

THE HUMAN RIGHTS SITUATION IN PRISONS

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TOHAV
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Foundation for Society and Legal Studies



CİSST | TCPS
CEZA İNFAZ SİSTEMİNDE SİVİL TOPLUM DERNEĞİ
TÜRKİYE HAPSHANE ÇALIŞMALARİBİREKES



Submission by: **Foundation for Society and Legal Studies - TOHAV** (“*Toplum ve Hukuk Araştırmaları Vakfı*”)
Civil Society in the Penal System Association - CİSST (“*Ceza İnfaz Sisteminde Sivil Toplum Derneği*”)
Lawyers for Freedom Association - ÖHD (“*Özgürlük İçin Hukukçular Derneği*”)

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ABOUT THIS SUBMISSION

The following submission has been prepared by Foundation for Society and Legal Studies and Civil Society in the Penal System Association and Lawyers for Freedom Association and encourages States to make recommendations to Turkey regarding the human rights situation in prisons.

Foundation for Society and Legal Studies (TOHAV), founded in October 1994, is responsible for investigating and monitoring human rights violations in all regions of Turkey. In doing so, they do not discriminate on the grounds of race, sex, religion, ethnicity, and political thought, but without any financial contribution to victims' efforts to seek their rights.

Lawyers for Freedom Association (LFA)

Emergency Decree-Law no. 677 of 22 November 2016 closed down the Association of Lawyers for Liberty, established in 2010, including its headquarters and branches, along with 375 other NGOs. The association was re-established in 2018 under the name of Lawyers for Freedom Association (ÖHD). The purpose of the association is to establish, improve and implement a contemporary, democratic and liberal understanding of law; abolish the restrictive legal norms and practices that prove an obstacle to the improvement of individuals and the society; raise awareness on law and

legal remedies; eliminate all kinds of national and/or international regulations and practices that are discriminatory on grounds of race, language.

Civil Society in the Penal System (CISST), a civil society organization founded in 2006, aims to protect and promote prisoners' rights. Since 2009, it has been specially focusing on prisoner groups with special needs including women, children, LGBTI, foreigners, (aggravated) life prisoners, prisoners with health issues, people with disabilities, the elderly and Roma prisoners as well as on the right to education and work.

Submission to the 3rd cycle of the Universal Periodic Review

1. INTRODUCTION

The recommencement of armed conflicts in Turkey in July 2015, the coup attempt on 15 July 2016 and the ensuing declaration of the state of emergency have plunged the country into a destructive period in terms of democracy, the rule of law and human rights. These destructive developments have also had an impact on prisons, deteriorating the current problems and causing severe complications in human rights situation at prisons. Regulations and practices focused on security at the expense of undermining or eliminating guaranteed rights; as well as isolation policies targeting prisons and prisoners have considerably exacerbated the condition of human rights.

2. ASSESSMENT ON RECOMMENDATIONS 148.50 AND 149.21

1. Recommendation no. 148.50 of the second cycle of UPR recommends Turkey to "continue its efforts in the area of human rights training, particularly for staff of **penitentiary establishments**". Nonetheless, only one more activity has been added since 2016 to activities organized at the ministerial level to raise awareness on human rights, increasing the total number of activities to 6. Furthermore, inter-agency meetings have been discontinued. A total of 2296 officials, including 60 prison directors and assistant directors, administrative officers and probation officers, were dismissed after the declaration of the state of emergency¹. Therefore, new prison personnel replaced the staff who was at least experienced even though it is not known whether the former staff had any training on human rights.

2. The only training known to have been provided to the new and inexperienced prison staff who lacked human rights training is the "Training and Awareness Program for Detention Center Administrators to Prevent Torture and Ill Treatment", a training program devised in 2018 by Human Rights and Equality Institution of Turkey as part of its mandate as the national prevention mechanism, under the "Training and Awareness Action Plan for Detention Center Administrators". However, civil society organizations that are working on torture, ill treatment and human rights violations in prisons have not been apprised of this training program. Consequently, the purpose, scope, participants and the monitoring process of the training are not known.

