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SUBMISSION OF ASSEDEL RELATING TO THE CONSIDERATION OF STATE REPORTS FOR THE REPUBLIC OF TÜRKİYE

**80. SESSION (08 July 2024 - 26 July 2024) OF THE UN COMMITTEE
AGAINST TORTURE**

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80 SESSION (08 JULY 2024 - 26 JULY 2024) OF THE UN COMMITTEE AGAINST TORTURE

1. INTRODUCTION

1. ASSEDEL (European Association for the Defense of Rights and Freedoms) is a non-profit organization based in Strasbourg. Its aim is to disseminate, promote, and defend human rights and fundamental freedoms in line with the spirit of the European Convention on Human Rights, both within the Council of Europe system and at local, national, and international levels.
2. ASSEDEL is particularly concerned about the significant backsliding in adherence to the rule of law and the protection of fundamental rights in Türkiye over the past decade. Especially in the aftermath of the coup attempt on July 15, 2016, the crackdown on political opponents and minorities in Turkey reached unprecedented levels. While Turkey was ranked 59th¹ in the global Rule of Law Index in 2014, by 2023, it had fallen to 117th out of 142 countries. According to Freedom House², Turkey is considered among the 'not free' countries with 33 out of 100 points. The Paris-based NGO, Reporters Without Borders ranked Turkey as 165th out of 180 countries in 2023³.
3. Serious backsliding of Türkiye in respect of human rights and rule of law has been repeatedly highlighted by several international organizations including Council of Europe⁴, different UN bodies⁵, and the European Union institutions⁶.

¹ The World Justice Project Rule of Law Index, 2014, page 37, available [here](#).

² Freedom House, Global Freedom Scores, available [here](#).

³ Reporters Sans Frontières, Turquie, available [here](#).

⁴ Venice Commission, Opinion on the Provisions of the Emergency Decree Law N° 674 of 1 September 2016 which concern the exercise of local democracy in Turkey, available [here](#); Venice Commission, Opinion on the amendments to the Constitution adopted by the Grand National Assembly on 21 January 2017 and to be submitted to a National Referendum on 16 April 2017, CDL-AD(2017)005, 10-11 March 2017, available [here](#); Council of Europe Commissioner for Human Rights, Situation in Turkey, available [here](#); Parliamentary Assembly of the Council of Europe, Allegations of systemic torture and inhuman or degrading treatment or punishment in places of detention in Europe, recitals 6, 9 and 10, available [here](#); according to European Court of Human Rights' (ECtHR) 2023 statistics Turkey topped the list of countries with cases awaiting judgment with 23,397 applications, corresponding to 34.2 percent of the total, available [here](#).

⁵ Human Rights Council, Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention at its eighty-eighth session, 24–28 August 2020, Opinion No. 51/2020 concerning Arif Komiş, Ülkü Komiş and four minors whose names are known to the Working Group (Malaysia and Turkey), available [here](#); Human Rights Council Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention at its ninety-sixth session, 27 March–5 April 2023 Opinion No. 3/2023 concerning Ali Ünal (Türkiye), available [here](#).

⁶ Commission Staff Working Document Türkiye 2023 Report, page 31, available [here](#); European Parliament, Report on the 2022 Commission Report on Türkiye, available [here](#).

4. ASSEDEL submits the present report for the considerations of the Committee Against Torture during the examination of the State party report of Türkiye in the framework of the 80th session of the Committee which will take place between 8 July and 26 July 2024⁷.
5. As a preliminary point, ASSEDEL would like to recall that according to article 2(2) of the Convention against Torture (**CAT**) “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture”⁸. Therefore, it should be clarified at the outset that as long as an act is considered as a “torture” within the meaning of article 1 of the CAT, each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture pursuant to article 2(2) of the CAT. For that reason, the comments of the Government of Türkiye⁹ related to the right of derogation from the obligations under the ECHR and the ICCPR or the declaration of the State of Emergency are irrelevant in determining whether an act is considered as a torture in the sense of CAT and thus whether the relevant provisions of the CAT are violated (e.g., article 4 (ensuring that all acts of torture are punishable offences under its criminal law), article 6 (custody and legal measures for the perpetrator), articles 10 and 11 (training of the law enforcement officers and ensuring a systemic review), articles 12, 13 and 14 (prompt and impartial investigation, right to complain and adequate compensation), article 16 (obligation to prevent other acts of cruel, inhuman or degrading treatment or punishment committed by or at the instigation of or with the consent or acquiescence of a public official)).
6. In this report, ASSEDEL will express its concerns regarding three main issues.
7. First, this will tackle the issue of enforced disappearances carried out within Turkey since 15 July 2016, and the systematic practice of state-sponsored extraterritorial abductions and forcible return of Turkish nationals from multiple States to Turkey recognized by international authorities, especially UN OHCHR reports¹⁰.
8. Secondly, this report provides a detailed analysis of systemic torture in prisons, with a particular focus on political prisoners. As will be explained and demonstrated through several case examples in section

⁷ CAT - Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, 80 Session (08 Jul 2024 - 26 Jul 2024), available [here](#).

⁸ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 10 December 1984 by UN General Assembly resolution 39/46, available [here](#).

⁹ Fifth periodic report submitted by Turkey under article 19 of the Convention pursuant to the simplified reporting procedure, due in 2020, CAT/C/TUR/5, recitals 2-4, available [here](#).

¹⁰ Human Rights Council, Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention at its eighty-eighth session, 24–28 August 2020, Opinion No. 51/2020 concerning Arif Komiş, Ülkü Komiş and four minors whose names are known to the Working Group (Malaysia and Turkey), available [here](#); Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Letter to the Turkish Government, 5 May 2020, available [here](#).

3, torture in prisons manifests in various forms: physical violence resulting in the death of inmates in certain cases, denial of access to medicine or appropriate conditions leading to death in certain instances, arbitrary solitary confinement without justification or legal basis, and denial of the right to conditional release for political prisoners.

9. Finally, the report will address the erosion of judicial independence in Turkey, which impedes victims of torture from accessing their right to effective judicial remedy.

2. EXTRAJUDICIAL KILLINGS AND ENFORCED DISAPPEARANCES

10. Pursuant to Article 2 of the International Convention for the Protection of all Persons from Enforced Disappearance¹¹, there can be no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, which can be invoked as a justification for enforced disappearance.
11. Since July 20016, several enforced disappearance and extraterritorial abduction cases targeting the suspected members of the Gulen movement have been reported. The Government's strategy to illegally abduct the individuals suspected to be affiliated with Gulen movement has been acknowledged by the Turkish National Intelligence Organization (**MIT**) in its activity report of 2022. According to Hakan Fidan, Undersecretary of the MIT "As a product of the developed overseas operation capacity, more than 100 members of various organizations have been brought to Turkey from different countries."¹²
12. According to Working Group's Letter of 5 May 2020, extraterritorial abductions and forcible return of Turkish nationals are conducted with the direct participation, support or acquiescence of other States. For certain countries, Turkey has concluded bilateral agreements which are devised to bypass the conditions and safeguards provided under regular extradition and deportation processes. The terms "combatting terrorism" or "security risk" have been a suitable pretext for these forcible repatriations. It should be borne in mind independently from the justification ground for the measures taken by the Government; there is not a human rights-free zone where the right to due process, procedural guarantees could be ignored. It is more concerning when the rights in question are non-derogable rights, including torture, inhuman and degrading treatment in the process of disappearance, or return to Turkey.

¹¹ International Convention for the Protection of All Persons from Enforced Disappearance adopted on 23 December 2010 by General Assembly of the United Nations in its resolution 47/133, available [here](#).

¹² Cumhuriyet, Milli İstihbarat Teşkilatı 2022 Faaliyet Raporu'nu yayımladı, available [here](#).

13. All of the extraterritorial abduction has been carried out without any legal basis; the arresting officers did not identify themselves; no arrest warrants were presented; no explanations were provided to explain or justify the arrests; the persons were taken by force from their home or in the street; they were blindfolded, hooded and handcuffed; their families were/are not informed at all, and the effort of the families can take years. Under this type of incommunicado detention conditions, the victims are deprived of any guarantee against torture and inhuman treatment.
14. The calls of the victims' families to find the perpetrators are not responded to by the Government. Even after the abducted person is miraculously found in some police headquarter one day, any effective investigations are not conducted by Turkish authorities into the alleged abuses resulting from internal or extraterritorial abductions.
15. The European Commission in its 2023 Türkiye report noted that "no adequate investigations have been carried out regarding the alleged cases of abductions and enforced disappearances by the security services that have been reported since the 2016 attempted coup".¹³
16. Victims and their families are denied the right to an effective remedy, which should look at minimum guarantee cessation of violations, restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.
17. The UN Working Group on Arbitrary Detention states that when imprisonment or other severe deprivation of liberty is committed in a widespread or systematic manner, this situation may constitute crimes against humanity¹⁴. However, it is regrettable that a culture of impunity prevails over these violations of core international human rights, which are undoubtedly non-derogable under any circumstances whatsoever.
18. The following is a partial list of abducted and still missing peoples (and the date of disappearance)¹⁵: Ayhan Oran (1 October 2016), Mustafa Özgür Gültekin (21 December 2016), Durmuş Ali Çetin (17 May 2017), Hüseyin Kötüce (28 February 2017), Mesut Geçer (26 March 2017), Turgut Çapan (31 March 2017), Önder Asan (1 April 2017), Cengiz Usta (4 April 2017), Mustafa Özben (9 May 2017), Fatih Kılıç (14 May 2017), Cemil Koçak (5 June 2017), Murat Okumuş (16 June 2017), Enver Kılıç (30 September 2017), Hıdır Çelik (6 December 2017), Ümit Horzum (6 December 2017), Ayten Öztürk (13 March 2018), Orçun Şenyücel (21 April 2018), Hasan Kala (20 July 2018), Fahri

¹³ Commission Staff Working Document Türkiye 2023 Report, page 31, available [here](#)

¹⁴ Human Rights Council, Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention at its eighty-eighth session, 24–28 August 2020, Opinion No. 51/2020 concerning Arif Komiş, Ülkü Komiş and four minors whose names are known to the Working Group (Malaysia and Turkey), available [here](#)

¹⁵ Stockholm Center for Freedom, Enforced disappearances in Turkey, available [here](#).

Mert (12 August 2018), Yusuf Bilge Tunç (6 August 2019), Gulistan Doku (5 January 2020), Mehmet Bal (24 January 2020), Hürmüz Diril (11 January 2020), Hüseyin Galip Küçüközyiğit (29 December 2020).

