



**The United Nations
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Submission by the Arrested Lawyers Initiative for the Second Periodic Report on Türkiye (The 142nd Session of the Human Rights Committee scheduled for 14 Oct 2024 - 08 Nov 2024)

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The Arrested Lawyers Initiative (TALI) is a Brussels-based rights group consists of lawyers making advocacy to ensure lawyers and human rights defenders perform their duty without fear of intimidation, reprisal and judicial harassment. TALI is a member of the International Observatory for Lawyers.

<https://arrestedlawyers.org/>

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I. Please report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the Committee’s previous concluding observations, including steps taken to implement Human Rights.

1. Measures that have been purported by Türkiye (in [CCPR/C/TUR/2](#)) to be reforms have not resulted in any real improvement with regard to the rule of law, democracy, and the respecting of human rights and freedoms in Türkiye.

2. A European Commission 2023 report finds that “Serious backsliding continued and, despite several judicial reform packages in recent years, the structural deficiencies in the judicial system remained unaddressed. The continued refusal to implement certain rulings of the European Court of Human Rights (ECtHR) remains a matter of concern. There was no progress in eliminating undue influence and pressure by the executive on judges and prosecutors, which negatively affects the independence, impartiality, and quality of the judiciary. Implementation of the 2021 Human Rights Action Plan (HRAP) and the 2019 Judicial Reform Strategy (JRS) continued, but the activities foreseen in these documents fell short of addressing the structural problems and issues identified in the previous reports of the European Commission. The lack of objective, merit-based, uniform, and pre-established criteria for recruiting and promoting judges and prosecutors remains a source of concern.”¹

3. The report also found 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. The HRAP included some actions to improve the independence of the judiciary, but these actions have not been implemented. High-level officials and representatives of the executive (including the President) continued to comment publicly on ongoing judicial cases, thus undermining judicial independence. They also publicly criticised the ECtHR and Constitutional Court case law. Lower courts at times ignored or significantly delayed the implementation of decisions reached by the Constitutional Court. The non-implementation of the administrative courts’ decisions by the administration also remains an issue of concern. Individual applications to the Constitutional Court had limited effect, especially with regard to politically motivated trials.”²

4. In 2021, Amnesty International stated that “The Human Rights Action Plan fails to incorporate any concrete action as well as general measures to ensure compliance with the international human rights framework and to address major rights violations that have been frequently highlighted by the Council of Europe bodies and other human rights mechanisms, such as the use of excessive force in dispersing peaceful demonstrations, the ineffectiveness of investigations into deaths, torture and other ill-treatment by members of security forces, arbitrary arrests and pre-trial detention, including those of journalists; or the composition of the Council of Judges and Prosecutors (HSK), which in large part facilitates the control and political influence of the executive over the judiciary thus leading to the authorities bringing politically motivated charges, grossly unfair trials, convictions and sentences. More importantly, the Plan does not elaborate on any structural changes brought to the composition and the procedure for appointing members of the Council of Judges and Prosecutors (HSK) by

¹ European Commission, Türkiye Report 2023, https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2023_en

² Ibid.

the 2017 Constitutional amendments which are in conflict with the principle of independence and the impartiality of the judiciary as they enable the executive power to exert political influence over the Council and to interfere with criminal proceedings. The Human Rights Action Plan, which does not address the major shortcomings of human rights protection in Türkiye, is substantially a missed opportunity. The Plan fails to provide a comprehensive framework within which to reverse the deep erosion of human rights in Türkiye and does not go beyond the recognition of “protecting and promoting human rights as the principal duty of the State”. It remains a plan of precatory promises without addressing any significant and structural issues affecting the human rights and criminal justice system in Türkiye”.³

5. In 2024, Amnesty International said that “Amnesty International is concerned that the new legislative package, which is commonly known as the “8th Judicial Package,” falls short of human rights standards. The new package - as was the case with preceding reform proposals - continues to fail to address the most significant and structural/systematic issues at the root of the persistent erosion of human rights in Türkiye, including the breakdown of the rule of law and the independence of the judiciary. As the text stands, it also does not fully implement legal changes arising from key pertinent Constitutional Court rulings, in particular with regards to the amendments to the Article 220/6 of the Turkish Penal Code.”⁴

6. In 2024, the Committee Against Torture found that “The Committee is concerned by allegations that the article that prohibits use of evidence obtained through the use of torture and ill-treatment is not always applied in practice and by the lack of information provided by the State party on instances where such evidence was deemed to be inadmissible.”⁵

7. Despite repeated calls from the Committee of Ministers of the Council of Europe, Türkiye has not reformed the structure of the Council of Judges and Prosecutors to ensure the independence and impartiality of the judiciary.⁶

II. Please also indicate the procedures for the implementation of the Committee’s Views under the Optional Protocol and provide information on measures to ensure full compliance with each of the Views in respect of the State party, including in *Özçelik et al. v. Turkey*. (CCPR/C/125/D/2980/2017).

8. Türkiye has failed to comply with the judgments of the ECtHR (Yüksel Yalçınkaya, Vedat Sorli), and the opinions of the UN Human Rights Committee (Mukadder Alakus 3736/2020 and İsmet Özçelik 2980/2017). It also failed to comply with the opinions of the WGAD which found imprisonments of members of the Gülen movement for using the Bylock app or for membership of those organisations that were closed down by Emergency Decree, or for participation in Sohbet and other peaceful gatherings, to be unlawful and a Category V violation.

9. In 2021, in the case of Vedat Şorli v. Turkey (Application no. 42048/19), the European Court of Human Rights found that the provision of the Penal Code stipulating insulting the President of the Republic was not in conformity with the Convention and should be amended. Despite this ruling, no reform has been made, and recent statistics from the Ministry

³ <https://www.amnesty.org/en/documents/eur44/3883/2021/en/>

⁴ <https://www.amnesty.org/en/wp-content/uploads/2024/03/EUR4477652024ENGLISH.pdf>

⁵ Concluding observations on the fifth periodic report on Türkiye, 25 July 2024, CAT/C/TUR/CO/5, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2FCO%2FTUR%2FCO%2F5&Lang=en

⁶ <https://search.coe.int/cm?i=0900001680aa75d1>
[https://hudoc.exec.coe.int/?i=CM/Del/Dec\(2023\)1475/H46-39E](https://hudoc.exec.coe.int/?i=CM/Del/Dec(2023)1475/H46-39E)
[https://hudoc.exec.coe.int/?i=CM/Del/Dec\(2023\)1459/H46-26E](https://hudoc.exec.coe.int/?i=CM/Del/Dec(2023)1459/H46-26E)

of Justice, in 2023, indicate a significant increase in legal proceedings under this contentious provision. The year 2023 witnessed the filing of 25,520 new cases under Articles 299 and 301 of the Turkish Penal Code, which criminalise the insulting of the President and defaming Turkishness, respectively. This marked a record high, demonstrating an escalation in the enforcement of these laws, despite international scrutiny. The reports also highlighted that those legal actions extensively involved minors, with 552 juveniles implicated in 673 cases, raising concerns about the application of these laws to individuals under the age of 18. From 2019 to 2023, a total of 68,139 individuals were prosecuted under these legal provisions.⁷ This trend raises questions about the alignment of domestic laws with international human rights standards, particularly in light of the European Court's findings.

10. Similarly, despite the findings of ECtHR (*Demirtaş II, Yüksel Yalçınkaya*) and the UN Human Rights Committee (*Mukadder Alakus*) that Article 314 of the Penal Code breaches the principle of no punishment without law, Türkiye has continued to arrest and convict, in total, more than 300,000 people under this provision. Türkiye has since continued to commit similar human rights violations, which are condemned in the judgments/opinions of ECtHR; HRC and WGAD.

III. Please provide information on any steps taken during the reporting period to establish a national human rights institution in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

11. The HREI was accredited with a B status by the Global Alliance for National Human Rights Institutions in October 2022.

