA: 73; CISST: 5

<sup>49</sup> Anadolu Ajansı, *Tutukluluk süresi uzatıldı [Duration of detention has been extended]*, 25 August 2017, [url](#); Al-Monitor, *Punishment for dissent begins with lengthy pretrial detention in Turkey*, 25 July 2019, [url](#); Yenisey, F. & Oktar S., *Insan Hakları Açısından Yakalama ve Tutuklama [Arrest and detention in terms of human rights]*, in: Dokuz Eylül University Faculty of Law Review, Essays in Honour of Prof. Dr. Durmuş Tezcan, Volume 21, 2019, [url](#), p. 3142 footnote 63; Turkey, law no. (9105) of the year 2004: *Ceza Muhakemesi Kanunu [Criminal Procedure Code]*, 2004 (amended 2020), [url](#), sections 102/1 and 102/2

<sup>50</sup> The Hizmet movement is also known as the 'Gülen movement', see IRB, *Turkey: The Hizmet movement, also known as the Gülen movement, including situation and treatment of followers or perceived followers; how members of the Hizmet movement are identified, including how persons or organizations might be perceived as belonging to the movement (July 2018-December 2019) [TUR106389.E]*, 6 January 2020, [url](#)

and-a-half years. The decision was, among others, justified with comparison to previous rulings, including one ruling that found detention of five years and eleven months reasonable.<sup>51</sup>

### 3.2. Separation of women

CPT recommends that women in prison should, as a matter of principle, be confined in facilities that are physically separate from that occupied by any men being held at the same establishment.<sup>52</sup> CISST and HRA commented that as there is a limited amount of closed and open prisons for women, many female prisoners are held in separate wards from men.<sup>53</sup>

### 3.3. Separation of juveniles

According to the United Nations' standards for imprisoned juveniles, the 'Beijing rules', and CPT's standards, juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.<sup>54</sup> As there is a limited amount of juvenile prisons, both CISST and HRA notes that juveniles are held in the same institutions as adults, though in separate sections if possible.<sup>55</sup>

### 3.4. Material conditions

#### 3.4.1. Prison cells

In accordance with CPT's minimum standards, a prisoner should be afforded 6m<sup>2</sup> of living space for a single-occupancy cell plus sanitary facility; in a multiple-occupancy cell, the standard is 4m<sup>2</sup> of living space per prisoner plus fully-partitioned sanitary facility.<sup>56</sup>

The arrangement of the prisons cells varies according to the different types of prisons and categories of prisoners. Thus, there are both single cells (F-type prisons), cells accommodating three people (F-type prisons) and dormitories accommodating up to eight or more (D- and T-Type prisons).<sup>57</sup> Prisoners serving aggravated life sentences and other prisoners serving their sentences in high-security prisons are held in solitary-like confinement in a single cell.<sup>58</sup>

Prison cells are equipped with call bell systems, but CISST notes that they have received complaints from prisoners who have made use of it. As such, prisoners have experienced psychological pressure and harsh language because they have disturbed the officer on duty during the night.<sup>59</sup>

<sup>51</sup> Turkish Minute, *Top court finds no rights violation for journalist in 5-year pretrial detention*, 17 March 2021, [url](#); Turkey, Türkiye Cumhuriyet Anayasa Mahkemesi (The Constitutional Court of the Republic of Turkey), *Ercan Gün Başvurusu, B. No: 2017/36164 [The Application of Ercan Gün, Application no. 2017/36164]*, 10 February 2021, [url](#), sections 81-83

<sup>52</sup> Further details on the standards can be found in this document: CPT, *Women in prison*, January 2018 CPT/Inf(2018)5, [url](#), p. 2

<sup>53</sup> CISST: 60; HRA: 54

<sup>54</sup> Further details on the standards can be found in these documents: UN, *United Nations Standard Minimum Rules for the Administration of Juvenile, Justice ('The Beijing Rules')*, Adopted by General Assembly resolution 40/33 of 29 November 1985, [url](#), section 13.4; CPT, *Juveniles deprived of their liberty under criminal legislation*, CPT/Inf(2015)1-part rev1, Extract from the 24th General Report of the CPT, 2015, [url](#), section 99

<sup>55</sup> CISST: 65; HRA: 65, 66

<sup>56</sup> Further details on the standards can be found in this document: CPT, *Living space per prisoner in prison establishments: CPT standards*, CPT/Inf (2015) 44, 15 December 2015, [url](#), p. 1

<sup>57</sup> CISST: 12; HRA: 16

<sup>58</sup> CISST: 12; HRA: 15, 16

<sup>59</sup> CISST: 16



### 3.4.2 Prison population

There has been issues of overcrowding in Turkish prisons over the past years.<sup>60</sup> In 2018, CISST estimated that between 50,000-60,000 prisoners did not have their own bed.<sup>61</sup> In their 2019 visit, CPT observed that a large number of prisoners had to sleep on mattresses on the floor because they did not have their own bed. Furthermore, some prisoners had to share mattresses because there was no floor space for additional mattresses.<sup>62</sup> The following table by the Turkish Statistical Institute illustrates the development in the prison population, number of prisons and number of beds during the period 2015 to 2019:

	2015	2016	2017	2018	2019
Number of prisons	358	382	386	389	362
Number of beds	177,636	202,675	208,830	213,862	230,210
Number of prison personnel	46,711	48,764	53,528	55,157	60,726
Prison population	177,262	200,727	232,340	264,842	291,546
Prison population per personnel	3,79	4,12	4,34	4,80	4,80

TÜİK, *Prison Statistics, 2019: Table 1, Number, capacity, personnel and population of prisons, as of December 31st*, 2 November 2020, [url](#), based on data from the General Directorate of Prisons and Detention Houses.

According to data published in March 2021 by the Turkish General Directorate of Prisons and Detention Houses, there are 374 prisons with a capacity of 250,767.<sup>63</sup> There have been policy measures to lower the prison population – one immediately after the coup attempt in 2016<sup>64</sup> and the latest in April 2020 with the passing of several amendments to the prison law.<sup>65</sup> The Turkish authorities have recently published data showing that as per 28 February 2021 there are 235,775 sentenced prisoners and 40,663 remand prisoners in Turkish prisons. These numbers include those prisoners who by virtue of the April 2020 amendments to

<sup>60</sup> CPT, *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 6 to 17 May 2019*, 5 August 2020, [url](#), p. 4; CPT, *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 23 May 2017*, 5 August 2020, [url](#), p. 6

<sup>61</sup> CISST: 7

<sup>62</sup> CPT, *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 6 to 17 May 2019*, 5 August 2020, [url](#), p. 4

<sup>63</sup> Turkey, CTE (Ceza ve Tevkifevleri Genel Müdürlüğü, General Directorate of Prisons and Detention Houses), *Ceza İnfaz Kurumlarımız: Genel Bilgi [Our Penal Institutions: General Information]*, 10 March 2021, [url](#)

<sup>64</sup> BBC News, *Turkey coup: Release for 38,000 prisoners jailed before coup*, 17 August 2016, [url](#)

<sup>65</sup> CISST: 9; Library of Congress, *Turkey: New Parole Measure Expected to Significantly Lower Prison Population*, 28 April 2020, [url](#); Arrested Lawyers Initiative (The), *Let's not forget Turkey's political prisoners in the face of COVID19 threat*, 27 April 2020, [url](#); AI, *Turkey: Prison release law leaves innocent and vulnerable prisoners at risk of COVID-19*, 13 April 2020, [url](#), cf. Turkey, law no. (7242) of the year 2020, *Ceza ve Güvenlik Tedbirlerinin İnfazı Hakkında Kanun ile Bazı Kanunlarda Değişiklik Yapılmasına dair Kanun [Law relating to the execution of penalties and security measures and law relating to changes in some laws]*, 15 April 2020, [url](#)

the prison law were granted furlough due to the COVID-19 pandemic.<sup>66</sup> 1,615 of the total prison population were aged 12-18 years.<sup>67</sup>

CISST points out that they do not know the amount of prisoners released pursuant to the April 2020 amendments,<sup>68</sup> that it is difficult to comment on the current situation on overcrowding due to the lack of adequate information, which complicates the comparison of data, and that they do believe, there are still issues with overcrowding.<sup>69</sup> HRA referred to a recently lodged application from the fourth quarter of 2020 by prisoners confined in a Tokat T-type prison, which stated that 20-21 prisoners had to live in two dormitories with a capacity of seven each due to the closure of a third dormitory.<sup>70</sup>

CISST notes that the issue of overcrowding and lack of personal space hinders the prisoners from maintaining their physical and mental health, and that it results in increased violence.<sup>71</sup>

### 3.4.3. Lighting and ventilation

According to CPT's minimum standards, prisoners should have access to natural light, fresh air and ventilation.<sup>72</sup>

CISST points out that there are no standards relating to the lighting and ventilation of prison cells.<sup>73</sup> According to HRA, the architectural design of the prisons reduces the inflow of natural light in the cells, but they pointed out that they are otherwise electronically lit, and that prisoners do have access to electronic devices in their cells, though they must pay their own electricity bills.<sup>74</sup> While HRA states that prisoners – except those with aggravated life sentences – are allowed a daily ventilation of one to eight hours during which they can keep the cell doors open and ventilate their room, CISST states that ventilation is a general problem and that they receive many complaints relating to temperature regulations during the summer time.<sup>75</sup>

### 3.4.4. State of repair

Both CISST and HRA states that new prisons are constantly being built, including high-security and T-type prison. Thus, older prisons are shut down and prisoners are transferred to the new facilities.<sup>76</sup> CISST opined that there are no constructional problems in the Turkish prisons, the main problems are overcrowding and the lack of measures for disabled people.<sup>77</sup>

<sup>66</sup> Turkey, CTE (Ceza ve Tevkifevleri Genel Müdürlüğü, General Directorate of Prisons and Detention Houses), *Ceza İnfaz Kurumunda Bulunan Tutuklu/Hükümlü Mevcutları [Remand and Sentenced Prisoners in Penal Institutions]*, 28 February 2021, [url](#)

<sup>67</sup> Turkey, CTE (Ceza ve Tevkifevleri Genel Müdürlüğü, General Directorate of Prisons and Detention Houses), *Ceza İnfaz Kurumlarında Bulunan Tutuklu ve Hükümlülerin Yaş Gruplarına Göre Dağılımları 28/02/2021 Tarihi itibari ile [Remand and Sentenced Prisoners in Penal Institutions divided by age groups as per 28 February 2021]*, 28 February 2021, [url](#)

<sup>68</sup> CISST: 9

<sup>69</sup> CISST: 7

<sup>70</sup> HRA: 14; HRA, *İç Anadolu Bölgesi Hapishaneleri Üç Aylık Hak İhlalleri Raporu (Ekim-Kasım-Aralık 2020) [Quarterly Report on Rights Violations in Prisons in the Central Anatolia region (October-November-December 2020)]*, 12 January 2021, [url](#), p. 18

<sup>71</sup> CISST: 13

<sup>72</sup> Further details on the standards can be found in this document: *CPT, Developments concerning CPT standards in respect of imprisonment*, CPT/Inf (2001)16-part, Extract from the 11th General Report of the CPT, 2001, [url](#), p. 1-4

<sup>73</sup> CISST: 14

<sup>74</sup> HRA: 18

<sup>75</sup> CISST: 14; HRA: 19

<sup>76</sup> CISST: 15; HRA: 20

<sup>77</sup> CISST: 20

### 3.4.5. Nourishment

Prisoners receive a daily allowance to buy food. Before the COVID-19 pandemic, prisoners received a daily allowance of 8.5 liras (0,95 EUR as per currency rates of 16 March 2021) while juveniles, pregnant women and women imprisoned with their children received 12 liras.<sup>78</sup> Measures against the pandemic included an increase of the daily allowance to 10 and 18 liras respectively.<sup>79</sup> Both CISST and HRA regarded the allowance as insufficient in proportion to the food and nourishment it buys the prisoners, because it does not match the general price level. Both organisations have received many complaints from prisoners on this topic, including the lack of varied food served and expensive prices.<sup>80</sup>

## 3.5. Sanitary arrangements and access to personal hygiene

In their standards, CPT recommends that ready access to proper toilet facilities and the maintenance of good standards of hygiene are essential components of a humane environment. Further, prisoners should have adequate access to shower or bathing facilities. It is also desirable for running water to be available in prisoners' cells.<sup>81</sup>

Both CISST and HRA have received many complaints related to the issue of hygiene.<sup>82</sup> According to CISST, prisoners have direct access to bathrooms and toilets in their cells and dormitories. However, the issue of overcrowding is one of the main obstacles for the prisoners to maintain their personal hygiene. Furthermore, there are also issues with the accessibility for disabled people because the facilities are not designed with their needs in mind.<sup>83</sup>

The prisoners clean their own cells and dormitories, but HRA noted that the administration also expects sick prisoners to clean their own cells and dormitories.<sup>84</sup> CISST and HRA pointed out that the prison administrations did not provide sufficient remedies to maintain good hygiene, and that prisoners were forced to buy it themselves. However, they also emphasized that this has improved during the pandemic. Examples of complaints received by the two organisations included dirty quarantine wards, insufficient supply of hot water, and a total cut-off of the water supply.<sup>85</sup>

Citing the online media, Bold Medya,<sup>86</sup> Stockholm Center for Freedom<sup>87</sup> reported that a Turkish journalist imprisoned on terrorism charges had sent a letter to a lawmaker of the opposition party, HDP, through a friend, in which he described the unsanitary conditions in the prison cells. This included rat infestation and overcrowding which further limited the access to the sanitation and hot water. The prison disciplinary

<sup>78</sup> CISST: 17; HRA: 22

<sup>79</sup> CISST: 17

<sup>80</sup> CISST: 16, 17, 18; HRA: 22

<sup>81</sup> CPT, *Imprisonment*, CPT/Inf(92)3-part2, Extract from the 2nd General Report of the CPT, 1992, [url](#), section 49

<sup>82</sup> CISST: 20; HRA: 23

<sup>83</sup> CISST: 12, 20, 21

<sup>84</sup> HRA: 23

<sup>85</sup> CISST: 21; HRA: 23

<sup>86</sup> Bold Medya is an online news outlet under Germany-based International Journalists Association e.V. and is run by Turkish journalists allegedly affiliated with the Hizmet Movement and in exile and opposition to the Turkish government, see Bold Medya, *Genel Bilgiler [General information]*, n.d., [url](#); Global Journalist, *Project Exile: Editor Gets Asylum in Germany after Erdogan Cover*, 13 January 2020, [url](#); Deutsch Türkisches Journal, *Youtube sperrt türkisches Exil-Medium "Bold Medya"*, 2 January 2021, [url](#)

<sup>87</sup> Stockholm Center for Freedom is Sweden-based advocacy organisation founded by a group of Turkish journalists who live in exile in Sweden. Its director is a former journalist at the Turkish daily, Zaman, which was affiliated with the Hizmet movement and shut down by the Turkish government, see SCF, *About Us*, n.d., [url](#); CPJ, *Exiled Turkish journalist Abdullah Bozkurt attacked in Stockholm*, 30 September 2020, [url](#); Reuters, *Turkey starts trial of 30 newspaper staff for links to coup attempt*, 18 September 2017, [url](#)

committee launched an investigation against the prisoner under the pretext of ‘communication with other people in a criminal organization.’<sup>88</sup>

### 3.5.1. Special treatment for women

According to CPT’s standards, women’s specific hygiene needs should be adequately addressed. Ready access to sanitary and washing facilities, adequate quantities of essential hygiene products, such as sanitary towels and tampons, and safe disposal arrangements for blood-stained articles, are of particular importance. The failure to provide women in prison with such items can amount, in itself, to degrading treatment.<sup>89</sup>

According to HRA, sanitary towels are not provided to women for free.<sup>90</sup> CISST notes the same, but points out that it is now provided for free upon request.<sup>91</sup>

## 3.6. Health care

According to CPT’s standards, prisoners should be able to have access to a doctor at any time, irrespective of their detention regime. In addition, CPT standards require that a newly arrived prisoner should be examined on the day of admission.<sup>92</sup> HRA noted that prisoners are not given medical checks within 24 hours of admittance to a prison.<sup>93</sup> Nor are they regularly checked for transmittable diseases.<sup>94</sup> According to data collected by HRA and HRFT, at least eight prisoners died of COVID-19 in the first 11 months of 2020.<sup>95</sup>

Official figures stated that as of 1 March 2021 there were 975 health care workers, 849 psychologists, and 146 dentists employed in the General Directorate of Prisons and Detention Houses.<sup>96</sup>

The COVID-19 pandemic has made it more difficult for prisoners to access health care.<sup>97</sup> A lawyer and member of the Independent Lawyers Association (ÖHD) reported that some prisoners have been forced to stay in quarantine cells for months whereas the requirement is normally 14 days.<sup>98</sup> In August 2020, pictures of a dead prisoner in a quarantine ward circled the internet. The prisoner was reportedly put there when he started feeling unwell and was found dead nine days after. Two post-mortem COVID-19 test results were reportedly negative. The chief public prosecutor investigated the case and denied the allegations of neglect. One opposition MP disputed this while another inquired the Ministry of Justice and questioned the

