



NGO Report Submission: Discriminatory Practices regarding Probation and Conditional Release for Terror Convicts

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## Executive Summary

This report highlights discriminatory practices by Turkish authorities in the application of probation and conditional release for convicts charged under anti-terrorism laws, contrary to the principles of equality before the law and non-discrimination as mandated by Article 7 of the Universal Declaration of Human Rights (UDHR). Türkiye's domestic laws on probation, outlined primarily in Law No. 5275 on the Execution of Penalties and Security Measures, are applied in ways that violate the rule of law and human rights. Key issues include arbitrary decisions by prison administrative boards, lack of procedural transparency, and coercive practices that infringe on the human dignity of convicts, including requiring confessions of guilt as a condition for release.

This submission outlines how these policies and practices are inconsistent with international human rights obligations, presenting detailed case studies to demonstrate systemic abuses.

#### Article 7 of the UDHR: Equality Before the Law

Article 7 of the UDHR enshrines the principle that “all are equal before the law and are entitled without any discrimination to equal protection of the law.” However, the probation and conditional release system in Türkiye, particularly for individuals convicted of terrorism-related crimes, directly contradicts this principle.

#### Legal Framework in Türkiye

##### General Overview

**According to the Constitution, laws, and universal legal principles, penalties must be executed in accordance with the principles of equality in execution, prohibition of discrimination, and human dignity. It is the fundamental duty of the state to ensure that convicts serve their sentences without facing discrimination and under humane conditions. While this is the general rule, unfortunately, in Türkiye, convicts sentenced for terrorism-related offenses are subjected to discrimination by being denied the right to conditional release and probation. Many convicts are prevented from benefiting from probation and conditional release due to arbitrary assessment reports from prison administrations claiming that the convicts are not of good behavior.**

**With the enactment of Law No. 7242 on April 15, 2020, significant changes were made to key laws including Law No. 5275 on the Execution of Penalties and Security Measures (Execution Law), the Turkish Penal Code (TPC), the Criminal Procedure Code (CPC), and the Law on the Execution Judges. This Law, which also aims to reduce the prison population, introduced beneficial regulations for convicts sentenced for non-terrorism offenses but adverse regulations for those convicted of terrorism offenses.**

**Under Law No. 7242, amendments were made to Articles 14, 89, and 105/A of Law No. 5275 on the Execution of Penalties and Security Measures, introducing additional conditions for the application of probation measures for terrorism convicts up to the date of conditional release. Furthermore, the provisions of Law No. 4675, which regulates the establishment and authority of execution judges, were revised, transferring the authority to decide on conditional release from the three-judge Heavy Penal Courts to single-judge execution courts.**

Under Turkish law, convicts may benefit from probation and conditional release after serving a portion of their sentence, provided they demonstrate good behavior. Specific provisions for convicts charged with terrorism offenses include:

- Law No. 5275 on Execution of Penalties and Security Measures, Articles 14, 89, and 105/A – outlining conditions for probation and conditional release, including good behavior assessments by the Prison Administration and Observation Board.
- Regulation on the Transfer to Open Penal Institutions, Article 6/ç – imposing an additional requirement that convicts must demonstrate they have disassociated from the organization they were convicted of being affiliated with.
- Directive No. 66607 (April 20, 2015) – mandating convicts to submit a written declaration stating their disassociation from the organization to which they were previously linked.

These provisions have created significant room for discrimination and abuse, especially in cases involving politically motivated charges or terrorism-related offenses.

#### Conditions for Probation and Conditional Release

Probation allows convicts to leave prison earlier than their official release date, while conditional release permits early release based on good behavior.

For a convict to benefit from probation or conditional release, the following conditions must be met:

- The convict must be close to completing their sentence.

- The Prison Administration and Observation Board must confirm good behavior based on the convict's participation in rehabilitation programs, compliance with prison rules, and remorse for the crime committed.
- A specific requirement is imposed on terrorism convicts to declare their disassociation from any organization they were previously associated with, which can be interpreted arbitrarily by the prison administration.

