

**BRIEFING NOTE ON
THE SITUATION OF
PRISONS AND
PRISONERS
IN TURKEY**





1. INTRODUCTION


IT IS SAID THAT NO ONE TRULY KNOWS A NATION UNTIL ONE HAS BEEN INSIDE ITS JAILS. A NATION SHOULD NOT BE JUDGED BY HOW IT TREATS ITS HIGHEST CITIZENS, BUT ITS LOWEST ONES


Nelson Mandela,
Long Walk to Freedom

When a person is imprisoned, it is the State's obligation to guarantee prison conditions that do not infringe human dignity and to make sure that the prisoners retain all the rights which are not lawfully removed by the decision sentencing them or remanding them in custody.¹ According to the Council of Europe Annual Penal Statistics (SPACE) report for 2021, Turkey is among the top 3 countries with a prison population over 300,000; the country's incarceration rate in grew by 89.3% between 2011 and 2021.

TURKISH PRISON POPULATION STATISTICS

Total number of inmates (including pre-trial detainees) on 31 Jan each year

269,806 2019 ²	297, 019 2020	272,115 2021	314,502 31 MARCH 2022
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Prison population rate per 100,000 inhabitants

329 2019	357.2 2020	325.4 2021	N/A 31 MARCH 2022
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European median for prison population rate

106.1 2019	103.2 2020	101.8 2021	N/A 31 MARCH 2022
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Prison density per 100 places (N=50)

122.5 2019	127.4 2020	108.3 2021	N/A 31 MARCH 2022
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European median for prison density over 100 places

89.5 2019	90.3 2020	85.4 2021	N/A 31 MARCH 2022
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1. *European Prison Rules (2006) and UN Standard Minimum Rules for the Treatment of Prisoners (known as the 'Mandela Rules', updated in 2015).*

2. *Figures for 2019, 2020 and 2021 are taken the SPACE reports for the respective years, available at: <https://www.coe.int/en/web/prison/space>*

The total number of inmates for March 2022 does not include 426,647 prisoners on probation. **This means a total of 741,149 people in Turkey are deprived of their liberty, i.e., one out of every 113.³**

The prison density (the ratio between the number of inmates and the number of places available in prisons) figures reported in the SPACE report reveal that there is overcrowding in these prisons. **Turkey is among the top three countries in Europe for prison overcrowding,** scoring more than 25% higher than the median value.

Since Turkey's ratification of the European Convention for the prevention of Torture in 1988, the Anti-Torture Committee (CPT) has carried out eight periodic and 24 ad hoc visits to Turkey. It has repeatedly stated that the steady increase in the size of the prison population⁴ since the mid-2000s has continued despite the expansion of the prison estate and greater use of conditional release.⁵

Overcrowding, rights violations, ill-treatment, discrimination and structural issues have been reported by international and regional bodies and human rights organisations for many decades.

The issues listed in this briefing note are by no means an exhaustive list of human rights violations in Turkey's prisons; violations in other cases of deprivation of liberty, such as in police custody, healthcare institutions, refugee centres, and shelters, etc., are not within the scope of this briefing note.

3. Figures for March 2022 are taken from the Human Rights Foundation of Turkey (TIHV/HRFT) Report on Treatment and Rehabilitation Centers (2021), available at: <https://tihv.org.tr/tedavi-ve-rehabilitasyon-raporlari/>

4. The terms 'prisoner' and 'inmate' are interchangeably used and cover the persons effectively used in penal institutions, including convicts, prisoners on remand and pretrial detainees

5. <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-two-reports-on-turkey>

2. TORTURE AND ILL-TREATMENT

The lack of independent monitoring of Turkish prisons, is a long-standing issue that obscures the situation in these prisons. The European Commission had criticised the inadequacies of available national mechanisms, such as the Human Rights and Equality Institution (TİHEK), which Turkey established as the national prevention mechanism under OPCAT, and the Prison Monitoring Boards set up in 2011.⁶ These and other available national mechanisms have been ineffective due to the flaws in member appointment procedures and lack of political independence or a sound methodology. Civil society organisations have been prevented from visiting prisons for a number of years. Fear of reprisals, particularly within institutions that are out of public view, discourages prisoners from making complaints.