12. Yet, the UN Committee Against Torture recently found: “The Committee takes note of the recent B status granted to the Human Rights and Equality Institution of Türkiye by the Sub-Committee on the Accreditation of the Global Alliance of National Human Rights Institutions. In this connection, the Committee further expresses its concern that the institution lacks diversity, including adequate gender representation, among its Board members, and is not independent from the Executive, noting that all of its Board members, including its chairperson, are appointed by the President. The Committee is also concerned that, in its work as a national preventive mechanism, the Human Rights and Equality Institution of Türkiye has been allegedly reticent in reporting on instances of torture and ill-treatment”⁸

13. The European Commission’s 2023 Türkiye report found the following⁹:

i) The HREI lacks ex officio powers to initiate investigations and to intervene in cases with legal remedies. The number of cases treated by the two institutions¹⁰ increased, but concerns remain regarding the operational, structural and financial independence of both institutions and the appointment of their members. The effectiveness of both institutions remained limited. The HREI was accredited to the Global Alliance for National Human Rights Institutions with a B status in October 2022.

ii) In 2022, the HREI received 2,020 applications (1,185 in 2021), visited 63 institutions (including prisons) and adopted 69 reports prepared within the scope of these visits. The HREI makes prison visits in its role as the National Preventive Mechanism (NPM), but it does not have set and independent criteria for announced visits. In some visits, it only interacted with

⁷ <https://velev.news/gundem/erdogana-hakaret-davalarinda-rekor-25-bin-520-dosya-acildi/>

⁸ Concluding observations on the fifth periodic report of Türkiye, 25 July 2024, CAT/C/TUR/CO/5.

⁹ European Commission, Türkiye Report 2023.

¹⁰ HREI and Ombudsman

the administration and did not speak to the detainees. It has not visited all the prisons with the highest number of allegations of human rights violations or has done so with a significant delay. The recommendations mainly deal with minor issues and do not make concrete statements on serious human rights abuses.

iii) The HREI needs to improve its reputation regarding the effective tackling of human rights issues and engaging in constructive dialogue with civil society. The HREI remained largely ineffective due to legislative and structural restrictions, including 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.

iv) Although tasked with the role of the National Preventive Mechanism (NPM), the HREI does not meet the key requirements under the Optional Protocol to the UN Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment (OPCAT) and did not effectively process cases referred to it.

v) The HREI, as the national preventive mechanism, is also tasked with monitoring the prison administration and observation boards, but this work has remained ineffective. The work of the boards is not transparent and not supervised by independent bodies.

vi) The HREI and the Ombudsman did not accept applications on the grounds of sexual orientation and identity.

vii) The Ombudsman's caseload continued to increase during the reporting period and a high number of cases was adjudicated upon. However, the Ombudsman did not address politically sensitive issues concerning human rights and fundamental freedoms.

IV. Anti-corruption measures (Arts. 2 and 25)

14. A report released in December 2023 by the Council of Europe's anti-corruption group, the Group of States against Corruption (GRECO), has revealed that Türkiye's level of compliance remains "globally unsatisfactory."¹¹

15. In the judicial sphere, the report underscored the critical need to reinforce the independence of the High Council of Judges and Prosecutors and to institute more stringent ethical conduct and integrity checks for judiciary candidates. GRECO emphasized the necessity for evaluations of judges and prosecutors with regard to their ethical conduct and integrity, which were to be guided by precise and objective criteria, publicly accessible and in conformity with European standards. However, GRECO noted that the Turkish authorities' responses mostly reiterate information from previous reports. The report expressed disappointment in relation to the continued reference to the Judicial Ethics Declaration of 2019, made by the Court of Cassation of Türkiye, which GRECO had already deemed insufficient in addressing specific recommendations. For instance, Recommendation XI, which calls for a clear code of ethics for judges, one that is inclusive of practical examples for handling conflicts of interest and other integrity matters, remains only partly implemented with a need for more detailed guidance. Similarly, the recommendation for establishing a code of ethics for prosecutors, offering guidance on conflicts of interest and related matters, and allowing it to be accessible to the public for training purposes, is still only partially implemented. Concerns also persist about the lack of clear rules or guidelines on recusal for public prosecutors, including mandatory reporting within the hierarchical structure of the prosecution service.¹²

¹¹ <https://www.coe.int/en/web/human-rights-rule-of-law/-/greco-publication-of-the-fourth-interim-compliance-report-of-4th-evaluation-round-on-t%C3%BCrkiye>

¹² GRECO: Turkey fails to uphold anti (judicial) corruption standards, <https://arrestedlawyers.org/2023/12/07/greco-turkey-fails-to-uphold-anti-judicial-corruption-standards/>

16. According to the Arrested Lawyers' Initiative webpage covering judicial corruption revelations in 2023 and 2024, a series of revelations have come to public attention regarding corruption within the Turkish judiciary.¹³ These include the Chief Public Prosecutor of Ankara being bribed by a known mobster; the Deputy Chief Public Prosecutor of Izmir extorting businesspeople under the threat of arrest, embezzling money from companies under his trusteeship and, most recently, a senior judge attending the birthday party of a fugitive who is on trial for murder; a senior judge and a prosecutor defrauding more than 250 individuals with the promise of recruiting them as intelligence officers, amongst other similar cases.¹⁴

17. Authorities, rather than effectively investigating these cases, either prosecutes those expressing their concerns about these scandals or issues, or hands down gag orders and other measures to conceal such cases. The most recent example of this is the house arrest of the lawyer Eyup Akinci, which follows this pattern.¹⁵

18. Türkiye banned access to 219,059 URLs in 2023, as per a report of the Free Web Turkey 2023 Internet Censorship Report. The report highlights that the censored URLs included 14,680 news articles, predominantly ones covering allegations of corruption and misconduct. Among their topics, alleged corruption and misconduct were the most censored, with 5,881 articles blocked¹⁶

The root of the problem: corruption and human rights abuses

19. The government's efforts to cover up the corruption scandal of 2013 marked a turning point in this regard, leading to a widespread purge of the judiciary's members and of law enforcement agencies. This purge was driven by the realisation that the government's objectives required the complicity of corrupt judges, prosecutors and law enforcement officers. These officials were often enticed into corruption through various means, including salary increases, opportunities to purchase apartments at prices well below market value, and the practice of cronyism.

20. According to the United Nations report, there is a profound interplay between corruption and human rights abuses. Corruption not only instigates human rights violations but also significantly impedes the fulfilment of human rights obligations. From 2014, and more noticeably following the coup attempt in 2016, both corruption and serious human rights violations became increasingly routine, evolving into what might be described as an epidemic. This period saw a blurring of ethical lines and an erosion of legal and moral standards within the judicial system.

21. High-ranking officials, including Istanbul's Chief Public Prosecutor, who was appointed by President Erdoğan, have acknowledged that judges and prosecutors, particularly

¹³ <https://arrestedlawyers.org/tag/judicial-corruption/>

¹⁴ <https://arrestedlawyers.org/2022/12/10/corrupt-judges-are-instrumental-in-cracking-down-legal-profession/>

<https://arrestedlawyers.org/2023/01/26/is-the-turkish-judiciary-turning-into-a-criminal-syndicate/>

<https://arrestedlawyers.org/2023/09/15/akps-golden-boy-prosecutor-turned-out-to-be-corrupt/>

<https://arrestedlawyers.org/2023/09/19/mobster-exposes-deep-rot-in-the-turkish-judiciary/>

<https://arrestedlawyers.org/2023/10/14/chief-prosecutor-accuses-chief-justice-of-rampant-corruption/>

<https://arrestedlawyers.org/2023/11/21/judicialcorruption-new-allegations-against-the-chief-justice-of-istanbul/>

<https://arrestedlawyers.org/2023/12/11/53-judges-and-prosecutors-implicated-in-bribery/>

<https://arrestedlawyers.org/2024/06/09/senior-judges-arsenal-and-dubious-wealth-reveal-wider-pattern-of-judicial-corruption/>

¹⁵ <https://arrestedlawyers.org/2023/12/01/istanbul-lawyer-akinci-faces-prosecution-over-his-tweet/>

¹⁶

https://ankahaber.net/haber/detay/free_web_turkey_2023_internet_sansuru_raporu_2023_yilinda%C2%A014_bin_680%C2%A0habere_erisim_engeli_getirildi_187650

those involved in the crackdown against opposition groups, like the Gülen Movement, began to perceive themselves as being creditors of the State.