### Discriminatory Practices and Human Rights Violations

The application of these laws has led to multiple instances of discrimination and human rights violations, particularly against those convicted of terrorism offenses.

#### a. **Arbitrary and Discriminatory Decisions by Prison Authorities**

Prison administrative boards are granted wide discretionary powers in determining whether a convict is eligible for probation or conditional release. These decisions often lack clear criteria and vary from one prison to another, leading to arbitrary and unequal treatment.

For instance, convicts with no disciplinary record and proven good behavior have had their probation denied on baseless grounds, such as writing letters to the media or engaging in activities that the administration interpreted as signs of continued affiliation with a terrorist organization.

As indicated in MEDEL's report, Being well-behaved in practice evaluates a convict's rehabilitation and their capacity to reintegrate into society. Article 89 of the Execution Law outlines how good behavior is assessed, and Law No. 7242 has introduced "the convict's remorse for their crime" as an additional criterion. However, incorporating remorse as a factor in execution-related decisions conflicts with the Turkish Constitution and criminal law principles. Remorse is treated as a substantive criminal law concept under Turkish legislation, potentially affecting penalties but typically considered by judges during the trial phase.

Evaluating remorse by an administrative board during the execution phase—especially when it has already been assessed at trial—contradicts the principle of "prohibition of double evaluation" in criminal law. Furthermore, the procedure for evaluating remorse during execution is unclear. The penal code links effective remorse to conditions like "making amends to the victim" or assisting in the capture of accomplices. Should similar conditions be applied during the execution phase, or should new criteria, such as "transfer to an impartial ward," be introduced?

#### b. **Violation of the Right to a Fair Process**

In some cases, the Prison Administration and Observation Board operates as a de facto criminal court, reassessing convicts' affiliation with terrorist organizations without judicial oversight. Such decisions are made without sufficient evidence, relying instead on arbitrary interpretations of convicts' behavior.

The lack of transparency in these assessments, combined with the absence of clear guidelines on how to assess whether a convict has disassociated from an organization, has led to unequal treatment of convicts, depending on their political affiliations or the perceived nature of their crimes.

#### c. **Coercion to Admit Guilt**

Perhaps the most egregious violation is the requirement that convicts must admit guilt or disassociate from an organization as a prerequisite for release. This condition forces individuals to retroactively confess to crimes they may not have committed, infringing upon the principle of non-self-incrimination, as enshrined in Article 38 of the Turkish Constitution.

Moreover, this requirement creates a paradox: individuals who maintain their innocence throughout their trial are effectively punished by being denied access to conditional release. This constitutes psychological coercion and a violation of human dignity.

### Case Studies of Human Rights Violations

#### 1. **The Case of Anonymous Convict (Tekirdağ Prison)**

One convict, sentenced for alleged links to the Gülen Movement, was denied probation despite having no disciplinary record and fulfilling all legal requirements. The reason cited by the Tekirdağ Type T Prison Administration and Observation Board was that the convict's letters to journalists, in which they described their unjust imprisonment, were interpreted as "organizational activity."

## **2. Attorney Turan Canbolat (Elazığ Prison)**

Turan Canbolat, a lawyer sentenced to 10 years in prison for "membership in an armed terrorist organization," was denied probation despite fulfilling all legal requirements, including good behavior and no disciplinary record. The Elazığ Prison Administrative and Observation Board determined that Canbolat was not of good behavior due to his lack of remorse, despite scoring well above the threshold for release under the board's own guidelines.

This denial was not based on any factual evidence but rather on the arbitrary decision that Canbolat's failure to express remorse constituted a lack of good behavior. This decision was in direct contradiction to the principles of criminal law, which only allows for remorse to be evaluated during sentencing, not during the execution phase.

