



CROSSBORDER JURISTS ASSOCIATION

**Submission to the Rights Committee
142nd Session (October 14 - November 7, 2024)
For the consideration of Türkiye's second Periodic Report**

Torture Against Judge and Prosecutor in Türkiye

September - 2024

TORTURE AGAINST JUDGE AND PROSECUTOR IN TÜRKİYE

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Executive Summary

In this report, Crossborder Jurists focuses on the torture of judges and prosecutors. The report focuses on torture practices that began with the state of emergency between July 2016 and July 2018 and continue to this day. The report focuses on judges and prosecutors who were unlawfully dismissed and arrested during and after the state of emergency, and the torture practices to which they were subjected.

Since the coup attempt on 15 July 2016, 4,969 judges and prosecutors have been dismissed from their posts. These include members of the Constitutional Court, the Court of Cassation, the Council of State, judges and prosecutors of the judicial and administrative judiciary, judges and prosecutors of the military judiciary and judges of the Court of Accounts. All these judges and prosecutors were under investigation for "attempting to overthrow the government" and "belonging to an armed terrorist organisation".

In the days following the coup attempt, thousands of judges and prosecutors were arrested en masse. They were subjected to torture and ill-treatment during their detention. Torture practices continue to this day, albeit in different forms. The main purpose of torture practices is to make the person accept himself as an armed terrorist and to make him make statements against himself and others.

This report is based on court records, victim testimonies and reports. Although there are more judges and prosecutors who have been victims of torture, not all the information received could be reflected in this report, for reasons such as the fact that they are still living in Turkey and do not want to share their humiliating situation with the public.

One of the most important problems related to torture in Turkey is undoubtedly impunity. This is confirmed by the answers given by the Turkish government. During the two years of the state of emergency, the total number of investigations into allegations of torture was 20 in 2017 and 21 in 2018. Prosecutors and courts ignored allegations of torture. In prosecutor's offices, criminal courts of peace and serious criminal courts, people reported torture and filed criminal complaints. Most judges and prosecutors did not record these allegations. However, some torture victims managed to write detailed accounts of what had happened in the court records. However, no investigation was carried out into the allegations. This also applies to judges and prosecutors who are victims of torture.

This document reveals one of the most important events that led to the loss of the independence and impartiality of the judiciary in Turkey. Thousands of judges and prosecutors were dismissed and arrested overnight by their colleagues on the pretext of a coup attempt they had nothing to do with, and hundreds of them were tortured. This situation has created great fear and traumatised those still in office. In this respect, it is very important that the issues highlighted in our report are put on the agenda. The fears of judges and prosecutors in Turkey must somehow come to an end and their self-confidence must be boosted in order to regain their independence and impartiality.

Our contribution emphasises the need for greater international scrutiny of Turkey's actions in relation to torture practices. Our report concludes by calling on the Turkish government to take meaningful steps to bring its practices into line with international human rights standards.

Introduction

Crossborder Jurists submits the following information on the human rights situation in Turkey to the United Nations Human Rights Committee (UNHRC) ahead of the Committee's second periodic review of Turkey's obligations under the International Covenant on Civil and Political Rights (ICCPR) at its 142nd session.

In its submission, Crossborder Jurists focused on the practice of torture. The focus of the report is rather unusual and concerns judges and prosecutors who have been tortured. The report provides information on judges and prosecutors who have been tortured since the attempted coup of 15 July 2016.

The report is designed as a shadow report to be submitted to the UNHRC by civil society and non-governmental organisations. Its main purpose is to highlight the discrepancies between Turkey's official statements and the reality on the ground. In its official reports, the Turkish government has consistently presented a narrative of compliance with legal norms and human rights standards. In contrast to the government's defence, this shadow report bases allegations of torture by judges and prosecutors on official documents, court records and reports.

An important point revealed in the report is that although torture practices were described in full detail in the court minutes and although the judges were aware of these allegations and received a criminal complaint, they did not take ex officio action. The judges presiding over the hearings did not request the prosecutors' offices to investigate the allegations. The prosecutors present at the hearing did not initiate an investigation into the allegations despite their legal obligation to do so.

Torture has been a negative highlight in Turkey's human rights record for many years. Failure to investigate allegations of torture, prolonging the trial processes until the statute of limitations, and findings on the protection of torturers have resulted in findings of human rights violations against Turkey. Many reports have been written, information and documents have been shared in open sources that torture was intensively used in Turkey during the state of emergency period between July 2016 and July 2018. This report is one of the most important evidences supporting those allegations. It has revealed with documents that even judges and prosecutors have been and continue to be tortured.