<sup>88</sup> SCF, *Jailed journalist under investigation for sending letter detailing unsanitary prison conditions*, 10 December 2020, [url](#)

<sup>89</sup> Further details on the standards can be found in this document: CPT, *Factsheet: Women in Prison*, CPT/Inf(2018)5, January 2018, [url](#), p. 4

<sup>90</sup> HRA: 55

<sup>91</sup> CISST: 61

<sup>92</sup> Further details on the standards can be found in this document: CPT, *Health care service in prisons*, CPT/Inf(93)12-part, Extract from the 3rd General Report of the CPT, 1993, [url](#), p. 2, cf. footnote 2

<sup>93</sup> HRA: 28

<sup>94</sup> CISST: 25; HRA: 27

<sup>95</sup> HRFT and HRA, *Defending Human Rights During the Pandemic and the State of Emergency Conditions*, 9 December 2020, [url](#), p. 10

<sup>96</sup> The figures include both permanent and contract employees. The definition ‘Health care workers’ include the following categories of the official figures: Health Care Worker (*Sağlık memuru*), Other Health Care Personnel (*Diğer Sağlık Personeli*), Nurse (*Hemşire*), and Dietitian (*Diyetisyen*). See Turkey, CTE (Ceza ve Tevkifevleri Genel Müdürlüğü, General Directorate of Prisons and Detention Houses), *Ceza ve Tevkifevleri Genel Müdürlüğü Kadro Durumu [Status on the personnel of the General Directorate of Prisons and Detention Houses]*, 1 March 2021, [url](#)

<sup>97</sup> CISST: 23; HRA: 24

<sup>98</sup> Evrensel, *"Karantina koşullarında mahpusların yaşam hakları ellerinden alınıyor" ['Prisoners' right to life is being taken away from them in the quarantine wards']*, 16 November 2020, [url](#)

facts and explanations laid out by prosecutor. The Ministry of Justice appointed two officials to investigate the allegations.<sup>99</sup>

In cases of disease, prisoners are initially treated in prison infirmaries, and if a prisoner's health condition deteriorates or the prisoner needs more advanced treatment, the prisoner is referred to a city or university hospital.<sup>100</sup> Relating to this, CISST points out that the infirmaries are not manned with health staff on a regular basis, which limits prisoners' access to first responders in case of emergencies,<sup>101</sup> and that shuttles transporting the prisoners are not suitable for medical transportation.<sup>102</sup> Both CISST and HRA emphasized that referral processes to hospitals can take a long time or that they are elongated, which hinders treatment, deteriorates the prisoner's health condition,<sup>103</sup> and adds to the risk of death by disease.<sup>104</sup> Citing Bold Medya, Stockholm Center for Freedom has lately reported a number of cases involving inadequate treatment of prisoners with alleged links to the Hizmet movement, sometimes leading to death or to the worsening of their conditions.<sup>105</sup>

Noting that the authorities do not publish official data on the amount of sick prisoners, HRA refers to their own record based on complaints received from prisoners, which shows that in 2020, there were 1,605 sick prisoners, including 604 in critical condition.<sup>106</sup> Likewise, according to data collected by HRA and HRFT, at least 49 persons lost their lives in prisons due to illness, suicide, violence or negligence.<sup>107</sup> In January 2021, the Turkish media outlet, Cumhuriyet, reported of nine suicide attempts in two weeks in two prisons in Antalya.<sup>108</sup>

As to the presence of law enforcement, in one case from the Kürkcüler F-type prison, prisoners were subjected to oral cavity checks by law enforcement before being transferred for dental treatments, for which reason some prisoners refrained from being treated.<sup>109</sup>

<sup>99</sup> SCF, *Photographs of deputy police inspector who died in prison quarantine show criminal neglect*, 14 October 2020, [url](#); SCF, *Diary of police officer found dead in quarantine cell reveals his ordeal*, 16 October 2020, [url](#); BBC News Türkçe, *Mustafa Kabakçioğlu: KHK'lı eski polisin ölümü neden cezaevinde ihmâl iddialarını gündeme getirdi? [Why were allegations of negligence brought to the agenda upon the death of a former KHK police officer?]*, 15 October 2020, [url](#)

<sup>100</sup> HRA: 24

<sup>101</sup> CISST: 16, 26

<sup>102</sup> CISST: 26

<sup>103</sup> CISST: 16, 26; HRA: 24

<sup>104</sup> CISST: 26; HRA: 32

<sup>105</sup> SCF, *Ailing 84-year-old not given his heart medication in prison*, 24 February 2021, [url](#); SCF, *Political prisoner in need of urgent treatment waiting in quarantine cell*, 19 February 2021, [url](#); SCF, *Leukemia patient arrested on trumped-up terrorism charges develops additional health problems in prison*, 2 December 2020, [url](#); SCF, *Cancer patient not released from prison until too late is on his deathbed*, 16 November 2020, [url](#); SCF, *Terminally ill inmate's death in prison is murder, opposition deputy says*, 12 November 2020, [url](#); SCF, *Imprisoned former teacher denied proper treatment while illness progresses in prison*, 27 October 2020, [url](#)

<sup>106</sup> HRA: 32

<sup>107</sup> HRFT and HRA, *Defending Human Rights During the Pandemic and the State of Emergency Conditions*, 9 December 2020, [url](#), p. 9

<sup>108</sup> Cumhuriyet, *Antalya E Tipi Kapalı ve Açık Ceza İnfaz Kurumu'nda neler oluyor? [What is happening in Antalya E-Type closed prison and open prison?]*, 7 January 2021, [url](#)

<sup>109</sup> HRA: 24; HRA, *Çukurova Bölge Hapishanelerinde Yaşanan Hak İhlallerine İlişkin Ekim-Kasım-Aralık 2020 Tespit ve Değerlendirme Raporu [Fact Finding and Evaluation Report on Rights Violations in Prisons in the Çukurova Region October-November-December 2020]*, 25 December 2020, [url](#), p. 15

### 3.6.1. Special treatment for women

According to the United Nations' standards for imprisoned women, the 'Bangkok Rules', the suggested routine health screening of female prisoners should include sexually transmitted diseases, mental care, reproductive health history, drug dependency, sexual abuse history, and breast and cervical cancer.<sup>110</sup>

CISST and HRA noted that there are no routine checks on specific health issues related to women, such as gynaecology and breast cancer treatment. There are also psychologists in some prisons, but CISST noted that they are not adequately accessible and that they are not necessarily specialists in trauma.<sup>111</sup> According to HRA, women are sometimes examined by male doctors if there are no female doctors available.<sup>112</sup>

## 4. Access to meaningful activities

According to CPT's standards, a satisfactory programme of activities (work, education, sport, etc.) is of crucial importance for the well-being of prisoners. Remand prisoners should spend eight hours or more a day outside their cells, and the regime for sentenced should be even more favourable.<sup>113</sup>

Pursuant to Turkish legislation, cultural, artistic and recreational activities should be offered to convicts as well as rehabilitation programmes and educational programmes.<sup>114</sup> At the same time, certain acts are punishable by deprivation of the right to participate in cultural and sport activities of the institution.<sup>115</sup>

Because of the COVID-19 pandemic, all activities in the Turkish prisons have come to a halt.<sup>116</sup> However, before the COVID-19 pandemic, prisoners only had limited access to social activities for several reasons.<sup>117</sup> For instance, the overcrowding had a negative impact on the accessibility to different activities. In addition, the prison administrations did not clearly schedule when the gyms were open and when the prisoners could convene for the 'conversation activity' (*sohbet*) and attend workshops.<sup>118</sup>

Moreover, a circular letter from 2007 by the Ministry of Justice decreed that ten prisoners could convene for conversation as a social activity for ten hours per week in open areas to the extent that it does not pose a security threat; however, HRFT and HRA noted in their joint report that this provision has not been implemented.<sup>119</sup> With regard to political prisoners, they have experienced that their time to convene for

<sup>110</sup> Further details on the standards can be found in these documents: UN, *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (the Bangkok Rules), A/C.3/65/L.5, 6 October 2010, [url](#), section 6; CPT, *Women deprived of their liberty*, CPT/Inf(2000)13-part, Extract from the 10th General Report of the CPT, 2000, [url](#), section 32

<sup>111</sup> CISST: 63, 64; HRA: 59

<sup>112</sup> HRA: 61

<sup>113</sup> Further details on the standards can be found in this document: CPT, *Imprisonment*, CPT/Inf(92)3-part2, Extract from the 2nd General Report of the CPT, 1992, [url](#), section 47

<sup>114</sup> Turkey: Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin İnfazı Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url](#), sections 60, 73, 74, 75, 76, 87

<sup>115</sup> Further details on the legislation can be found in this document Turkey: Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin İnfazı Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url](#), section 40

<sup>116</sup> CISST: 27; HRA: 33; In the quarterly report by HRA Istanbul Branch, named prisoners have written complaints to the organisation saying that the meaningful activities have been shut down under the COVID-19 measures: HRA, *Report on Rights Violations in the Prisons of the Marmara Region, Second Quarter, 2020*, [url](#), p. 7

<sup>117</sup> HRA: 33

<sup>118</sup> CISST: 28, 29

<sup>119</sup> HRFT and HRA, *Defending Human Rights During the Pandemic and the State of Emergency Conditions*, 9 December 2020, [url](#), p. 10, cf. Turkey, CTE (Ceza ve Tevkifevleri Genel Müdürlüğü, General Directorate of Prisons and Detention Houses), *Ceza İnfaz*

conversation has been shortened. Furthermore, they have not been allowed to meet at all or they have only been allowed to meet prisoners in their own dormitory, not from other dormitories, which, according to CISST, is pointless since prisoners are already familiar with prisoners in their own dormitories.<sup>120</sup>

As yet another reason why prisoners had limited access to social activities, CISST pointed to the fact that new penal institutions are placed far away from the cities, which made it difficult for teachers to reach the institutions.<sup>121</sup>

CISST mentioned that the workshops in prisons can be grouped into two categories: recreational and vocational courses. As an example of a vocational workshop, CISST mentioned wood engraving but noted that these workshops do not sufficiently train the prisoner to hold a profession upon release. Thus, CISST did not regard them as purposeful and emphasised that they must be improved.<sup>122</sup> In terms of prison workshops, official data from the Ministry of Justice states that 60,767 inmates working in more than 180 job categories produced revenue of 4.6 billion Turkish lira (\$778 million) in 2019, although only 2 percent of that revenue was paid to the inmates. Against this background, the Turkish government has been accused of turning its low security prisons, where more than 60,000 inmates are employed in revenue-generating jobs for very low wages, into enterprises with little or no budgetary oversight.<sup>123</sup>

With regard to meaningful activities for prisoners sentenced to aggravated life imprisonment, CPT, in a report covering their visit in to Turkey in May 2019, provided an example from the İmralı F-type High Security Prison. Here, the total prison population of four individuals, of whom three were sentenced to aggravated life imprisonment, were allowed to associate in collective activities for six hours per week, including three hours of conversation, one hour of volleyball, one hour of basketball and one hour of badminton/darts. Additional three hours of activities were offered, however, since the prisoners were only allowed to participate in pairs, not all prisoners at the same time, they refused to take part in these additional activities. Each prisoner was offered four hours of outdoor activity per day during which they were not allowed to associate.<sup>124</sup>

## 4.2. Women – meaningful activities

In accordance with the UN standards of imprisoned women, the ‘Bangkok Rules’, and the CPT’s standards on ‘Women in prison’, women prisoners are recommended to have access to a balanced and comprehensive programme of activities, which take account of gender appropriate needs.<sup>125</sup>

In terms of using the common areas, CISST commented that there has been problems for those female prisoners who are held in separate sections of male prisons. Since the common areas are used by men, the

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*Kurumlarının Tahsisi, Nakil İşlemleri ve Diğer Hükümler, Genelge no. 45/1 [Allocation, Transfer Procedures and Other Provisions of the Penal Institutions, Circular no. 45/1], 22 January 2007, [url](#), p. 15, bullet 13*

<sup>120</sup> CISST: 31

<sup>121</sup> CISST: 32

<sup>122</sup> CISST: 30

<sup>123</sup> Cited by SCF, *Turkish gov’t accused of turning prisons into enterprises, exploiting inmates’ labor*, 14 December 2020, [url](#) – reference was made to Deutsche Welle Türkçe, *Fabrikalaşan cezaevleri: "Endüstriyel kompleks oluşturuldu" [Prisons turned into factories: 'Industrial complex has been formed']*, 11 December 2020, [url](#)

<sup>124</sup> CPT, *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)*, from 6 to 17 May 2019, Strasbourg, 5 August 2020, [url](#), p. 23-24

<sup>125</sup> Further details on the standards can be found in these documents: UN, *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*, A/C.3/65/L.5, 6 October 2010, [url](#); CPT, *Women in prison*, January 2018 CPT/Inf(2018)5, [url](#), p. 2

women are not allowed to use them. Furthermore, the prison administrations offer vocational courses to women on the basis of traditional gender roles.<sup>126</sup>

### 4.3. Juveniles – meaningful activities

The UN standards on imprisoned juveniles, the ‘Beijing Rules’, as well as CPT standards on juveniles emphasise that juvenile prisoners should be provided with a full programme of education, sport, vocational training, recreation and other purposeful out-of-cell activities.<sup>127</sup>

Under the Turkish law, juvenile prisoners, who attend in-house or external education and training programs and are 18 years old, are allowed to stay in these facilities until they are 21 in order to complete their education.<sup>128</sup>

The European Commission stated that the quality of rehabilitation activities for juveniles in prisons is a matter of concern.<sup>129</sup> HRA commented that juveniles’ education is usually interrupted when they are detained.<sup>130</sup>

## 5. Contact to the outside world

### 5.1. Contact to family

According to CPT’s standards on imprisonment, it is very important for prisoners to maintain reasonably good contact with the outside world and means of safeguarding their relationships with their families and close friends. Any limitations upon such contact should be based exclusively on security concerns of an appreciable nature or resource considerations. CPT emphasised the need for some flexibility as regards the application of rules on visits and telephone contacts vis-à-vis prisoners whose families live far away.<sup>131</sup>

Pursuant to Turkish legislation, a sentenced prisoner may be visited once a week for half an hour as a minimum and one hour as a maximum, within working hours, by his spouse, his relatives of up to the third degree, on condition that the relationship is documented, and his guardian or trustee. In addition, s/he can be visited by a maximum of three other persons whose names and addresses the prisoner notified in advance at the time of admission into the institution, not to be changed other than in exceptional cases.<sup>132</sup> Telephone calls in closed prisons go through controlled payphones and shall be listened to and recorded by

<sup>126</sup> CISST: 62

<sup>127</sup> Further details on the standards can be found in these documents: UN, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (‘The Beijing Rules’)*, Adopted by General Assembly resolution 40/33 of 29 November 1985, [url](#), section 1.2 and 26.2; CPT, *Juveniles deprived of their liberty under criminal legislation*, CPT/Inf(2015)1-part rev1, Extract from the 24th General Report of the CPT, 2015, [url](#), section 107

<sup>128</sup> HRA: 68; Turkey: Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin Infazi Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url](#), section 12

<sup>129</sup> European Commission, *Turkey 2020 Report [SWD(2020) 355 final]*, 6 October 2020, [url](#), p. 39

<sup>130</sup> HRA: 68

<sup>131</sup> Further details on the standards can be found in this document: CPT, *Imprisonment*, CPT/Inf(92)3-part2, Extract from the 2nd General Report of the CPT, [url](#), section 51

<sup>132</sup> Turkey: Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin Infazi Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url](#), section 83



the administration. The right to make and receive telephone calls may be restricted for dangerous convicts and for convicts of organised crime.<sup>133</sup>

In a joint report, HRA and HRFT commented that prisoners' rights have been restricted on grounds of the pandemic.<sup>134</sup> The same sources further stated that the authorities have been attempting to create a new 'normal' in that the prisoners' right to visitation by their families has been eliminated.<sup>135</sup> After the visitations were completely halted at the beginning of the COVID-19 pandemic, the authorities have opened up and allowed prisoners two closed visitations per month that take place in a closed booth with no more than two relatives.<sup>136</sup>

Before the pandemic, prisoners were allowed to have a so-called 'open' family visit, which implies that the family members are physically present in the same room, once a month; closed family visits were allowed once a week.<sup>137</sup>

In the Imralı High Security Prison, prisoners sentenced to aggravated life imprisonment were hardly granted any family visits since October 2014. Following the attempted coup in 2016, a total ban on contacts with the outside world (including correspondence) was imposed on all prisoners in Imralı High Security Prison.<sup>138</sup>