3. In addition to prison staff's lack of training, the numbers of psychologists and social workers at prisons are far from adequate. According to the data of 2016, only one psychologist per 297 inmates is available; the ratio of social workers to inmates stood at 1 for every 807 inmates while the total number of expert staff was 2001 (psychologists, sociologists and social workers). 2016

¹IHOP - Human Rights Joint Platform Report on State of Emergency, April 2018, p.32, http://www.ihop.org.tr/wp-content/uploads/2018/04/Olağanüstü-Hal_17042018.pdf

activity report reveals that the number of relevant personnel at the General Directorate of Prisons and Detention Centers is insufficient. After the publication of this report, the population at penitentiary establishments went up by %28.7, while the total number of expert personnel stood at 2118 according to the data of November 2018. The budget allocated for the new staff in 2018 was 146.000 TL, 23000 euro², which is not adequate to meet the requirements of an increasing number of inmates.

RECOMMENDATIONS:

4.The State should provide training to the law enforcement officials, prison staff, judges and prosecutors on the prohibition of torture and ill treatment. The State should provide and develop trainings on Istanbul Protocol and Minnesota Protocol with contribution from civil society organizations.

5.The budget allocated for the recruitment of penitentiary staff, particularly psychologists and social workers, should be increased and these positions should be employed.

6.Turkey supported the recommendation made in the second cycle to “consider the establishment of budgetary allotments to improve the conditions of the prison population”. However, the budget itemsdisaggregating the allocation to prisons in the overall budget are not consistent enough to monitor annual increase.Yet, an increase was observed in the review process such as from 0.3 thousand to 0.4 thousand in 2017-2018; but since this increase was mainly used for the construction of new prisons, it has actually strengthened isolation policiesand have been detrimental to the human rights of prisoners while the remaining budgetfell short of meeting expectations as follows:

7.The amendment in the penal legislation in 2005, legal regulations introducing considerable increases in imprisonment sentences and terms of imprisonment, commonplace and multiple-defendant trials and penal policies focusing on imprisonment sentences have all resulted in a three-fold increase in the number of inmatesbetween 2005 to 2015. This increase did not run in parallel to the population increase; while every 71peopleout of 100 thousand were serving prison sentences in 2005, this figure rose to 226 in 2015. Within the cycle this number increased to 318. The incapacity of prisons to handle this rapid increase has further deteriorated the problems caused by the extreme overcrowd at prisons that accommodated twice the intended number of inmates³. Although the Emergency Decree no. 671 allowed for the release of 90 thousand inmates, the number of prisoners stood at 264.031⁴ by February 2019; raising the prison population by 52,1% since the previous UPR session.

8. The budgetallocated for the construction of new prisons has increased by seven fold since 2015 and the capacity of prisons has gone up by % 15.7. Still, the occupancy rate in prisons is % 121 according to the data of November 2018⁵. Prisons nationwide have faced problems in basic matters

²2018 Annual Performance Report of Ministry of Justice,

http://www.sp.gov.tr/upload/xSPRapor/files/pzD4C+Performans_Programi.pdf p/78

³Prison-Insider Turkey Country Report, February 2018, <https://www.prison-insider.com/countryprofile/prisonsinturkey?s=la-population-carcerale#la-population-carcerale>

⁴“Capacity problem will not be Solved Anytime Soon” 24.04.2019,

<https://www.gazeteduvar.com.tr/gundem/2019/04/24/koguslarda-kapasite-sorunu-kisa-vadede-cozulmeyecek/>

⁵Prisons of Turkey Report by Civil Society in the Penal System Association for European Prison Observatory, January 2019, p.2, <http://www.tcps.org.tr/sites/default/files/kitaplar/Prisons-of-Turkey-Report.pdf>

such as infrastructure, nutrition, cleaning and housing. Personal space of inmates in some prisons have for months remained below the criteria set by CPT. Inmates have had to take turns in sleeping on floor mattresses that sometimes line up all the way to the front of toilets. Extreme overcrowding has in some cases stirred up tension and violence among inmates.