## **3. The Case of University Students (Didar Boza, Mervener İşleyici ve Ceylan Bozkurt)**

In the decision dated January 7, 2021, issued by the İzmir Women's Closed Penitentiary Institution Administration and Observation Board to the student Didar Boza, it was stated that her release was deemed "inappropriate."

The report from the psycho-social support service at the board noted that Didar Boza "did not admit to her crime, did not believe that her actions constituted a crime, and expressed no remorse."

One of the reasons given for delaying her release was Boza's "staying in a cell with members of the organization."

The management service report stated that there was "no positive opinion formed regarding her reintegration into society." The Education and Training Service report highlighted that Didar Boza had not met with a "spiritual advisor": "It was determined that she read a total of 57 books sent by the institution's libraries or by her family and visitors, and that she had no requests for courses or spiritual guidance." The "spiritual guidance" role is carried out by preachers or religious officials under the protocol between the Ministry of Justice and the Presidency of Religious Affairs.

The report concluded that "there is a risk of reoffending" for these reasons. The students had been punished based on their participation in press statements or correspondence in the HDP Women's social media group.

## **4. The Case of Murat Arslan (Sincan Prison)**

Murat Arslan's imprisonment has drawn significant international attention, especially after he was awarded the Václav Havel Human Rights Prize in 2017 by the Parliamentary Assembly of the Council of Europe (CoE). This prestigious award recognized his tireless efforts and courage in defending judicial independence, turning his unjust imprisonment into a powerful symbol of resilience in the face of adversity.

Murat Arslan's case has garnered widespread support from international judicial organizations and human rights groups. The UN Special Rapporteur for the independence of judges and lawyers, Diego Garcia-Sayán, has condemned Arslan's conviction, highlighting the attack on judicial independence in Türkiye and calling for a fair appeals process. International judicial organizations, including the Association of European Administrative Judges (AEAJ), the European Association of Judges (EAJ), Judges for Judges, and Magistrats Européens pour la Démocratie et les Libertés (MEDEL), have shown constant solidarity with Arslan. These organizations have issued numerous statements expressing deep concern over his situation and the broader context of judicial repression in Türkiye. Additionally, Lawyers Rights Watch Canada (LRWC) has actively campaigned for Arslan's release, expressing concerns about the erosion of judicial independence and arbitrary prosecutions in Türkiye.

In 2022, Murat Arslan was further recognized with the International Association of Judges Judicial Independence Award during their annual meeting in Tel Aviv. This accolade underscored the global acknowledgment of his unwavering commitment to justice and judicial independence, despite the personal cost he has endured.

In July 2024, PACE's co-rapporteur for the monitoring of Türkiye, Stefan Schennach (Austria,

SOC), visited Sincan prison in Ankara, where he met with Murat Arslan. Schennach's visit was a significant demonstration of international concern for Arslan's situation, further emphasizing the global community's interest in his case and the broader issue of judicial independence in Türkiye. Murat Arslan has been denied two times conditional release by the Sincan T-type Prison Administration based on arbitrary and unsubstantiated reasons, including allegations that were never substantiated by any evidence. This denial contrasts with the treatment of prisoners in other institutions, where similar cases have been granted conditional release.

*The convict's lack of cooperation and compliance within the execution process has been evaluated. Although the convict generally adheres to the rules established for the security of the institution, it has been evaluated that he is not willing to share information and collaborate to ensure the security and discipline of the institution or contribute to the establishment of security and order within the institution during the execution. He did not participate in individual interviews conducted by the spiritual counselling unit for spiritual counseling purposes.*

According to the court, the fact that Murat Arslan constantly refused to speak with "the imam" at the Prison is sufficient to deny his parole. (*Ankara 1. Execution Judgeship File No: 2024/9153 Execution Judgeship File, Decision No: 2024/9286, Decision Date: 07/05/2024*)

The European Judges and Prosecutors for Freedom and Democracy (MEDEL) issued a report highlighting the systemic issue of prison administrative boards acting as de facto courts, violating the principle of neutrality and engaging in discriminatory practices between different institutions. The Pushing of Ill Prisoners Towards Death