The General Directorate of Prisons and Detention Houses took measures against the COVID-19 pandemic, including granting prisoners the right to additional phone calls in order to maintain their contact with the outside world.<sup>139</sup>

Before the pandemic, prisoners were allowed to make phone calls to one of their family members once a week for 10 minutes on the condition that they inform the prison administration beforehand.<sup>140</sup>

HRA noted that prisoners with aggravated life sentences are only allowed to have phone calls with their spouses, descendants and kin, siblings and guardians every fortnight in cases where it is deemed appropriate by the prison administration and the monitoring board, provided that it does not last more than 10 minutes.<sup>141</sup>

### 5.1.1. Restrictions and disciplinary actions

HRA noted that disciplinary action could be taken against prisoners, except for children, to deprive them of communication or impose restrictions for about a month or longer within the scope of administrative investigation.<sup>142</sup>

<sup>133</sup> Turkey: Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin Infazı Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url](#), section 66, subsection 1; HRA: 36

<sup>134</sup> HRFT and HRA, *Defending Human Rights During the Pandemic and the State of Emergency Conditions*, 9 December 2020, [url](#), p. 9; European Commission, *Turkey 2020 Report [SWD(2020) 355 final]*, 6 October 2020, [url](#), p. 32

<sup>135</sup> HRFT and HRA, *Defending Human Rights During the Pandemic and the State of Emergency Conditions*, 9 December 2020, [url](#), p. 9

<sup>136</sup> CISST: 36; HRA: 35

<sup>137</sup> HRA 35

<sup>138</sup> CPT, *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)*, from 6 to 17 May 2019, Strasbourg, 5 August 2020, [url](#), p. 24

<sup>139</sup> HRA: 36; CISST: 36; Turkey, CTE (Ceza ve Tevkifevleri Genel Müdürlüğü, General Directorate of Prisons and Detention Houses), *Kovid-19 Pandemi Sürecinde Ceza İnfaz Kurumları – I [Penal Institutions during the COVID-19 pandemic – I]*, 17 June 2020, [url](#)

<sup>140</sup> HRA: 36

<sup>141</sup> HRA: 36

<sup>142</sup> HRA: 37

CISST received complaints from prisoners who claim that the prison administration uses the punishment as a tool of oppression and retaliation in order to threaten prisoners from claiming their rights. In one case, the source had been in correspondence with a political prisoner who by virtue of disciplinary punishment had accumulated a two-year restriction on visitations. In another example seen by CISST, a non-prisoner had mentioned the name of a prison officer in his correspondence with CISST for which reason the prisoner was punished with a three months ban on communication.<sup>143</sup> CISST was unable to comment on whether or not these restrictions were legal or proportionate since their knowledge is based on information from the prisoners.<sup>144</sup>

HRA published a complaint from a named relative of a named prisoner sentenced to aggravated life imprisonment who had not been allowed to receive visitors since the beginning of the COVID-19 pandemic, and his weekly phone call was reduced to a bi-weekly phone call.<sup>145</sup>

### 5.1.2. Location of prisoners

HRA and CISST stated that many prisoners are held in prisons far away from their families, and prisoners' requests for transfer to the Ministry of Justice are in many cases never met.<sup>146</sup> In a UN report published in 2018, an example was given in which the mother of a prematurely born baby was removed from hospital after giving birth and taken to a prison 660 kilometres away, despite medical reports that the health of her baby, who could not be moved from the hospital incubator, was at risk unless breastfed by the mother.<sup>147</sup> CISST pointed out that prisoners who lodge complaints can risk being transferred to another institution.<sup>148</sup>

## 5.2. Contact to lawyers

Pursuant to Turkish legislation, sentenced prisoners have the right to meet a lawyer up to three times without a power of attorney.<sup>149</sup> CISST pointed out that it is a time consuming process to achieve one.<sup>150</sup> Sentenced prisoners can only meet with their lawyers during the weekdays and work hours.<sup>151</sup> For prisoners on remand, their private conferences with their lawyers are not subjected to a specific term.<sup>152</sup>

HRA and HRFT commented that prisoners' rights have been restricted on grounds of the pandemic, including prisoners' conferences with lawyers.<sup>153</sup>

Prisoners can make phone calls to their lawyer once a week for 10 minutes on the condition that they inform the prison administration beforehand.<sup>154</sup>

Referring to the prison law, HRA pointed to an amendment that terminates the confidentiality between a prisoner and his lawyer as it allows for the prison administration to record the conference and seize any

<sup>143</sup> CISST: 38-39

<sup>144</sup> CISST: 38-39

<sup>145</sup> HRA, *Report on Rights Violations in the Prisons of the Marmara Region, Second Quarter, 2020*, 24 July 2020, [url](#), p.7

<sup>146</sup> HRA: 38; CISST: 40

<sup>147</sup> OHCHR, *Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East January – December 2017*, March 2018, [url](#), section 88

<sup>148</sup> CISST: 72

<sup>149</sup> Turkey: Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin Infazı Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url](#), section 59

<sup>150</sup> CISST: 37

<sup>151</sup> HRA: 35

<sup>152</sup> HRA: 35; CISST: 37

<sup>153</sup> HRFT and HRA, *Defending Human Rights During the Pandemic and the State of Emergency Conditions*, 9 December 2020, [url](#), p. 9

<sup>154</sup> HRA: 36

documents handed by the prisoner to the lawyer or vice versa upon the decision by an ‘enforcement judgeship’ (*Infaz hakimliği*, see footnote for explanation).<sup>155</sup>

OHCHR observed a pattern of persecution of lawyers representing individuals accused of terrorism offences, being associated with their clients' cause (or alleged cause) while discharging their official functions, and consequently prosecuted for the same or related crime attributed to their client.<sup>156</sup> In 2019, the Arrested Lawyers Initiative emphasised that the arrests of lawyers abolishes safeguards against torture and constitutes an illegal obstacle to the right of access to justice and the rights to legal counsel and a fair trial.<sup>157</sup> On 11 September 2020, 39 lawyers were arrested and accused of terrorist activities for contacting international human rights organizations and human rights advocates and for reporting the torture inflicted on their clients in prison.<sup>158</sup>

### 5.3. Womens’ contact with the outside world

According to the UN ‘Bangkok Rules’ as well as to CPT’s standards on imprisoned women, the prison administrations should encourage and facilitate contact with their families, including their children, and their children’s guardians and legal representatives by all reasonable means. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes.<sup>159</sup>

HRA noted that disciplinary sanctions for women include prohibition of family contact, especially with children.<sup>160</sup>

### 5.4. Juveniles’ contact to the outside world

According to the UN ‘Beijing Rules’ as well as CPT’s standards on imprisoned juveniles, every effort should be made to ensure that all juvenile inmates are afforded the possibility to have contact with their families and other persons from the moment they are admitted to the detention centre.<sup>161</sup>

<sup>155</sup> HRA 75, cf. Turkey: Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin Infazı Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url](#), section 59/5;

Enforcement judgeships: ‘These offices are not considered as a court, rather they are institutions established to make decisions on the issues related with the rights of convicts and detainees in prisons and detention houses. However, judges serve in these offices and the decisions are taken by them. One should bear in mind, in cities where specialized courts do not exist, courts of general jurisdiction, with which they are at equal level, may deal with the cases they are authorized to.’, Aksel, I., *Turkish Judicial System: Bodies, Duties, and Officials*, Ministry of Justice, Ankara, 2013, [url](#), p. 64

<sup>156</sup> OHCHR, *Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East*, January – December 2017, March 2018, [url](#), section 56

<sup>157</sup> Arrested Lawyers Initiative, *Mass prosecution of lawyers in Turkey*, December 2019, [url](#), p. 8

<sup>158</sup> SCF, *39 lawyers charged with terrorism for reporting torture in Turkish prisons*, 24 September 2020, [url](#)

<sup>159</sup> Further details on the standards can be found in these documents: UN, *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (the Bangkok Rules), A/C.3/65/L.5, 6 October 2010, [url](#), rule 26; CPT, *Women in prison*, January 2018 CPT/Inf(2018)5, [url](#), p. 8

<sup>160</sup> HRA: 62

<sup>161</sup> Further details on the standards can be found in these documents: UN, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice* (‘The Beijing Rules’), Adopted by General Assembly resolution 40/33 of 29 November 1985, [url](#), section 22.1; CPT, *Juveniles deprived of their liberty under criminal legislation*, CPT/Inf(2015)1-part rev1, Extract from the 24th General Report of the CPT, 2015, [url](#), section 122

Sentenced juveniles are allowed visits of a minimum of one hour and maximum of three hours.<sup>162</sup> Juveniles in open prisons and education houses can freely communicate through pay phones.<sup>163</sup> Disciplinary action cannot be taken against imprisoned juveniles.<sup>164</sup>

## 6. Solitary confinement and other disciplinary punishments

Solitary confinement is regulated by section 44 in the prison law, which specifies a wide array of acts that are subject to a disciplinary punishment by solitary confinement. The law further sets an upper limit of 20 days in solitary confinement.<sup>165</sup> CPT stressed in their 2017 report on Turkey that this maximum duration is excessive and noted that it should be no more than 14 days for a given offense.<sup>166</sup>

In a one-year period from March 2020 through March 2021, CISST had been in contact with 1381 prisoners and identified 1,398 cases of human rights infringements. 162 (11.5 %) of the cases were related to solitary confinement.<sup>167</sup> In 2020, HRA received 450 complaints solely from prisons in the Marmara region in north-western Turkey. 49 (10.9 %) of these complaints were related to solitary confinement.<sup>168</sup>

According to CISST, there are cases where solitary confinement has exceeded 20 days.<sup>169</sup> HRA noted that solitary confinement can be imposed on remand prisoners for months if they are standing trial for aggravated life sentences. Furthermore, they regard it as isolation when prisoners, including those sentenced to aggravated life imprisonment, in high-security of F-type prisons are not allowed to use common areas or only allowed one hour a week.<sup>170</sup> CPT has also raised such concerns in their 2017 and 2019 reports, and noted that all prisoners in Imrali F-Type prison were being held in solitary confinement 159 hours out of 168 hours per week.<sup>171</sup>

Both CISST and HRA stressed that the imposition of solitary confinement is not proportionate in many cases.<sup>172</sup> CISST further notes that there are cases where it has been imposed regardless of a doctor's recommendation, and that solitary confinement is also often imposed on non-political prisoners unofficially

<sup>162</sup> Turkey: Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin Infazi Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url](#), section 83

<sup>163</sup> HRA: 70

<sup>164</sup> HRA: 37

<sup>165</sup> Turkey, Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin Infazi Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url](#), section 44

<sup>166</sup> CPT, *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 23 May 2017*, 5 August 2020, [url](#), p. 63; See further details on CPT standards in this document: CPT, *Solitary confinement of prisoners*, CPT/Inf(2011)28-part2, Extract from the 21st General Report of the CPT, 2011, [url](#), section 56 b

<sup>167</sup> CISST, *Our statistics*, n.d., [url](#), accessed on 17 March 2021

<sup>168</sup> HRA, *Marmara Bölgesi Hapishaneleri 2020 Yılı Hak İhlalleri Raporu [2020 Report on Rights Violations in Prisons in the Marmara region]*, 22 January 2021, [url](#), p. 4

<sup>169</sup> CISST: 45

<sup>170</sup> HRA: 39, 40, also see above in the chapter 3.4.1 on material conditions and space.

<sup>171</sup> CPT, *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 10 to 23 May 2017*, 5 August 2020, [url](#), section 87; CPT, *Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 6 to 17 May 2019*, 5 August 2020, [url](#), p. 24

<sup>172</sup> CISST: 42; HRA: 41

as a quick fix to resolve unrest of any kind because they are less likely to make use of complaint mechanisms as a consequence of poor education.<sup>173</sup>

In a recent case, Turkish media, citing the lawyer of a named female prisoner, who is a journalist, reported that she was transferred to an open prison before her conditional release and upon arrival had been subjected to strip search. The prisoner opposed the strip search because she found it disproportionate and had already been searched leaving the high-security prison. She was punished with solitary confinement for three days on the grounds that she had insulted, threatened, resisted the authority and prevented the guards from doing their job. It was further noted that the punishment could possibly affect the assessment of good conduct and the prisoner's eligibility for conditional release.<sup>174</sup>

The Turkish Anti-Terror Code determines that a prisoner, who is convicted for or charged with crimes committed within the scope of the Anti-Terror Code and punished three times with solitary confinement, will not be able to benefit from conditional release regardless of whether the disciplinary punishment may possibly be annulled.<sup>175</sup>

As of 1 January 2021, a newly implemented regulation has introduced a point system relating to the evaluation of the good conduct of a prisoner. Accordingly, disciplinary punishments, such as solitary confinement, result in negative points, but the regulation, like the Anti-Terror Code, does not take in consideration a possible annulment of the punishment. As such, the negative points will not be erased from the prisoner's record. CISST notes that this can have serious effects on the evaluation of good conduct and the eligibility for conditional release in cases where prisoners have been unfairly punished.<sup>176</sup> CISST also points out that this can make prisoners abstain from filing complaints because of fear of retaliation from the prison administrations.<sup>177</sup>

Prisoners can object to the disciplinary punishment to the so-called 'enforcement judgeships' (*infaz hakimligi*) and subsequently appeal it to the courts if the objection is not accepted.<sup>178</sup> CISST does not experience that many cases are ruled in favour of the prisoner.<sup>179</sup>

When asked to what extent prisoners are subject to reprisals as a result of having submitted a complaint, both HRA and CISST replied that prisoners who submit complaints can face ill-treatment, disenfranchisement, and disciplinary punishments.<sup>180</sup> For instance, a prisoner incarcerated in Rize L-Type Closed Prison sent a letter to HRA alleging that they had been subjected to torture and ill-treatment and a criminal complaint was filed against them before the chief public prosecutor's office on the grounds that the letter contained statements endangering the security of the prison.<sup>181</sup>

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<sup>173</sup> CISST: 44

<sup>174</sup> Gazete Duvar, *Tahliyesi gelen Aslıhan Gençay'a çıplak arama provokasyonu [Strip search provocation against Aslıhan Gençay who is set to be released]*, 4 November 2020, [url](#)

<sup>175</sup> Turkey, Law no. (3713) of the year 1991: Terörle Mücadele Kanunu [The Law on the Fight against Terrorism], 1991 (amended 2020), [url](#), section 17/2

<sup>176</sup> CISST: 43

<sup>177</sup> CISST: 11

<sup>178</sup> CISST: 47; HRA: 43; Turkey, Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin Infazı Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url](#), section 52

<sup>179</sup> CISST: 47

<sup>180</sup> CISST: 72; HRA: 75

<sup>181</sup> HRA: 75

## 7. Prevalence and patterns of ill-treatment and torture

Answering a parliamentary question by a member of the main opposition party, CHP, the Turkish Ministry of Justice noted that 396 prisoners had filed complaints relating to torture and ill-treatment in a nine-month period between October 2019 and June 2020.<sup>182</sup> HRA documented 1,988 cases of torture and ill-treatment in prisons in 2017, 1,149 in 2018 and 495 cases in 2019.<sup>183</sup> HRA stated that the number of cases had increased recently.<sup>184</sup> In 2020, HRA received 450 individual complaints solely from prisons in the Marmara region in north-western Turkey. In some of these complaints, HRA identified more than one case relating to torture and ill-treatment. Thus, in total, they identified 783 cases.<sup>185</sup> As previously mentioned, CISST had been in contact with 1,381 prisoners over the past year and identified 1,398 cases of human rights infringements. 114 (8.2 %) of the cases were related to torture and ill-treatment.<sup>186</sup> However, CISST emphasises that there are no mechanisms to detect and designate processes of psychological violence and notes that many prisoners internalise the social dynamics of such processes.<sup>187</sup>

Reported patterns of torture and ill-treatment include among others, beatings, isolation, strip search, death threats, insults, and military style roll calls.<sup>188</sup> In prisoners' complaints to CISST, they also described a practice of searches conducted during the night during which the cells or dormitories are ransacked. Another situation described is the prison counts during which prison officers force prisoners to line up although they are not required to by law. As an example, a prisoner was beaten for not complying with the orders of a prison officer who had lined up three prisoners in a cell in which they were otherwise clearly visible for a count. This is not only a practice in closed but also in open penal institutions, and it is seen across several institutions among several different officers. Hence, CISST characterises this as a systematised practice and defines this as degrading treatment.<sup>189</sup> Lately, CISST has received a few complaints alleging the systematic use of falanga (see footnote for explanation).<sup>190</sup>

<sup>182</sup> Ahval News, *Turkish prisoners filed 396 torture complaints since October – Justice Ministry*, 19 June 2020, [url](#)

<sup>183</sup> HRA, *IHD 2019 Report on Human Rights Violations in Turkey*, May 2020, [url](#), p. 10

<sup>184</sup> HRA: 45

<sup>185</sup> HRA, *Marmara Bölgesi Hapishaneleri 2020 Yılı Hak İhlalleri Raporu [2020 Report on Rights Violations in Prisons in the Marmara region]*, 22 January 2021, [url](#), p. 4