9. Building new prisons does not solve the problem of extreme overcrowding. The Ministry of Justice aims to impose more alternative sanctions in its Strategy Plan for 2015-2019; however, the budget allocated in 2018 for alternative methods is 246.500 TL, around 39 thousand euros, which constitutes % 4⁶ of the overall budget for prisons. Furthermore, the budget pay allocated for implementation stands at 4000 TL, which is 635 euros. While the ratio of the hike in the implementation of alternative sanctions was % 20 in 2016, it dropped to % 10 in 2017 and 2018.

10. The fact that %62,7 of probation decisions taken in 2018 were mainly related to judicial control, that is the prosecution process, coupled with the judicial harassment established in the joint reports submitted by IHOP-Human Rights Joint Platform and the joint report submitted by Front Line Defenderstogether with 5 other organizations⁷, reveal that the practice of probation actually raises the number of individuals in the judicial system rather than decreasing the prison population.

RECOMMENDATION:

11. The State should reinstate the terms of imprisonment set forth in the Turkish Penal Code no. 5237 amended in 2015 and in the Penal Execution Law no 5275; and where reinstatement is not possible, the State should then revise these Laws to decrease the terms of imprisonment.

12. The State should revise the articles on probation and conditional release in line with the United Nations Standard Minimum Rules for Non-custodial Measures and particularly with UN Bangkok Rules and the UN Beijing Rules.

13. The State should increase the budget for alternatives to imprisonment sentences; and plan penal policies based on reparative justice, integrating them with social policies.

3. TORTURE AND ILL TREATMENT IN PRISONS

14. The constant increase of prison population in the recent years has led to the deterioration of physical conditions and more deprivation of rights. Furthermore, cases of torture and ill treatment in prisons have extremely soared in the span beginning with the restart of armed conflicts in July 2015, the foiled coup attempt and the state of emergency.

15. There is reportedly an unprecedented increase in the number of cases where convicts are battered at the time of their first entry to prison and afterwards; where persons incarcerated in connection with political offenses are labeled as “terrorists” and battered for this particular reason; where all forms of arbitrary treatment are meted out to prisoners and where arbitrary disciplinary action as well as practices of exile and transfer are rife.

16. The practice, adopted since 2000, of holding inmates in small groups or holding a single inmate in solitary confinement (a practice especially observed in F-Type prisons) has escalated and become commonplace, seriously damaging the physical and psychological integrity of prisoners.

⁶2018 Annual Performance Report of Ministry of Justice, cited above.

⁷ International Service for Human Rights, Netherlands Helsinki Committee, HakikatAdaletHafızaMerkezi, EşitHaklarıçinİzlemeDerneği, Kaos GL.

17. Article 16 of the Counter Terrorism Law no. 3713 states that “the sentences of those convicted under the provisions of this law shall be executed in special penal institutions built with rooms each capable of holding between one and three persons. Free visits are not allowed in such institutions. Contacts and communication among convicts will not be allowed”. The same provision applies to detainees and convicts charged with offenses that fall under the scope of the Law Against Profit-making Organized Crime.

18. Some of the perennial problems faced at prisons are restriction of access to health service, denial of the right to visitation at prison infirmaries, ill treatment, such as handcuffing, applied on prisoners during their transfer to the Forensic Medicine Institution or to a hospital, and lack of effective and timely action to handle prisoners’ health problems. In order to make room in prisons for new detainees, especially after the coup attempt of 15 July 2016, most prisoners held in major cities were banished to other penitentiary institutions where their access to health services was dramatically restricted. These forced transfers have undermined the medical treatment of prisoners.