22. This dangerous mindset justified their involvement in various illicit activities, seeing these actions as entitlements or rewards for their service in the government's repressive campaigns. Such developments highlight a deeply troubling transformation within Türkiye's judicial system, in which the pursuit of justice has been overshadowed by personal gain and political agendas.¹⁷

V. Enforced disappearances and abductions (Arts. 6, 9 and 12)

Introduction

23. Türkiye still has not signed, ratified and accepted the Convention on Enforced Disappearances.

24. Illegal renditions and acts of enforced disappearances have continued.

25. The UN Committee Against Torture expressed its concern with regard to allegations of there being a systematic practice of State-sponsored extraterritorial abductions and the forcible return of individuals who are allegedly associated with the Hizmet/Gülen Movement in coordination with authorities in Afghanistan, Albania, Azerbaijan, Cambodia, Gabon, Kosovo, Kazakhstan, Lebanon, and Pakistan, a topic which has previously raised by several special procedures mandate holders^{18,19}. Such abductions are alleged to have taken place with the involvement of the Turkish intelligence services (MIT), and to entail human rights violations, such as enforced disappearance and other forms of torture and ill-treatment. (Arts. 2, 3, 11-13 and 16).²⁰

Information about enforced disappearance cases that took place following the 2016 attempted coup in Türkiye

26. The crime of enforced disappearance is not a new type of human rights violation in Türkiye. 'During the 1990s, enforced disappearances became part of a pattern of human rights violations against Kurdish civilians.'²¹ A coalition, consisting of various human rights NGOs, has collected the names of more than 1,300 persons who were 'disappeared' by State agents between the late 1980s and 2002 (the year the emergency rule was lifted), mostly in the Kurdish region.^{22 23}

27. Although this crime disappeared during 2000s, after the 2016 attempted coup it re-emerged, and more than 25 enforced disappearance incidents have been reported since then. Sunay Elmas, Mustafa Özgür Gültekin, Hüseyin Kötüce, Turgut Çapan, Mesut Geçer, Önder

¹⁷ <https://arrestedlawyers.org/2023/12/11/53-judges-and-prosecutors-implicated-in-bribery/>

¹⁸ Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, AL TUR 5/2020,

¹⁹ A/HRC/42/40, <https://documents.un.org/doc/undoc/gen/g19/229/25/pdf/g1922925.pdf>,

²⁰ Concluding observations on the fifth periodic report on Türkiye, 25 July 2024, CAT/C/TUR/CO/5.

²¹ Hafiza Merkezi & ECCHR, Monitoring Report (15 January 2016), para.7 https://hakikatadalethafiza.org/wp-content/uploads/2016/03/Rule-9-2-Communication-on-Turkey-Jan.-2016-HM_ECCHR.pdf

²² Ibid

²³ Impunity: An Unchanging Rule in Turkey, Joint report by the Arrested Lawyers' Initiative and the Italian Federation of Human Rights, <https://fidu.it/wp-content/uploads/2020/06/IMPUNITY-AN-UNCHANGING-RULE-IN-TURKEY.pdf>

Asan, Ayhan Oran, Mustafa Özben, Cemil Koçak, Murat Okumuş, Fatih Kılıç, Durmuş Ali Çetin, Cengiz Usta, Ümit Horzum, Hıdır Çelik, Enver Kılıç, Zabit Kişi²⁴²⁵, Orçun Şenyücel, Hasan Kala, Ahmet Ertürk, Yasin Ugan, Özgür Kaya, Gökhan Türkmen, Salim Zeybek, Erkan Irmak, Fahri Mert, Mustafa Yılmaz, Ayten Öztürk²⁶, Yusuf Bilge Tunç have become the victims of enforced or involuntary disappearances in Türkiye.²⁷²⁸

28. On 26 February 2020, the Ankara Bar Association published a report²⁹ establishing several breaches of the relevant national and international laws regarding the enforced disappearance of seven individuals in 2019, and the conduct of the police and the judiciary in relation to these incidents.³⁰ In addition, a coalition, consisting of nine media outlets from different countries, documented the Turkish Government's illegal rendition and abduction operation and the black sites of the Turkish National Intelligence Agency, where victims have been tortured for months at a time.³¹

29. Human Rights Watch reported several cases in which Turkish authorities abducted Turkish nationals and removed them to Türkiye, bypassing legal processes and court orders abroad. Ayten Öztürk, who was tried in 2019 for links with the armed group the Revolutionary People's Liberation Party/Front, was abducted in 2018 from Beirut airport, Lebanon, by the Turkish intelligence services and was taken to Türkiye, where she was forcibly disappeared and tortured for over five months before being officially registered as being in police custody. Selahaddin Gülen, a nephew of Fethullah Gülen, went missing in May 2021 while traveling to Kenya to marry his fiancé, a Kenyan national. Despite being a registered asylum seeker in Kenya, he was under a deportation order from the Kenyan authorities, based on an Interpol Red Notice from Türkiye, which required him to report weekly to the Directorate of Criminal Investigations headquarters in Nairobi. On one of these visits, he vanished. Photographs were released several weeks later of him in handcuffs in Ankara.³²

30. Orhan İnandı, whom the Turkish government accused of links with the Gülen movement in 2019, was abducted in Kyrgyzstan with the involvement of the Turkish authorities in May 2021. One week after he went missing, İnandı resurfaced in police custody in Ankara.³³

31. After the May 2023 elections, Türkiye's intelligence agency continued the practice of organising the abduction and rendition to Türkiye of individuals with alleged associations with the Gülen movement, in collaboration with authorities in countries with weak rule of law frameworks. In July and September, Tajik authorities bypassed legal extradition processes by

²⁴ <https://boldmedya.com/en/2019/07/01/zabit-kisi-who-was-tortured-for-108-days-i-no-longer-findodd-the-ones-who-committed-suicide/>

²⁵ Extradition to Turkey: One-way Ticket to Torture and Unfair Trial.

²⁶ <https://boldmedya.com/en/2019/06/21/ayten-ozturk-who-survived-the-secret-torture-center-in-ankara-i-was-tortured-for-6-months/>

²⁷ Turkey: Enforced Disappearances, Torture, <https://www.hrw.org/news/2020/04/29/turkey-enforced-disappearances-torture>

²⁸ Turkey Tribunal, Abductions in Turkey Today,

https://turkeytribunal.org/wp-content/uploads/2021/11/AbductionsinTurkey_Turkey-Tribunal-Report_FINAL.pdf

²⁹ Ankara Bar Association Human Rights Center,

Joint Monitoring Report, https://turkeytribunal.org/wp-content/uploads/2021/11/Enforced_Disappearances_JointMonitoringReport_AnkaraBar.pdf

http://www.ankarabarasu.org.tr/upload/HD/Donem65/2020/diger/20200213_ihmrapor.pdf

³⁰ <http://www.ankarabarassociation.org/HaberDuyuru.aspx?Announcement&=1922>

³¹ <https://correctiv.org/en/top-stories-en/2018/12/06/black-sites/>

³² https://www.hrw.org/sites/default/files/media_2024/02/global_transnationalrepression0224web_0.pdf

³³ Kidnapped, tortured and locked away in a Turkish black site: Orhan İnandı case,

<https://arrestedlawyers.org/2022/09/02/kidnapped-tortured-and-locked-away-in-a-turkish-black-site-orhan-inandi-case/>

abducting Emsal Koç and Koray Vural before they were flown to Türkiye, where they were placed in pretrial detention pending trial.^{34 35}

32. UN Special Rapporteurs noted that at least 100 individuals suspected of involvement with the Hizmet/Gülen movement have been subjected to arbitrary arrests and detention, enforced disappearance and torture, as part of covert operations reportedly organised or abetted by the Turkish government in coordination with authorities in Afghanistan, Albania, Azerbaijan, Afghanistan, Cambodia, Gabon, Kosovo, Kazakhstan, Lebanon and Pakistan, among others.³⁶

Detail the mechanisms in place for investigating alleged abductions and enforced disappearances and providing remedies

33. Enforced disappearances operations are being conducted by the Turkish National Intelligence Agency, whose operatives are beyond the reach of the jurisdiction of the Turkish prosecutors.