<sup>186</sup> CISST, *Our statistics*, n.d., [url](#), accessed on 17 March 2021

<sup>187</sup> CISST: 48

<sup>188</sup> CISST: 49, 50; HRA: 46; HRW, *Turkey: Police, Watchmen Involved in Torture, Ill-Treatment*, 29 July 2020, [url](#); HRW, *Turkey: Enforced Disappearances, Torture*, 29 April 2020, [url](#); Deutsche Welle Türkçe, *Çıplak arama: "Adetliyseniz pedinize bakılıyor" [Strip search: "Your sanitary towel will be checked if you are on your period"]*, 16 December 2020, [url](#); SCF, *Scores of women tell of unlawful strip-searches in Turkey's prisons after AKP deputy's denial: report*, 20 December 2020, [url](#); SCF, *Air force cadet serving life sentence severely beaten by guards in Silivri Prison*, 8 December 2020, [url](#); SCF, *Sick inmate allegedly beaten after transfer to new prison in western Turkey*, 29 December 2020, [url](#); SCF, *Kurdish inmates on hunger strike subjected to strip search and abuse in prison*, 21 September 2020, [url](#); TR724, *İşkencenin sonu gelmiyor; Diyarbakır Cezaevi'nde coplu sopalı Dayak [No end to torture; beatings with batons and sticks in Diyarbakir prison]*, 4 December 2020, [url](#); Duvar English, *Inmates threatened with torture in padded cell in Aegean prison*, 12 November 2020, [url](#)

<sup>189</sup> CISST: 50

<sup>190</sup> CISST: 49

Definition: 'Falanga is the most common term for repeated application of blunt trauma to the feet or, rarely, to the palm(s) of the hand or the hips. Synonyms for falanga are falaka, falaqa, karma, arma, bastinad, and basinado.' Dignity, *Falanga*, September 2018, [url](#)

CISST does not know of any cases of death as a result of physical violence.<sup>191</sup> According to HRA, there were 69 deaths in prisons in 2019<sup>192</sup> and 49 in the first 11 months of 2020, where the causes of death vary from illness, suicide, negligence and violence.<sup>193</sup> In October 2020, the news media, Turkish Minute,<sup>194</sup> reported of the death of a prisoner in Kırıkkale F Type Prison. The forensic report had concluded that he died of a non-infectious disease, but the family claimed, referring to bruises and scars on the prisoner's body, that he died due to injuries inflicted by assault and torture.<sup>195</sup>

Both CISST and HRA deemed it difficult to define a specific group of prisoners as typical victims of torture and ill-treatment. CISST most often sees cases from political prisoners, because they more often make use of complaint mechanisms, and imprisonment and disobedience become a matter of opposition from the moment they are admitted.<sup>196</sup> 90 % of the 450 complaints HRA had received from prisons in the Marmara Region in 2020 were from political prisoners. Likewise, male prisoners submitted 96 % of the applications.<sup>197</sup> As to non-political prisoners, those who are perceived as unreasonable, who cause trouble, who demand their rights, are in fact more exposed. Non-political prisoners do not complain as often due to internalisation of the culture of violence or mere adoption of submissive attitudes in a belief that they will be released eventually. Therefore, CISST also fears that there are more cases relating to non-political prisoners, which do not see the light. However, HRA has recently been receiving applications from many non-political prisoners.<sup>198</sup>

## 7.1. Documentation of torture and ill-treatment

In terms of documentation of torture and ill-treatment, CISST stated that in general medical checks are documented.<sup>199</sup> With reference to statements from prisoners, both CISST and HRA noted, that there have been issues of documenting torture and ill-treatment. Medical examinations have either been inadequate, not carried out in time or not recorded at all.<sup>200</sup> However, CISST noted, that this only applies to physical violence as there are no mechanisms to detect and prevent psychological violence.<sup>201</sup> Furthermore, HRA has received many complaints about the presence of law enforcement in prison infirmaries or hospitals during medical examinations.<sup>202</sup> In March 2020, a prominent Turkish forensic expert noted the same points with regard to a medical report prepared by a hospital in Ankara upon complaints of torture and ill-treatment, and pointed out that the examination did not comply with the UN Istanbul Protocol.<sup>203</sup>

<sup>191</sup> CISST: 55

<sup>192</sup> HRA, *2019 Summary Table of Human Rights Violations in Turkey*, 5 May 2020, [url](#), p. 1

<sup>193</sup> HRFT and HRA, *Defending Human Rights During the Pandemic and the State of Emergency Conditions*, 9 December 2020, [url](#), p. 5

<sup>194</sup> Turkish Minute is a website presenting news on Turkey in English run by Germany-based International Journalists Association e.V., which was established by Turkish journalists in exile. [url](#) See note 84 on Bold Medya for further information of International Journalists Association e.V.

<sup>195</sup> Turkish Minute, *Exclusive: Inmate tortured to death in Turkish prison, brother claims*, 23 October 2020, [url](#)

<sup>196</sup> CISST: 51, 53; HRA: 46

<sup>197</sup> HRA, *Marmara Bölgesi Hapishaneleri 2020 Yılı Hak İhlalleri Raporu [2020 Report on Rights Violations in Prisons in the Marmara region]*, 22 January 2021, [url](#), p. 4

<sup>198</sup> CISST: 51, 53; HRA: 47

<sup>199</sup> CISST: 24

<sup>200</sup> CISST: 24; HRA: 26

<sup>201</sup> CISST: 24

<sup>202</sup> HRA: 29

<sup>203</sup> Arrested Lawyers Initiative (The), *Turkey – Prominent Forensic Expert Sebnem Korur Financi warns about inadequate forensic reports*, 9 March 2020, [url](#); OHCHR, *Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 9 August 1999, [url](#), p. 22

## 7.2. Prevalence and patterns of inter-prisoner violence

CISST and HRA both received complaints relating to enmity among prisoners. This is more prevalent among ordinary non-political prisoners.<sup>204</sup> According to HRA, the enmity consists of psychological coercion, torment and physical violence, and prisoners have stated that they do not feel that safety is provided.<sup>205</sup> CISST did not know of any mechanisms to prevent inter-prisoner violence, and HRA has received serious allegations relating to the recent death, allegedly from suicide although there were signs of beatings on his body, of a prisoner in Kırıkkale F-Type Prison, namely that the prison administration did not take measures to protect the prisoner.<sup>206</sup>

## 8. Differentiated treatment on the basis of ethnicity, political affiliation and against vulnerable groups

According to CISST and HRA, discrimination among and against prisoners take place.<sup>207</sup>

Kurdish prisoners are stigmatised and face negative treatment when they speak Kurdish or when they read pro-Kurdish newspapers.<sup>208</sup> There have been cases of political prisoners who were denied medical treatment by small town doctors because their medical files stated that they were sentenced for membership in PKK.<sup>209</sup> Kurdish prisoners have complained over wardens who have insulted them based on their ethnicity, and they have not been allowed to send or receive letters written in Kurdish under the pretext that the prison staff could not translate the letters.<sup>210</sup> In a prison in the northwestern province of Düzce, the prisoners could receive their letters if they paid high translation fees corresponding to, according to the Association of Lawyers for Freedom, what it would cost to have a novel translated.<sup>211</sup> There have been similar complaints from Van T-type prison, where 13 female prisoners complained that the prison administration confiscated their notebooks written in Kurdish because there was no translator, and that they were not allowed to have Kurdish books that were otherwise not on the list of banned books.<sup>212</sup> Family members to a prisoner in Şırnak T-type prison has also recently claimed that the prison administration seized Kurdish books.<sup>213</sup> A recent amendment to the prison law also prohibited prisoners from receiving media that will obstruct their rehabilitation.<sup>214</sup> According to HRA, this led to many prisons deciding to prohibit handing out the *Yeni Yaşam* newspaper and Kurdish media products to prisoners.<sup>215</sup> In another case, according to CISST, two prisoners in a prison in Van requested the canteen to order the

<sup>204</sup> CISST: 56; HRA: 49

<sup>205</sup> HRA: 49, 50

<sup>206</sup> HRA: 52; HRA, *İç Anadolu Bölgesi Hapishaneleri Üç Aylık Hak İhlalleri Raporu (Ekim-Kasım-Aralık 2020) [Quarterly Report on Rights Violations in Prisons in the Central Anatolia region (October-November-December 2020)]*, 12 January 2021, [url](#), p. 2

<sup>207</sup> CISST: 57; HRA: 53

<sup>208</sup> CISST: 57

<sup>209</sup> CISST: 26

<sup>210</sup> HRA: 53

<sup>211</sup> Ahval News, *Turkey's prisons are punishing Kurdish prisoners with high translation fees*, 25 October 2020, [url](#)

<sup>212</sup> Gazete Duvar, *Van Cezaevi'ndeki kadınlardan mektup: Kürtçe yazılan defterler toplatıldı [Letter from women in Van prison: notebooks written in Kurdish were collected]*, 23 November 2020, [url](#)

<sup>213</sup> Mezopotamya Ajansı, *Şırnak Cezaevi'nde Kürtçe kitaplara el konuldu [Kurdish books seized in Şırnak Prison]*, 12 March 2021, [url](#)

<sup>214</sup> Turkey: Law no. (5275) of the year 2004: Ceza ve Güvenlik Tedbirlerinin İnfazı Hakkında Kanun [Law on the execution of penalties and security measures], 2004 (amended 2020), [url](#), section 62 subsection 3

<sup>215</sup> HRA, *Report on Rights Violations in the Prisons of the Marmara Region, Third Quarter 2020 (July-August-September 2020)*, 23 October 2020, [url](#), p. 7



newspaper from the outside. When the administration was informed about their request, the prisoners were threatened with disciplinary actions and one of them was in fact disciplined.<sup>216</sup>

By law, prisoners have the right to practice their religion while imprisoned. This includes keeping articles and books used in worship and visitations by clergy members of religious groups provided that it does not disturb the order or pose a threat to the security.<sup>217</sup> *United States Department of State* (USDOS) noted that not all prisons have dedicated places of worship.<sup>218</sup> According to CISST, religious minorities such as Alevis and Christians tend not to bring attention to their identities out of fear of persecution, and it can be difficult for them to see spiritual leaders. In one case, CISST has been in contact with a prisoner who had to transfer dormitories 30 times because other prisoners subjected him to physical violence when he declared that he was an atheist.<sup>219</sup>

As to political groups, both CISST and HRA points to law no. 7242, which went into effect on 15 April 2020 and among others, amended the prison law, as discriminatory towards political prisoners.<sup>220</sup> With the aim of lowering the prison population, the law amended the regulation, which determines the duration a prisoner must have served before being eligible for early conditional release upon good conduct. As such, prisoners are now eligible after having served half of their sentence whereas it was two-thirds before. However, prisoners, including those perceived as political prisoners, sentenced under a specific set of laws are excluded from this provision and either cannot benefit at all or must still have served two-thirds or three-quarters of their sentence.<sup>221</sup> Citing an MP of the opposition, Reuters reported that around 50,000 prisoners would be excluded from the provisions of law no. 7242 because they are charged with or convicted on terrorism charges.<sup>222</sup> CISST also pointed to the assessment of good conduct, which according to them, is based on unclear criteria and requirements of declarations of regret of political activities from political prisoners.<sup>223</sup>

Referring to figures by the Ministry of Justice and Ministry of the Interior as of July 2020, Human Right Watch reported that 25,912 were detained in remand prisons under criminal investigation on terrorism charges in cases linked to the Hizmet movement. There were no updated numbers on cases linked to PKK, but based on previous numbers, HRW estimated that there were at least 8,500, which included politicians and journalists.<sup>224</sup>

Lastly, both CISST and HRA stated that there are issues relating to women, juveniles and other vulnerable groups with special needs, including, among others, LGBT, disabled and sick prisoners, and foreigners.<sup>225</sup> As previously mentioned, CISST had been in contact with 1,381 prisoners over the past year and identified 1,398 cases of human rights infringements. 351 (25.1 %) of the cases were connected to issues relating to

<sup>216</sup> CISST: 57

<sup>217</sup> Turkey, Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin Infazı Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url, section 70](#)

<sup>218</sup> USDOS, *2019 Report on International Religious Freedom: Turkey*, 10 June 2020, [url](#), p. 6

<sup>219</sup> CISST: 57

<sup>220</sup> CISST: 9; HRA: 53

<sup>221</sup> Arrested Lawyers Initiative, *Let's not forget Turkey's political prisoners in the face of COVID19 threat*, 27 April 2020, [url](#); Article 19, Turkey: Human rights organisations call for immediate release of political prisoners, 22 June 2020, [url](#); CISST: 10; Library of Congress, *Turkey: New Parole Measure Expected to Significantly Lower Prison Population*, 28 April 2020, [url](#)

<sup>222</sup> Reuters, *Turkey plans prisoner release, excluding those jailed on post-coup terrorism charges*, 7 April 2020, [url](#)

<sup>223</sup> CISST: 11

<sup>224</sup> HRW, *World Report 2021 - Turkey*, 13 January 2021, [url](#)

<sup>225</sup> CISST: 59, 66; HRA: 70, 71, 74

prisoners with special needs as defined by CISST.<sup>226</sup> A few examples included LGBT-prisoners who are subject to discriminatory speech, and who are put in solitary confinement because the prison administration claims that they cannot provide for their protection;<sup>227</sup> frequent imprisonment of juveniles,<sup>228</sup> including babies and older children accompanying their mothers in prison;<sup>229</sup> prison facilities that are not designed for the needs of disabled people,<sup>230</sup> including reported examples of paralyzed prisoners who are either denied release or deemed fit to serve their sentence.<sup>231</sup>

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<sup>226</sup> CISST, *Our statistics*, n.d., [url](#); accessed on 17 March 2021; CISST: 66

<sup>227</sup> CISST: 59; HRA: 71

<sup>228</sup> CISST: 59

<sup>229</sup> Cumhuriyet, *CHP İstanbul Milletvekili Sezgin Tanrıkulu raporu: 3 bin çocuk anneleriyle cezaevinde* [Report by CHP Istanbul MP, Sezgin Tanrıkulu: 3.000 children in prison with their mothers], 7 March 2021, [url](#); SCF, *11-month-old baby forced to accompany mother sentenced to 9 years in prison*, 10 March 2021, [url](#); SCF, *Infants as young as 3 months kept in quarantine prison cells, says inmate*, 14 January 2021, [url](#)

<sup>230</sup> CISST: 59

<sup>231</sup> SCF, *Turkey's top court denies paralyzed Kurdish man release from prison*, 9 December 2020, [url](#); SCF, *Paralyzed man found 'fit to remain in prison' by forensic medicine council*, 3 February 2021, [url](#)

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## Annex 1: Source statements

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### Civil Society in the Penal System (CISST)

Skype meeting, 18 January 2021

#### Aim and purpose of CISST

1. CISST was founded in 2006 with the purpose of reaching out to and file petitions on behalf of prisoners in Turkey in cases against relevant authorities and institutions. Through this effort and based on complaints from prisoners, CISST publishes reports on these issues and reach out to relevant actors to further the situation of prisoners in Turkey.<sup>232</sup>

#### Reporting on prisons in Turkey

2. CISST emphasised that the statistical information on prisons in Turkey is sparse, and that there is no independent monitoring system in Turkey nor any available reports. CISST obtains knowledge directly from prisoners via correspondence by letter, through a third part, i.e. family members, or from a network of volunteer lawyers who visit prisoners and collect information. In this way, CISST reports and highlights the general conditions of the prisons in Turkey.
3. Since CISST does not have access to monitor the prisons, they do not report the information received as mere facts but with reservations, and CISST emphasises that they report on behalf of prisoners. However, if there is a general tendency and consistency in the complaints from prisoners from many different prisons, CISST works on the assumption that this is true.
4. Most of the complaints received by CISST can be grouped by four categories: solitary confinement, ill-treatment, living conditions and health care issues. The complaints are registered in CISST's own database.

#### Material conditions for sentenced prisoners

5. As an initial remark, CISST noted that sentenced and remand prisoners must be separated by law. In practice, however, they are not divided as such. Remand and sentenced prisoners are confined in the same cells and go through the same processes. Thus, it is difficult for CISST to speak in terms of these two categories and separate the one from the other. The conditions of remand and sentenced prisoners are almost the same.
6. Turkey is a signatory of the CPT standards and the Turkish prisons standards are regulated by law no. 5275 of 13 December 2004.<sup>233</sup> While the Turkish standards comply with the CPT standards in theory, CISST cannot say with certainty whether they do in practice.