19. Access to health has major problems at every stage, a fact underlined by incidents where a prisoner who had suffered a heart attack died of cardiac arrest due to lack of medical intervention on the way to the hospital in a shuttle instead of an ambulance; or where a prisoner passed away because his medication was not properly administered⁸ despite his terminal disease or where a prisoner lost his life because his treatable dental infection spread to his whole body due to lack of timely treatment⁹.

20. The data updated on 1 March 2018 by Human Rights Association establishes that there are 1154 sick prisoners, 401 of whom are seriously ill. In addition to difficulties faced in access to health services, there are other serious problems such as the lack of medical reports based on independent and qualified medical assessments and the fact that the Forensic Medical Institution is not independent.

21. The Emergency-Decree no. 696 of 24 December 2017 added an annex to the Law no. 5275 on the Execution of Penalties and Security Measures, specifying that prisoners would have to wear uniform jumpsuits, color-coded based on the type of crimes listed in the Turkish Penal Code. Women prisoners are exempted from wearing jumpsuits (article 103). This practice has not been put in practice yet, nonetheless it is contrary to human dignity as well as to Mandela Rules.

22. Furthermore, media has covered suspicious deaths and suicides in prisons. According to data by Human Rights Association (HRA), 8 prisoners allegedly committed suicide in 2017. Despite allegations of suspicious deaths, there has not been any effective investigations into these incidents as far as we know.

23. Article 25 of the Law no. 5275 specifies that convicts sentenced to aggravated life imprisonment would be mandatorily held in solitary confinement without carrying out any individual assessment. Solitary confinement lasts 30-36 years for non-political prisoners, whereas it is a lifelong sentence for political prisoners. During the review period, the Committee reiterated its recommendation to

⁸“Writer prisoner Murat Saat lost his life”, December 2017, <https://bianet.org/bianet/insan-haklari/192847-mahpus-yazar-murat-saat-hayatini-kaybetti>

⁹“Prisoner complaining about tooth ache lost his life”, November 2017, <https://bianet.org/bianet/insan-haklari/191907-dis-agrisindan-sikayetci-olan-tutuklu-hayatini-kaybetti>

the State to change this strict practice¹⁰. Besides, article 115 lays down the measures such as solitary confinement, camera surveillance, restriction of communication, phone and visitation rights for convicts who are suspected of reoffending or of evidence tampering. This practice of subjecting convicts to complete isolation has especially become widespread during the state of emergency and is still in place. Solitary confinement is also used to classify convicts under article 23. The period of surveillance set by the law is 60 days; however, this period is exceeded in practice. Convicts held in solitary confinement are sometimes denied their legal right to enjoy fresh air for an hour. Moreover, attorneys report that they have clients who are held in solitary confinement on grounds of administrative decisions without any legal basis. These individuals are held in solitary confinement indefinitely and over 15 days in breach of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

24. Article 117/16 of the Law no. 5275 and article 17 of the Law no. 3713 state that those sentenced to aggravated life imprisonment in connection with crimes against the state, the constitution and the nation under the Turkish Penal Code do not have any possibility of release (LWOP)¹¹. Since the Ministry of Justice does not respond to any requests for information, including the parliamentary questions, the number of prisoners serving life without parole (LWOP) is estimated to be in thousands, particularly after the coup attempt. This is a violation of the prohibition of torture and ill treatment, as indicated by the ECtHR in several decisions¹². Nevertheless, the required legal regulations have yet to be made.

RECOMMENDATIONS:

25. The legal regulation concerning solitary confinement (Articles 23, 25 and 115 of the Law no. 5275) should be revised in compliance with the United Nations Standard Minimum Rules for the Treatment of Prisoners; and legal regulations should be developed and implemented to impose administrative and penal sanctions on administrators in order to prevent arbitrary practices.

26. Regulations should be in place to protect prisoners' right to access health services, including having health personnel and ambulances available 24/7 at penitentiary institutions, regardless of the capacity of the prison.

27. Training should be provided to the members of the judiciary particularly judges of execution, relevant health personnel, guardians and gendarmerie personnel so that the practice of using handcuffs is not incompatible with human dignity and applied in compliance with Istanbul Protocol. Civil society should take part in the preparation of the training.