FREQUENT CHANGES IN PRISON MANAGEMENT LEGISLATION, WHICH TEND TO TAKE THE FORM OF REGULATIONS, GRANT PRISON ADMINISTRATIONS EXCESSIVE POWERS WITHOUT OVERSIGHT AND ARE PAVING THE WAY FOR ARBITRARY AND INCONSISTENT PRACTICES.⁷

6. https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/turkey_report_2020.pdf

7. https://tihv.org.tr/wp-content/uploads/2022/05/00_Tedavi-Raporu-2021-TURKCE_TUM_RENKLI_WEB.pdf

3. Covid-19 MEASURES AND RESTRICTIONS

Covid-19 has exacerbated the situation in prison settings, with overcrowding making it difficult to control infections among prisoners living in close quarters. According to the Turkish General Directorate of Prisons and Detention Houses (CTE),

55 OUT OF
372

prisons have reported Covid-19 cases. Given the disparity between official figures and information from the prisoners' relatives and lawyers, human rights organisations are calling for greater transparency about the effects of the pandemic on prison conditions.

**ACCORDING TO THEIR
REPORTS, THE BAN
ON LAWYERS' VISITS
AND COMMUNICATIONS
RESTRICTIONS DURING
THE PANDEMIC HAVE
SILENCED PRISONERS'
COMPLAINTS.**

Inadequate knowledge about Covid-19, especially at the outset of the pandemic, the lack of staff and restrictions on open visits negatively affected the well-being of prisoners.

Human rights organisations learn about allegations of torture and ill-treatment from the lawyers, relatives and the letters of prisoners. The Human Rights Association (İHD) and the Human Rights Foundation of Turkey (TİHV) have reported an increase in ill-treatment and worsening prison conditions. Torture and ill-treatment in the form of physical attacks, threats, beatings, naked searches, unannounced cell searches, violations of the right to healthcare and treatment and arbitrary restrictions are rising.⁸ İHD reported **172 cases of torture and ill-treatment**, of which 9 took place in prison settings, in the first 11 months of 2021.⁹ The Turkish Civil Society Penal System Association (CİSST) reports that overcrowding, increased restrictions and rights violations are placing growing psychological pressure on the prisoners and are the underlying cause of prisoner hunger strikes.¹⁰ Hunger strikes, whether indefinite, non-alternate or other, and death fasts are among the few remaining options open to prisoners as a last resort for having their voices heard and combatting the violation of their rights in prison. Violations, including the right to a fair trial and the prevention of arbitrary and unlawful repressive practices, have become more severe during the pandemic.¹¹

There are also reports of suicide cases, as well as cases of people being forced to take their own life in prison. According to SPACE, **57 suicide cases** were reported in Turkish prisons in 2020, placing Turkey among the top five countries with the highest rates of suicide in prisons.¹²

Prison staff shortages, especially during the Covid-19 pandemic, in addition to a lack of training and issues related to working conditions have also put a strain on prison staff. Together with psychological pressure and physical attacks on prisoners, this contributes to a spiral of violence.

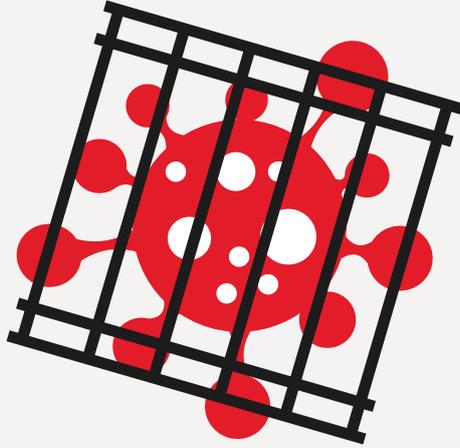
8. <https://tr.euronews.com/2021/10/27/insan-haklar-dernegi-cezaevi-raporu-en-buyuk-sorunlar-n-bas-nda-c-plak-arama-var>

9. <https://tihv.org.tr/ozel-raporlar-ve-degerlendirmeler/verilerle-2021-yilinda-turkiyede-insan-haklari-ihlalleri/>

10. <https://www.dw.com/en/turkish-prison-conditions-worsen-amid-pandemic/a-56883451>

11. *İHD Report on Rights Violations in Turkish Prisons 2020*, https://ihd.org.tr/en/wp-content/uploads/2021/04/sr20210401_prisons-report.pdf

12. <https://www.coe.int/en/web/prison/space>



Unwell prisoners suffered the most, and their condition deteriorated due to delays in their admission to hospital. Complaints were also made about lack of access to testing and quarantine conditions which included cell-sharing and solitary confinement.