Following the aftermath of the July 15 coup attempt in Türkiye, prisons have become centers of retribution under Erdoğan's regime, diverging from their original role as institutions for executing finalized sentences. Detainees and convicts have faced severe human rights violations, including inhumane conditions, solitary confinement, restricted visitation and communication rights, and deprivation of health care. Despite meeting the legal criteria for probation and conditional release, numerous political prisoners, particularly those with Kurdish groups and those associated with the Gülen Movement, have been systematically denied these rights. The administration and oversight boards have made arbitrary decisions, which the judiciary, including local courts, the Court of Cassation, and the Constitutional Court, have failed to effectively scrutinize, legitimizing these violations.

The most grievous of these practices is the deliberate denial of medical care to ill detainees, leaving many to suffer and die from treatable conditions. Many prisoners, gravely ill or suffering from chronic diseases, have been left to languish in prisons. These inmates are not only denied their right to medical release but are also refused probation and conditional release on arbitrary grounds, seemingly with the intent of allowing them to die in custody.

A key case illustrating this issue is that of Judge Mustafa Başer, who has been held in Sincan F1 Prison since May 1, 2015. Despite qualifying for probation and suffering from bladder cancer, Başer has repeatedly been denied release. His cancer has recurred multiple times, yet the authorities have persistently refused to grant him the medical and legal relief he is entitled to. The treatment of Başer appears to be driven by retribution, particularly because of his involvement in releasing police officers involved in the December 17/25 corruption investigations.

Another poignant example is the case of Halil Karakoç, an 84-year-old detainee suffering from multiple serious health conditions. Despite his poor health, including a heart attack while in custody, Karakoç has been denied probation. The prison administration arbitrarily rejected his probation application, despite the European Court of Human Rights' (ECHR) established standard that prisoners must be held in conditions compatible with human dignity and their health must be safeguarded. The refusal to release Karakoç, despite his compliance with good conduct regulations, highlights the systemic nature of these injustices.

The case of lawyer Ali Odabaşı, who was subjected to arbitrary denial of his conditional release, further exemplifies the ongoing human rights abuses. Odabaşı, who was convicted in connection with the Gülen Movement investigations, underwent four major surgeries during his imprisonment. Despite meeting the conditions for probation and conditional release, his requests were repeatedly denied by the Sincan Prison authorities. His case underscores how even seriously ill prisoners are

not spared from the regime's punitive approach.

Similarly, the case of İsmet Özçelik, who was abducted from Malaysia and returned to Türkiye, reflects the vindictive nature of these practices. Despite suffering from heart disease and diabetes, Özçelik was denied probation due to a minor disciplinary infraction involving making prayer beads from olive pits.

Finally, the death of Adil Somalı, who died after suffering a stroke in prison while awaiting a delayed probation decision, represents the tragic human cost of these policies. Somalı had been eligible for probation but was kept in custody due to bureaucratic delays, ultimately leading to his untimely death.

These cases demonstrate a systematic violation of the rights of ill prisoners, particularly those connected to Kurdish groups and the Gülen Movement, who are being denied probation and conditional release under arbitrary and unlawful pretexts. The regime's policies in this regard appear to be driven by a desire for vengeance rather than justice, leading to the suffering and, in some cases, death of these prisoners in custody.

#### Lack of an Effective Domestic Legal Remedy Against Decisions of Prison Administration and Observation Boards

A prisoner may challenge a decision by the prison administration and observation board stating that the prisoner does not exhibit good behavior by filing a complaint with the enforcement judge within 15 days from the date of notification, as per the procedures outlined in Articles 5 and 6 of Law No. 4675 on Enforcement Judges. The decision of the enforcement judge can be appealed to the Assize Court, whose ruling is final and cannot be subject to further appeal or cassation. However, in exceptional cases, the Chief Public Prosecutor's Office of the Court of Cassation may request a review of the decision as an extraordinary legal remedy, allowing for scrutiny by the Court of Cassation.