28. The practice of uniform clothing for prisoners introduced by Decree-Law no. 696 should be repealed.

29. Article 117/16 of the Law no 5275 and article 17 of the Law no. 3713 covering imprisonment sentences with no prospect of release should be revised; and a conditional release scheme compatible with human dignity should be devised for prisoners serving life without parole.

¹⁰ Council of Europe: Committee for the Prevention of Torture, 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) (28 April 2016 - 29 April 2016), 20 March 2018, CPT/Inf (2018) 11, p 13. available at: <https://rm.coe.int/168079457a> [accessed 18 May 2019]

¹¹ CİSST/TCPS Report on Addressing Prisoners with Special Needs: Life Imprisonment Report, by Florian Lüdtker, İdil Aydınoglu, ed by Eva Tanz, March 2017, p.32-37,

http://www.tcps.org.tr/sites/default/files/kitaplar/Life%20Imprisonment_report%20march-3.pdf accessed on 25.06.2019

¹² Ocalan / Turkey (no. 2) (no. 24069/03, 197/04, 6201/06 ve 10464/07, §§ 190-207, 18 March 2014), Kaytan/Turkey desicison (Application No. 27422/05, §§ 58-68, 15 September 2015), (EminGurban/Turkey Application No.4947/04, 15 December 2015)

4.PRISONERS WITH SPECIAL NEEDS

30.The budget allocated for prisoners identified as disadvantaged groups stood at 3000 TL, 468 euro in 2018, which is far below the required amount to take necessary measures. For instance: There are 3019 child prisoners between the ages of 12-18 in Turkey, 57 % of whose prosecution are still underway as per the report submitted by the Ministry of Justice to the Human Rights Commission of the Parliament.

31.58 % of these child prisoners are held in adult prisons, in wards designated for children as opposed to institutions specifically constructed for children. Thus, children do not get the support they need for their development and education. Besides, the rate of repeated incarceration of children is above 65 %, a ratio indicating that Turkish prisons have failed to reintegrate children. 6 children passed away during the period between 2015 November and 2017 June; one committed suicide and the rest were killed in a fire started for protest¹³.

32.Women prisoners, especially during the state of emergency, were subject to arbitrary strip search and to violence if they object to strip search. Almost half of women prisoners are held in men prisoners and face difficulties in satisfying their basic needs because of the shortage of women staff and the fact that prisons were intended for men¹⁴. Women prisoners who cannot purchase pads for a number of reasons have demanded free pads, a request which was welcomed by the state officials but still pending legal regulation. Article 16/4 of the Law no. 5275 allows for the suspension of sentences during pregnancy or in the first 6 months of after giving birth; however, this provision has not been implemented particularly during the state of emergency. This is still the case even after the state of emergency is lifted¹⁵.

33. According to data of November 2018, the number of children staying in prisons with their mothers is 743. Although it is favorable that children stay with their mothers at an early age, they are still growing up in institutions that were not intended to meet the needs of the 0-6 year old age group. Prison conditions take a heavy toll on children with serious or chronic illness.

RECOMMENDATIONS:

34.The State should revise and update the relevant legislation in compliance with the UN Beijing Rules no. 40/33 and the UN Rules for the Protection of Juveniles Deprived of their Liberty no. 45/113 and the UN Bangkok Rules.

35.The State should take all necessary measures, including increasing the number of members of the judiciary and providing more trainings for the judiciary, to ensure that pre-trial release is the norm for juveniles and that trials progress quickly.

36.The State should adopt legal regulations which would safeguard the basic needs of women prisoners in compliance with the UN Beijing Rules.

37. The best interest of the child should be the norm when invoking the legal regulation about the suspension of sentences given to women who are pregnant or who have recently given birth; suspended sentences should be given by the courts without exception. Legal safeguards should

¹³Prison Insider Turkey Country Report, cited above.