19. US Department of State in its 2021 country report of Türkiye referred to some of the abduction and enforced disappearances cases (i.e., Huseyin Galip Kucukozyigit and Yusuf Bilge Tunc) and noted that the government declined to provide information on efforts to prevent, investigate, and punish such acts.¹⁶
20. According to Freedom House, Turkey is responsible for 132 incidents of direct, physical transnational repression around the world since 2014, placing it in second position after China and before Russia.¹⁷
21. It has been reported that, only a couple of months ago, in December 2023, the MIT has renditioned two men from Algeria as part of its international abduction campaign against alleged members of the Gülen movement.¹⁸
22. According to a detailed report prepared by the US-based non-profit organization Advocates of Silenced Turkey, 156 incidents of enforced disappearances and abductions have been reported since 2016.¹⁹
23. As it has been repeatedly stated by the Human Rights Committee “in cases of enforced disappearance, deprivation of liberty followed by a refusal to acknowledge the deprivation of liberty, or by concealment of the fate of the disappeared person, removes the person from the protection of the law and places his or her life at serious and constant risk, for which the State is accountable”²⁰ According to the Committee, the State is also responsible from the anguish and distress caused to the victims and their family by the disappearance of the victim; the continuing and prolonged uncertainty surrounding the circumstances of the victim’s arrest and detention.
24. In view of the above, ASSEDEL urges this Committee to acknowledge the violation of Article 4 of the CAT, as the practices outlined in this section occurred outside the legal framework, consequently fostering impunity for the perpetrators, contravening Turkey’s obligation to ensure that all acts of torture are punishable offenses under its criminal law. Similarly, these practices contravene Article 6 of the CAT, which mandates State Parties to take necessary measures against perpetrators. Furthermore,

¹⁶ US Department of State, 2021 Country Reports on Human Rights Practices: Turkey, available [here](#).

¹⁷ Freedom House, Still Not Safe: Transnational Repression in 2022, available [here](#).

¹⁸ Turkish Minutes, Turkey abducts two alleged Gülen followers from Algeria, available [here](#).

¹⁹ Advocates of Silenced Turkey, Beyond Turkey’s Borders: Unveiling Global Purge, Transnational Repression, Abductions, available [here](#).

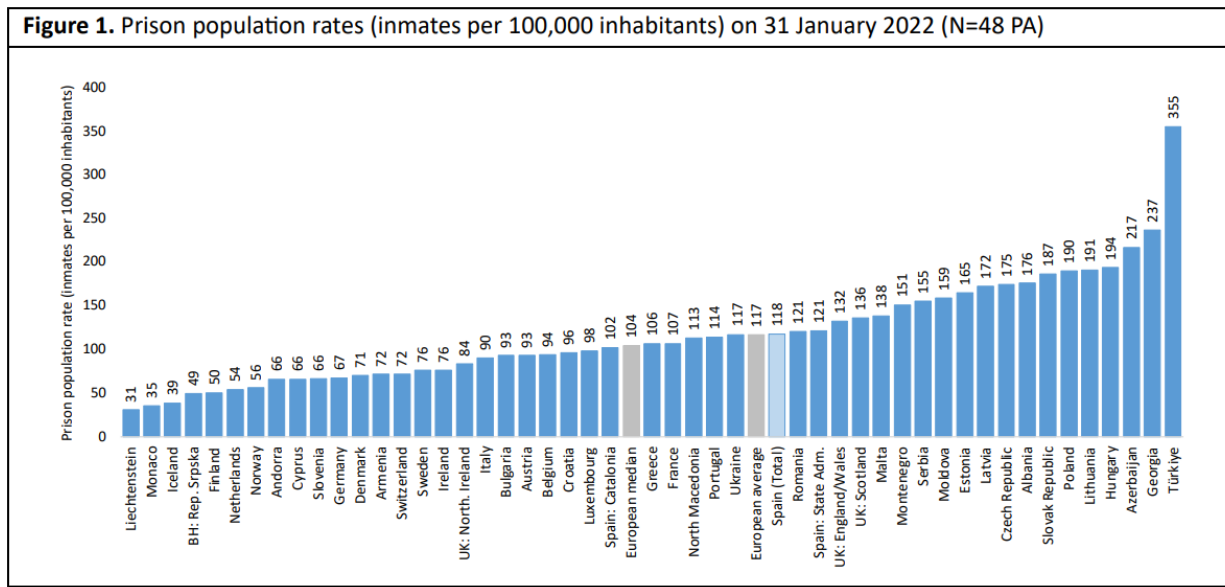
²⁰ See Tikanath and Ramhari Kandel v. Nepal, (CCPR/C/126/D/2560/2015), para. 7.8, available [here](#); Abushaala et al. v. Libya (CCPR/C/107/D/1913/2009), para. 6.2; Nakarmi and Nakarmi v. Nepal, para. 11.6; and Dhakal et al. v. Nepal, para. 11.6. See also the Committee’s general comment No. 36 (2018) on the right to life, para. 58.

due to the absence of any legal framework, the rights of victims to request an impartial investigation or obtain adequate compensation have become effectively unattainable, thus infringing upon Articles 12, 13, and 14 of the CAT. Finally, as demonstrated above, the cases of abductions are acknowledged to be carried out by government officials (i.e., MIT officials), violating Article 16 of the CAT, which obliges the prevention of other acts of cruel, inhuman, or degrading treatment or punishment (then torture) committed by or at the instigation of, or with the consent or acquiescence of, a public official.

3. TORTURE AND ILL-TREATMENT IN THE PRISONS AND DETENTION CENTERS

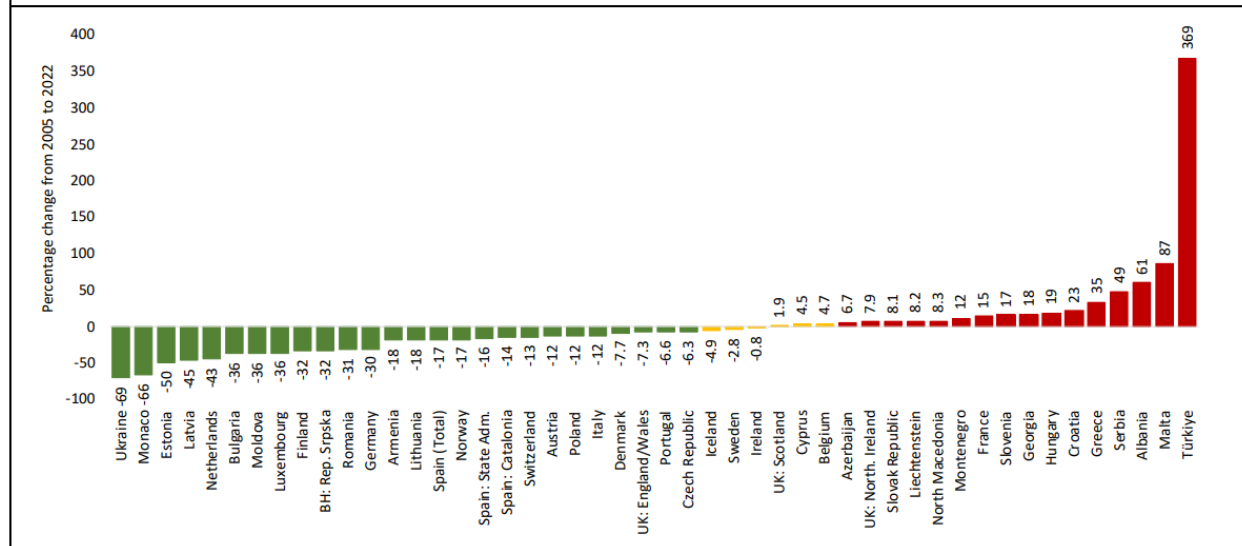
3.1 Increasing overcrowded state of prisons

25. According to CoE's Prisons and Prisoners in Europe 2022, SPACE I survey, Türkiye has the highest prison population rate (i.e., 355.2 per 100,000 inhabitants) in Europe and represents the highest spike in terms of population of inmates since 2005 (i.e., 369% increase)²¹.



²¹ CoE's Prisons and Prisoners in Europe 2022, SPACE I survey, available [here](#).

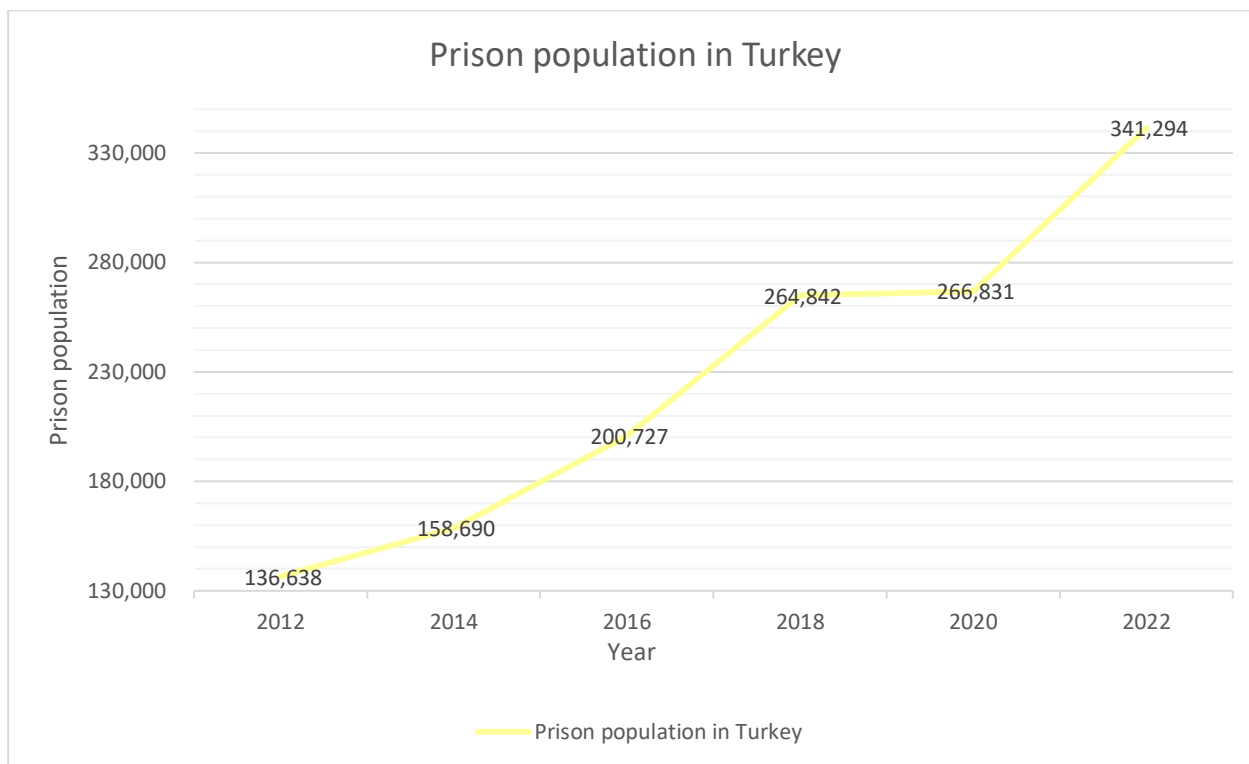
Figure 17. Percentage change in prison population rates from 2005 to 2022 (N=47 PA)



26. According to Turkish General Directorate of Criminal Records and Statistics, in 2022 there were 341,294 prisoners in Türkiye²² which represents an increase of 150% compared to the figures in 2012.