Law no. 2937 on the State Intelligence Services and the National Intelligence Agency

34. Under the Turkish Code of Criminal Procedure and Law No. 4483 on the Prosecution of Civil Servants and Other Public Officials, public prosecutors shall, ipso facto, investigate offences such as murder, torture, and enforced disappearances. However, under Law no. 2937 on the State Intelligence Services and the National Intelligence Agency (MİT), personnel of MİT and those commissioned for duty by the President of the Republic, have full immunity from criminal proceedings unless an authorisation of prosecution is issued by the President of the National Intelligence Agency.³⁷ Likewise, the President of the National Intelligence Agency may only be prosecuted if the President of the Republic issues an authorisation for prosecution. This legislation was passed in 2011 and, since then, it has been alleged the National Intelligence Agency and its personnel have been involved in a high number of crimes, including enforced disappearance, torture, the smuggling of arms, wide-scale unlawful profiling, and so on.^{38 39}

35. There is compelling evidence that these enforced disappearance operations, which have been taking place since 2015, were carried out by MIT/NIA agents, and the victims were interrogated under torture at 'black sites' belonging to MİT. Due to Law No. 2937, these cases have not been investigated. What is worse is that incidents of enforced disappearances continue with impunity. The latest victim is Yusuf Bilge Tunç, who has been missing since 6 August 2019.⁴⁰

³⁴ https://www.hrw.org/sites/default/files/media_2024/02/global_transnationalrepression0224web_0.pdf

³⁵ Human Rights Watch Submission to the United Nations Committee Against Torture on Türkiye June 2024, https://www.hrw.org/sites/default/files/media_2024/07/Human%20Rights%20Watch%20Submission%20to%20the%20UN%20Committee%20Against%20Torture%20on%20Tu%CC%88rkiye.pdf

³⁶ Mandates of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, AL TUR 5/2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25209>

³⁷ Turkey: Spy Agency Law Opens Door to Abuse, <https://www.hrw.org/news/2014/04/29/turkey-spy-agency-lawopens-door-abuse>

³⁸ Ibid

³⁹ Impunity: An Unchanging Rule in Turkey, Joint report by the Arrested Lawyers' Initiative and the Italian Federation of Human Rights, <https://fidu.it/wp-content/uploads/2020/06/IMPUNITY-AN-UNCHANGING-RULE-IN-TURKEY.pdf>

⁴⁰ <https://boldmedya.com/en/2019/06/21/ayten-ozturk-who-survived-the-secret-torture-center-inankara-i-was-tortured-for-6-months/>
<https://arrestedlawyers.files.wordpress.com/2019/07/factsheet.pdf>

Historical cases reported to have occurred in the 1980s and 1990s.

36. Between the years 1990 and 1996, torture was systematically practised throughout the country. The mass violations of human rights in the mainly Kurdish-populated Southeast and Eastern regions of Türkiye, in the 1990s, took the form of enforced disappearances and killings by unknown perpetrators, which the State authorities showed no willingness to investigate. Villages where around one million people live were evacuated and destroyed by the security forces during the conflict with the PKK.⁴¹ During the 1990s, enforced disappearances became part of a pattern of human rights violations against Kurdish civilians.⁴² A coalition, consisting of various human rights NGOs, has collected the names of more than 1,300 persons who were ‘disappeared’ by State agents between the late 1980s and 2002 (the year the emergency rule was lifted), mostly in the Kurdish region.⁴³ ⁴⁴ During this period, de-facto impunity had been the rule for all of those violations without exception.⁴⁵ Although, in the 2000s, during the democratization period, a hope for justice arose, after the AKP Government founded a political alliance with the Nationalist Movement Party, as well as an alliance within the bureaucracy and the Council of Judges and Prosecutors, all investigations and criminal cases with regard to 1990s’ human rights violations ended with decisions for acquittal, dismissal or non-prosecution.⁴⁶

VI. The prohibition of torture and cruel, inhumane, or degrading treatment or punishment (Arts. 2, 7, 9, 10, 12 and 14)

Introduction

37. The Committee Against Torture states that it is still concerned in relation to allegations that torture and ill-treatment continue to occur in the State party in a generalized manner, notably in detention centres, including allegations of beatings, sexual assault and harassment by law enforcement and intelligence officers, along with the use of electric shocks and waterboarding in some alleged instances. The Committee is particularly concerned with regard to increases in the number of allegations of torture and ill-treatment following the 2016 attempted coup, including use of such tools in order to extract confessions, following earthquakes in the South-East of the country in 2023, and in the context of counter-terrorism operations. The Committee is also concerned that counter-terrorism legislation, including Law No. 3713 on Anti-terrorism, is frequently used in order to limit fundamental legal safeguards in contravention of international standards, including access to a lawyer and the right to review the legality of detention (Arts. 2, 4, 11-13, 15 and 16).⁴⁷

38. Despite commitments to strengthen the efforts to investigate, prosecute and punish acts of torture and ill-treatment, the evidence suggests persistent and widespread issues. The TİHV-

<https://correctiv.org/en/top-stories-en/2018/12/06/black-sites/>

⁴¹ Impunity: An Unchanging Rule in Turkey.

⁴² Hafıza Merkezi & ECCHR, Monitoring Report (15 January 2016), para.7 https://hakikatadalethafiza.org/wp-content/uploads/2016/03/Rule-9-2-Communication-on-Turkey-Jan.-2016-HM_ECCHR.pdf

⁴³ Ibid.

⁴⁴ Impunity: An Unchanging Rule in Turkey.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Concluding observations on the fifth periodic report of Türkiye, 25 July 2024, CAT/C/TUR/CO/5.

HRFT 2022 Report highlights a 22% increase in individuals seeking assistance due to torture, with significant cases of physical assault, psychological abuse and sexual torture.⁴⁸ The Ankara Bar Association's report on enforced disappearances reveals systemic problems, including abductions by individuals posing as police officers, prolonged detentions without due process and inadequate investigations.⁴⁹ These reports underscore a culture of impunity, in which public officials and law enforcement officers are rarely held accountable for acts of torture and ill-treatment.

39. Human Rights Watch⁵⁰ and the Turkey Tribunal reports⁵¹ further emphasise the lack of effective investigations and the ongoing impunity for human rights violations. The documented cases of enforced disappearances, often involving individuals accused of terrorism-related offences, illustrate a pattern of state-sanctioned abuses that go unpunished. The reports consistently highlight the inadequacy of legal and institutional responses to torture allegations, suggesting that Türkiye has not effectively implemented the accepted recommendations. Significant reforms and a genuine commitment to upholding human rights standards are urgently needed to address these critical issues.

Please provide information about the reports that incidents of torture and ill-treatment, including beatings, sleep deprivation, sexual abuse, foot whipping, being forced to strip naked, stress positions, and blindfolding and/or handcuffing for extended periods, were widespread in police lock-ups and unofficial detention locations in the aftermath of the attempted coup in 2016, and that Emergency Decree provisions establish retrospective immunity for the perpetrators of such offences;

40. In its Alternative Report to the United Nations Committee Against Torture for its Consideration of the 5th Periodic Report on Türkiye, the Human Rights Foundation of Turkey (HRFT) stated that, although the government claims to have “zero tolerance for torture,” the number of applications made to the HRFT between 2016 and 2023 alone reveals that Türkiye has failed to prevent torture and other forms of ill-treatment.⁵²

41. HRFT added that 5,553 of the 6,152 people who applied to the HRFT between 2016 and 2023 stated that they had been subjected to torture inside Türkiye. In the same period, 599 people, who had been subjected to gross and serious human rights violations, torture and other ill-treatment abroad, together with the relatives of torture survivors, applied to the HRFT for medical support and the documentation of torture. 79,7% of those cases took place at police detention cells and prisons. Detainees are subjected to torture at provincial security directorates or at the police stations of district security directorates. The fact that 3,334 of 5,553 applicants

⁴⁸ 2022 – Treatment Centres Report,

<https://en.tihv.org.tr/treatment-and-rehabilitation-reports/2022-treatment-centres-report/>