In a bid to overcome crowding, the Turkish government introduced early release on parole and house arrest for the prisoners in open prisons in April 2020.¹³ While pregnant women, older prisoners with medical conditions and those with a limited sentence remaining to be served benefitted from so-called 'Covid-19 leave', those convicted or detained on terrorism charges were excluded, regardless of their underlying conditions or age, putting them at significant risk without any justification. Human rights defenders, lawyers, journalists and politicians were among those excluded. Temporary Covid-19 parole has been extended until 31 July 2023. Around 200,000 prisoners have benefitted from temporary parole, and some 80,000 who have not completed their sentences will return to prison at the end of this period.

13. <https://cte.adalet.gov.tr/Home/SayfaDetay/7242-sayili-kanun-kapsaminda-bazi-hukumluler-icin-uygulanan-covid-19-izni-ile-ilgili-duyuru25012021084052>

4. CRITICALLY-ILL PRISONERS

Lawful imprisonment must serve a purpose such as retribution, deterrence or rehabilitation. Changes in the health condition of a prisoner may alter these justifications, and continued imprisonment of patients with a critical or debilitating illness can violate human dignity if appropriate palliative care is unavailable. Under such circumstances, release on compassionate grounds or by pardon might be necessary. This is likewise a matter of medical ethics. As there is no official national data on the number of prisoners with severe medical conditions, human rights organisations keep their own records of the situation based on complaints received from prisoners.

According to the IHD, 1,605 sick prisoners were reported in 2020, including 604 in a critical condition, and at least 59 individuals died in prison due to illness or medical negligence.¹⁴

Aysel Tuğluk, a Kurdish politician and human rights defender who was put on trial for speeches she made as a member of parliament, has become an emblematic figure for those advocating the rights of critically-ill prisoners.¹⁵ Despite the rapid and irreversible deterioration of her health due to advanced dementia, as well as medical reports by accredited health institutions stating she would not survive in prison conditions, she was retained in custody following an alternative medical report by the Turkish Forensic Medicine Institute (ATK), which appears to have been issued under political influence. Physicians require transparent, evidence-based eligibility criteria for timely compassionate release in order to make decisions without fear of liability. Many prisoners with terminal medical conditions, who are primarily political prisoners, have lost their lives in prison since the 1980s.

14. https://tihvakademi.org/wp-content/uploads/2021/05/Yurttaslik_Alani_Bilgi_Notu_2.pdf

15. <https://ayseltuglukicin1000kadin.org/english/>

5. DISCRIMINATION AGAINST GROUPS WITH SPECIAL NEEDS

Not all prisoners are the same; therefore, the prohibition of discrimination is key in prison management. In Turkey, the prison system is designed on the basis of an archetypal Turkish, heterosexual, middle-aged, Sunnite male. Prisoners with special needs, including women, disabled people, LGBTI+, children, prisoners from ethnic or racial minorities and foreign national prisoners are usually disregarded and subjected to direct or indirect discrimination.¹⁶ Turkey should collect disaggregated data on such categories to plan for the individualised treatment of prisoners with special needs, and should share this data transparently.

Currently,
10,787
WOMEN
are serving prison
sentences in Turkey

They account for **4%** of the prison population.

As they are smaller in number, their needs are easier to overlook. Social and cultural activities are not designed according to their needs, due to a lack of female staff. Additionally, social stigmatisation usually leads to deprivation of family support and related poverty. The categories of **juvenile offenders** and **children accompanying parent prisoners**¹⁷ are the hardest to reach, due to lack of sufficient data.

TiHEK attended only 2 out of 79 visits to juvenile prisons between 2017 and 2020.