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<sup>232</sup> CISST, *About us*, n.d., [url](#)

<sup>233</sup> Turkey, Law no. (5275) of the year 2004: *Ceza ve Güvenlik Tedbirlerinin Infazı Hakkında Kanun [Law on the execution of penalties and security measures]*, 2004 (amended 2020), [url](#)



### The situation of overcrowding

7. In 2019, the official count was 282,000 prisoners. Referring to data published in January 2021 by the General Directorate of Prisons and Detention Houses states, there are currently 230,424 sentenced and 41,494 remand prisoners. These numbers include those prisoners currently on leave due to the pandemic as per law no. 7242.<sup>234</sup> Likewise, recently published data as of January 2021 states that there are 265 closed prisons, 78 open prisons, 4 open juvenile prisons, 7 closed juvenile prisons, 9 closed women prisons, 7 open women prisons totalling 370 prisons with a capacity of 245,200.<sup>235</sup> Based on 2018 statistical data from the Turkish Statistical Institute, CISST conducted their own research, which estimated that between 50,000 and 60,000 prisoners did not have their own bed. Although this number is obsolete, CISST believes that there may still be a lack of beds, but points out that it is difficult to say due to the fact that the data is published on an irregular basis and thus is incomparable.
8. In an answer to a parliamentary question addressing the issue of the capacity of Turkish prisons in 2019, the authorities noted that they had increased the capacity from 120,000 to 220,000. This was achieved by adding more beds to the cells and by constructing new facilities in the already existing prisons.
9. Since the coup attempt in 2016, there has been policy measures to lower the prison population by releasing prisoners early. These measures, however, have only targeted non-political prisoners. The latest measure was taken with the passing of law no. 7242 of April 2020, which amended the prison law. However, CISST noted that they did not know how many were released and how many were reconfined.
10. Law no. 7242 among others amended section 107 subsection 2 of the prison law, which regulates the criteria for the time served in order to be eligible for early conditional release in case of good behaviour. The amendment lowered the duration so that prisoners may be released after having served half of their sentence whereas it was two-thirds of the sentence before the amendment. This change, however, does not apply to prisoners with an aggravated life sentence who must have served 30 years and prisoners with a life sentence who must have served 24 years in prison. Those prisoners convicted under the following sections of the Turkish Penal Code – 81-83 (premeditated murder); 87 (intentional injury); 94-96 (torture); 132-138 (interference in private life and private sphere); 326-339 (crimes and espionage against the state) – and under the Law on the State and National Intelligence Services are exempt from the amendment. They are only eligible after having served two-thirds of their sentence. According to section 108 subsection 9, the duration was increased from two-thirds to three-quarters but a maximum of 30 years for prisoners sentenced to regular imprisonment under section 102, 104, 105 (sexual assaults and harassments) and section 188 (production or trafficking of narcotics) of the Turkish Penal Code, where as those with life and aggravated life sentences must have served 33 and 39 years respectively. For juveniles convicted under section 102, 104, 105 and 188 of the Turkish Penal Code and for having established or led a criminal organisation or sentenced for crimes committed within the framework of such an organisation as well as crimes within the scope of the Anti-Terror Code, the duration is two-thirds.

<sup>234</sup> Turkey, CTE (Ceza ve Tevfikevleri Genel Müdürlüğü, General Directorate of Prisons and Detention Houses), *Ceza İnfaz Kurumunda Bulunan Tutuklu/Hükümlü Mevcutları [Remand and Sentenced Prisoners in Penal Institutions]*, 31 January 2021, [url](#)

<sup>235</sup> Turkey, CTE (Ceza ve Tevfikevleri Genel Müdürlüğü, General Directorate of Prisons and Detention Houses), *Ceza İnfaz Kurumlarımız: Genel Bilgi [Our Penal Institutions: General Information]*, 11 January 2021, [url](#)

Section 107 subsection 4 together with section 17 of the Anti-Terror Code further increases the eligibility criteria if a prisoner is convicted for having established or led a criminal organisation, or sentenced for crimes committed within the framework of such an organisation, or if a prisoner is sentenced for crimes committed within the scope of the Anti-Terror Code. As such, a prisoner must have served at least 30 or 36 years in cases of life or aggravated life sentences respectively. These conditions were not changed with the amendment. However, the duration was lowered from three-quarters to two-thirds for prisoners sentenced with regular imprisonment for crimes committed within the framework of a criminal organisation, while it was increased to three-quarters for prisoners sentenced with regular imprisonment for crimes committed within the scope of the Anti-Terror Code. Lastly, section 107 subsection 16 determines that those prisoners sentenced to aggravated life imprisonment for any crimes committed under sections 302-308 (crimes against the security of the state), 309-316 (crimes against the constitutional order), 317-325 (crimes against the national defence) within the framework of an organisation cannot benefit from conditional release. As per section 17 subsection 4, the same applies to prisoners sentenced to aggravated life sentences for crimes committed under the Anti-Terror Code.

11. Additionally, CISST points to the primary criteria for eligibility of early conditional release, namely good conduct, as per section 107 subsection 1 and section 89 of the prison law. This instigated the establishment of the Regulation on Observation and Classification Centres and Evaluation of Sentenced Prisoners,<sup>236</sup> which went into effect on 1 January 2021, and which establishes the framework of the evaluation of good conduct by the prison rehabilitation committee<sup>237</sup> works. Before the amendment, the committees could upon assessment of good conduct and rehabilitation transfer a prisoner to an open prison. The committee now also affects the length of the sentence itself by virtue of evaluations of good conduct of the prisoner and thus eligibility for conditional release. Since this is a new regulation, CISST is yet to see the execution and consequences of it before they can determine its functioning. However, CISST notes that there has thus far been no political prisoners in open prisons and, in continuation of this, points out that they have serious concerns regarding the functioning of the committee and their understanding of rehabilitation based on unclear criteria. Furthermore, the methods of the committee particularly affects political prisoners because the committee requires them to sign declarations of regret of political activities or otherwise declare that they have left the political organisation in question. CISST does not find it likely that those prisoners, who believe that they are imprisoned for political reasons, especially leftist and Kurds, would sign such declarations. In a recent example from the committee, CISST mentions a female political prisoner who was denied parole, because she did not meet with the religious official and read a specific amount of books. Fearing disciplinary punishments as retaliation upon submitting complaint on rights violations, CISST notes that prisoners, political and non-political alike, may abstain from submitting one because the committee may use the punishments against them, and CISST does in fact see that non-political prisoners in particular are preoccupied with having their disciplinary punishments overruled.

<sup>236</sup> Turkey, Regulation no. (31349): *Gözlem ve Sınıflandırma Merkezleri ile Hükümlülerin Değerlendirilmesine Dair Yönetmelik* [Regulation on the Observation and Classification Centres and the Evaluation of Sentenced Prisoners], 29 December 2020, [url](#)

<sup>237</sup> *Idare ve Gözlem Kurulu*, which actually translates into the administration and observation committee.

### Prison cells

12. The character of the prison cells varies according to the different types of prisons. The different prisons comprise of single cells, cells accommodating up to three people and dormitories accommodating up to eight people. A special regulation for prisoners sentenced to aggravated life imprisonment imposes solitary-like confinement in a single cell.<sup>238</sup>
13. The issue of overcrowding renders it difficult for the prisoners to maintain their physical and psychological health in the cells. Likewise, sanitary facilities are overburdened which results in poor hygiene. In the long term, CISST noted, these conditions and the lack of personal space results in increased violence, especially among non-political prisoners.<sup>239</sup>
14. There is no standard regarding lighting and ventilation of the cells. CISST does not possess any official accounts of this, but according to the complaints they receive, lack of ventilation and lighting is a general problem. During the summer time, CISST receives many complaints relating to temperature regulations.

### State of repair

15. Turkey is currently constructing many new prisons and facilities and shutting down smaller and older facilities. CISST was not able to comment on the state of repair of the older facilities of which not many remain.

### Call bell system

16. There are call bell systems in the prison cells. CISST noted, however, that they have received many complaints from prisoners regarding the use of it. In this regard, CISST referred to the systemic issue of prisons not being manned with a health staff on a regular basis. In case of health emergencies, the call would not always be responded by a medical emergency team, but rather by the regular prison staff. In this case, prisoners have experienced psychological pressure and very harsh language for having disturbed the prison officer on duty during the night. Furthermore, CISST pointed out that bureaucratic processes and logistical issues further complicate responding to medical emergencies and accessing the health facilities. The prison staff must first assess the situation and advice the administration. Due to the placement of the prisons far away from the cities and hospitals, transferring a prisoner to a hospital would also take a lot of time.

### Food and nutrition

17. Prisoners receive a daily allowance to buy food. Before the COVID-19 pandemic, the daily allowance was 8,5 liras for general prisoners and 12 liras for juvenile prisoners as well as pregnant women and women imprisoned with their children. During and because of the pandemic,<sup>240</sup> the allowance was

<sup>238</sup> To describe prison cells, Turkish authorities use the term “Room” (*Oda*), e.g. room of one or room of three. CISST uses the term “cell” (*hücre*) for rooms confining one to three people and “wards” (*koğuş*) for rooms confining more than three. In the following notes from the interview, the term “ward” has been replaced with the term “dormitory”.

<sup>239</sup> CISST defines a political prisoner as a person trialled or sentenced according to the Turkish Anti-Terror Code, law no. (3713) of the year 1991: *Terörle Mücadele Kanunu [The Law on the Fight against Terrorism]*, 1991 (amended 2020), [url](#). CISST does not make any distinction regarding affiliation with organisation and does not prefer to work with one group over another. They mostly receive complaints from leftist political prisoners.

<sup>240</sup> Turkey, CTE (Ceza ve Tevkifevleri Genel Müdürlüğü, General Directorate of Prisons and Detention Houses), *Kovid-19 Pandemi Sürecinde Ceza İnfaz Kurumları – I [Penal Institutions during the COVID-19 pandemic – I]*, 17 June 2020, [url](#), paragraph h

increased to 10 liras for general prisoners and 18 liras for juvenile prisoners, pregnant women, and women imprisoned with their children.

18. CISST did not find it sufficient for the prisoners to get a nutritious diet referring to the fact that a loaf of bread costs 2,5 lira. As such, the allowance was not regulated in accordance with the inflation and price levels, and CISST pointed out that it has worsened over the past six months with the increase of the price levels.
19. CISST receive many complaints regarding the quality and the amount of the food served to the prisoners, including lack of protein sources and vegetables; instead, food such as pasta is served.

### Hygiene

20. CISST opined that there are no constructional problems in the Turkish prisons, the main problems are overcrowding and the lack of measures for disabled people. There are bathrooms with toilets and bathing facilities inside the cells and dormitories. CISST noted, however, that they are not always accessible for disabled people referring for instance to the lack of ramps.
21. CISST have received complaints relating to insufficient supply of hot water and the water being cut-off. Prior to the pandemic, the prison administrations provided hygiene products, but CISST noted that it was not sufficient in many cases and that many prisoners did not have the financial means to buy their own products. However, the source highlighted that prison administrations have started to provide hygiene products during the pandemic.

### Health care

22. CISST publishes complaints from prisoners relating to issues relating to COVID-19 specifically.<sup>241</sup>
23. During the COVID-19 pandemic, the health care in prisons is at a standstill as there is a general health care crisis for the population in Turkey limiting the general accessibility.
24. In general, medical checks and treatment are documented in a medical journal. In terms of torture and ill-treatment CISST noted that there are issues relating to the reporting of it. Firstly, the infirmary doctor must refer the prisoner to a hospital in order to be examined, but this process can take a long time in which case there can be problems with documenting the harm inflicted. Secondly, CISST noted that some doctors do not want to report their findings. Regardless of this, CISST noted that some prisoners are able to obtain medical reports on ill-treatment and torture. This, however, only relates to physical violence. There are no mechanisms to detect psychological violence. This also applies to the situation during the pandemic.
25. There are no procedures of regular medical check-ups for transmittable diseases among prisoners by regulation. It is mostly done as a countermeasure in cases where a disease has been diagnosed in a specific prison. This also applies to the situation during the pandemic.
26. Relating to the risk of death by disease, CISST points out several circumstances one must take note of:
  - 1) Accessing the prison infirmary is difficult because of the lack of health staff and first responders.

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<sup>241</sup> CISST, *COVID-19 reports*, n.d., [url](#)

- 2) The transfer to a hospital is done via shuttles that are unhygienic and not suitable for medical transportation.
- 3) Furthermore, prisoners very often have wait between 15 days and a month before they can be transferred to a hospital. This especially affects people with several diseases requiring multiple steps of diagnosing in which case a prisoner can only get one diagnosis at a time and then reapply for transfer to the hospital for the next step of diagnosis.
- 4) The newly constructed campus style prisons far away from cities increases the travel time to hospitals.
- 5) For political prisoners, their medical journals state the type of the crime for which they are sentenced. There are cases from small towns where doctors with nationalist inclinations have refused to treat persons sentenced for membership in PKK.
- 6) These conditions further deteriorate in cases with vulnerable prisoners, e.g. foreign prisoners in need of an interpreter. These points also apply to the situation during the pandemic. These points also apply to the situation during the pandemic.

### Access to purposeful activities

27. Because of the COVID-19 pandemic, all activities in the prisons have stopped. Some political prisoners have commenced a hunger strike because of this.
28. Regarding the general situation before the COVID-19 pandemic, CISST firstly emphasised the issue of overcrowding. This generally has a negative impact on the accessibility to different activities in the prisons.
29. Prisoners have the right to use open and closed gyms, convene for conversations activity (*sohbet*), and attend workshops. However, CISST notes that the prison administrations do not clearly schedule these activities for the prisoners and that they are conducted on an arbitrary basis.
30. The workshops can be grouped into two categories: recreational and vocational courses. As an example of a vocational workshop, CISST mentions wood engraving but notes that these workshops do not sufficiently train the prisoner to hold a profession upon release. Thus CISST does not regard them as purposeful and emphasises that they must be improved.
31. Regarding the free time conversation activity, CISST had received many complaints from political prisoners. By law, the prisoners have the right to meet prisoners from other dormitories or cells ten hours a week for the conversation activity. However, political prisoners have experienced that their time has been shortened, that they have not been allowed to meet at all, or that they have been released for conversation the conversation activity one dormitory at a time, which is pointless compared to the purpose of meeting other people from other cells or dormitories.
32. Lastly, CISST noted that the placement of new penal institutions far away from the cities makes it more difficult for teachers to reach the institutions. This results in fewer scheduled workshops.

### Contact with the outside world

33. CISST noted that the COVID-19 pandemic has altered the access and contact with the outside world, but they expect to return to a state of normalcy after the pandemic.

34. In general, prisoners (except prisoners sentenced to aggravated life imprisonment) have the right to meet with their close relatives and up to three other designated friends whose names must be submitted within a month after incarceration to the prison administration. They can meet four times a month. Three of the four meetings are private and one is open to the prison authorities. The meetings may last no shorter than half an hour and no longer than one hour. Furthermore, prisoners are allowed a phone call of 10-minutes duration once a week.
35. Referring to their 2019 annual report, CISST notes that prisoners sentenced to aggravated life imprisonment are not allowed to see three designated friends nor most of their other close relatives. CISST also receives complaints about the practice of the prisons administration dividing their right to weekly visitations by the number visitors in open visitation, which results in one on one meeting rather than meetings with the whole family. Lastly, the 10-minute phone call is restrained to every 15 days and they can only call first-degree relatives.<sup>242</sup>
36. At the beginning of the COVID-19 pandemic, visitations were completely halted. The authorities have since then opened up and allowed prisoners two closed visitations a month with no more than two relatives. Furthermore, prisoners are now allowed two phone calls of 10-minutes duration twice a week. This is the current situation.
37. Regarding access to lawyers, there are different regulations for remand and sentenced prisoners. Remand prisoners are allowed to see any lawyer without any time restrictions. Sentenced prisoners must provide a power of attorney in order to meet with a lawyer; otherwise, they can only meet three times until they receive one. CISST pointed out that this is a time-consuming process and can cause difficulties for NGO's to send an attorney and monitor a situation.
38. The abovementioned applies to all prisoners except for those prisoners sentenced with aggravated life imprisonment. CISST noted, though, that there is a practice of obstructing these rights, i.e. communication with relatives and friends but not with lawyers, by means of disciplinary punishment, particularly for political prisoners. In one case, CISST has been in correspondence with a political prisoner who by virtue of disciplinary punishments had accumulated a two-year restriction on visitations.
39. CISST was not able to say if the use of punishments is legal or proportionate since their knowledge is based on received complaints from both political and non-political prisoners. In the complaints CISST receives, it is stated that the prison administration uses the punishments as a tool of oppression and retaliation in order to threaten them from claiming their rights. In one example, a non-political prisoner had mentioned the name of a prison officer in their correspondence with CISST for which reason the prisoner was punished with a three-month ban on communication. In continuation of this, CISST fears that this excessive use of disciplinary punishments may affect political and non-political prisoners in a negative way with the new implementation of the prison rehabilitation committee responsible for the assessment of the progression of each prisoner.