⁴⁹ Ankara Bar Association Human Rights Center, Joint Monitoring Report, https://turkeytribunal.org/wp-content/uploads/2021/11/Enforced_Disappearances_JointMonitoringReport_AnkaraBar.pdf

⁵⁰ Human Rights Watch Submission to the United Nations Committee Against Torture on Türkiye June 2024 https://www.hrw.org/sites/default/files/media_2024/07/Human%20Rights%20Watch%20Submission%20to%20the%20UN%20Committee%20Against%20Torture%20on%20Tu%CC%88rkiye.pdf

⁵¹ Turkey Tribunal, Impunity in Turkey Today, https://turkeytribunal.org/wp-content/uploads/2021/11/ImpunityinTurkey_Turkey-Tribunal-Report_FINAL.pdf

Turkey Tribunal, Torture in Turkey, <https://turkeytribunal.org/wp-content/uploads/2023/01/1-Turkey-Tribunal-Torture-In-Turkey-StandAloneVersion.pdf>

⁵² Human Rights Foundation of Turkey, Alternative Report to the United Nations Committee Against Torture for its Consideration of the 5th Periodic Report of Turkey,

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FCSS%2FTUR%2F58746&Lang=en

were subjected to torture in police stations shows that torture is a systematic and widespread practice in the Turkish police.⁵³

42. In its Concluding Observations, dated 25 July 2024, of the fifth periodic report of Türkiye, the Committee Against Torture states that it is concerned with regard to information which indicates that deaths in custody are insufficiently investigated, and investigations that do take place lack the meaningful involvement of family members, the legal representatives of the deceased and their families, and independent monitoring by civil society. The Committee also stated its regrets in regard to the lack of data provided by the State party regarding deaths in custody and public reporting on such deaths.⁵⁴

Conditions of Detention: CCTV recordings

43. Although most places of detention have CCTV systems, there are credible reports that there are still parts of police detention centres and prisons in which there are no CCTV systems. For example, the Ankara Bar Association published several reports in which it found that detainees at the Ankara Police Headquarters were taken to special rooms with signs indicating that they could not be entered, where they were then tortured.⁵⁵ More importantly, these recordings are erased after 30 days, making them often unavailable for investigations into complaints of torture. In a recent case in which two lawyers were severely beaten by the police at Istanbul Police Headquarters, the police refused to hand over CCTV footage to the prosecutor.⁵⁶

Please provide information about whether there is an independent complaints mechanism that is in place to investigate all forms of torture and ill-treatment, as well as about the number of investigations, prosecutions and convictions during the reporting period, including about the punishments handed down to perpetrators and the compensation awarded to victims.

44. In its Concluding Observations, dated 25 July 2024, on the fifth periodic report on Türkiye, the Committee Against Torture stated⁵⁷:

a) The Committee takes note of the extensive network of detention monitoring bodies in the State party, along with information provided by the State party regarding the participation of the European Committee for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment in conducting training for civilian monitoring boards.

b) The Committee is, however, concerned that the selection process for the membership of civilian monitoring boards lacks transparency, and that members can be removed by decree, as happened with the issuance of Decree Law No. 673, in 2016. The Committee is also concerned with regard to the minimal role given to civil society organisations in conducting detention monitoring visits.

⁵³ Human Rights Foundation of Turkey, Alternative Report to the United Nations Committee Against Torture for its Consideration of the 5th Periodic Report of Turkey, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCAT%2FCSS%2FTUR%2F58746&Lang=en

⁵⁴ Concluding observations on the fifth periodic report of Türkiye, 25 July 2024, CAT/C/TUR/CO/5.

⁵⁵ Ankara Bar Association Center For Attorney Rights, Penal Institution Board And Center For Human Rights Report Regarding Claims Of Torture In Ankara Provincial Police Headquarters Investigation Department Of Financial Crimes, <https://arrestedlawyers.org/wp-content/uploads/2020/01/joint-report-ankara-bar-28-may-2019.pdf>

⁵⁶ <https://x.com/BKandeger65/status/1807700333168091326>

⁵⁷ Concluding observations on the fifth periodic report of Türkiye, 25 July 2024, CAT/C/TUR/CO/5.

c) The Committee further notes that the last report of the Subcommittee on the Prevention of Torture and the last three visit reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment have yet to be made public (Arts. 2, 11 and 16).

d) The Committee urges the State party to ensure the independence of the civilian monitoring boards, including through the increasing of transparency in the selection of their members, and to increase public communications regarding the place, time and periodicity of visits of all detention monitoring bodies to places of deprivation of liberty, along with the findings and the follow-up on the outcomes of such visits, in a timely manner.

e) The State party should also facilitate and encourage the participation of civil society organisations in conducting monitoring visits to places of deprivation of liberty. The Committee further recommends that the State party agree to the publication of all past, pending and future reports of the Subcommittee on the Prevention of Torture and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

45. Additionally, the Law Enforcement Oversight Commission, which was established in 2016, does not have institutional and functional independence. The Commission, which functions as a permanent board within the Ministry of Interior, lacks organic independence. The fact that the seven-member Commission is chaired by the Deputy Minister of the Interior and has only two civilian members cast a shadow over its functional independence. The appointment of civilian members by the President of the Republic also fails to ensure independence.

VII. Human rights defenders (Arts. 6, 17, 19, 20, 21, 22 and 26)

Introduction

46. In its Concluding Observations, dated 25 July 2024, on the fifth periodic report on Türkiye, the Committee Against Torture stated⁵⁸ that:

a) The Committee is concerned that human rights defenders and journalists in the State party allegedly face threats, physical harassment, arrest, prosecution, torture and ill-treatment as a result of their legitimate exercise of their rights to freedom of opinion and expression, freedom of peaceful assembly, freedom of association and their right to promote and protect human rights.

b) In particular, the Committee is concerned with regard to the judicial harassment of national media outlets and human rights defenders working on issues that are directly related to the Convention (Arts. 2, 11-13 and 16).

c) The Committee is also concerned by allegations of excessive use of force by law enforcement in policing and dispersing protests and the use of impermissible means of restraint in the context of public assemblies, such as reverse handcuffing, and by the apparent arbitrary application of Law No. 2911 on Public Meetings and Demonstrations to justify arrests which violate the right to the freedom of peaceful assembly (Arts. 2, 4, 11-13 and 16).

⁵⁸ Concluding Observations on the fifth periodic report on Türkiye, 25 July 2024, CAT/C/TUR/CO/5.

47. The environment for human rights defenders in Türkiye is hostile, with judicial harassment, arbitrary detentions and police brutality. The government's actions contradict the aim of creating a safe and enabling environment for these defenders. Türkiye has not complied with the UPR recommendations that it accepted in the 3rd UPR cycle in 2020 regarding the right to peaceful assembly and freedom of association. The measures and laws implemented, particularly under the guise of counterterrorism, have severely restricted these freedoms, targeted human rights defenders, and stifled civil society. The broad, and often arbitrary, application of these laws and the ongoing repression indicate a significant departure from the commitments made to uphold human rights obligations.⁵⁹

Arrest and Conviction of Sebnem Korur Fincanci

48. A court in Ankara has ruled for the dismissal of all members of the Central Council of the Turkish Medical Association (TTB/TMA). The legal proceedings stemmed from the TTB Chair Sebnem Korur-Fincanci's claim last year that the Turkish military used chemical weapons in operations against PKK militants in Iraq's Kurdistan region. Korur-Fincanci served two and a half months on remand after her claims led to an investigation against her for "terrorist propaganda."⁶⁰

49. Amnesty International and HRW reported that human rights defenders face judicial and administrative harassment, threats and reprisals. There are extensive bans on, and interventions in, assemblies and protests, with severe police brutality against demonstrators. The HRFT reported interventions in 291 demonstrations in 2021, with numerous cases of ill-treatment and torture by the police. The judicial harassment of the Saturday Mothers' vigil demonstrates targeted repression against specific groups and individuals. Mistreatment of Peaceful Protesters continued in 2024.⁶¹

VIII. Liberty and security of person (Arts. 6 and 9)

Describe measures taken to ensure that the rights of those held in pretrial detention to challenge their detention are consistently upheld

50. In 2021, Türkiye amended the provision stipulating the appeal/objection procedures against the decision to remand someone into pretrial detention. On 8 July 2021, with Law no. 7331, Türkiye amended Article 268 § 3 of the Code of Criminal Procedures. By doing so, the judges of the Criminal Courts of General Jurisdiction were vested with the authority to examine the objections to the magistrate judgeships' decisions on detention and judicial supervision. Previously, an objection to a magistrate judgeship's decision on detention (or judicial supervision) was filed with the next magistrate judgeship, or with other magistrate judgeships.⁶² However, this amendment has not led to any improvements in relation to the Turkish judiciary's disregard for the right to liberty. Since 2020, the ECtHR has held that Türkiye has violated the right to liberty of more than 1,900 applicants.