In addition, a prisoner may file an individual application with the Constitutional Court within one month from the date of notification of the Assize Court's decision. If the Constitutional Court rejects the application, the prisoner may apply to the European Court of Human Rights within four months from the date of notification of the Constitutional Court's decision.

Although these are the available avenues for challenging decisions related to probation and conditional release, issues arise from arbitrary and unlawful practices by the competent authorities.

##### a. Issues Arising from Enforcement Judges

Under Article 105/A of Law No. 5275, an enforcement judge may order the execution of the remaining portion of a prison sentence under probation for prisoners who exhibit good behavior, based on the evaluation report prepared by the prison administration. This decision can only be made if the prisoner applies and meets the criteria for probation.

A prisoner can file a complaint with the enforcement judge within 15 days from the notification of a decision by the prison administration and observation board stating that the prisoner does not exhibit good behavior. Upon receiving the complaint, the enforcement judge must issue a decision within a week, usually without holding a hearing. However, if deemed necessary, the judge may conduct an independent investigation or request information and documents from the relevant parties. The judge may also solicit the written opinion of the public prosecutor responsible for the prison or detention center. If the judge finds the complaint to be justified, they may annul the decision or order the suspension or cessation of the activity in question. If the complaint is found to be unjustified, the judge will reject it.

In practice, enforcement judges often uphold decisions that grant supervised release to prisoners deemed to have good behavior by the prison administration and observation board, and rarely deny such requests. Conversely, complaints filed by prisoners who have been deemed not to exhibit good behavior are overwhelmingly rejected. Frequently, enforcement judges dismiss these complaints without examining the reasoning behind the prison administration's decisions or evaluating whether discretionary power has been exercised arbitrarily. Instead, they typically rely on standardized justifications, such as stating that "the prison administration and observation board determined the prisoner does not exhibit good behavior after observation and that the decision is procedurally correct."

#### b. Issues Arising from Assize Courts

Under the Code of Criminal Procedure, a prisoner or the public prosecutor may appeal a decision by the enforcement judge within seven days from the date of notification. Appeals are made to the Assize Court in the same judicial district as the enforcement judge. The Assize Court's decision on the appeal is final and cannot be subject to further appeal or cassation.

In practice, Assize Courts frequently reject appeals by prisoners against decisions of the enforcement judges without sufficient justification. The courts generally state that the decisions of the enforcement judges and the prison administration are procedurally correct, without conducting a substantive review of the issues raised in the appeal. Consequently, the Assize Court serves as an ineffective final stage of appeal, conducting only procedural reviews and disregarding the merits of the complaints. This renders the available legal remedy ineffective and inadequate for addressing the substantive legal issues at hand.

#### c. Issues at the High Court Level

The Court of Cassation has upheld decisions by the prison administration and observation boards that prisoners, who continue to deny being members of a criminal organization and who do not provide information about such organizations, do not exhibit good behavior. In its reasoning, the Court of Cassation has stated that the mere compliance with prison rules, absence of disciplinary offenses, and completion of the required duration for conditional release do not suffice to establish that the prisoner has severed ties with the criminal organization. The Court has justified these decisions on the grounds that there is no concrete evidence, such as statements or other behaviors indicating the prisoner has distanced themselves from the organization, in the prisoner's monitored phone calls and correspondence.

The Court of Cassation has also ruled that it is not legally acceptable to require a prisoner who denies being a member of a criminal organization to prove that they are no longer affiliated with it, placing the burden of proof on the prisoner. According to the universal principles of law, it is the responsibility of the prison administration, which monitors the prisoner, to provide concrete evidence that the prisoner remains affiliated with the organization. The prisoner is under constant surveillance by the prison administration, and their phone calls, correspondence, and behavior are continuously monitored. The prison has access to sufficient means to evaluate whether the prisoner exhibits good behavior, and it should provide tangible and verifiable evidence in support of its decisions. For example, if a prisoner were to chant slogans in support of the organization, praise it in their letters, or endorse its illegal actions in phone conversations, these acts could be documented and used as grounds for determining a lack of good behavior. Conversely, if there is no concrete indication in the prisoner's words or actions that they continue to be affiliated with the organization, rendering a decision that the prisoner "does not exhibit good behavior due to the lack of evidence that they have severed ties with the organization" is neither legally nor logically justifiable.