²²

General Directorate of Criminal Records and Statistics, Prison Statistics, 2022, available [here](#).



27. According to European Commission's 2023 Türkiye Report it has been noted that "as of April 2023, the prison population exceeded 350 000 (with a capacity of 290 000) and continued to be the largest in Europe." and that the "allegations of human rights violations (including arbitrary restrictions on the rights of detainees, denial of access to medical care, mistreatment, limitation of open visits and solitary confinement) continued to be reported".²³
28. The European Court of Human Rights (**ECtHR**) in its judgment of 8 April 2024²⁴, held that Türkiye has violated Article 3 of the Convention (prohibition of torture and inhuman treatment) by detaining several applicants in cells with less than 3 square meters of personal space.

²³ Commission Staff Working Document Türkiye 2023 Report, page 31, available [here](#).

²⁴ Case of İlde and Others v. Türkiye, (Applications nos. [35614/19](#) and 10 others), available [here](#).

3.2 Torture and mistreatment in prisons and detention centers

3.2.1 A case example to understand the politically motivated systemic mistreatments in prisons and detention centers: Gokhan Acikkollu

29. Alongside the growing number of inmates in prisons and detention centers facing politically motivated charges and false accusations, incidents of torture have persistently occurred.
30. According to detailed statistics compiled by the NGO Solidarity with Others, there have been 147 deaths in prisons and law enforcement facilities, including 6 infants, between January 9, 2016, and January 6, 2024.²⁵
31. An emblematic example of a death resulting from torture in Türkiye is the case of history teacher Gokhan Acikkollu, who was tortured to death while in police custody following a controversial military coup attempt on July 15, 2016. He was accused of alleged membership in the Gülen movement. His case was reported by various media outlets and NGOs.²⁶
32. After reviewing the medical reports, statements, and autopsy report following the death of Gökhan Açikkollu, Prof. Dr. Şebnem Korur Fincancı, President of the Türkiye Human Rights Foundation and a member of the Turkish Medical Association, a forensic medicine specialist, prepared an assessment report. Fincancı emphasized in the 14-page report dated January 18, 2017, which was also included in the investigation file, that the cause of death should be recorded as torture.²⁷
33. The circumstances of Gökhan Açikkollu's death were also noted in the views adopted by the United Nations Human Rights Committee, on 20 February 2023, pursuant to article 5(4) of the Optional Protocol in relation to a communication submitted by Mümine Açikkollu, on her own behalf and that of her deceased husband, Gökhan Açikkollu.²⁸
34. In its views, the Committee observed that “both the decision of non-prosecution and the autopsy report dated 23 November 2016 noted the statements of the author and her brother raising concerns that torture might be occurring” and that Türkiye “did not establish that the allegations of the author's husband during a medical examination on 3 August 2016, namely that he had been exposed to physical and psychological trauma while in detention, were promptly, impartially and thoroughly investigated”

²⁵ Solidarity with Others, our projects, databases, deprivation of life, advanced search, filtering by cause of death, available [here](#).
²⁶ Cumhuriyet, available [here](#), Advocates of Silenced Turkey, available [here](#), Independent Turkey, available [here](#), Stockholm Center for Freedom, available [here](#).

²⁷ Reported by TR724, available [here](#).

²⁸ Views adopted by the Committee under article 5 (4) of the Optional Protocol on 20 February 2023, concerning communication No. 3730/2020, recital 8.5, available [here](#).

despite the “injuries to his ribs, near to his neck, on his back, his psychological depression and symptoms of dizziness and sweating”. Therefore, the Committee considered that “although the authorities were aware of the allegations of torture, it is not apparent that any ex officio investigation was conducted, in accordance with the Istanbul Protocol, on the basis of these allegations, of the apparent signs on the body of the author’s husband”. In view of the foregoing, the Committee concluded that Türkiye “failed to observe due diligence in protecting the author’s husband from torture and ill-treatment, and ultimately in protecting his life while in detention, considering his known pre-existing health problems, in violation of articles 6 and 7 of the Covenant²⁹.”

35. Moreover, the Committee found that the failure of Turkish authorities “to investigate promptly and thoroughly the circumstances of the death of the author’s husband effectively denied a remedy to the author and her children” and thus “amounted to mental suffering in violation of their rights under article 7”.³⁰
36. The Committee in its views also observed that the charges brought against Gökhan Açikkollu “were based on the crucial evidence of his use and installation of the ByLock application”, “ownership of an account at Bank Asya” and “witness statements”, without providing “any documentation, such as the alleged witness statements, an arrest warrant, detention order, conversation records on the ByLock application, or any proof regarding the evidence purportedly justifying detention of” Gökhan Açikkollu. The Committee therefore found that the detention of Gökhan Açikkollu amounted to a violation of his rights under article 9 (1) and (2) of the Covenant.³¹
37. The case of Gökhan Açikkollu, found innocent one-and-a-half years after his death and reinstated to his job³², serves as a compelling and striking example to understand the ongoing similar cases where the victims are faced unsubstantiated and politically motivated accusations.
38. The Committee in its view noted that Türkiye “has not provided comments on the letter from the Ministry of Education reinstating” Gökhan Açikkollu as a teacher, stating that he “had been found innocent of the charges against him”³³.

²⁹ International Covenant on Civil and Political Rights, adopted on 16 December 1966 by General Assembly resolution 2200A (XXI) (*Covenant* or *ICCPR*), available [here](#).

³⁰ Views adopted by the Committee under article 5 (4) of the Optional Protocol on 20 February 2023, concerning communication No. 3730/2020, recital 8.6, available [here](#).

³¹ Views adopted by the Committee under article 5 (4) of the Optional Protocol on 20 February 2023, concerning communication No. 3730/2020, recital 8.8, available [here](#).

³² Turkish Minute, Teacher tortured to death by Turkish police found innocent, reinstated to job, available [here](#).

³³ Views adopted by the Committee under article 5 (4) of the Optional Protocol on 20 February 2023, concerning communication No. 3730/2020, recitals 2.14 and 8.8, available [here](#).

39. The Committee has concluded its view by reminding Türkiye's obligations inter alia, to take appropriate steps to: "conduct a prompt, impartial and thorough investigation into the circumstances of the arbitrary arrest, torture and death" of Gökhan Açıkkollu; "prosecute those responsible"; "provide adequate compensation" to his wife, Mümine Açıkkollu and her children and "take all steps necessary to prevent the occurrence of similar violations in the future".³⁴
40. Mümine Açıkkollu, who continues the fight for justice on behalf of her husband, is also facing criminal proceedings initiated by the Istanbul Chief Public Prosecutor's Office. She is being accused of similar charges to those against her husband, including the use of mobile phone messaging applications like ByLock and depositing money into her personal account at the private lender Bank Asya, which was shut down by the government due to its affiliation with the Gülen movement.³⁵
41. ECtHR in its recent judgment in a case concerning the conviction of a former teacher for being affiliated to Gülen movement noted that in Türkiye anyone who had used Bylock could, in principle, be convicted on that basis alone of membership of an armed terrorist organisation. The Court held that such a uniform and global approach by the Turkish judiciary vis-à-vis the ByLock evidence departed from the requirements laid down in national law in respect of the offence in question and was contrary to the object and purpose of Article 7 of the European Convention of Human Rights (**ECHR**) which is to provide effective safeguards against arbitrary prosecution, conviction and punishment.³⁶
42. The ECtHR has also noted that there are currently approximately 8,500 applications on the Court's docket involving similar complaints under Articles 7 and/or 6 of the Convention and, given that the authorities had identified around 100,000 ByLock users, many more might potentially be lodged. The problems which had led to findings of violations were systemic in nature. The Court held, under Article 46 (binding force and implementation of judgments), that Türkiye had to take general measures as appropriate to address those systemic problems, notably with regard to the Turkish judiciary's approach to Bylock evidence.³⁷

³⁴ Views adopted by the Committee under article 5 (4) of the Optional Protocol on 20 February 2023, concerning communication No. 3730/2020, recital 10, available [here](#).

³⁵ Stockholm Center for Freedom, Turkish prosecutor seeks 15 years for widow of Gökhan Açıkkollu, tortured to death in police custody, available [here](#); Turkey Tribunal, testimonies of Tülay Açıkkollu (Wife of Gökhan Açıkkollu), available [here](#).

³⁶ Yüksel Yalçınkaya v. Türkiye ([GC], no. 15669/20, 26 September 2023, para. 364 available [here](#), the press release of the judgment is available [here](#).

³⁷ Yüksel Yalçınkaya v. Türkiye ([GC], no. 15669/20, 26 September 2023, paras. 413-418 available [here](#), the press release of the judgment is available [here](#).