The reports of prison monitoring boards and other local authorities are not disclosed to the public. Furthermore, children may have difficulty identifying violations of their rights and accessing complaint mechanisms.

LGBTI+ prisoners constantly face the risk of assault, threats, rape, involuntary transfer to different prisons, difficulty accessing healthcare or psychological support,

as well as indifference from the prison administration with respect to their requests. **Several trans prisoners went on hunger strike in protest of ill-treatment in prison.** It is impossible to calculate how many LGBTI+ prisoners are affected, as the prison system does not collect gender disaggregated data. Instead, LGBTI+ prisoners have to self-report their situation either through self-declaration or certain visibility criteria used by the prison administration.

16. UNODC, *Handbook on Prisoners with Special Needs*, 2009.

17. <https://cisst.org.tr/wp-content/uploads/2022/04/Cocuk-Mahpuslar-Tutulma-Sartlari-ve-Infaz-Usulleri-1.pdf>

6. AGGRAVATED LIFE SENTENCES

In Turkey, **prisoners sentenced to life** are held separately to other prisoners under strict security measures, particularly with respect to visits. **They have minimal contact with the outside world.**¹⁸ Turkey has the highest minimum sentence that must be served before prisoners can be considered for conditional release – 40 years for multiple crimes.¹⁹ For aggravated life sentences under specific articles of the Turkish Penal Code, including for posing a threat to national security and the constitutional order, there is no possibility of parole. **The ECtHR found Turkey to be in violation of Article 3 of the European Convention on Human Rights (ECHR) for issuing sentences of aggravated life imprisonment without the possibility of release.**²⁰

Those serving aggravated life sentences should not be punished by the severity of conditions in prison. Work, education, sports, and cultural activities in the company of other prisoners help pass the time and promote prisoners' well-being regardless of sentence length. Prisoners serving life sentences must be allowed to communicate with friends and family either in writing or through other means and receive visits, with the necessary supervision.

The CPT highlights: 'prisoners sentenced to aggravated life imprisonment – like all convicted prisoners – are sent to prison as a punishment, not to receive punishment.'²¹ During its visit to Turkey in 2019, the CPT specifically addressed the situation of prisoners held in İmralı F-type prison, finding no improvement in the conditions since its previous visit in 2016. Long periods of solitary confinement and restrictions on visits from lawyers and family members and association with other inmates in outdoor exercises or out-of-cell activities were among the issues listed. The CPT urges the Turkish authorities to strike a balance between security considerations and prisoners' basic human rights.

18. <https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-calls-upon-states-to-review-the-treatment-of-life-sentenced-prisoners>

19. 25th General Report of the CPT (2015), available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680696a9d>

20. *Boltan v. Turkey, Kaytan v. Turkey, Gurban v. Turkey and Öcalan v. Turkey*.

21. CPT Report on Turkey Visit in 2019, available at: <https://rm.coe.int/16809f20a1>

7. RECOMMENDATIONS:

The OMCT urges the Government of Turkey to:

- Treat all prisoners with respect, based on their inherent dignity and value as human beings, and protect them from torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification;
- Put an end to all practices in the execution of imprisonment sentences and pre-trial detention that contravene various relevant international human rights instruments and standards;
- Take decisive action to curb prison population increase and eradicate overcrowding in prisons;
- End all kinds of discrimination based on race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or any other status; and ensure that the prison administrations take account of the individual needs of prisoners;
- Develop a juvenile justice system allowing for the use of non-custodial measures such as community-based alternatives;
- Provide the same standards of healthcare to the prisoners as any other member of society, and ensure prompt access to medical attention in urgent cases;
- Ensure that the clinical decisions on compassionate parole for critically-ill prisoners are only taken by independent and competent healthcare professionals and are not overruled or ignored by non-medical, prison authorities;
- Ensure that the prison administrations demonstrate proportionality between a disciplinary sanction and the offence for which it is established;
- End the flawed detention regime for people sentenced to aggravated life imprisonment and carry out a complete overhaul of this detention regime in line with the recommendations of the CPT and human rights organisations;
- Provide training and better working conditions to the prison staff for maintaining high standards in their care of prisoners.