#### The Constitutional Court's Failure to Examine Individual Applications on Their Merits

Despite the numerous violations of constitutional principles—such as the rule of law, equality, the prohibition of discrimination, the requirement for decisions to be reasoned, the prohibition of arbitrary use of discretion by the administration, and the right not to be arbitrarily deprived of liberty—committed by the prison administration, enforcement judges, and Assize Courts, the Constitutional Court has failed to examine individual applications on their merits. In individual applications regarding the ability of prisoners to serve the remainder of their sentences under supervised release, the Constitutional Court has dismissed these applications as inadmissible without addressing the substantive issues raised.

In its rulings, the Constitutional Court has offered inconsistent justifications for rejecting these applications. For instance, in its decision in the case of *Halis Yurtsever* (29/11/2018), the Court reasoned that the decision to apply the supervised release measure falls within the discretionary power of the enforcement judge, and therefore, the issue does not fall under the scope of Article 19 of the Constitution, which guarantees personal liberty and security. In contrast, in its decision in the *Mustafa Takyayn* case (15/12/2021), the Court concluded that the issues raised by the applicant were related to the execution of the sentence, not to the substance of the crime or the sentence itself, and thus did not fall under the scope of fair trial rights protected by the Constitution and the European

Convention on Human Rights.

As a result, the Constitutional Court has consistently dismissed individual applications on technical grounds, failing to provide an effective legal remedy for prisoners seeking to challenge the denial of supervised release.

Opinions and Criticisms of National and International Human Rights Organizations Regarding the Implementation of Probation in Türkiye

In thousands of cases, such as those mentioned above, prison administration and observation boards arbitrarily and discriminatorily violate the rights of convicted terrorists, particularly their rights to probation and conditional release. Numerous institutions and organizations working in the field of human rights have raised these concerns. The situation of convicts, especially those who are severely or chronically ill and deprived of probation, has been highlighted in many reports.

In this context, Amnesty International's report, titled "Türkiye: Prisoners' Release Law Must Not Discriminate," dated March 31, 2020, emphasizes that the Turkish government enacted a law during the pandemic that foresaw the release of up to 100,000 prisoners to reduce overcrowding. However, the report highlights that this law excluded many prisoners unjustly detained under Türkiye's anti-terrorism laws. The report criticizes the selective nature of these releases, disproportionately affecting political prisoners, journalists, and human rights defenders, who continue to remain at risk in overcrowded and unhealthy conditions. Amnesty International describes these exclusions as discriminatory and notes that they fail to address human rights violations in Türkiye's penal system. Amnesty International has published other reports concerning the condition of ill prisoners in Türkiye. These reports express serious criticisms of the denial of probation to ill prisoners. It has been noted that, especially since 2016, following the July 15 coup attempt, there has been an increase in the number of ill prisoners. The reports state that these prisoners face difficulties in accessing medical care and that prison conditions further deteriorate their health. Amnesty International emphasizes that Türkiye should expand its probation practices for ill prisoners and has expressed significant concerns about the probation system in Türkiye, particularly in the context of the COVID-19 pandemic.

Similarly, Human Rights Watch (HRW), in several reports, highlights the discriminatory use of the probation system in Türkiye, noting that those detained under vague and broad anti-terrorism charges are often excluded. HRW argues that these discriminatory practices have led to criticisms that Türkiye is using its legal system under the guise of counter-terrorism to suppress dissent and punish political opponents. HRW also points out that the discriminatory application of probation and conditional releases exacerbates the already dire conditions in Turkish prisons, constituting a serious violation of international human rights standards.