¹⁴EzgiDuman, DuyguDoğan, Mine Akarsu, Türkiye’deKadınMahpusOlmak (Being a Women Prisoner in Turkey), TCPS Library, December 2018, p.76 vd,http://www.tcps.org.tr/sites/default/files/kitaplar/kadin_mahpus_olmak_2019_internet.pdf Date of Access: 15.06.2019

¹⁵“HDP MP Gergerlioglu have submitted a Parliamentary Question regarding mothers with children and pregnant women” August 2018, <https://hapistecocuk.wordpress.com/2018/08/27/hdpli-milletvekili-gergerlioglu-hapishanede-cocuklariyla-tutulan-anneleri-ve-hamile-kadnlari-soru-onergesine-tasidi/>

be in place to ensure that incarceration is the last resort for women who have children in the 0-6 age group. Where incarceration is inevitable, an architectural infrastructure and services should be available to satisfy the needs of children in the 0-6 age group and their mothers.

38.LGBTI prisoners have been subject to discriminatory practices on grounds of their gender identity and sexual orientation. Although the exact number is not known there are several LGBTI prisoners who are sent to prisons either for men or women based on the sex assigned in birth are kept in solitary confinement without any communication to other prisoners. It has been observed that a larger number of LGBTI prisoners was kept in solitary confinement during the state of emergency¹⁶. Three prisoners went on a hunger strike in 2018 to protest the discriminatory attitudes they faced in prison and the delay in their gender reassignment process. The civil society and activists supported the demands which finally ended when the government verbally accepted strikers' demands. LGBTI prisoners are not allowed to work in institutions for security reasons although there is not any legal regulation in this regard. Most prisoners, who do not receive any financial support from family or friends, face difficulty in meeting their basic needs¹⁷.

RECOMMENDATIONS:

39.The State should end the practice of keeping prisoners in solitary confinement on grounds of sexual orientation and gender identity.

40.Legal and administrative measures should be taken to ensure that LGBTI prisoners enjoy the rights they are deprived of, particularly the right to work.

41.LGBTI prisoners should be allowed to continue their gender reassignment process and get psychological support.

42. The number of foreign national prisoners has increased by 3,5 fold to 7897 in the last 6 years. The number of Syrian prisoners has increased by 35 % to 3102 in the span of one year between November 2017 and November 2018. Furthermore, the number of foreign prisoners in Turkey with various nationalities of Iran, Afghanistan, Georgia, Iraq, South America and South Africa is also on the rise.

43.In Turkey, the language used in prosecutions is Turkish but there are Arabic and English interpreters available at prisons where the number of foreign national prisoners is high. The lack of interpreters in other languages and in prisons where there is a small number of foreign national prisoners undermines prisoners' right to communicate with the outer world and right to access to justice, which proves problematic in terms of benefiting from legal remedies or going to court.

RECOMMENDATIONS:

44. The State should work with the civil society to develop an action plan addressing the needs of the increasing number of foreign national prisoners. Action plan should be made public.

45.The State should guarantee legal regulations and practices that would remove the obstacles for foreign national prisoners to enjoy their rights particularly to legal remedies and complaint mechanisms.

¹⁶LGBTI Prisoners are reluctant to state violations they face", September 2018,

<https://lgbthapist.wordpress.com/2018/09/03/turkiyede-lgbti-hukumluler-ihlalleri-aktarmakta-cekimser-davraniyor/>

¹⁷HilalBaşakDemirbaş, "Türkiye'de LGBTI MahpusOlmak", TCPS Kitaplığı , June 2018, p.107

vd,http://www.tcps.org.tr/sites/default/files/kitaplar/lgbti_mahpus_olmak_2018_internet.pdf , Date of Access: 20 May 2019.