43. Following this pilot judgment, the Court has given notice to the Government of Türkiye of ten cases³⁸ covering 2000 applications concerning convictions for membership of an armed terrorist organisation, based on the alleged use of the encrypted messaging application called “ByLock”.
44. In light of the preceding points, ASSEDEL urges this Committee to take note that the acts of torment inflicted by law enforcement officers resulting in Gokhan Acikkollu’s death, despite being clearly informed about his health problems as evidenced by several supporting documents and recognized, among other entities, by the Human Rights Committee, constitute torture as defined in Article 1 of the CAT. As stated by the Human Rights Committee, “loss of life occurring in custody, in unnatural circumstances, creates a presumption of arbitrary deprivation of life by State authorities, which can only be rebutted on the basis of a thorough, prompt and impartial investigation that establishes the State’s compliance with its obligations under article 6 (of the ICCPR)... When confronted with allegations of torture and ill-treatment, it is incumbent upon the State party to produce evidence refuting the allegations that its agents are responsible and showing that they applied due diligence in protecting the detainee through a prompt and impartial investigation applying the Istanbul Protocol...prosecutions of potentially unlawful deprivations of life ... must be aimed at ensuring that those responsible are brought to justice, promoting accountability and preventing impunity, and drawing the necessary lessons for revising practices and policies with a view to avoiding repeated violations.”³⁹ By failing to conduct a comprehensive investigation into the circumstances surrounding his death to hold those responsible accountable, the Government of Turkey has violated Articles 12, 13, and 14 of the CAT. Furthermore, the absence of a thorough investigation leaves open the possibility of a violation of Article 16 of the CAT.

3.2.2 Mass detentions and systemic torture immediately following 15 July 2016

45. Following the failed coup attempt on 15 July 2016 and during the emergency state declared by Türkiye, the number of mass arrests and the cases of torture, inhuman or degrading treatments have skyrocketed.
46. The UN's special rapporteur on torture, Nils Melzer, told reporters in Ankara on Friday that measures taken in Türkiye following the July coup attempt had created an "environment conducive to torture". "Testimonies received from inmates and their lawyers suggest that in the days and weeks following

³⁸ See the press releases issued by the Registrar of the Court on 18 December 2023 and 29 April 2024 [here](#) and [here](#).

³⁹ Views adopted by the Committee under article 5 (4) of the Optional Protocol on 20 February 2023, concerning communication No. 3730/2020, recital 8.4, available [here](#).

the failed coup torture and other forms of ill treatment were widespread," he said. He also noted that there is "a significant disconnect between official policy and the current reality on the ground."⁴⁰

47. In a report published by Stockholm Center for Freedom in March 2017⁴¹, it has been reported that the ill-treatment practices have ranged from "verbal abuse and threats to physical violence that includes beatings, rape, exposure to icy water, strappado, sleep deprivation, denial of food and water, limiting access to fresh air, restricting exercise and forced alcohol and drug consumption".
48. The Venice Commission has noted in its opinion on the emergency laws that it "is very concerned by the reports containing allegations of ill-treatment and even torture exercised by the Turkish authorities against those arrested after the coup"⁴²
49. Human Rights Watch has prepared a report "based on interviews with more than 40 lawyers, human rights activists, former detainees, medical personnel and forensic specialists", looking at "how the state of emergency has impacted police detention conditions and the rights of detainees."⁴³ Although this report highlights several instances of torture, the Emergency decree 668 hindered the documentation of many incidents by granting the public prosecutor authority to limit the defense counsel's access to case-file contents, including medical examination reports.
50. Following the coup attempt, United Nations High Commissioner for Human Rights, UN Special Rapporteur⁴⁴ on torture and other cruel, inhuman or degrading treatment or punishment and Human Rights Commissioner of the Council of Europe⁴⁵ called on the Turkish government to abide by its human rights obligations.
51. The Stockholm Center for Freedom has investigated and documented 53 suspected deaths in a period of six months alone⁴⁶. Also, the Amnesty International has noted that it "heard extremely alarming accounts of torture and other ill-treatment of detainees, particularly at the Ankara Police Headquarters sports hall, Ankara Başkent sports hall and the riding club stables there. According to these accounts, police held detainees in stress positions, denied them food, water and medical treatment, verbally abused and threatened them and subjected them to beatings and torture, including rape and sexual

⁴⁰ Statement by Mr. Nils Melzer Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 34th session of the Human Rights Council Agenda Item 3, 2 March 2017, available [here](#); DW, UN expert: Torture 'widespread' in Turkey, available [here](#), Turkish Minute, The UN confirms torture and abuse in Turkey, available [here](#).

⁴¹ Stockholm Center for Freedom, Suspicious Deaths and Suicides in Turkey, available [here](#).

⁴² Opinion on emergency laws NOS. 667-676 Adopted Following the Failed Coup of 15 July 2016 Adopted by the Venice Commission at its 109th Plenary Session (Venice, 9-10 December 2016), recital 177, available [here](#).

⁴³ Human Rights Watch, A Blank Check Turkey's Post-Coup Suspension of Safeguards Against Torture, available [here](#).

⁴⁴ UN News Service, UN human rights chief urges Turkey to uphold rule of law in response to attempted coup, available [here](#).

⁴⁵ Council of Europe Commissioner for Human Rights, Situation in Turkey, available [here](#).

⁴⁶ Stockholm Center for Freedom, Suspicious Deaths and Suicides in Turkey, available [here](#).

assault. Two lawyers in Ankara working on behalf of detainees told Amnesty International that detainees said they witnessed senior military officers in detention being raped with a truncheon or finger by police officers”.⁴⁷

52. Since the coup attempt, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (**CPT**), an affiliated body of the Council of Europe, has conducted several visits to Türkiye. However, no report has been made publicly available thus far. It has been alleged that the report of CPT has not been published because of Türkiye’s veto. Nordic Monitor, a non-profit organization, reports that Col. Cemil Turhan was one of the individuals interviewed by CPT. During his testimony at the court, he exposed “the details of the torture and inhuman treatment he had experienced during his time in police custody and pretrial detention”. It has been also reported that his torture claims have been substantiated “with CCTV footage, photos, medical reports, official documents and witness statements.”⁴⁸
53. The Parliamentary Assembly of the Council of Europe (**PACE**), in its resolution adopted on January 24, 2024, called on Türkiye, along with Azerbaijan and the Russian Federation, to agree in advance on the automatic publication of all CPT visit reports, as many other States Parties have already done. The Assembly has also noted that it is “is alarmed about credible reports suggesting that torture and other forms of ill-treatment tend to be systemic and/or widespread in States such as the Russian Federation, Azerbaijan and Türkiye” and urged these countries “to address the root causes of the problem, to introduce systemic changes aimed at eliminating abusive and unlawful practices, and to ensure accountability, including in terms of criminal and civil liability, of individual perpetrators, high-ranking officials and State bodies, for practising or tolerating torture and ill-treatment”.⁴⁹
54. As PACE’s recent report has confirmed, the systemic torture has not ceased until today.
55. According to Sezgin Tanrikulu, a deputy of Cumhuriyetçi Hareket Partisi (**CHP**), in the events that occurred in 2023, at least 26 children and 2,541 individuals were subjected to detention, torture, and ill-treatment during arrests, gatherings, protests, and in prisons⁵⁰.
56. European Commission’s 2023 Türkiye Report⁵¹ pointed out that “torture and ill-treatment continued to occur in detention centres, prisons, informal places of detention and transportation vehicles, and on

⁴⁷ Amnesty International, Turkey: Independent monitors must be allowed to access detainees amid torture allegations, available [here](#).

⁴⁸ Nordic Monitor, Nordic Monitor reveals content of censored Council of Europe torture report on Turkey, available [here](#).

⁴⁹ Parliamentary Assembly of the Council of Europe, Allegations of systemic torture and inhuman or degrading treatment or punishment in places of detention in Europe, recitals 6, 9 and 10, available [here](#).

⁵⁰ Cumhuriyet, Sezgin Tanrikulu’dan ‘hak ihlalleri’ raporu: 3 bin 301 yurttaşın yaşam hakkı ihlal edildi, available [here](#).

⁵¹ Commission Staff Working Document Türkiye 2023 Report, page 31, available [here](#).

the street during demonstrations.” European Commission has also recalled that the Turkish authorities “have not authorised the publication of the 2016, 2018, 2021 and 2022 reports by the Council of Europe’s Committee for the Prevention of Torture”.

57. The pressure on human rights activists and lawyers seeking to report violations in prisons limits the public awareness of such cases. For instance, in 2022, six lawyers organizations have called on the Ankara Bar Association to publish a report on allegations of torture made by detainees held at a police detention center that was drafted by lawyers from the bar’s human rights committee. After receiving complaints of torture and mistreatment, lawyers from the Ankara Bar Association’s human rights committee interviewed the detainees and compiled their findings in a report. However, the Ankara Bar Association decided not to publish the report. Following this refusal, six lawyers on the human rights committee resigned in protest. “The administration of the Ankara Bar Association should fulfill their duty and reveal the crime of torture by publishing the draft report and thereby living up to the struggle for human rights,” the lawyers’ organizations said.⁵² It has been reported that Peoples’ Democratic Party (**HDP**) deputy Ömer Faruk Gergerlioğlu has brought this issue to the UN’s Working Group on Arbitrary Detention.⁵³

3.2.3 Examples of torture in prisons

58. While providing a comprehensive list of torture incidents in Türkiye exceeds the scope of this report, for illustrative purposes, some individual examples of torture are presented below.⁵⁴
59. Aysun Işınkaralar, a 35-year-old metallurgical engineer who was arrested on May 7, 2018 for running a girls’ dormitory affiliated with Gülen movement told during an interview how she was subjected to electric shocks, strangulation attempts, sexual harassment in Anti-Terrorism Branch of the Afyon Provincial Police Department during her detention. “They gave me electric shocks on my ankles, first on the right, then on the left, then both. I felt the electricity in my whole body, from my teeth to the roots of my hair. I thought I was going to die,” she was quoted by Kronos as saying.⁵⁵ Işınkaralar’s account also describes how police officers threatened to strip her naked and held a gun to her ear. This treatment only stopped when opposition deputies Sezgin Tanrıkulu and Ömer Faruk Gergerlioğlu drew

⁵² Turkish Minute, Lawyers organizations call on Ankara Bar Association to publish report on torture, available [here](#).

⁵³ Medyascope, Ömer Faruk Gergerlioğlu, Ankara Barosu’nun sansürlenmiş işkence raporu için BM’ye başvurdu: “Artık Türkiye’de işkence örtbas edilemeyecek”, available [here](#).

⁵⁴ For the reports prepared by other international NGO’s in relation to several torture incidents reported please refer to the following documents: London Advocacy, Politically Motivated Systematic Torture in Turkey and its Survivors Interviews with UK-Based Torture Survivors, available [here](#); Solidarity with Others, Human Rights Violations Against Political Prisoners in Turkey, Prison Violations, available [here](#); ASSEDEL, Torture in Turkey 2021 Report, available [here](#); Stockholm Center for Freedom, Torture and Inhuman Treatment in Turkey: 2021/2022/ in Review, available [here](#), [here](#) and [here](#).