## Location of prisoners

40. CISST sees a pattern of incarcerating prisoners, especially political prisoners, far from their homes and families, which limits the access to maintain the contact. CISST has seen thousands of cases relating to this issue. The practice is prevalent both in cases of the initial admittance to a penal

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<sup>242</sup> CISST, *Annual Report 2019*, n.d., [url](#)

institution, e.g. a person sentenced in Diyarbakir in eastern Turkey and admitted to a penal institution in Edirne in western Turkey, and in cases where prisoners may be transferred or threatened with transfer from one penal institution to another as a punishment if they submit complaints. In one case, CISST worked three years to have a prisoner transferred to a facility near the prisoner's family because the father was too sick to travel and visit the prisoner. The father eventually passed away before the prisoner could see him.

41. Furthermore, placing new penal institutions outside the cities limits the access for families and lawyers because of the travel time.

## Solitary confinement and other means of restraint

42. There is a wide array of types of solitary confinement, use of force and restraints, and a long list of conditions as to how it is imposed. CISST stressed that use of solitary confinement is in many cases not proportionate with the actual harm committed by the prisoner addressed. There are cases where it is imposed regardless of a doctor not condoning it in their medical reports.
43. In case a political prisoner, i.e. those convicted for or charged with crimes committed within the scope of the Anti-Terror Code, is punished three times with solitary confinement, he or she will not be able to benefit from conditional release regardless of whether the disciplinary punishment may possibly be annulled.<sup>243</sup> Furthermore, with the newly implemented Regulation on Observation and Classification Centres and Evaluation of Sentenced Prisoners,<sup>244</sup> which went into effect on 1 January 2021, a new point system has been introduced relating to the evaluation of good conduct, and while disciplinary punishments, such as solitary confinement, results in negative points, CISST does not know the practice as to how many negative points are given. However, just as with the Anti-Terror Code, section 33 subsection 5 of the newly implemented regulation states that negative points are not erased regardless of whether the disciplinary punishment may possibly be annulled. This can have a serious effect on the evaluation of good conduct of a prisoner and may disqualify the prisoner in terms of eligibility of conditional release if he or she is unfairly punished with disciplinary punishments (see also bullet 10 and 11 for specificities on conditional release).
44. Not aware of their rights as a result of poor education, non-political sentenced prisoners are less inclined to submit complaint. As such, solitary confinement is more often imposed upon them on an unofficial basis and as a quick fix to solve unrest of any kind. Unlike political prisoners, they do not use the appeal mechanisms to the same extent.
45. Regarding the length of the solitary confinement, it varies according to the character of the act in question. There is, however, a maximum of 20 days. Section 44 of law no. 5275 specifies a wide array of acts punishable by solitary confinement and the duration. According to CISST, there are cases in which the confinement has exceeded the maximum duration set by law.
46. Due to the lack of data on this issue, CISST was not able to say with certainty if solitary confinement is imposed as a last resort.

<sup>243</sup> Turkey, Law no. (3713) of the year 1991: *Terörle Mücadele Kanunu [The Law on the Fight against Terrorism]*, 1991 (amended 2020), [url](#), section 17/2

<sup>244</sup> Turkey, Regulation no. (31349): *Gözlem ve Sınıflandırma Merkezleri ile Hükümlülerin Değerlendirilmesine Dair Yönetmelik [Regulation on the Observation and Classification Centres and the Evaluation of Sentenced Prisoners]*, 29 December 2020, [url](#)

47. There are mechanisms to appeal the punishment of solitary confinement by law. Prisoners do have access to lawyers and to file petitions but CISST does not know how the petitions are processed and whether the prisoners are actually granted access to their lawyers. Appealing is easy, but CISST does not experience that many cases are ruled in favour of the plaintiff.

### Ill-treatment and torture

48. In terms of assessing psychological violence, there are no mechanisms to detect or designate these processes in Turkey, and it is a social dynamic, which prisoners also internalise over time. CISST, therefore, cannot comment on the prevalence of psychological violence.
49. Regarding physical violence, beating is the most prevalent type of physical violence inflicted upon prisoners. In the past two years, CISST has received a few complaints relating to the systematic use of falanga and suchlike methods.
50. In their complaints, prisoners also describe a practice of searches conducted during the night during which the cells or dormitories are ransacked. Another situation described is the prison counts during which prison officers force prisoners to line up although they are not required to by law. CISST stresses that it is a means of disciplining the prisoners. As an example, a prisoner was beaten for not complying with the orders of a prison officer who had lined up three prisoner in a cell in which they were otherwise clearly visible for a count. This is not only a practice in closed but also in open penal institutions, and it is seen across several institutions among several different officers. Hence, CISST characterises this as a systematised practice and defines this as degrading treatment.
51. It is difficult for CISST to characterise a specific group of prisoners as typical victims of ill-treatment or torture. Every prisoner is potentially exposed, but CISST most often hears from cases involving political prisoners because they more often make use of the complaint mechanisms. On a side note, CISST also emphasises that the dynamics in the prisons are reflected by the political conjunctures in the outside world and as such, they expect that recent incidents such as the Turkish military operations against the PKK in the Kurdistan Region of Iraq and the following public sentiment<sup>245</sup> will have an impact on the political prisoners as well. As to non-political prisoners, those perceived as unreasonable by the prison staff, those who cause trouble, and those who complaint and demand their rights, are in fact more exposed to ill-treatment and systematic torture. However, in many cases, they have either internalised the culture of violence or adopted a submissive attitude in the belief that they will be released and move on with their lives, and therefore they do not complaint as much for which reason CISST fears that there is an iceberg beneath the surface. In addition to this, CISST notes the fact that prisoners dealing with anger management or mental problems do not have access to treatment, which in return adds to the prevalence of ill-treatment.
52. CISST does not regard any specific type of prison staff as more inclined towards inflicting ill-treatment. It is a systemic problem, and prison officers work under bad and restricted conditions as well. The prisoners have described a special section within the prison staff known as the A-team as the ones being the first in line in situations involving turmoil or other sorts of trouble.

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<sup>245</sup> 13 Turkish hostages were killed during a Turkish military operation against PKK in the Gare area of Kurdistan Region of Iraq, see Al-Monitor, *Turkey accuses PKK militants of executing 13 Turkish captives in Iraqi Kurdistan*, 14 February 2021, [url](#)



53. It is difficult to say whether remand prisoners are more exposed to ill-treatment than sentenced prisoners, and CISST points out that it depends on individual choices and the situation of the prisoner. Non-political remand prisoners, in the belief that they may be acquitted and released, may be more inclined to follow suit without objections while they are trialled and hence not face as much trouble. As for political prisoners, remand and sentenced alike and especially leftist and Kurdish political prisoners, they are aware of the system and of what they may be facing. As such, imprisonment and disobedience become a matter of opposition to the system from the moment of admission, and thus the system meets them with violence. Consequently, while a non-political remand prisoner may accept a strip search upon admittance, a political prisoner may not and is thus already in the process of facing violence. When admitted, however, a remand political prisoner under trial may be shielded by other prisoners if there is a situation or a conflict and told not to engage, because they may still be acquitted and released.
54. Within the last years, CISST has filed thousands of applications on behalf of prisoners to different monitoring institutions and other relevant government organisations regarding ill-treatment and torture. With reference to their report covering the period between 2016 and 2019, CISST notes that while the institutions and organisations in respect do reply to their applications, they mostly either deny the applications or do not provide adequate information. This renders it difficult for CISST to pursue the processing of the cases.<sup>246</sup> Therefore, they cannot comment on the working processes of detecting and preventing torture and ill-treatment and whether they are effective or not. There is, however, a culture of impunity from which the prison officers benefit, and this affects the overall situation in terms of the use of torture and ill-treatment.
55. To the extent of CISST's knowledge, there has been no confirmed cases of death as a result of torture or ill-treatment within the last couple of years. In general, physical violence has not been used to such an extent that it has resulted in death.

### Inter-prisoner violence (IPV)

56. Based on the complaints received, IPV is more prevalent amongst non-political prisoners, especially because of the overcrowding and economic differences among the prisoners. There have been no complaints from political prisoners relating to IPV. CISST does not know of any implemented mechanisms to prevent IPV. Furthermore, CISST is not able to comment on to what extent there are cases of death due to lack of information.

### Differentiated treatment

57. There is both discrimination among and against prisoners. Kurdish people incarcerated in the west can face discrimination both from among other prisoners and from the administration. For instance, if a prisoner speak Kurdish, which is still unrecognised and stigmatised, in the dormitories, he or she can face negative treatment. Another example relates to prisoners buying and reading the *Yeni Yasam* newspaper,<sup>247</sup> in which case they are punished disproportionately. In one case, there was an incident in a prison in Van where two prisoners requested the canteen to order the newspaper from

<sup>246</sup> CISST, *İnsan Hakları İhlalleri Başvuru Cevapları Raporu [Report on replies to applications regarding human rights violations]*, June 2020, [url](#)

<sup>247</sup> *Yeni Yasam* is characterised as a pro-Kurdish newspaper, see Turkish Minute, *Editor-in-chief of new pro-Kurdish daily briefly detained for terrorist propaganda*, 7 October 2018, [url](#)

the outside. When the administration was informed about their request, the prisoners were threatened with disciplinary actions and one of them was in fact disciplined. People who identify as Roma, Alevi or Christian tend not to flag with their identity in order to escape persecution because they can face discrimination both from other prisoners and from the prison administration. In one example, a prisoner faced aggressive reactions and, as a reference to the Sivas massacre,<sup>248</sup> threats of arson, when he told his fellow inmates that he was Alevi. Furthermore, it can be difficult for religious minorities to see a spiritual leader, e.g. a ‘dede’ for Alevis or a priest for Christians. In another case, CISST have been in contact with an atheist who had to transfer dormitories 30 times because the other prisoners subjected him to physical violence when he stated his belief.

58. In another recent case from Erzurum, which CISST characterises as a conservative city in eastern Turkey, prisoners complained to the prison administration about their fellow black prisoners. They feared that the black prisoners would infect them with COVID-19. To protect the black prisoners, the administration handed out masks to the black prisoners, which in return only confirmed the initial claims from the prisoners that they were in fact infected.
59. There is a wide array of issues relating to women, juveniles and other vulnerable groups. A few examples are LGBT-prisoners who are put in solitary confinement, because the administrations claim that they cannot guarantee their safety. Juvenile imprisonment is used too often, the prison facilities are not designed for disabled people, foreign prisoners are not able to communicate and earn their rights, blind prisoners do not have access to literature, and prison officers do not know sign language.

## Written replies to additional questions forwarded after the interview

16 March 2021

### Special treatment for women

*60. Are women placed in facilities separate from male prisoners?*

In Turkey, there are only nine closed and seven open women prisons. As the capacity of these institutions is limited, many female prisoners are held in separate sections of male prisons.

*61. Do women have adequate access to sanitation (at all time), washing facilities and to hygiene products?*

Regarding access to proper sanitary facilities, women experience the same difficulties as men do. However, in addition to those problems there has been a big issue of accessing sanitary towels. There is no law that regulates the provision of sanitary towels. Women organisations and CISST have together campaigned for this, and sanitary towels are now provided for free upon request.

*62. Are women given a comprehensive programme of meaningful activities (work, training, education and sport)?*

For those female prisoners who are held in separate sections of male prisons, there has been huge problems in terms of using the common areas. Since the common areas are used by men, the women

<sup>248</sup> Hürriyet Daily News, *Turkey commemorates 27th anniversary of Sivas massacre*, 2 July 2020, [url](#)

are not allowed to use them. Furthermore, the prison administrations offer vocational courses to women on the basis of traditional gender roles.

63. *Are women given special attention in terms of gynaecology, breast cancer treatment, cervical cancer treatment, ante-natal, post-natal and child care?*

In terms of gynaecology, breast cancer treatment, cervical cancer treatment, ante-natal, post-natal and child care, there are no systematic screenings and services to women. Institutions are mostly doing these arbitrarily.

64. *Are women given special attention to mental health care, including traumas connected to domestic violence?*

In general, social workers and psychologists are employed, however, their numbers are quite low. Moreover, they are not specialists on the subjects, such as traumas.

### Special treatment for juveniles

65. *Are they separated from adult prisoners?*

In total, there are seven closed juvenile prisons and four open juvenile prisons (also known as training schools) in Turkey. Other than these institutions, children are kept in institutions with adults.

### Special treatment for other vulnerable groups

66. *What groups among prisoners do you characterize as vulnerable?*

CISST have eight active thematic fields specialising on prisoners with special needs. These include: juvenile prisoners, woman prisoners, LGBTI+ prisoners, disabled prisoners, prisoners sentenced to aggravated life imprisonment, student prisoners, prisoner workers, and foreign prisoners.<sup>249</sup>

### Accountability

67. *What complaint and prosecution mechanisms is in place for prisoners (e.g. ombudsman, Independent authorities to investigate complaints of torture/ill-treatment, etc.)?*

There are five different institutions authorised with monitoring prisons: TIHEK, Ministry of Justice, City-based/District-based Prison Monitoring Boards, City-based/District-based Human Rights Boards, and the Committee on Human Rights Inquiry of the Grand National Assembly of Turkey. One can lodge complaints to these institutions regarding rights violations and requests of monitoring, but one can also apply to the Ombudsman Institution-KDK and the Presidency's Communication Center (CIMER).

68. *What is the number of cases under investigation and prosecution?*

Unfortunately, CISST does not know.

69. *What is the number of convictions in the past years?*

<sup>249</sup> CISST, *Annual Report 2019*, n.d., [url](#)

Unfortunately, CISST does not know.

*70. How are prison officials sanctioned?*

Depending on the crime, prison officials may either be reprimanded or stand trial.

*71. To what extent can prisoners submit their complaints confidentially?*

Prisoners have the right to send their complaints in a sealed envelope to their lawyers and to some official authorities. According to CISST, some prisoners have claimed that their letters were opened the authorities, but CISST points out that this could not be proven for which reason they were not able to say whether or not this is a practice.

*72. To what extent are prisoners subject to reprisals as a result of having submitting a complaint?*

Prisoners who submit complaints can face ill-treatment, disenfranchisement, and disciplinary punishments. They can also risk being transferred to another institution.

*73. To what extent do perpetrators enjoy impunity of ill-treatment and torture committed towards prisoners?*

Unless there has been a wide media coverage of a specific case, ill-treatment and torture mostly go unpunished.

## Police custody

*74. Is police custody used as remand prisons?*

No, remand prisoners wait for their trial in prisons.

## Human Rights Association (HRA)

Written answers

12 February 2021

### Access to Turkish prisons for independent monitoring

1. *Which independent actors are granted access to monitor Turkish prisons? (State institutions and civil society organisations)*

CSOs are not given access to monitor prisons in Turkey. The Grand National Assembly of Turkey's (GNAT) Human Rights Inquiry Committee and the Human Rights and Equality Institution of Turkey (Türkiye İnsan Hakları ve Eşitlik Kurumu -TİHEK) can pay on-site visits and draft reports about prisons.

2. The Human Rights and Equality Institution of Turkey, mandated to visit and monitor closed spaces notably prisons in Turkey, is not an institution that was established in line with the UN's Paris Principles. This institution, which is the National Preventive Mechanism (NPM), is not independent and is directly affiliated with the presidency with all its members appointed by the president himself. Please see Human Rights Foundation of Turkey's (HRFT) report, which İHD is of the same opinion, on the institution: <https://tihv.org.tr/wp-content/uploads/2020/04/ulusal-onleme-mekanizmasi-2019-yili-degerlendirme-raporu.pdf>*ndence, financing and functioning of the independent organisations?*

See 1

3. *Can they make unannounced visits?*

For TİHEK see: <https://www.tbmm.gov.tr/komisyon/insanhaklari/index.htm>

For the GNAT Committee see: <https://www.tbmm.gov.tr/komisyon/insanhaklari/index.htm>

4. *Do they have unhindered access to all facilities and information within the place of detention?*

Ibid.

5. *Do they have permission to undertake confidential interviews with prisoners?*

Ibid.

6. *How often is access granted to each independent organisation?*

Ibid.

7. *To what types of prisons and facilities is access not granted?*

No access is granted to the high-security F-Type Prison in İmralı Island in Turkey. Only the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) is allowed to visit this prison.

8. *Since HRA does not have access to Turkish prisons, how do you retrieve information on prison conditions?*

NGOs do not get special permit to visit prisoners. Therefore, face-to-face conferences with prisoners are carried out through HRA's lawyers. HRA's lawyers are required to go through x-ray like all other third persons when they enter prisons. Lawyers are registered on admission by eye scanning like everyone else. HRA's lawyers do not have access to all facilities within prisons, they are only granted access to the lawyer-client conference room in the prison. There are also problems in access to the required information and documents. Case file information about the

prisoners can only be accessed through public prosecutor’s offices upon request. Lawyers can obtain a copy of the documents in these files by submitting a special power of attorney or authorization document.

HRA visits prisons through lawyers and thusly collects information. Further, prisoners send letters to HRA and their families communicate information that they gather during family visitations to the association.