⁵⁹ <https://www.amnesty.org/en/wp-content/uploads/2021/07/EUR4442692021ENGLISH.pdf>
https://www.omct.org/site-resources/files/Law-7262-further-threat-to-the-freedom-of-association_Eng.pdf
https://www.omct.org/site-resources/files/Turkey_BriefingFreedomAssembly_March2022.pdf
<https://www.omct.org/site-resources/files/TurquieOBS2023-ENG.pdf>
<https://ihd.org.tr/en/omct-briefing-note-on-police-brutality-in-turkey/>

⁶⁰ <https://bianet.org/haber/court-rules-for-removal-of-turkish-medical-association-leadership-in-chemical-warfare-case-288720>

⁶¹ <https://www.hrw.org/news/2023/07/27/turkey-istanbul-police-mistreatment-peaceful-protesters>
<https://www.amnesty.org/en/latest/news/2024/05/turkiye-discriminatory-restrictions-and-violence-against-pride-protesters-must-not-be-repeated/>

⁶² <https://hudoc.exec.coe.int/?i=004-64042>

Case Title	Number of Applicants	Application Number	Year
Selahattin Demirtaş (No. 2)	1	14305/17	2020
Sabuncu & Others	10	23199/17	2020
Özgüç	1	3094/09	2020
Şık (No. 2)	1	36493/17	2020
Hakim Aydın	1	4048/09	2020
Baş	1	66448/17	2020
Ilıcak (No. 2)	1	1210/17	2021
Ahmet Hüsrev Altan	1	13252/17	2021
Tekin Akgün	1	19699/18	2021
Ali Bulaç	1	25939/17	2021
Tuncer Bakırhan	1	31417/19	2021
Kerem Çiftçi	1	35205/09	2021
		42201/17	
Öğreten and Kanaat	2	42212/17	2021
Bul	1	48072/19	2021
Erdal Tercan	1	6158/18	2021
Atilla Taş	1	72/17	2021
Turan and others	427	75805/16	2021
Murat Aksoy	1	80/17	2021
Yüksekdağ Şenoğlu and others	13	14332/17	2022
Ataman and others	31	14676/17	2022
Akkad	1	1557/19	2022
Bayram and others	108	20061/17	2022
Taner Kılıç (No. 2)	1	208/18	2022
İlker Deniz Yücel	1	27684/17	2022
Başer and Özçelik	2		2022

		30803/15 30694/15	
Moral and others	32	49867/17	2022
Güngör and others	82	59639/17	2022
Sevinç and others	135	63634/16	2022
Acar and others	50	64251/16	2022
Ulusoy and others	21	73062/16	2022
Geleş and others	70	75881/16	2022
		10207/21	
Demirtaş and Yüksekdağ Şenoğlu	2	10209/21	2023
Ayvaz and others	131	14347/17	2023
Kolay and others	283	15231/17	2023
Hidayet Karaca	1	25285/15	2023
Kılınçlı and others	13		2023
Abdullah Kılıç	1	43979/17	2023
Eriş and others	45	58665/17	2023
Yılmaz Aydemir	1	61808/19	2023
		68309/16	
Mehmet Baransu	1	41448/19	2023
Mecit and others	83	69884/17	2023
Duğan	1	84543/17	2023
Case Of M.C.	1	31592/18	2024
Çinici	1	32264/19	2024
Kuriş and others	22	56483/16	2024
Duymaz and others	314	58437/17	2024
Aydın Sefa Akay	1	59/17	2024
Ayşenur Parıldak	1	66375/17	2024

51. According to the Turkish Justice Minister Yılmaz Tunç's statement, dated July 2024, more than 702,000 people have been investigated by the police on terrorism charges (Article

314 of the Turkish Penal Code) since the 2016 coup attempt as a result of their affiliation with the Gülen Movement.⁶³ Of those, more than 330,000⁶⁴, at the least, were taken into custody by the police and at least 100,000⁶⁵ were remanded to pretrial detention. These arrests have been made for similar reasons, which WGAD found arbitrary, and there were Category V violations in the cases that are shown in the table below.

Muhammet Şentürk v. Turkey	<u>WGAD/2023/29</u>
Alettin Duman & Tamer Tibik v. Malaysia and Turkey	<u>WGAD/2022/8</u>
Cihan Erdal v. Turkey	<u>WGAD/2021/38</u>
Osman Karaca v. Cambodia and Turkey	<u>WGAD/2020/84</u>
Levent Kart v. Turkey	<u>WGAD/2020/66</u>
Ahmet Dinçer Sakaoğlu v. Turkey	<u>WGAD/2020/67</u>
Nermin Yasar vs. Turkey	<u>WGAD/2020/74</u>
Kahraman Demirez, Mustafa Erdem, Hasan Hüseyin Günakan, Yusuf Karabina, Osman Karakaya and Cihan Özkan v. Turkey and Kosovo	<u>WGAD/2020/47</u>
Arif Komiş, Ülkü Komiş and four minors v. Malaysia and Turkey	<u>WGAD/2020/51</u>
Abdulmuttalip Kurt v. Turkey	<u>WGAD/2020/2</u>
Akif Oruç v. Turkey	<u>WGAD/2020/29</u>
Faruk Serdar Köse v. Turkey	<u>WGAD/2020/30</u>
Ercan Demir v. Turkey	<u>WGAD/2019/79</u>
Melike Göksan and Mehmet Fatih Göksan v. Turkey	<u>WGAD/2019/53</u>
Mustafa Ceyhan v. Azerbaijan and Turkey	<u>WGAD/2019/10</u>
Hamza Yaman v. Turkey	<u>WGAD/2018/78</u>
Andrew Craig Brunson v. Turkey	<u>WGAD/2018/84</u>
Mestan Yayman v. Turkey	<u>WGAD/2018/42</u>
Ahmet Caliskan v. Turkey	<u>WGAD/2018/43</u>
Muharrem Gençtürk v. Turkey	<u>WGAD/2018/44</u>
Mesut Kaçmaz, Meral Kaçmaz and two minors v. Pakistan and Turkey	<u>WGAD/2018/11</u>

⁶³ Turkey has investigated more than 700K people over Gülen links since the failed coup: Minister <https://turkishminute.com/2024/07/12/turkey-investigate-more-than-700k-people-over-gulen-link-failed-coup-minister/>

⁶⁴ <https://www.trthaber.com/haber/gundem/bakan-soyly-fetoden-332-bin-884-kisi-gozaltina-alindi-692917.html>

⁶⁵ Ibid.

52. So, the Turkish judiciary continued to arrest and convict people with total disregard for the UN Human Rights Committee, WGAD and ECtHR.


Please provide information about the capacity of the prison system and the number of prisoners, as well as efforts to address overcrowding, including measures that have been taken as part of the State party's COVID-19 response and the promulgation of Law No. 7242

The Case of Ilerde and Others

53. In December 2023, in the case of Ilerde and others, ECtHR held that the conditions (overcrowding) in which the applicants were kept in Turkish prisons breached the prohibition of inhumane treatment.⁶⁶

Prison Population

54. According to recent data published by the Turkish Ministry of Justice (1st August 2024), there were 350,670 inmates in Turkish prisons as of that date, meaning that Türkiye has the sixth largest prison population in the world, following the US, China, Brazil, India and the Russian Federation. The number is high, even though Türkiye has carried out several mass releases of prisoners: one in August 2016, to make room for political prisoners⁶⁷ who would be detained during a two-year State of Emergency that was declared after a failed coup in 2016, the other in April 2020, to reduce the prison population⁶⁸ in the face of the COVID-19 pandemic and, most recently, in July 2023.