⁵⁵ Kronos, ‘TEM Şube’de elektrikle işkence yaptılar, öleceğimi zannettim’, available [here](#); Turkish Minute, Electric shocks, mock execution: Woman detained over Gülen links recounts torture by police, available [here](#).

attention to allegations of torture on social media. Işınkara's torture was documented in a report by the Turkish Human Rights Foundation (TİHV).

60. Garibe Gezer, an inmate who alleged that she was beaten and sexually harassed by prison guards in Kocaeli's Kandıra Prison, was found dead in her cell. In a letter sent to the Peoples' Democratic Party (**HDP**), Haşim Gezer, the brother of Garibe Gezer, reported that she was put in a padded cell where she was stripped in front of male guards, beaten, sexually harassed and left without medical treatment. According to her lawyer and human rights defender Eren Keskin, the prison administration told that she died by suicide whereas she was staying in a solitary cell due to "disciplinary action". It has also been reported that a Turkish public prosecutor has declined to pursue the case of Garibe Gezer.⁵⁶
61. Muhammed Savaş Bayındır, a former academic in the law faculty at Ankara's Gazi University, in a public letter said he was brutally tortured at the Ankara Police Department after being detained in a post-coup purge.⁵⁷ He described the tortures he endured for 30 days at the Ankara Police Department Gymnasium with the following words "I remember the smell of blood and sweat in the hall, I could see blood stains on the walls. The military officers were the worst off, as they were constantly beaten, insulted and humiliated. Some had broken jaws; others had broken arms or other limbs." In his indictment received 15 months later to his detention he learned that he was accused of sending his children to a private school affiliated with Gulen movement.⁵⁸
62. In May 2019 some 100 former diplomats were detained by the authorities over alleged exam cheating. On May 26 HDP deputy and human rights defender Ömer Faruk Gergerlioğlu posted a tweet saying there were serious allegations of torture of the diplomats, including rape by batons. Following the allegations, the Ankara Bar Association conducted an investigation and said the victims' statements "confirm that the individuals were subjected to blows, torture and ill-treatment." The victims said they were forced to sign prepared statements.⁵⁹
63. Moreover, numerous incidents have been documented where individuals have succumbed to adverse conditions in prisons, alongside instances of individuals being incarcerated despite their poor health conditions in the absence of free and proper medical examination. Izmir 2nd Heavy Penal Court has refused to release an 82-year-old detainee, Yusuf Bekmezci, despite a three-month deferment of

⁵⁶ Stockholm Center for Freedom, Female inmate who claimed prison guards beat and sexually harassed her found dead in her cell, available [here](#) also [here](#); Turkish Minute, Turkish prosecutor declines to pursue case of inmate who was tortured and found dead in prison, available [here](#).

⁵⁷ Turkish Minute, Former academic says he was brutally tortured at Ankara Police Department, available [here](#).

⁵⁸ Bold Medya, 19 ay hapiste kalan KHK'lı akademisyen: Savcılar işkenceye teşvik etti, polisler dövdü, available [here](#).

⁵⁹ Turkish Minute, Former diplomats detained in Turkey, leading to fears of another round of torture, available [here](#); Iskence Flaş! Ankara Barosu Avukatları "Diplomatlara İşkence"yi kanıtlayan rapor yayınladı, available [here](#); BBC Türkçe, Ankara'da gözaltında işkence iddiaları: Avukatlar ve emniyet ne diyor?, available [here](#).

imprisonment because of his poor health conditions. After enduring 21 months in prison, awaiting confirmation of the judgment by the higher court, he was transferred to intensive care where he ultimately passed away. In a comprehensive 60-page letter submitted to the Court, he meticulously outlined the challenges posed by the prison conditions, particularly in consideration of his age and health status.⁶⁰

64. It has been reported that 50-year-old Necip Bulut, a former police chief dismissed by a statutory decree (**KHK**), died of a heart attack in a prison vehicle on his way to a hospital in İzmir. After a bypass surgery, he had stayed in the hospital for two months where he was handcuffed to the bed. Relatives of Necip Bulut told to Kronos that "the family has appealed to all administrative authorities, at least for him to be cared for at home, but permission was not granted."⁶¹
65. Abdülazim Özdemir, an engineer dismissed by KHK who was diagnosed with lung cancer while in prison and was not released until stage 4, passed away at the age of 50. His detained spouse, Emir Özdemir, revealed that Özdemir's diagnosis was delayed and his treatment was postponed. Writing a letter to HDP deputy Ömer Faruk Gergerlioğlu from Keskin Type T Prison in Kırıkkale, Emir Özdemir had questioned, "Despite visiting the doctor several times, how was a stage 4 illness not detected? Could the delayed jaundice surgery have caused the cancer? Are there any negligence involved?"⁶²
66. Abdulvahit Tunçay, a 50-year-old police officer, who was diagnosed with cancer in Tekirdağ Prison and was not released until his condition worsened, has passed away. His family noted that Tunçay wrote 30 petitions to be taken to a doctor, and for 4-5 months, he was forced to stay awake all night sitting on a chair. His family stated that Tunçay was subjected to severe mistreatment in prison and was abandoned to die.⁶³
67. Mustafa Barış Avıalan, a Staff Colonel who had been detained in Ankara Sincan F Type Prison since July 18, 2016, and who suffered from severe heart disease under harsh conditions, has passed away. Despite all appeals, Avıalan was not granted permission for treatment or a conditional release. In a fax sent to his family in recent days, Avıalan expressed: "As someone who is seriously ill and close to death, I am in need of all kinds of help... My condition is very bad. I am suffering greatly. I expect everyone who can make sacrifices to do something... "I have nothing left to lose at this point. I can't move my arm. The oxygen I'm receiving is not enough, I can eat very little, my stomach is swollen, my pulse is constantly low, my head is constantly spinning, I can't sleep. I am subjected to all kinds of

⁶⁰ Bold medya, Bir tabutta tahliye daha: 47 gündür yoğun bakımda yatan Yusuf Bekmezci hayatını kaybetti, available [here](#); Bold Medya, 21 aydır tutuklu Yusuf Bekmezci'ye Aziz Nesin hikayesini yaşattılar: 60 sayfalık yakarış, available [here](#).

⁶¹ Stockholm Center for Freedom, Ailing former police chief dies of heart attack in prison vehicle, available [here](#); Kronos, Cezaevinde vefat eden KHK'lı emniyet müdürü 2 ay yatağa kelepçelenmiş, available [here](#).

⁶² Bold medya, Cezaevinde kanser olan KHK'lı mühendis Abdülazim Özdemir hayatını kaybetti, available [here](#).

⁶³ Bold medya, Cezaevinde kanser olan KHK'lı polis Abdulvahit Tunçay hayatını kaybetti, available [here](#).

humiliating treatment and insults by the gendarmes. They are doing everything to make my life difficult. The doctors are not attentive. May God help us... perhaps it's goodbye..."⁶⁴

68. As exemplified by the aforementioned cases, the neglect of inmates' health conditions, sometimes even in defiance of medical reports, and the maintenance of unsuitable prison conditions resulting in inmate deaths, constitute a form of systemic torture inflicted within prisons. US Department of States 2021 Türkiye Report has also pointed out this problem. In this report, it has been noted that "the government did not regularly release data on inmate deaths due to physical conditions or actions of staff members. In February the Ministry of Justice announced 50 prisoners had died of COVID-19 since the start of the pandemic. The Ministry of Justice has not released updated figures on prisoner deaths due to COVID-19. In December the HRA reported 28 deaths in prison related to illness, violence, or other causes. Human rights organizations and CPT reports asserted that prisoners frequently lacked adequate access to potable water, proper heating, ventilation, lighting, food, and health services. Human rights organizations also noted that prison overcrowding and poor sanitary conditions exacerbated health risks from the COVID-19 pandemic. NGOs reported that prisoners feared reporting health problems or seeking medical care, since a positive COVID-19 result would lead to a two-week quarantine in solitary confinement."⁶⁵
69. In this connection, the following section addresses the practice of solitary confinement as a disciplinary measure in prisons, which in itself constitutes a form of torture. Furthermore, it instils fear in inmates, deterring them from reporting violations they face out of concern for facing severe disciplinary actions such as solitary confinement.

3.2.4 Solitary confinement: a form of torture

70. Solitary confinement, form of incarceration in which a prisoner is isolated from other inmates.⁶⁶ According to former UN Special Rapporteur on torture Juan E. Méndez, "segregation, isolation, separation, cellular, lockdown, Supermax, the hole, Secure Housing Unit... whatever the name, solitary confinement should be banned by States as a punishment or extortion technique".⁶⁷ He specified that, although there is no universal definition of solitary confinement, for him, "any regime where an inmate is held in isolation from others (except guards) for at least twenty-two hours a day" should be considered as solitary confinement.⁶⁸

⁶⁴ TR724, 'Durumum kötü, elveda' demişti; Kurmay Albay cezaevinde vefat etti, available [here](#).

⁶⁵ US Department of States, 2021 Country Reports on Human Rights Practices: Turkey, available [here](#) also [here](#).

⁶⁶ Britannica Dictionary, available [here](#).

⁶⁷ UN News, Solitary confinement should be banned in most cases, UN expert says, available [here](#).

⁶⁸ UN Press Release, UN Special Rapporteur on torture calls for the prohibition of solitary confinement, available [here](#).

71. As Mr. Méndez warned “considering the severe mental pain or suffering solitary confinement may cause...it can amount to torture or cruel, inhuman or degrading treatment or punishment when used as a punishment, during pretrial detention, indefinitely or for a prolonged period”. He also pointed out that the “solitary confinement for shorter terms or for legitimate disciplinary reasons can also amount to cruel, inhuman or degrading treatment or punishment where the physical conditions of prison regime (sanitation, access to food and water) fail to respect the inherent dignity of the human person and cause severe mental and physical pain or suffering”. Therefore, he suggested that it “should be used only in very exceptional circumstances, for as short a time as possible,” in respect of strict procedural safeguards.⁶⁹
72. His successor in the capacity of UN Special Rapporteur on torture, Nils Melzer, endorsed by Dainius Pūras, UN Special Rapporteur on the right to health; the UN Working Group on arbitrary detention, noted that “the severe and often irreparable psychological and physical consequences of solitary confinement and social exclusion are well documented and can range from progressively severe forms of anxiety, stress, and depression to cognitive impairment and suicidal tendencies... This deliberate infliction of severe mental pain or suffering may well amount to psychological torture”.⁷⁰
73. According to United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), indefinite and prolonged solitary confinement, placement of a prisoner in a dark or constantly lit cell, corporal punishment or the reduction of a prisoner’s diet or drinking water shall be prohibited. The Mandela Rules further state that the “disciplinary sanctions or restrictive measures shall not include the prohibition of family contact”. It is also specified that “for the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days. Moreover, the “solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner’s sentence. Also, it has been stated that the health care personnel should “pay particular attention to the health of prisoners held under any form of involuntary separation, including by visiting such prisoners on a daily basis and providing prompt medical assistance and treatment at the request of such prisoners or prison staff.”⁷¹

⁶⁹ UN Press Release, UN Special Rapporteur on torture calls for the prohibition of solitary confinement, available [here](#).