9. *How does HRA assess the credibility of the information given by other means?*

HRA verifies information by lawyer conferences.

10. *Which categories of complaints are most commonly submitted?*

The most commonly submitted complaints are torture and ill-treatment allegations. These include but are not limited to strip-search on admission to prisons, beatings when a prisoner objects to strip-search, medical examination in handcuffs, beatings when prisoners object to standing roll-calls in wards, ill-treatment during transfers or hospital visitations in gendarmerie vehicles, etc. Violation of prisoners’ right to visitations and right to communication by delivering arbitrary disciplinary actions against prisoners, prohibition of books and newspapers, failure to take adequate hygienic measures against the pandemic especially in quarantine rooms, long-term isolation (solitary confinement for months without letting prisoners see others and use common social spaces) follow the former.

11. *Are the Turkish state standards on prisons available to the public?*

The public can only have information published by the Ministry of Justice on its website (<https://cte.adalet.gov.tr/>) Yet, the ministry has not been disclosing statistics on prisoners for the last two years.

## Different types of prisons

12. *What types of prisons exist? (typology, e.g. high-, medium-, low-security and quantity)*

According to data released by the Ministry of Justice, there is a total of 370 prisons in Turkey as of 11 January 2021 including 265 closed prisons, 78 detached open prisons, 4 education houses for children, 9 closed prisons for women, 7 open prisons for women, 7 closed prisons for children. The capacity of these prisons is 245,200. Although there is no official data on how many people are incarcerated in these prisons, it was stated that there are about 283,000 prisoners in Turkey according to data provided by the ministry at GNAT’s budget deliberations in November 2020. Further, out of 265 prisons 10 are high-security, 14 are F-Type, 2 are D-Type, and 76 are T-Type prisons.

13. *Are specific prisoners/crimes admitted to specific prisons?*

Prisoners (convicted and in pre-trial detention) who stand trial within the scope of Anti-Terror Code No. 3713 (ATC) are allocated to high-security, F-Type, D-Type, and T-Type prisons. Women are held either in prisons for women or in women’s wards in high-security, F-Type and D-Type prisons.

## Sentenced prisoners -living conditions

### Material conditions

14. *What is the situation on overcrowding?*

As we have stated above, we believe that the number of current prisoners is about 300,000 while the capacity in Turkish prisons is 245,000. Therefore there is about 50,000 prisoner overcapacity. For

instance, according to applications lodged by prisoners in Tokat T-Type prison before our association, 20-21 prisoners have to live in a single ward with a capacity of only 7 due to the closure of one of the three wards that could hold 7 prisoners. Please see HRA's special report on rights violations in prisons in the Central Anatolia Region at <https://www.ihd.org.tr/ic-anadolu-bolge-hapishaneleri-hak-ihlalleri-raporu-ekim-kasim-aralik-2020/>

15. *To what extent does Turkish prisons comply with the CPT standards of living space?*

We can safely state that Turkish prisons do not generally comply with the CPT standards of living space. For instance, prisoners are held on their own in a small room in high-security prisons and taken out for ventilation in another place daily for only an hour. Thus a prisoner spends their entire time in their single-person room/cell except for this one hour.

16. *Do prisoners live in single/multiple cells?*

Prisoners are held in single cells in high-security prisons. They are taken out for ventilation on their own while they are not allowed to gather together in common social spaces. In F-Type prisons, on the other hand, some prisoners are held in single cells while some others are held in three-person rooms. Those in single cells are allowed to use common social spaces an hour a week. Prisoners in D and T-Type prisons are usually held in rooms with 8 or more people in overcrowded wards.

17. *Are dormitories used in some prisons?*

Please see above.

18. *To what extent are prisoners' cells lit?*

Prison windows are designed in such a way that they will receive the least amount of sunlight during the day. As the rooms and wards have high ceilings, the windows that would normally receive sunlight are too high to get it and, thus, such architectural design makes wards dark. Other than this, the rooms are lit by electricity. Prisoners are allowed to use TV, fridge or electric heaters in the room but the electricity bills are paid by the prisoners themselves.

19. *To what extent are prisoners' cells ventilated?*

Prisoners with aggravated prison sentences can go out for ventilation, which refers to the external extension of a ward/room in prison, during the day for an hour. For other prisoners, the opening and closing times of the doors that open up to the ventilation yards of their rooms vary according to sunrise and sunset times. We can state that prisoners can usually go out for ventilation between one hour and eight hours. Since the ward/room doors are kept open during ventilation times, they can air their rooms in this manner as well.

20. *What is the state of repair of the prison facilities?*

New high-security and T-Type prisons are constantly being built. As new prisons are built, old ones are closed down and prisoners are transferred to these new ones. Old prisons were more humane, so to speak, the new ones are like concrete cells with no humane quality although they seem more modern.

21. *Is there a call bell system?*

There are emergency help buttons in wards/rooms.

22. *To what extent is the nourishment of the food served to prisoners sufficient?*

The daily subsistence allowance allocated for prisons is 8,50 TRY (0.9 Euros) in the Ministry of Justice's budget. Two meals are served daily for this amount and no breakfast is served. As the subsistence allowance is too low, nutritional value of the food served is quite poor. Prisoners usually

buy extra food from the prison commissaries. There are many complaints about this matter which state that the commissaries have expensive prices and do not carry the requested food items. Another complaint on this issue is that the food served in prisons is not varied. Although prison administrations are tasked to provide diet food as required by sick prisoners' health conditions, some prisons never provide such food while some of those that provide these are not in line with the requirements of special diet schedules of prisoners according to complaints received by the association.

## Sanitary arrangements and access to personal hygiene

*23. To what extent are prisoners living in a hygienic environment in the prisons (sanitisation in or outside the cells, showers, cleaning of cells)?*

Prisoners have lodged numerous applications before our association on hygiene as well. Prisoners do the in-ward cleaning themselves. Thus administrators expect sick prisoners to clean their wards as well. Prison administrations do not provide prisoners with basic hygienic material like soap, shampoo, dishwashing liquid, etc. for free. Prisoners have also complained about problems in accessing hot water as well. With the onset of the COVID-19 pandemic prison administrations started providing prisoners with hygienic material for sanitation like bleach but some prisoners have argued that these sanitation materials were not sufficient enough because they were living in overcapacity. Further, our association has also received complaints that quarantine wards in some prisons were dirty and stuffed. For instance, a sick prisoner in critical condition incarcerated in Kürkçüler F-Type Prison lodged an application stating that he was referred to a hospital for pre-operative checks and was placed in a separate ward for a 14-day quarantine which was utterly dirty, full of flies, with its toilet soiled. The prisoner stated that he tried to kill the flies in the ward with a piece of cloth but had to go to sleep in all that dirt as his body was too tired to cope. (Please see HRA's special report on rights violations in prisons in the Çukurova Region at <https://www.ihd.org.tr/cukurova-bolge-hapishanelerinde-yasanan-hak-ihlallerine-iliskin-ekim-kasim-aralik-2020-tespit-ve-degerlendirme-raporu/>)

*24. To what extent do prisoners have a comparable access to medical aid to that of the outside world?*

Prisoners are firstly treated in infirmaries or 'campus hospitals' (although they are called 'hospitals' these are more like outpatient clinics) within the prison. In cases where prisoners' health conditions deteriorate or when technical equipment proves to be insufficient, prisoners are referred to city and university hospitals. Yet there are serious challenges before prisoners' access to both infirmaries and hospitals in the current situation. Referral processes are elongated and this hinders treatment and leads to the deterioration of prisoners' medical conditions. The COVID-19 pandemic made it even harder for prisoners to access hospitals. Prisoners are not referred to hospitals unless there is an emergency within the measures taken in response to the pandemic. Prisoners' treatments are further sidetracked. Determination of a prisoner's condition whether it is critical or not also brings along violations of the right to health. Prisoners are held for 14 days in rooms called 'quarantine wards' after their referral to hospitals. These quarantine processes also sidetrack prisoners' treatments.

25. Dental examinations are also among prisoners' most common complaints. Prisoners state that dental treatments are done wrong or inadequate leading to tooth loss and their treatments are hindered. For instance, prisoners in Kürkçüler F-Type Prison lodged an application before our association stating that when they are referred to a hospital for dental examination the gendarmerie units on duty conduct oral cavity search for all prisoners referred to a hospital for dental examination. Please see HRA's special report on rights violations in prisons in the Çukurova Region at



<https://www.ihd.org.tr/cukurova-bolge-hapishanelerinde-yasanan-hak-ihlallerine-iliskin-ekim-kasim-aralik-2020-tespit-ve-degerlendirme-raporu/> including disabled and mentally ill persons, given necessary treatment?

Vulnerable prisoners, including the disabled and mentally ill, do not receive effective treatment. There are many problems with their referral to hospitals. The families of such vulnerable prisoners have lodged applications before our association. Article 16 of Law No. 5275 prescribes that the enforcement of mentally-ill prisoners' sentences should be deferred while they should be placed in a health care facility listed in Article 57 of the Turkish Penal Code (TPC) for protection and treatment until they get well. Nevertheless, the enforcement of sentences for prisoners, who have severe psychiatric conditions like schizophrenia and are not able to take care of themselves, is not deferred due to their health conditions.

26. *Are medical checks and treatment being documented in a medical journal? (Recording of injuries, statement of alleged victims, full account of medical findings based on medical examination, reporting of injuries to independent prosecutorial authorities)*

HRA has received numerous applications from prisoners, who alleged that they were subjected to torture and ill-treatment in prisons, stating that acts of battery were inadequately recorded or not recorded at all, medical examinations to this end lasted merely in minutes, medical examination records did not include victims' statements, and the victims were referred to infirmaries and campus hospitals only after the traces of battery were no longer visible and healed. Rehabilitation of torture victims is not conducted in prisons.

Further, when victims of torture and ill-treatment file criminal charges these usually end up in non-prosecution decisions. This state of affairs lead to the failure to effectively investigate allegations of torture and ill-treatment.

HRA has also been receiving applications claiming that the requests of victims, who wanted to have medical examination to obtain a medical report indicating battery, were denied. The most common complaints on this issue include challenges before obtaining medical battery reports, failure to record traces of battery in the medical examination report, or referral to medical examination only after traces of battery are healed.

27. *Are prisoners regularly checked for transmittable diseases?*

Prisoners have indicated that they were not checked for transmittable diseases. Our association has received numerous applications on the issue from prisoners held in Şanlıurfa T-Type Prison No. 1. The prisoners stated that there were COVID-19 positive prisoners in the prison and the requests of those who were in contact with these prisoners were not met.

28. *Are prisoners given a medical check within 24 hours of admission to the prisons?*

The prisoners are not given medical checks. During the COVID-19 pandemic, those admitted to prisons are held on their own in wards called 'quarantine rooms' for 14 days.

29. *Are the consultations with health care staff confidential?*

Our association has received many complaints about problems before the right to health. A significant portion of these complaints is about the presence of law enforcement in prison infirmaries or hospitals during medical examination, which violates confidentiality.

30. *What is the prevalence of suicide and self-harm?*

Cases of suicide in prisons are prevalent. According to data collected by HRA, 15 prisoners committed suicide in 2020 and 2021. Please see HRA's special report on rights violations in prisons in the Central

Anatolia Region at <https://www.ihd.org.tr/ic-anadolu-bolgesi-hapishaneleri-hak-ihlalleri-raporu-ekim-kasim-aralik-2020/> statement by HRA and HRFT which includes figures on the issue at [https://ihd.org.tr/en/wp-content/uploads/2020/12/js20201210\\_I%CC%87HD-HRFT\\_Human-Rights-Day-2020\\_.pdf](https://ihd.org.tr/en/wp-content/uploads/2020/12/js20201210_I%CC%87HD-HRFT_Human-Rights-Day-2020_.pdf)

31. *Are there measures to prevent suicide and self-harm?*

The fact that prisoners still commit suicide show that no measures to prevent suicide and self-harm take place and no sufficient medical help is provided.

32. *What is the risk of death from disease?*

HRA keeps a record of sick prisoners. This list includes prisoners in critical condition as well. HRA ascertained that there were 1,605 sick prisons including 604 in critical condition in 2020. This figure, however, is not a clear-cut one as it was obtained on the grounds of applications lodged before our association. The accurate number of sick prisoners is not known because the Ministry of Justice does not share official data. We do estimate that the number of sick prisoners is well above our findings. Prisoners lose their lives in prisons due to obstacles before their release in spite of the fact that they have life-threatening conditions.

## Meaningful activities

33. *Do prisoners have access to meaningful activities (sentencing planning with regard to education, work, sport, outdoor exercise)?*

In many prisons in Turkey social activities (sports, conversation, courses) have come a definitive halt due to the COVID-19 pandemic. Prisoners were able to have limited access to such social activities before the pandemic. Prisoners have not been able to benefit from courses and workshops within the scope of social and cultural activities in prisons due to technical problems as well.

34. *To what extent are there different regimes for different categories of prisoners, incl. high, medium, and low-security prisoners?*

Prisoners are categorized based on the enforcement of their sentences. Accordingly, prisoners are divided into categories as those with limited prison sentences, life sentences or aggravated life sentences. They are also unofficially categorized in practice according to the nature of the criminal offense they committed as ordinary and political ones. Prisoners are also classified according to age and gender, for instance women and children prisoners.

Prisoners who received aggravated life sentences are only allowed to have oral communication with their spouses, descendants and kin, siblings and guardians every fortnight in cases where it is deemed appropriate by the administration and the monitoring board provided that it does not last more than 10 minutes. Prisoners who received aggravated life sentences are held in single cells. They are granted the right to go out in the open air and exercise for an hour a day but are not allowed to participate in any sports or improvement activity other than those prescribed by the internal regulations of the prison. All health measures and medical checks for these prisoners are conducted at prisons except for exigences and in single-person and high-security prisoner wards at full-fledged state or university hospitals in cases where they cannot be conducted on site.

Prisoners convicted of terrorism charges, who had been sentenced to death and whose sentences were then reduced to aggravated life along with those convicted of terrorism charges and sentenced to aggravated life in prison, cannot benefit from provisional release provisions according to Article 1 of Law No. 5218 of 14.07.2004 and Law No. 4771 on Amendments to Various Laws of 03.08.2002. For such prisoners aggravated life sentences hold out for the rest of their lives, which we call 'extended capital punishment.'

When prisoners sentenced to life in prison serve two thirds of the provisional release term prescribed in Article 107 of Law No. 5275, when convicted prisoners with limited prison terms serve one third of their total sentences, and when convicted prisoners listed in subclause 3 spend one third of their total sentences in good conduct can be transferred to other prisons that are in line with their conduct and personalities.

## Contact with the outside world

### 35. *To what extent are prisoners allowed to meet their family and lawyer in private meetings?*

For prisoners on remand (non-convicted), their private conferences with their lawyers are not subjected to a specific term but convicted prisoners can only meet with their lawyers only during the weekdays and work hours.

Prisoners can have ‘open’ family visitation once a month for about 45 minutes to an hour while they can meet with their families in closed visitation booths once a week for 45 minutes to an hour. However open family visitations that prisoners used to have with their families have been banned because of the pandemic and they are now only allowed to have closed visitations. The number of visitors has also been restricted. Law enforcement conducts inquiries into persons in the visitation lists. When the results of the inquiry reveal that these persons to visit prisoners as friends are ‘objectionable,’ they may not be able to meet with prisoners. The ‘objectionability’ criteria are not known.

### 36. *To what extent are they allowed to make phone calls with their family and lawyer?*

Prisoners can make phone calls to one of their family members or lawyers once a week for 10 minutes on the condition that they inform prison administrations beforehand.

Prisoners with aggravated life sentences, on the other hand, are only allowed to have oral communication with their spouses, descendants and kin, siblings and guardians every fortnight in cases where it is deemed appropriate by the administration and the monitoring board provided that it does not last more than 10 minutes.

According to Article 66 of Law No. 5275, prisoners in open and closed prisons have the right to immediate use of the phone and fax of the prison in cases where their descendants, kin, spouse or siblings died or were in critical condition, in epidemics or natural disasters. Such communication is documented by reports that are kept in special files.

Convicted prisoners in open prisons and education houses for children can freely communicate through pay phones.

Prisoners’ communication with their families and lawyers through pay phones are tapped and recorded by prison administrations.

According to the circular letter on the COVID-19 pandemic published on the official website of the Ministry of Justice’s General Directorate of Prisons, prisoners were granted the right to have extra phone communication in order to maintain prisoners’ contact with the outside world and for their rehabilitation to replace closed and open visitations that could not be had during the pandemic (<https://cte.adalet.gov.tr/Home/SayfaDetay/ceza-infaz-kurumlarinda-kovid-19-pandemi-surecine-dair-kamuoyu-aciklamasi17062020045113>). Prisoners are allowed to talk to one person for 20 minutes a week within this scope.