Both organizations call on the Turkish government to implement probation laws fairly and ensure that all prisoners, especially those at higher risk due to health conditions or unjust detentions, are considered for release.

In its "2023 Report on Monitoring Human Rights in Turkish Prisons," published on June 1, 2024, the Human Rights Association also criticizes the "Regulation on Observation and Classification Centers and the Evaluation of Convicts" that entered into force by publication in the Official Gazette No. 31349, dated December 29, 2020. The report highlights that the boards formed under this regulation act as de facto courts, assessing whether prisoners exhibit good behavior, which determines whether they are eligible for conditional release or probation. According to the report, these observation boards make abstract and subjective judgments when determining whether prisoners display good behavior, and political prisoners are often required to express regret. As a result, hundreds of political prisoners have been deprived of their rights to probation and conditional release.

The "2023 Report on Human Rights Violations in Türkiye," published by the Human Rights Foundation of Türkiye on December 10, 2023, also indicates that incarceration has become a fundamental governing technique for the political power, resulting from the use of law as a tool for repression and intimidation. The report mentions that physical beatings, arbitrary disciplinary penalties, isolation, transfers, and other forms of arbitrary treatment have reached unprecedented levels in prisons since entry, citing practices like strip searches, handcuffed medical examinations,



and standing for roll call. The report also emphasizes that violations related to access to healthcare, food, water, and hygiene materials constitute torture and other forms of ill-treatment.

The President of the Association for Human Rights and Solidarity for the Oppressed (MAZLUMDER), lawyer Kaya Kartal, has also stated that there is a serious arbitrariness both regarding probation and the continued imprisonment of ill detainees. Kartal criticized the Forensic Medicine Institute for its arbitrary stance, pointing out that even individuals who are clearly unfit for imprisonment are not released, while those referred to as "the state's elites" are easily provided with reports and released. For instance, he noted that generals convicted in the February 28 case were released. Kartal further stated that, in recent years, there has been an attitude of denying political prisoners both probation and conditional release based on minor pretexts, while other more serious offenders have been released under new regulations passed by Parliament.

Likewise, Dr. Ömer Faruk Gergerlioğlu, a member of parliament from the DEM Party known for his work in the field of human rights, frequently raises concerns about arbitrary decisions in the probation system. Mustafa Yeneroğlu, Head of Legal and Justice Policies for the Democracy and Progress Party (DEVA) and Istanbul MP, has similarly emphasized that there have been serious human rights violations in the field of criminal law in Türkiye for a long time. He highlighted that prison administrations continue to punish individuals even after their probation period has ended, which is contrary to the principles of criminal enforcement law.

### Conclusions and Recommendations

The current system for probation and conditional release in Türkiye, particularly concerning those convicted under anti-terrorism laws, is marked by arbitrary application, discriminatory practices, and violations of fundamental human rights. The requirement to express remorse and admit guilt, even in cases where convicts maintain their innocence, directly contravenes Article 7 of the UDHR, as well as Article 38 of the Turkish Constitution.

#### Recommendations:

- Amend Turkish Law No. 5275 and the Regulation on the Transfer to Open Penal Institutions to remove arbitrary and discriminatory conditions for probation and conditional release, particularly the requirement for convicts to admit guilt or disassociate from an organization.
- Ensure transparent and consistent guidelines for evaluating good behavior, with judicial oversight to prevent arbitrary decisions by prison administrative boards.
- Investigate and address cases of discriminatory treatment in different prisons, ensuring that all convicts are treated equally under the law, without regard to the nature of their alleged crimes.
- Bring Turkish law in line with international human rights standards, particularly Article 7 of the UDHR and the International Covenant on Civil and Political Rights (ICCPR).

This submission calls upon the UN Human Rights Committee to urge Türkiye to rectify these discriminatory practices and ensure that its penal system aligns with its international obligations.

Peace & Justice

Ana Ursachi

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