⁷⁰ UN Press Release, United States: Prolonged solitary confinement amounts to psychological torture, says UN expert, available [here](#).

⁷¹ Draft Resolution of United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) adopted by the Commission on Crime Prevention and Criminal Justice Report on the twenty-fourth session (5 December 2014 and 18-22 May 2015), available [here](#).

74. The importance of The Mandela rules is emphasized by the UN. These standards were adopted by the UN General Assembly, which represents the international community as universally agreed minimum standards. Many UN Member States have incorporated the provisions of the rules into their domestic laws or are in the process of doing so.⁷²
75. According to the Turkish Law on Execution and Security Measures 5275, solitary confinement is implemented in three contexts: 1) as a means of executing aggravated life sentences⁷³, 2) as a disciplinary measure⁷⁴, and 3) as a protective measure in cases of self-harm or suicide risk."⁷⁵
76. In the Turkish Criminal Code Nr. 5237 adopted after the abolition of death penalty in Türkiye, the most severe penalty is the aggravated life sentence provided for in Article 47⁷⁶ both in terms of length, i.e., life in prison⁷⁷, and in terms of execution, e.g., restrictions to conditional release⁷⁸ and limited family visits⁷⁹.
77. Since the coup attempt in July 2016, numerous writers, journalists, and public servants have been sentenced to life imprisonment under Article 309 of the Turkish Criminal Code⁸⁰ due to their alleged affiliation with the Gülen movement. According to figures provided by the Minister of Justice, Yılmaz Tunç, in July 2023, 1634 individuals were sentenced to aggravated life imprisonment, and 1366 individuals were sentenced to life imprisonment in cases connected with the Gülen movement.⁸¹
78. It has been extensively documented and reported that the practice of solitary confinement has been employed arbitrarily and unlawfully against political prisoners.⁸² Stockholm Center for Freedom reports that several judges and prosecutors who are former members of Türkiye's high courts such as the Court of Cassation, the Council of State, the Constitutional Court and the Supreme Board of Judges and Prosecutors (HSYK, now HSK) are held in solitary confinement in prisons across Türkiye: Judge

⁷² UN Office on Drugs and Crime, the History of the Nelson Mandela Rules, available [here](#).

⁷³ Law on Execution and Security Measures 5275, article 25, available [here](#).

⁷⁴ Law on Execution and Security Measures 5275, article 44, available [here](#).

⁷⁵ Law on Execution and Security Measures 5275, article 115, available [here](#).

⁷⁶ Turkish Criminal Code 5237, available [here](#).

⁷⁷ Turkish Criminal Code 5237, articles 47 and 48, available [here](#); Tukey has been condemned by the ECtHR because of the application of life imprisonment without parole considering that it violates the provisions of Article 3 of the Convention prohibiting inhuman or degrading punishment in absolute terms, Case of Öcalan v. Turkey (No. 2), (Applications nos. 24069/03, 197/04, 6201/06 and 10464/07), available [here](#).

⁷⁸ Law on Execution and Security Measures 5275, article 107: (1) In order to benefit from conditional release, the convict must spend the execution period in the institution in good conduct. (2) Those sentenced to aggravated life imprisonment may benefit from conditional release if they have served thirty years, those sentenced to life imprisonment twenty-four years and those sentenced to other term imprisonment half of their sentences in the execution institution, available [here](#).

⁷⁹ Law on Execution and Security Measures 5275, article 25, available [here](#).

⁸⁰ Turkish Criminal Code 5237, article 309: Those who attempt to abolish the order established by the Constitution of the Republic of Turkey through the use of force and violence, or to replace this order with another, or to prevent the implementation of this order by force shall be punished with aggravated life imprisonment., available [here](#).

⁸¹ Turkish Ministry of Justice (*Türkiye Cumhuriyeti Adalet Bakanlığı*), Bakan Tunç, 15 Temmuz'u Anlattı, available [here](#).

⁸² Turkish Minute, Human rights advocates criticize arbitrary solitary confinement in Turkish prisons, available [here](#).

Mehmet Kara, the former head of the 4th Chamber of Law of the Court of Cassation; Judge Salih Sönmez, former member (for replacement) of the HSYK; Judge Ali Sancar, a member of the 16th Chamber of Law of the Court of Cassation; Judge Ekrem Ertuğrul, the former head of the 9th Chamber of the Court of Cassation; Judges Kasım Davas, Bülent Olcay, Fatih Cihangir and Hüseyin Solak, former members of the Council of State; Judges Alparslan Altan and Erdal Tercan, who were members of the Constitutional Court (AYM); Judges Ahmet Kaya, Ahmet Berberoğlu, Mahmut Şen, Hüseyin Serter and Ömer Köroğlu, members of the HSYK; Judge Teoman Gökçe, a former HSYK member who was also held in solitary confinement for months, died on April 2, 2018 in Sincan Prison after suffering a heart attack; İbrahim Ethem Kuriş, a former chief prosecutor in Ankara who has lung cancer and had twice undergone brain surgery, was released after nine months in solitary confinement; Judge Neslihan Ekinci, a former deputy secretary-general of the HSYK...⁸³

79. The instances of arbitrary placement in solitary confinement are not limited to former judges and prosecutors. There are also a considerable number of cases where inmates succumb to the heavy physical and psychological conditions in solitary confinement. For instance, a 58-year-old teacher, Muzaffer Ozcengiz, died on 27 April 2019 in solitary confinement at Corum, a maximum-security prison in the Black Sea region. Ozcengiz was sentenced to 12 and a half years in prison due to his alleged links with the Gülen movement. In a letter sent to his family before he passed away, he wrote: "My living conditions are getting worse by the day, and I feel increasingly poor... I have a right to live, and so I demand to be transferred back to a communal cell."⁸⁴
80. While compiling an exhaustive list of arbitrary solitary confinement cases is impossible, the following examples can be cited for illustrative purposes: Ali Ünal, journalist and writer, sentenced to 19 years imprisonment which has been found arbitrary by the Working Group on Arbitrary Detention⁸⁵ was held

⁸³ Stockholm Center for Freedom, Persecuted members of high courts held in solitary confinement in Turkish prisons, available [here](#); Harvard, Human Rights Journal, A Case Study of Solitary Confinement Practice in Turkey: Neslihan Ekinci, available [here](#).
⁸⁴ DW, Thousands in solitary confinement in Turkey, available [here](#).

⁸⁵ Human Rights Council Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention at its ninety-sixth session, 27 March–5 April 2023 Opinion No. 3/2023 concerning Ali Ünal (Türkiye): "75. The Working Group has found a pattern over the past six years concerning the arrest and detention in Türkiye and abroad of individuals with alleged links to the Gülen movement. In all those cases, the Government has alleged criminal activity by individuals on the basis of their engagement in regular activities without any specification as to how such activities amounted to criminal acts. The Working Group finds that the present case follows the same pattern. No evidence whatsoever has been presented to the Working Group that the journalistic activities of Mr. Ünal, described above, could have been equated with being engaged in any kind of violent or terrorism-related activity. 76. Therefore, the Working Group considers that the basis for the arrest and detention of Mr. Ünal was the exercise of his freedom of expression and freedom of association. ...77. The Working Group thus finds that Mr. Ünal's deprivation of liberty is arbitrary, falling within category II, as it resulted from his exercise of the rights and freedoms guaranteed under articles 19 and 20 of the Universal Declaration of Human Rights and articles 19 and 21 of the Covenant. 83. The present case joins a series of cases concerning individuals with alleged links to the Gülen movement that has come before the Working Group in the past few years. (See, for example, opinions No. 1/2017, No. 38/2017, No. 41/2017, No. 11/2018, No. 42/2018, No. 43/2018, No. 44/2018, No. 78/2018, No. 84/2018, No. 10/2019, No. 53/2019, No. 79/2019, No. 2/2020, No. 29/2020, No. 30/2020, No. 51/2020, No. 66/2020, No. 74/2020 and No. 8/2022.). In all these cases, the Working Group has found that the detention of the concerned individuals was arbitrary. A pattern is emerging whereby those with alleged links to the movement

in solitary confinement for two months despite the lack of any court decision⁸⁶; Hidayet Karaca, journalist and the former chief executive of the Samanyolu Media Group spent more than 8 years in solitary confinement,⁸⁷ Gultekin Avci, former prosecutor and journalist was sentenced 44 years in prison and will spend the rest of his days in a solitary confinement⁸⁸; Ömer Köse, former police chief has been held in solitary confinement for four years⁸⁹; Fevzi Yazıcı, media designer and the art director of the now-closed-down Zaman daily newspaper has spent more than 800 days in solitary confinement⁹⁰; Sadrettin Sarıkaya, a former Istanbul prosecutor has been held in solitary confinement for more than 500 days⁹¹; Enver Altaylı, a 78-year-old former official at Türkiye's National Intelligence Organization (MİT) and advisor to former Turkish prime ministers Turgut Özal and Süleyman Demirel, was imprisoned due to his alleged links to the Gülen movement has been held in solitary confinement for 55 months⁹²; Ahmet Akdoğan, a 70-year-old teacher has been held in solitary confinement for seven months over alleged links to the Gülen movement⁹³.

81. According to statistics maintained by Solidarity with Others, a Brussels-based NGO, 546 instances of rights violations related to solitary confinement practices have been recorded thus far.⁹⁴
82. ECtHR in its judgment of 27 May 2013 has condemned Türkiye unanimously under Article 3 of the Convention (prohibition of torture) in a case where an inmate was put in a solitary confinement for eight months and eighteen days. In this judgement the court specified that "in assessing whether solitary

are being targeted on the basis of their political or other opinion, in violation of articles 2 and 7 of the Universal Declaration of Human Right and articles 2 (1) and 26 of the Covenant.", available [here](#).