### 37. *Are there any restrictions on these rights, including restrictions depending on the category of prisoner?*

Prisoners with aggravated life sentences are only allowed to have oral communication with their spouses, descendants and kin, siblings and guardians every fortnight in cases where it is deemed appropriate by the administration and the monitoring board provided that it does not last more than 10 minutes.

Additionally, disciplinary action can be taken against prisoners, except for children, to deprive them of communication or impose restrictions for about a month or longer within the scope of administrative investigations.

38. *To what extent are prisoners admitted to prisons close the prisoners places of origin?*

Almost all prisoners, who have lodged applications before our association, stated that they were held in prisons far away from their places of origin or from their families and they filed transfer requests to this end but the Ministry of Justice has never accepted these requests. Another complaint of the prisoners is that they were easily transferred to other prisons although they have not requested such a transfer. There are prisoners' families who have to take 24-hour long road trips to have family visitation. Transfers have also been entirely stopped due to the pandemic.

The expenses of transfers requested by prisoners are paid in cash by prisoners and their families.

Applications on transfer requests are lodged by prisoners themselves or through our association before the Ombudsman Institution as well. Although there are some applications found admissible by the Ombudsman Institution on the grounds of violating Article 8 of the ECHR for failure to meet transfer requests, rights aggrievements continue.

## **Solitary confinement and other means of restraint**

39. HRA regards holding a prisoner on their own in a single room for a long-term in high-security or F-Type prisons as isolation. Isolation, for HRA, is imposed when this prisoner is not allowed to use the common social space with other prisoners or when they are allowed for an hour a week.

The related legislation, namely Article 44 of Law No. 5275, also prescribes punishment in solitary confinement in a cell. A prisoner can be held in a quite narrow cell within the scope of such punishment that lasts for a day to 20 days.

40. *To what extent is solitary confinement used illegally or disproportionately against prisoners?*

Solitary confinement/isolation can be imposed on prisoners on remand (non-convicted) if they are standing trial for aggravated life sentence for months and even for years just like convicted prisoners.

41. *To what extent is solitary confinement used as a last resort?*

This practice is common and disproportionate.

42. *What is the maximum days by law and practice?*

There is no specified maximum term for isolation but the above-mentioned cell punishment lasts from one day to 20 days.

43. *What safeguards are available (access to lawyer and appeal)?*

Prisoners have the right to object to the cell punishment and to appeal to courts if their objections are not accepted. It is a routine practice in isolation.

44. *What are the conditions during solitary confinement?*

A prisoner held in isolation can meet with their lawyer and family.

In the cell punishment a prisoner is not allowed to meet with their lawyer and family.

## Torture and ill-treatment

45. *To what extent does torture and ill-treatment take place in prisons? What is the prevalence, patterns, and types of physical and psychological torture and ill-treatment?*

The number of cases of torture and ill-treatment in prisons have increased recently. Beatings by kicking and punching, isolation, death threats, strip-search in violation of human dignity, standing roll-calls in military order by giving an oral report (tekml), oral report on the phone, obstructing medical treatment, insults, etc. are among the types of torture and ill-treatment in prisons. Attempts to strip-search all prisoners on their admission to prisons are being made even if there is no concrete danger to the extent that their feelings of shame are hurt. HRA has been receiving many applications stating that prisoners were battered because they did not accept strip-searches.

46. *Who are the typical victims and perpetrators and what is the context of torture and ill-treatment?*

It is quite hard to define a typical victim in this case. HRA does not have statistical data on the issue but the perpetrators are usually wardens and law enforcement officers.

Recently, HRA has been receiving applications from many ordinary prisoners (i.e. those imprisoned for non-political reasons) alleging that they were subjected to torture and ill-treatment as they have come to learn about the activities of the association.

47. *Are there policies and measures in place to detect and prevent torture and ill-treatment?*

Prisons have cameras to monitor such acts but this is not sufficient on its own because the policy of impunity prevails. Further, there are sections with no cameras. If monitoring mechanisms in line with the UN's Paris Principles are established they may prove to be effective.

48. *Are there cases of death due to torture and ill-treatment?*

Please see HRA and HRFT's joint statement issued on the occasion of 10 December Human Rights Day:

[https://ihd.org.tr/en/wp-content/uploads/2020/12/js20201210\\_I%CC%87HD-HRFT\\_Human-Rights-Day-2020\\_.pdf](https://ihd.org.tr/en/wp-content/uploads/2020/12/js20201210_I%CC%87HD-HRFT_Human-Rights-Day-2020_.pdf)

## Inter-prisoner violence (IPV)

49. *To what extent does IPV take place?*

Enmity and trying to establish authority over one another are common problems among ordinary prisoners. Prisoners have been lodging applications complaining that they were tormented and did not have safety of life because of such enmity.

50. *What is the prevalence, patterns and types of IPV?*

Psychological coercion, torment and physical violence are frequently seen.

51. *Who are the typical victims and perpetrators and what is the contexts of IPV?*

No response given.

52. *What is possibility for protection of prisoners?*

Mortality cases are seen due to the failure to take necessary measures although there is enmity among prisoners. For instance, HRA has recently received an application indicating that a prisoner incarcerated in Kırkkale F-Type Prison lost his life, lawyers affiliated with the association visited the prison to inquire into the incident. Although it has been alleged that the prisoner committed suicide,

Kırıkkale Chief Public Prosecutor's Office has been conducting an investigation. Yet the association received some serious allegations that measures to protect the prisoner's safety of life were not taken. (See. HRA's special report on rights violations in prisons in the Central Anatolia Region at <https://www.ihd.org.tr/ic-anadolu-bolgesi-hapishaneleri-hak-ihlalleri-raporu-ekim-kasim-aralik-2020/>)

## Differentiated treatment

53. *To what extent does differentiated treatment take place in terms of ethnicity, affiliation with political groups, vulnerable groups (women, juveniles, disabled (physically and mentally))?*

Ethnicity (Kurds): Kurdish prisoners have been lodging applications before the association alleging that they were subjected to discrimination by prison administrations. For instance, they have indicated that their letters written in Kurdish were not sent to their recipients and they were not allowed to have the letters in Kurdish addressed to them on the grounds that there was no prison staff who spoke Kurdish to translate the letters. Prisoners also complained that wardens were using discriminatory language against them because they were Kurdish and while threatening and insulting them by saying 'You are terrorists, you will obey the state.'

Political groups are also subjected to discriminatory treatment as has been explained above. The Enforcement Law has been regulated to exclude political groups in violation of prohibition of discrimination. The enforcement of sentences for all the political groups has been done within the scope of the Anti-Terror Code (ATC). They are legally subjected to discrimination. According to Article 5 of the ATC, the sentences imposed on such prisoners are increased by half, while Article 17 of the ATC states that the term they could benefit from conditional release is  $\frac{3}{4}$ . This means that they could be transferred to open prisons and then released after they serve  $\frac{3}{4}$  of their prison terms if they are deemed in good conduct, if not they serve full term. The term of conditional release for ordinary prisoners, on the other hand, is  $\frac{1}{2}$ . Law No. 7242 which went into effect on 15 April 2020 provided for the release of ordinary prisoners who had 3 years to serve but political prisoners were excluded. (See. <https://ihd.org.tr/en/ihs-amicus-curiae-submission-on-law-no-7242/>)

Vulnerable groups also face discrimination within the scope of the ATC.

## Special treatment for women

54. *Are women placed in facilities separated from male prisoner?*

There are separate prisons for women but women are held in separate wards from men in some places because women's prisons are not found everywhere.

55. *Do women have adequate access to sanitary (at all time), washing facilities and hygiene products?*

Prison administrations do not provide special needs of women like hygienic pads, wax, razors, hair dye, shampoo, etc. for free. Related complaints include hygienic problems due to the fact that showers and toilets are in the same place, the fact that women had to shower with buckets because there are no shower heads, that women could not wear clean clothes due to restrictions on clothing and the fact that they are allowed to wash their clothes only on specified days, that faucets and drains were always blocked and sometimes were not repaired in a short time, and it was quite hard to have hot water.

56. *Are women given a comprehensive programme of meaningful activities (work, training, education and sport)?*

To the best of our knowledge, occupational training activities are offered in some prisons but these opportunities are rather limited.

57. *Are women allowed to maintain a relationship with their spouse and children?*

Women's relationships with their spouses and children can only be maintained through family visitations and phone calls. However women who are held in distant prisons from their places of origin have a hard time in maintaining such relationships.

58. *Are women given special attention in terms of gynaecology, breast cancer treatment, cervical cancer treatment, ante-natal, post-natal and child care?*

Routine medical checks are not offered due to problems in access to health care and staff shortage.

59. *Are women given special attention to mental health care, including traumas connected to domestic violence?*

There are psychologists in some prisons. Prisoners who need to consult a psychologist can do so.

60. *Are women given confidentiality during medical examination and treatment?*

Women prisoners may even have to take off their clothes for medical examination because law enforcement accompanies examinations.

61. *Are women given the possibility to be examined and treated by female staff according to her wish?*

There is a general rule on this issue but women cannot be examined by a female doctor if there is none in the facility they are taken to. And usually male doctors perform medical examinations because they are seen as dangerous.

62. *Do disciplinary sanctions for women include prohibition of family contact, especially with children?*

Yes, disciplinary sanctions for women include such prohibition.

## Children/Juveniles

63. *What is the definition of a juvenile?*

Persons between the ages of 0 to 18 are defined as children in Turkey. Those younger than 12 years of age do not have criminal liability. Those between the ages of 12 and 18 have limited criminal liability.

64. *Are juveniles held in special facilities and deprived of their liberty only as a last resort?*

Detention of children in Turkey proves to be a serious problem. Courts usually deliver detention rulings against children.

65. *Are juveniles separated from adult prisoners?*

Juveniles are placed in separate sections in closed prisons where there are no specific institutions for them. If there are no separate sections in these institutions, girls are held in a section in women's prisons or in sections allocated for them in other closed prisons.

66. *Are juveniles placed in facilities designed for this group?*

Not usually, because the number of institutions designed for them is quite limited.

67. *Are juveniles offered a full programme of out-of-cell activities and education?*

Under Law No. 5275 juvenile prisoners, those who attend in-house or external education and training programs and are 18 years old are allowed to stay in these facilities until they are 21 in order to complete their education.

Juvenile prisoners can only be made to work for occupational training. Juvenile prisoners attending educational institutions or in formal education cannot be made to work in workshops and work places during the education year.

Prisoners in education houses for children are not subjected to the monitoring and protection of the institution staff while they work outside the institution. But these opportunities are not sufficient enough for the education, rehabilitation, and a healthy social interaction for children. Children's education is usually interrupted when they are detained.

*68. Are juveniles separated by gender and age groups?*

Juveniles between the ages of 12 and 18 are held in separate sections of these institutions with regard to their genders and physical development.

*69. Are juveniles granted access to the outside world?*

Juveniles are allowed to use pay phones freely.

## **Other vulnerable groups**

*70. What groups among prisoners would you characterize as vulnerable?*

Refugee and LGBTI+ prisoners are among the most vulnerable groups.

*71. How are they treated in comparison with other groups?*

Refugee prisoners have rights like learning the impugned charges against them in a language they understand so that they can prepare their defenses and to have a translator, etc. within the scope of their right to a fair trial but HRA has been receiving applications indicating that refugee prisoners were victimized because they could not enjoy these rights while they could not file petitions stating their requests with prison administrations because of language barriers.

LGBTI+ prisoners are subjected to discriminatory speech and conduct by both wardens and other prisoners. Although prisoners are placed in institutions after having been categorized, LGBTI+ prisoners face immense problems during this classification process. They are held on their own in a room in the institution.

## **Remand detention**

*72. What is the average time a prisoner spends in remand detention?*

A prisoner had to wait at least for a year for an indictment to be drafted against them during the state of emergency. Although it now varies depending on the type of offense and the contents of the file a person stands trial for, an indictment is filed within about 4-5 months and a person is detained pending trial for an average of 4-8 months.

This period varies depending on the type of offense. For instance, prisoners who were arrested and charged with membership in an illegal organization during the armed conflict in Eastern and Southeastern Anatolia in 2015 and 2016 indicated in their application to the association that they were detained pending trial for more than 5 years.



73. *Are remand prisoners separated from sentenced prisoners?*

Convicted and non-convicted (those detained pending trial) prisoners are held together. Therefore, the problems and issues stated for convicted prisoners are also valid for non-convicted ones.

## Other vulnerable groups

74. *What groups among prisoners would you characterise as vulnerable?*

Sick prisoners, LGBTI+ prisoners, juveniles, foreigner prisoners are defined as vulnerable because they have specific needs.

## Accountability

75. *What complaint and prosecution mechanisms is in place for prisoners (e.g. ombudsman, Independent authorities to investigate complaints of torture/ill-treatment, etc.)?*

Prisoners can convey their complaints by means of letters, fax and telegraph. The letters, faxes and telegraph messages sent by prisoners to the authorities or to their lawyers for their defenses are not subjected to supervision/inspection. But all other documents other than these sent by prisoners are subjected to supervision.

Prisoners also indicate their complaints during their conferences with lawyers. During such conferences the documents or copies of documents handed by the prisoner to their lawyer or vice versa, records they keep about the conversation between them cannot be inquired while a convicted prisoner's conference with their lawyer cannot be tapped and recorded. But under Article 59/5 5 of Law No. 5275 that was amended through Article 6 of Decree Law No. 676 prisoners conferences with their lawyers can be recorded with technical equipment upon the decision delivered by an enforcement judgeship, the documents and copies of documents handed by the prisoner to their lawyer or vice versa, files and records of their conversations can be seized. And when documents are seized the lawyer-client conference is immediately stopped and the seized documents are reported to chief public prosecutors' offices. Article 6 of Decree Law No. 676 terminates the privacy and confidentiality of conferences between prisoners and their lawyers.

When prisoners lodge complaints they may face disciplinary investigations, while their petitions are not sent to their recipients on the grounds that they contain complaints about the prison and provided misinformation. For instance, a prisoner incarcerated in Rize L-Type Closed Prison sent a letter to our association alleging that they had been subjected to torture and ill-treatment and a criminal complaint was filed against them before the chief public prosecutor's office on the grounds that the letter contained statements endangering the security of the prison.

Torture and impunity are two inseparable facts. Administrative investigations into cases of torture and ill-treatment often end up in non-prosecution/dismissal of charges decisions. Criminal investigations initiated after criminal complaints filed by prisoners end up in non-prosecution as well or they are not effectively investigated. Victims' accounts are not taken; witnesses and perpetrators of torture and ill-treatment are not heard before the courts.

HRA has also been receiving applications from prisoners with allegations of torture and ill-treatment during police custody.

## Annex 2: Terms of Reference (ToR)

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- 1. Access to Turkish prisons for independent monitoring**
  - a. Actors given access (independent state institutions and civil society organisation)
  - b. Mandate, independence, powers of actors
  - c. Types of prisons and facilities to which access is not granted
  
- 2. Different types of prisons**
  - a. Which prisoners/crimes are allocated in the different types of prisons (e.g. high (Type F), medium, low security)
  
- 3. Living conditions for detainees in remand detention**
  - a. Average time spend in remand prison
  - b. Material conditions (state of repair, space (prison population rate and trends), light, ventilation, nutrition )
  - c. Sanitary arrangements and access to personal hygiene
  - d. Health care
  - e. Access to meaningful activities
  - f. Contact to the outside world (family, lawyer)
  - g. Use of solitary confinement, force and means of restraint
  - h. Prevalence and patterns of ill-treatment and torture
  - i. Prevalence and patterns of inter-prisoner violence (IPV)
  - j. Authorities' use of police custody as remand prison
  - k. Separation of remand prisoners from sentenced prisoners
  - l. Differentiated treatment in terms of ethnicity, political groups and vulnerable groups
  - m. Special treatment for vulnerable groups (women, juveniles and other groups)
  
- 4. Living conditions for sentenced prisoners**
  - a. Material conditions (state of repair, space (prison population rate and trends), light, ventilation, nutrition)
  - b. Sanitary arrangements and access to personal hygiene
  - c. Health care
  - d. Access to meaningful activities
  - e. Contact to the outside world (family, lawyer)
  - f. Use of solitary confinement, force and means of restraint
  - g. Prevalence and patterns of ill-treatment and torture
  - h. Prevalence and patterns of inter-prisoner violence (IPV)
  - i. Prevalence of turmoil/unrest in prisons
  - j. Differentiated treatment in terms of ethnicity, political groups and vulnerable groups
  - k. Special treatment for vulnerable groups (women, juveniles and other groups)
  
- 5. Accountability**
  - a. Independent authorities to investigate complaints of torture/ill-treatment
  - b. Independent complaints mechanism
  - c. Impunity for perpetrators of ill-treatment and torture

## Annex 3: Map of Turkey



Map of provinces in Turkey. Source: University of Texas Libraries, Turkey: Administrative Divisions, 2006, [url](#)