<p>Historical Context: Prison Population in 2005 was 70.277; while it was 120.814 in 2010.</p> <ul style="list-style-type: none"> • July 2023: 231.006 inmates. • July 14, 2023: A special law was enacted to reduce the prison population. • August 2023: Decrease to 213.781 inmates. • September 2023: Slight increase to 215.564. • October 2023: 221.232, November 2023: 227.332⁶⁹ • December 2023: 232.087 inmates, exceeded the number of July 2023.⁷⁰ • January 2024: 238.930⁷¹, Feb 2024: 244.331⁷² 	<p>The total population of open and closed prisons is 356.865 and the overcapacity is 20.86%.⁸⁰</p> 
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⁶⁶ <https://hudoc.echr.coe.int/eng?i=001-229320>

⁶⁷ <https://www.nytimes.com/2016/08/18/world/europe/turkey-prisoners-erdogan.html>

⁶⁸ <https://www.openglobalrights.org/early-parole-reforms-in-turkey-put-political-prisoners-at-increased-risk/>

⁶⁹ <https://cte.adalet.gov.tr/Resimler/Dokuman/7112023091917istatistik-2.pdf>

⁷⁰ <https://cte.adalet.gov.tr/Resimler/Dokuman/6122023095600istatistik-2.pdf>

⁷¹ <https://cte.adalet.gov.tr/Resimler/Dokuman/9012024142415istatistik-2.pdf>

⁷² <https://cte.adalet.gov.tr/Resimler/Dokuman/5022024162359istatistik-2.pdf>

⁸⁰ Announced official capacity is 295.268.

<ul style="list-style-type: none"> • March 2024: 250.237⁷³, April 2024: 254.988⁷⁴ • May 2024: 258.525⁷⁵, June 2024: 264.412⁷⁶, July 2024: 267.231⁷⁷ • August 2024: 272.259⁷⁸ in closed prisons, 78.411 in open prisons. • September 2024: 277.521 in closed prisons, 79.344 in open prisons.⁷⁹ 	
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Report by the Human Rights Association (IHD)

55. The IHD 2022 Report on Prisons documents 10,789 rights violations across 153 prisons, indicating widespread abuse.⁸¹

a) **Healthcare Issues:** 2,439 violations pertained to inadequate healthcare. At least 81 inmates died in custody in 2022, with some deaths occurring shortly after release.

b) **Overcrowding and Hygiene:** Overcrowding, inadequate living conditions, and the lack of clean water were critical issues. Malnutrition and the presence of foreign substances in food were reported.

c) **Torture and Ill-Treatment:** 308 cases of torture and ill-treatment were documented, including physical assaults and verbal abuse by prison guards.

Report by the Lawyers for Freedom Association (ÖHD)

56. **The ÖHD report finds that** there are systemic issues, including the excessive use of restraints, solitary confinement for minor infractions, malnutrition and the denial of medical care. Insanitary conditions and overcrowding were prevalent, and political detainees faced particularly harsh treatment.⁸²

Report by the Şanlıurfa Bar Association Human Rights Centre

57. This report covers three prisons in Urfa province. It finds the following:

a) **Overcrowding:** Urfa T Type No 1 and No 2 prisons housed more than twice their intended capacity.

b) **Healthcare:** Significant barriers to accessing healthcare, with 59% of inmates unable to receive emergency care and 92% reporting inadequate treatment routines. Neglect in dental care and abusive treatment during hospital transfers were highlighted.

c) **Torture and Inhumane Treatment:** Instances of torture, neglect and the lack of proper medical care were documented, thus violating international human rights treaties.⁸³

58. These cases and reports collectively depict a disturbing landscape of human rights violations within Turkish prisons. Systemic issues, such as overcrowding, inadequate healthcare and the mistreatment of detainees, especially political prisoners, demand urgent reforms in order for Türkiye to come into alignment with international human rights standards and to ensure the safety and dignity of all inmates.

⁷³ <https://cte.adalet.gov.tr/Resimler/Dokuman/7032024144927istatistik-2.pdf>

⁷⁴ <https://cte.adalet.gov.tr/Resimler/Dokuman/15042024112457istatistik-2.pdf>

⁷⁵ <https://cte.adalet.gov.tr/Resimler/Dokuman/6052024163053istatistik-2.pdf>

⁷⁶ <https://cte.adalet.gov.tr/Resimler/Dokuman/4062024103751istatistik-2.pdf>

⁷⁷ <https://cte.adalet.gov.tr/Resimler/Dokuman/3072024094232istatistik-2.pdf>

⁷⁸ <https://cte.adalet.gov.tr/Resimler/Dokuman/2082024164728istatistik-2.pdf>

⁷⁹ <https://cte.adalet.gov.tr/Resimler/Dokuman/4092024101247istatistik-2.pdf>

⁸¹ <https://www.ihd.org.tr/wp-content/uploads/2023/07/2022-Hapishane-Raporu.pdf>

⁸² <https://ozgurlukicin hukukcular.org/tr/detay/ic-anadolu-hapishaneleri-2023-yili-hak-ihlali-raporu>

⁸³ <https://drive.google.com/file/d/1QH2N5Wzlo1phPf5DHx-A7Rj3TC3Nfnr0/view>

Please provide information about the results of any investigations into the deaths of individuals detained in the prison system, such as Mustafa Kabakçioğlu

59. The case relating to the death of Mustafa Kabakçioğlu involves several key legal and procedural elements that reflect on the administration of justice and prisoners' welfare in the Turkish penal system. Mr. Kabakçioğlu, a former deputy police commissioner, was detained under a statutory decree that was issued during a State of Emergency in Türkiye. His arrest, on July 26, 2016, was initially related to investigations targeting the Gülen Movement, and he was subsequently dismissed from his official position on September 1, 2016.

60. While incarcerated at Gümüşhane E Type Prison, Mr. Kabakçioğlu served a sentence that was based on accusations that he had used a controversial messaging app, Bylock, and participated in religious meetings at his home, which he denied. His sentence of 7.5 years was affirmed by the Supreme Court, with his release scheduled for March 2021.

61. Mr. Kabakçioğlu's health significantly deteriorated while in custody. He suffered from asthma, hypertension and diabetes. His condition worsened notably in August 2020, leading to several medical emergencies. On August 20, 2020, after a severe health episode, he was hospitalised and, upon his return, was placed in a quarantine cell. He experienced further health declines on July 24 and 27, receiving emergency medical treatment on both occasions, but he was returned to his cell following each episode.

62. On August 29, 2020, Mr. Kabakçioğlu was found deceased in his quarantine cell, sitting on a white plastic chair. An autopsy report from Trabzon Forensic Medicine, dated October 19, 2020, stated that the cause of death was respiratory failure stemming from a lung infection.

63. In response to a public outcry and media coverage by outlets such as Bold Medya, the Ministry of Justice appointed two inspectors to investigate the circumstances surrounding his death. However, the outcomes of this investigation have not been publicly disclosed. Yet, the Public Prosecutor's Office closed the investigation into allegations of negligence by the prison administration. The dismissal of the investigation and the subsequent lack of clear investigative findings highlight ongoing concerns regarding human rights and the treatment of prisoners in the Turkish legal and penal system.⁸⁴

64. The case of Mustafa Kabakçioğlu, who died in questionable circumstances while detained in a Turkish prison, reflects a disturbing pattern of systemic abuse and neglect that is evident in the treatment of several other professionals, including lawyers, under similar conditions.