⁸⁶ Human Rights Council Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention at its ninety-sixth session, 27 March–5 April 2023 Opinion No. 3/2023 concerning Ali Ünal (Türkiye): "84. The Working Group wishes to record its concern at the source's un rebutted allegation that Mr. Ünal was held in solitary confinement for two months in Izmir Prison, despite the lack of any court decision. As the Working Group has held, according to rule 45 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), the imposition of solitary confinement must be accompanied by certain safeguards. Solitary confinement must only be used in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and authorized by a competent authority. Prolonged solitary confinement in excess of 15 consecutive days is prohibited under rules 43 (1) (b) and 44 of the Mandela Rules. The Working Group feels obliged to remind the Government of its obligation, under article 10 of the Covenant, to treat all persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person. 85. In the past six years, the Working Group has noted a significant increase in the number of cases brought to it concerning arbitrary detention in Türkiye. It expresses grave concern about the pattern that all these cases follow and recalls that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of fundamental rules of international law may constitute crimes against humanity.", available [here](#).

⁸⁷ Stockholm Center for Freedom, ECtHR faults Turkey for detention of media executive Karaca, available [here](#).

⁸⁸ Turkish Minute, An author doomed to oblivion in a prison cell: Gültekin Avcı, available [here](#); Stockholm Center for Freedom, Imprisoned Turkish jurist allegedly mistreated by prison guards, available [here](#).

⁸⁹ Stockholm Center for Freedom, Former Turkish police chief jailed after 2013 investigation given limited water in prison, available [here](#).

⁹⁰ Turkish Minute, Jailed media designer Fevzi Yazıcı threatened by Turkish gov't, put in solitary confinement over a fabricated 'letter', available [here](#), also [here](#) and [here](#).

⁹¹ Stockholm Center for Freedom, Former Turkish prosecutor held in solitary confinement for 500 days, available [here](#).

⁹² Turkish Minute, Former intel official held in solitary confinement for being 'dangerous inmate': daughter, available [here](#).

⁹³ Turkish Minute, Septuagenarian remains in solitary confinement for months over coup charges, available [here](#).

⁹⁴ Solidarity with Others, Statistics, available [here](#).

confinement falls within the ambit of Article 3 of the Convention, regard must be had to the particular conditions, the stringency of the measure, its duration, the objective pursued and its effects on the person concerned. In that connection the length of the period in question requires careful examination by the Court as to its justification, the need for the measures taken and their proportionality with regard to other possible restrictions, the guarantees offered to the applicant to avoid arbitrariness and by considering that the applicant's conditions of detention in solitary confinement were capable of causing him both mental and physical suffering and a feeling of profound violation of his human dignity. These conditions, exacerbated by the lack of an effective remedy, thus amount to "inhuman and degrading treatment" inflicted in breach of Article 3 of the Convention."⁹⁵

83. In conclusion, considering the duration of solitary confinement, its material conditions, and its arbitrary application in the case of political prisoners, it is evident that this practice falls within the definition of torture as outlined in Article 1 of the Convention against Torture (CAT), which reads as follows: *"any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."*

3.3 The New Form of Torture: Prison Observation Boards Decisions

84. As thoroughly examined in a report compiled by the Brussels-based NGO, Solidarity with Others⁹⁶, and Strasbourg-based Magistrats Européens pour la Démocratie et les Libertés (MEDEL)⁹⁷, alongside the widespread arbitrary detentions and politically motivated and unjustified severe penalties (including solitary confinement, as explained above), the discriminatory implementation of Law on Execution and Security Measures 5275 introduces an additional element of psychological torment. This is particularly evident in the denial of parole and conditional release, disproportionately impacting individuals associated with the Kurdish population and the Gülen movement.

⁹⁵ Case of X v. Turkey, of 27 May 2013, (Application no. 24626/09), available [here](#).

⁹⁶ Solidarity with OTHERS, The New Form of Torture: Prison Observation Boards Decisions, April 2024, available [here](#).

⁹⁷ MEDEL, Conditional Release and De Facto Criminal Courts in Türkiye, available [here](#); MEDEL, Letter to the Turkish Minister of Justice: MEDEL, EAJ, AEAJ and Judges for Judges in support of Murat Arslan, available [here](#).

85. The provisions governing conditional release and probation in Türkiye are contained in Regulation on the Administration of Penal Institutions and the Execution of Punishment and Security Measures⁹⁸ (the **Regulation**) and in Law on Execution and Security Measures 5275⁹⁹ (**Law No: 5275**).
86. According to Article 89 of Law No: 5275, in its version prior to the legislative change introduced in April 2020, which was then titled “*Determination of Good Behaviour for Parole Eligibility*”¹⁰⁰, if an inmate (i) has spent the periods envisaged in Article 107 of Law No: 5275, (ii) “sincerely adhered to the rules established for the purpose of order and security in penal institutions”, (iii) by exercising his rights “in good faith”, (iv) by fulfilling his obligations completely, and (v) by being “ready to integrate with society” this person is entitled for conditional release. Prior to the legislative change, it was the responsibility of the prison’s administrative board of the prison to assess whether the conditions were met.
87. With the amendments adopted on 15 April 2020¹⁰¹, the criteria for determining “good behaviour” were modified to include factors such as a low risk of re-offending and remorse for the crime¹⁰² empowering the prison administrations (i.e., “Administrative and Observatory Boards” since the amendment) to act as de facto criminal courts to use parole as a punitive measure.¹⁰³ The addition of conditions such as remorse for the crime has been particularly criticized¹⁰⁴, as the evaluation of repentance should be reserved for judges during the trial stage¹⁰⁵ rather than the execution stage. In addition, it has not been clarified how repentance should be evaluated.
88. Furthermore, since the aggravation of release conditions is clearly detrimental to convicts’ interests, these amendments should not apply to crimes committed before its entry into force, i.e., 01 January 2021¹⁰⁶, in accordance with the principle of non-retroactivity.
89. Another amendment to Article 89 pertains to the composition of the Administrative and Observatory Boards tasked with evaluating the good conduct of individuals convicted of terrorism offenses.¹⁰⁷ With the amendment, the Administrative and Observatory Boards is chaired by the chief public prosecutor, or a prosecutor designated by the chief public prosecutor. This amendment has also been criticized for

⁹⁸ Regulation on the Administration of Penal Institutions and the Execution of Punishment and Security Measures, article 22, available [here](#).

⁹⁹ Law on Execution and Security Measures 5275, article 89, available [here](#).

¹⁰⁰ Law on Execution and Security Measures 5275, the version before the legislative change, available [here](#).

¹⁰¹ Law amending the Law on Execution and Security Measures 5275, 15 April 2020, Official Gazette 31100, Article 36, available [here](#).

¹⁰² Law on Execution and Security Measures 5275, article 89(1), available [here](#).

¹⁰³ MEDEL, Conditional Release and De Facto Criminal Courts in Türkiye, available [here](#)

¹⁰⁴ MEDEL, Conditional Release and De Facto Criminal Courts in Türkiye, available [here](#)

¹⁰⁵ Turkish Criminal Code 5237, article 221, available [here](#)

¹⁰⁶ Law amending the Law on Execution and Security Measures 5275, 15 April 2020, Official Gazette 31100, Article 53, available [here](#).

¹⁰⁷ Law on Execution and Security Measures 5275, article 89(3), available [here](#).

specifically targeting political prisoners. It deviates from the original rationale of conditional release assessment, which previously focused on the convict's behaviour in prison, by shifting the focus to the individual's alleged criminal history. Additionally, the amendment grants the Chief Public Prosecutor the authority to appoint additional members from the Ministry of Family and Social Services, and the Ministry of Health¹⁰⁸. This provision allows the prosecutor to assign three additional members to the board from outside the prison administration, raising concerns about the potential influence of these members on the evaluation process and the alignment of their decisions with the prosecutor's perspective.¹⁰⁹

90. Furthermore, the appeals made against the decisions of the Administrative and Observatory Boards are marked by a recurring pattern of dismissals¹¹⁰ that lack sufficient legal justifications, exacerbating the concerns about the discriminatory and targeted nature of this amendment.
91. Solidarity with Others reported that since 2018, a total of 496 written Parliamentary Questions related to parole and conditional release have been presented, whereas only 2 of them have received replies from the government¹¹¹.
92. Concerning arbitrary refusals to grant conditional release, Afyonkarahisar prison tops the list with 36 incidents, followed by Sincan prison with 35 cases, and İzmir, Antalya, Tekirdağ, Manisa, Tokat, Yozgat, Niğde, and Samsun with reported cases ranging from 11 to 22.¹¹²
93. An emblematic example of the use of refusal to grant conditional release as a means of torture is the case of Murat Arslan, the imprisoned head of Türkiye's now-dissolved Judges and Prosecutors Association (YARSAV) and Václav Havel Human Rights Prize winner. Arslan, who was arrested in October 2016 and sentenced to 10 years in prison on charges of membership in a 'terrorist organization,' in reference to the Gülen movement, has been denied his right to conditional release since April 2023¹¹³.
94. In a letter, signed by the presidents of the Association of European Administrative Judges (AEAJ), the European Judges Association (EAJ), Judges for Judges (J4J) and Magistrats Européens pour la Démocratie et les Libertés (MEDEL), it has been noted that "despite unequivocally meeting all legal prerequisites for conditional release, Murat Arslan remains unjustly detained without substantiated

¹⁰⁸ Law on Execution and Security Measures 5275, article 89(3), available [here](#); Regulation on the Administration of Penal Institutions and the Execution of Punishment and Security Measures, article 22(3), available [here](#).

¹⁰⁹ Solidarity with OTHERS, The New Form of Torture: Prison Observation Boards Decisions, April 2024, available [here](#).

¹¹⁰ Solidarity with OTHERS, The New Form of Torture: Prison Observation Boards Decisions: Patterns in the Handling of Political Prisoners' Parole and Conditional Release Requests, April 2024, available [here](#).

¹¹¹ Solidarity with OTHERS, The New Form of Torture: Prison Observation Boards Decisions, April 2024, available [here](#).

¹¹² Solidarity with OTHERS, The New Form of Torture: Prison Observation Boards Decisions, April 2024, available [here](#).

¹¹³ MEDEL, Conditional Release and De Facto Criminal Courts in Türkiye, available [here](#).

reasons”.¹¹⁴ In the letter, it has been specified that “his request was rejected on the basis of arbitrary grounds, such as purportedly insufficient societal integration efforts and unsubstantiated risks of recidivism.” Furthermore, the Association raised their concerns about the presence of discriminatory practices between prisons in Türkiye and the particular severity of Sincan Prison in this regard.