5. TRANSPARENCY OF PRISONS

46. Activity reports of the General Directorate of Prisons and Detention Centers have not been accessible since 2017. Consequently, there is no public access to the statistical data on the number, status, gender or age group of prisoners. There is no accessible source available to obtain data on inmates such as health, nationality or disability among others. Parliamentary questions put forth by parliamentarians have also been mostly left unanswered for the last two years. The Ministry of Justice has stopped updating the public data posted on its official website since 2017; the relevant webpages have been taken off completely from the website in recent months. This undermines the public's right to access information and hinders the civil society from analyzing and improving the prison conditions.

RECOMMENDATIONS:

47. Legal safeguards should be in place to ensure that the data on prisoners disaggregated by number, status, imprisonment sentences and terms of imprisonment, gender, age, health, nationality and disability be made public and updated periodically.

48. Such data should be made available in a format allowing NGOs to work with it for specific purposes.

6. OVERSIGHT OF HUMAN RIGHTS SITUATION IN PRISONS

49. Prisons in Turkey have been avoiding the oversight of national and supra-national oversight mechanisms and civil society organizations. CPT visit reports are not published; civil society organization requests to visit prisons are rejected; prisons are constructed outside the city and turned into campus type buildings which lead to a decline in visits by families and attorneys; all of these developments have made oversight of prisons significantly difficult.

50. The European Committee for the Prevention of Torture (CPT) carried out an ad-hoc visit to Turkey between 29.08.2016 and 06.09.2019 and a periodic visit between 10.05.2017 and 23.05.2017. However, Turkey does not allow the publication of reports prepared after these visits.

National Prevention Mechanisms

51. TIHK-Human Rights Institution of Turkey, the first national prevention mechanism of Turkey, was abolished in 2016 and replaced with the Human Rights and Equality Institution of Turkey (TIHEK) founded on 20 April 2016 by the Law no. 6701. TIHEK was not in compliance even at the outset with Paris Principles and OPCAT in terms of its establishment law, structure, functions, activities, financial and operational independence, independence of its members, guarantees for board membership and criteria for selection of board members. Yet, on top of this, article 149 of the Decree-Law no. 703 adopted on 9 July 2018 and the Presidential Circular no. 2018/1 amended the structure and functions of TIHEK, affiliating the Institution with the Ministry of Justice and granting the President the power to appoint all board members and select the Chair and Deputy Chair of TIHEK; thereby waiving the requirement of competency to become a board member. TIHEK, already under criticism by many international reports with respect to its financial, structural and functional independence, completely lost its independence and competence.

52. TIHEK failed to conduct effective monitoring and investigations into the human rights violations which have escalated after the flare-up of armed conflicts in 2015, the military coup attempt and the ensuing State of Emergency.

53. Although TIHEK has three main roles as the National Human Rights Institute, the Anti-Discrimination Institute and the National Prevention Mechanism, the number of experts working in the institution is only 15. Furthermore, it is not known what function these experts work on.

54. Reports regarding monitoring visits carried out by TIHEK as the National Prevention Mechanism are either published at a very late date or not published at all. The existing reports reveal that TIHEK does not meet the criteria set for meetings with prisoners at these visits, mostly relying on information received from administrators and that all visits are notified in advance. Provincial and District Prison Monitoring Boards established by the Law no. 4681 to periodically monitor and report on the human rights situation in prisons do not have institutional and operational independence. Prison Monitoring Boards are established by Justice Commissions for Judiciary under the Ministry of Justice and their reports are not made public. Besides, the Decree-Law no. 673 of September 2016 dismissed all members of prison monitoring boards; new members have been appointed to replace them. Last but not least, the 2018 budget the Ministry of Justice allocated for monitoring boards nationwide is 5500 TL, which converts to 852 euros.

RECOMMENDATIONS:

55. The State should authorize an independent National Prevention Mechanism. If TIHEK is to continue with its mandate as the national prevention mechanism, it should be revised to fully comply with OPCAT, ensuring both its financial, structural and functional independence and competency of board members. Legal guarantees should be in place to secure the operational, institutional and financial independence and potency of prison monitoring boards as well as to ensure that reports by prison monitoring boards are made public.