65. **Death of Fethi Un in Prison:** Fethi Un, a respected lawyer with over 35 years of experience, who was a former representative of Fethullah Gülen, experienced grave injustices that were similar to those of Kabakçioğlu. Arrested after the coup attempt in 2016, Un was subjected to dire prison conditions. He shared a small cell, meant for one person, with six others, leading to severe health complications exacerbated by inadequate medical care and insanitary living conditions. Despite these hardships, he was sentenced to 12 years in prison for alleged membership of an armed terrorist organisation, largely due to his professional association with Gülen. His death in prison from a brain hemorrhage, after years of maltreatment, underscores the severity of his ordeal.⁸⁵

⁸⁴ <https://www.bbc.com/turkce/haberler-turkiye-54561319>

<https://www.boldmedya.com/2021/08/29/khkli-mustafa-kabakcioglunun-olumunun-uzerinden-bir-yil-gecti/>

⁸⁵ <https://arrestedlawyers.org/2022/08/03/death-in-prison-the-case-of-3-turkish-lawyers/>

66. **Murat Korkmaz:** Similarly, Murat Korkmaz, a lawyer from Aksaray with a pre-existing heart condition, suffered from the lack of proper medical care while imprisoned on charges that were related to the Gülen Movement. After undergoing heart surgery, he was returned to prison, rather than being allowed to recuperate properly, which led to the rapid deterioration of his health and, ultimately, to his death.⁸⁶

67. **Metin Yucel:** Metin Yucel, another lawyer, died from Covid-19 in Düzce prison amid the pandemic. His death highlighted the neglect and discrimination faced by political prisoners during the health crisis, as lawyers and other human rights defenders were excluded from an early parole bill that aimed to reduce prison populations so as to mitigate the spread of the virus.⁸⁷

68. These cases collectively illustrate a troubling disregard for the health and welfare of detainees, particularly those associated with the Gülen Movement, within the Turkish penal system. The recurring themes are the denial of adequate medical care, overcrowded and insanitary conditions, and a judicial system that seems more influenced by political considerations than by evidence or the rule of law. Each of these individuals suffered not only because of their alleged political affiliations or professional activities, but also due to the systemic failures that continue to pose severe risks to prisoners' health and human rights in Türkiye.

IX. Non-discrimination (Arts. 2, 3, 6, 25 and 26): Discrimination based on gender, sexual orientation, disability, race, ethnicity, religion, and/or nationality; Hate speech by individuals, media outlets and political figures against groups, such as ethnic Kurds and/or persons on the grounds of their sexual orientation or gender identity.

69. The Kurdish minority still face different types of discrimination and racial violence from ordinary people and security forces. The Kurdish language, Kurdish music and concerts are still subject to different types of restrictions and even to bans.⁸⁸

70. The National Curriculum still does not include Kurdish in order to ensure that the Kurdish minority can learn their mother tongue along with the official language: Turkish.

71. Syrian and Afghan refugees have also sustained discrimination and racially provoked violence, and even pogroms. The Mayor of Bolu Province adopted an explicit discrimination policy which included providing basic services (fees for marriage, transportation fares and water) to foreigners that were 'astronomically' more expensive than they were to Turkish citizens. Most recently (July 2024), widespread attacks have taken place against the residences and workplaces of refugees in Türkiye, in the provinces of Kayseri, Konya, Gaziantep, Hatay, Adana and Istanbul. Workplaces were burned down, individuals were attacked and even, in some cases, tortured and killed.⁸⁹

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ <https://bianet.org/haber/dozens-of-kurdish-concerts-plays-banned-in-turkey-in-three-years-262018>

<https://www.mlsaturkey.com/en/kurdish-music-group-faces-arbitrary-provincial-ban>

<https://www.turkishminute.com/2023/10/23/23-people-brief-detained-over-kurdish-songs-played-at-wedding-central-turkey/>

<https://www.duvarenglish.com/turkish-police-raid-kurdish-language-only-cafe-detain-owner-in-diyarbakir-news-64422>

⁸⁹ <https://www.duvarenglish.com/xenophobia-in-bolu-foreigners-will-now-pay-for-water-in-dollars-100k-for-weddings-news-59621>

<https://www.turkishminute.com/2024/04/16/controversial-mayor-vow-astronomical-increase-bus-fares-for-foreign-students-in-bolu/>

<https://www.duvarenglish.com/bolu-municipal-council-approves-mayors-racist-proposal-against-refugees-news-58380>

72. The Committee on the Rights of the Child is “deeply concerned that discrimination persists against children in situations of particular vulnerability, including children with disabilities, asylum-seeking, refugee and migrant children, children of ethnic and religious minorities, lesbian, gay, bisexual, transgender and intersex children and children whose parents are accused of links to terrorist organisations, noting, in particular, their restricted ability to benefit from basic services, including education, health and protection from violence, and to enjoy an adequate standard of living. It also remains deeply concerned that no urgent and systematic efforts have been carried out to combat and change the persistence of adverse and traditional attitudes and norms that drive the discriminatory attitudes and practices”⁹⁰

73. The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families found that although there are efforts to provide education for vulnerable groups, significant barriers remain, particularly for migrant and refugee children, who face discrimination and language barriers.⁹¹

74. Syrian refugees in Türkiye are at particular risk of exploitation...workers are exposed to underpayment, discrimination, excessive hours, and the threat of termination for non-compliance.⁹²

75. The Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem, noted that while the Directorate on the Status of Women has the mandate to lead and coordinate the design and implementation of gender equality policies... the percentage of the official budget allocated for the implementation of gender equality policies is insufficient.⁹³ According to the mandate’s country visiting report, and to the UN report, while there have been initiatives like the introduction of national action plans and certain legal measures to address unemployment and discrimination against women, the enforcement of these measures remains inconsistent. Issues such as domestic violence are still pervasive, and services for victims are inadequate. The report emphasises the need for better co-ordination and for the more robust implementation of existing policies.

76. The European Commission 2023 Türkiye report found “The adopted 2023- 2025 action plan on the rights of persons with disabilities includes measures on non-discrimination, such as legal sanctions and soft measures as the revision of the legal framework. When accessing employment, however, legislation and practices that discriminate against persons with disabilities persist. This includes the law on judges and prosecutors that prohibits the

<https://www.duvarenglish.com/turkish-mayor-plans-to-charge-foreigners-thousands-of-liras-for-weddings-in-yet-another-racist-policy-news-59515>

<https://www.duvarenglish.com/bolu-mayor-signals-more-racist-policies-against-refugees-as-chp-isolates-his-views-from-party-news-58311>

<https://www.duvarenglish.com/xenophobia-in-bolu-foreigners-will-now-pay-for-water-in-dollars-100k-for-weddings-news-59621>

<https://www.turkishminute.com/2024/04/16/controversial-mayor-vow-astronomical-increase-bus-fares-for-foreign-students-in-bolu/>

<https://www.duvarenglish.com/bolu-municipal-council-approves-mayors-racist-proposal-against-refugees-news-58380>

<https://www.duvarenglish.com/turkish-mayor-plans-to-charge-foreigners-thousands-of-liras-for-weddings-in-yet-another-racist-policy-news-59515>

<https://www.duvarenglish.com/bolu-mayor-signals-more-racist-policies-against-refugees-as-chp-isolates-his-views-from-party-news-58311>

https://www.lemonde.fr/en/international/article/2024/07/20/syrian-refugees-attacked-in-turkey-the-crisis-makes-us-perfect-scapegoats_6691629_4.html

<https://www.nytimes.com/2024/07/02/world/middleeast/syrian-refugees-turkey-attacks.html>

<https://www.internationaliststandpoint.org/turkey-pogroms-against-syrian-refugees-bred-through-racist-policies/>

⁹⁰ CRC/C/TUR/CO/4-5, para. 18.

⁹¹ Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding observations on the second periodic report on Türkiye, June 2024.

⁹² (2023 Global Slavery Index), <https://www.walkfree.org/global-slavery-index/country-studies/turkiye/>

⁹³ <https://www.ohchr.org/en/documents/country-reports/ahrc5336add1-visit-turkiye-report-special-rapporteur-violence-against>

appointment of physically disabled candidates. The principle of reasonable accommodation should be promoted among employers by providing both financial and non- financial incentives.”⁹⁴

⁹⁴ European Commission, Türkiye Report 2023,
https://www.eas.europa.eu/sites/default/files/documents/2023/SWD_2023_696%20Tu%CC%88rkiye%20report.pdf