95. In light of the foregoing, it should be concluded that the amendments made to Law No: 5275 regarding conditional release, as well as its discriminatory implementation, would constitute a form of mental torment intentionally inflicted upon political prisoners aimed at punishing them for their beliefs and political opinions and instilling a sense of fear and intimidation in society. Thus, it should be considered as a torture in the sense of Article 1 of the CAT.

4. ABSENCE OF INDEPENDENT JUDICIAL REVIEW

96. Judicial review is the most important guarantee provided to victims of torture to ensure their rights under the law, including those provided by international conventions such as the CAT. While article 12 of the CAT guarantees a prompt and impartial investigation by the competent authorities, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction, Article 14(1) requires each State Party to ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.
97. The backsliding of the judicial independence in Türkiye is striking in the aftermath of the coup attempt of July 2016. In 2014, Türkiye ranked 59th¹¹⁵ in the global rule of law index. However, by 2023, it has fallen to 117th out of 142 countries in terms of the overall index score. Regarding the accountability of the government and its officials, Türkiye is positioned between Sudan and Cambodia, ranking 137th.¹¹⁶
98. European Commission, in its 2023 Türkiye Report noted that “although the principle of separation of powers and judicial independence is enshrined in the Constitution and other legislative provisions, there are strong concerns regarding political influence on the judiciary.”¹¹⁷ The report, citing, among other issues, the mass dismissals of judges and prosecutors following the coup attempt, refusal to implement rulings of the European Court of Human Rights (ECtHR), lack of objective and merit-based

¹¹⁴ Letter to the Turkish Minister of Justice: MEDEL, EAJ, AEAJ and Judges for Judges in support of Murat Arslan, available [here](#).

¹¹⁵ The World Justice Project Rule of Law Index, 2014, page 37, available [here](#).

¹¹⁶ The World Justice Project Rule of Law Index, 2023, available [here](#).

¹¹⁷ Commission Staff Working Document Türkiye 2023 Report, 8.11.2023 SWD(2023) 696 final, page 25, available [here](#).

selection of judges, and the government's role in selecting members of the Council of Judges and Prosecutors (HSK), concluded that structural deficiencies in the judicial system remain unaddressed.

99. European Parliament in its 2022 Türkiye report condemned “the lack of independence of the judiciary and the political instrumentalization of the judicial system” and stressed that this area “is of highest concern to the EU, as independence of the judiciary represents the keystone of a functioning democratic system”.¹¹⁸
100. A couple of days after the coup attempt, one third of the existing judges and prosecutors were dismissed without any individual investigation or an opportunity for defence with vague and unsubstantiated allegations.¹¹⁹
101. According to the case-law of the ECtHR, in determining whether a body can be considered to be “independent” - notably of the executive – the regard should be given to (i) the manner of appointment of its members and (ii) the duration of their term of office, (iii) the existence of guarantees against outside pressures and (iv) the question whether the body presents an appearance of independence.¹²⁰
102. Commissioner for Human Rights of the Council of Europe Dunja Mijatović noted in its report following her visit to Türkiye from in July 2019 that, with the constitutional changes introduced in 2017 the new composition of the HSK allows for all the members of the HSK to be appointed either by the President of the Republic or the Parliament, without a procedure guaranteeing the involvement of all political parties and interests. This means that no member of the HSK is elected by their peers, in clear contradiction with European standards which foresee that at least half of the members of judicial councils that are in charge of overseeing the professional conduct of judges and prosecutors (including appointments, promotions, transfers, disciplinary measures and dismissals of judges and public prosecutors) should be elected by judges among their peers from all levels of the judiciary and with respect for pluralism inside the judiciary.¹²¹

¹¹⁸ European Parliament, Report on the 2022 Commission Report on Türkiye, available [here](#).

¹¹⁹ Turkey's Judicial Reform Strategy and Judicial Independence, November 2019, available [here](#); Turkey Tribunal, Mass Dismissals of Judges and Prosecutors in Turkey of Post-Coup Period, available [here](#) : 4360 judges and prosecutors with 20 decisions taken at different times since 16 July 2016 including 140 members of the Court of Cassation, 48 members of the Council of State and 5 members of the Council of Judges and Prosecutors (HSK) When the 2 members of the Constitutional Court dismissed by the Presidency of the Constitutional Court is included the total number would be 4362. Of the 4,362 judicial members who were expelled, 166 were reinstated to their professions. According to the figures announced, 4,189 members of the judiciary were definitively dismissed between 2016-2021.

¹²⁰ Campbell and Fell v. the United Kingdom, judgment of 28 June 2014, para. 78 available [here](#).

¹²¹ 2019 Turkey visit report of Commissioner for Human Rights of the Council of Europe Dunja Mijatović, CommDH(2020)1, para.14, available [here](#).

103. The Commissioner has also reminded that the constitutional changes of 2017 were criticized by its predecessor¹²² as well as the Venice Commission¹²³, the Group of States against Corruption (GRECO)¹²⁴ and the Parliamentary Assembly¹²⁵.
104. These constitutional changes taken into consideration with the mass dismissals of judges and prosecutors created an atmosphere of fear and intimidation undermining the safety and security of tenure of judges with unsubstantiated “stereotypical” and “non-individualized” reasonings.¹²⁶
105. The Commissioner has concluded in its report that “in a context where various safeguards concerning the independence and security of tenure of judges and prosecutors were eroded both de jure and de facto”, the judiciary is heavily influenced by the statements made by the government and by the political conjecture in general.¹²⁷
106. In addition to the concerns related to the independence of the judiciary which should be the guarantor of the right to protection against torture and inhuman treatment, the immunity provided by Decree Laws No. 667¹²⁸, 668¹²⁹, 696¹³⁰ to all “individuals acting within the scope of suppressing the coup attempt and terrorist acts carried out on 15/7/2016, and the actions continuing from them, whether or not they bear an official title or perform an official duty”, from any legal, administrative, financial, or criminal liability¹³¹ made the effective judicial remedy impossible for the victims of torture. The Decree

¹²² Statement by Nils Muižnieks, Commissioner for Human Rights, 7 June 2017, available [here](#).

¹²³ Venice Commission, Opinion on the amendments to the Constitution adopted by the Grand National Assembly on 21 January 2017 and to be submitted to a National Referendum on 16 April 2017, CDL-AD(2017)005, 10-11 March 2017, available [here](#).

¹²⁴ Compliance Report by the Group of States against Corruption, Fourth Evaluation Round: Corruption prevention in respect of members of parliament, judges and prosecutors, GrecoRC4(2017)16, 18 October 2017, available [here](#).

¹²⁵ Resolution 2156(2017) of the PACE on the functioning of democratic institutions in Turkey reopening the monitoring procedure in respect of Turkey, 25 April 2017, available [here](#).

¹²⁶ 2019 Turkey visit report of Commissioner for Human Rights of the Council of Europe Dunja Mijatović, CommDH(2020)1, para.19, available [here](#).

¹²⁷ 2019 Turkey visit report of Commissioner for Human Rights of the Council of Europe Dunja Mijatović, CommDH(2020)1, para.29-30, available [here](#).

¹²⁸ See, Article 9 of Decree No. 667 of 22 July 2016: “Legal, administrative, financial and criminal liabilities shall not arise in respect of the persons who have adopted decisions and fulfil their duties within the scope of this Decree Law.”

¹²⁹ Article 37 of Decree No. 668 of 25 July 2016: “Legal, administrative, financial and criminal liabilities of the persons who have adopted decisions and executed decisions or measures with a view to suppressing the coup attempt and terrorist actions performed on 15/7/2016 and the ensuing actions, who have taken office within the scope of all kinds of judicial and administrative measures and who have adopted decisions and fulfilled relevant duties within the scope of the decree laws promulgated during the period of state of emergency shall not arise from such decisions taken, duties and acts performed”.

¹³⁰ Article 122 of Decree No. 696 of 24 December 2017: The following paragraph has been added to Article 37 of Law No. 6755 on the Adoption of the Amendments of the Decree Law on Measures to be Taken Under the State of Emergency and Arrangements Made on Certain Institutions and Organisations, dated 8 November 2016: “(2) Provisions of paragraph 1 shall also be applicable to those individuals who acted with the aim of suppressing the coup attempt and the terrorist activities that took place on July 15, 2016 and actions that can be deemed as the continuation of these, without having regard to whether they held an official title or were performing an official duty or not

¹³¹ Please see the Emergency Decree Laws of July - September 2016 Nos. 667 – 674 communicated to the Council of Europe and published by the Venice Commission, available [here](#).

Law adopted during the state of emergency was enacted into law¹³², and Türkiye's Constitutional Court considered the law constitutional in November 2020.¹³³ The European Commission in its 2023 Türkiye report expressed its concerns regarding the increase of "the risk of impunity" in view of this law¹³⁴

107. As analyzed in detail in Türkiye Tribunal initiative's "Impunity in Türkiye Today" report¹³⁵, these legal developments had contributed to impunity culture in violation of the right to effective judicial remedy guaranteed by Article 13 of the ECHR.
108. The other mechanisms created by Türkiye have also proven to be inefficient. The European Commission in its last Türkiye report noted that the Human Rights and Equality Institution of Türkiye (HREI) remained largely ineffective due to legislative and structural restrictions, including by not accepting applications filed by civil society organisations and by being overly cautious in tackling cases of torture and ill treatment. 132 of the 3 638 applications filed with the parliament's Human Rights Inquiry Committee in 2022 were not processed. The term of office of the State of Emergency Commission expired in January 2023. The Commission found 17 960 of the 109 332 filed applications to be admissible but rejected 86% of them.¹³⁶
109. In view of the above, it should be concluded that Türkiye has violated Article 12 and 14 of the CAT by not ensuring a prompt and impartial investigation of the incidents of torture and by not providing in its legal system an opportunity to obtain redress for the victims.

¹³² Laws Nos. 6749, 6755 and 7079

¹³³ Anayasa Mahkemesi Kararı, Esas No: 2018/31, Karar No: 2020/38, available [here](#); Stockholm Center for Freedom, Turkey's top court sanctions decree giving immunity to mobs accused of lynching soldiers; available [here](#).

¹³⁴ Commission Staff Working Document Türkiye 2023 Report, page 31, available [here](#).

¹³⁵ Turkey Tribunal, Impunity in Turkey Today report by Prof. Yves Haeck and Dr. Emre Turkut, available [here](#).

¹³⁶ Commission Staff Working Document Türkiye 2023 Report, page 30, available [here](#).