In light of these findings, this shadow report emphasises the urgent need for the UNHRC to take a strong stand against Turkey's continued failure to fulfil its international obligations. It calls for further international scrutiny and pressure on the Turkish government to address these ongoing violations and to take concrete steps to prevent future violations.

I - Facts

Corruption operations were carried out in Turkey on December 17 and 25, 2013 against bureaucrats and civilians, including the names of ministers and their close relatives. Since then, as highlighted in the reports issued by many international institutions and organizations, especially the Council of Europe, the judiciary has gradually lost its independence and impartiality in Turkey¹.

On July 15, 2016, there was a coup attempt in Turkey, the perpetrators of which have not been identified until now and which had very important question marks. While the coup attempt was still ongoing, detention and arrest warrants were issued against judges and prosecutors before the soldiers allegedly involved in the coup. On the night of the coup attempt, the Supreme Council of Judges and prosecutors convened and decided to remove 2,745 judges and prosecutors from office in the first hours of July 16, 2016, decision No. 2016-345. These members of the judiciary started to be detained from the first day and were then arrested. Members of the Constitutional Court, the Court of Cassation and the Council of State, and members of the Supreme Council of Judges and prosecutors were among those detained and arrested. All of these judges and prosecutors were charged with attempted coup, establishing, directing and belonging to a terrorist organization. To date, 4969² judges and prosecutors have been dismissed from the profession and investigations and prosecutions have been made on all counts³.

The Supreme Council of Judges and prosecutors (HSK), which carried out this transaction, did not include any concrete information and documents that were personalized about the members of the judiciary who were expelled in its decision. Judges and prosecutors, who were previously considered to be opponents of power and whose names were listed for this reason, were quickly removed from the system by pretext of the coup that took place on July 16, 2016. These people have been declared as traitors by the HSK, Ministry of Justice and Presidency as members of a terrorist organization since the first day. The members of the judiciary, who were arrested without evidence and who were subject to verbal and actual torture for a long time, were held in prison in the form of single, double, triple and similar groups, subjected to severe threats, insults by the prison personnel in accordance with the oral and written instructions given and deprived of the rights granted to other prisoners. What was expected of the members of the judiciary who were expelled and arrested was to allow them to accept the charges levelled against them by the HSK and to make statements against their fellow judges.

¹For a detailed report on the subject, see: <https://www.crossborderjurists.org/turkish-judiciary-in-the-international-arena-reports-after-17-25-december-investigations-report-published/> E.T. 26.05.2024

²The number of dismissals by institution is as follows Constitutional Court: 7; Judicial and Administrative Judiciary 4384; Military Judiciary: 199; Court of Accounts : 180; Judicial and Administrative Judiciary Trainee Judges and Prosecutors : 199; <https://www.solidaritywithothers.com/dismissal-by-decree-laws-and-hsk>

³ <https://tr.solidaritywithothers.com/dismissal-by-decree-laws-and-hsk> (E.T.: 28.11.2024). It is thought that around 10% of those dismissed have been readmitted to the profession, but no official announcement has been made by the Government to date.

In this case, the judges and prosecutors, 138 of the Constitution. They were dismissed by violating the judicial guarantees set out in the article, were detained and arrested and even prosecuted without complying with the rules of the judicial procedure set out in the Constitution and the Law of Judges and prosecutors. The findings on these issues have been repeated frequently in the decisions of the European Court of Human Rights, the international supervisory bodies, and the United Nations working Group on arbitrary arrests. The tables below provide information on the decisions of the institutions mentioned.

Decisions made by the European Court of Human Rights		
Year	Decision name	Infringement items
2019	Alparslan Altan & Türkiye ⁴	AİHS md. 5/1
2020	Head & Turkey ⁵	See also Article 5/1, Article 5/4
2021	Tercan & Turkey ⁶	AİHS md 5/1, md. 8
2021	Turan et al Turkey and Turkey (427 people) ⁷	AİHS md 5/1
2022	Noah Uzun and Turkey ⁸	AİHS md. 8
2022	Acar et al Turkey and Turkey (50 people) ⁹	AİHS md. 5/1
2022	Ulusoy et al Turkey and Turkey (21 people) ¹⁰	AİHS md. 5/1
2022	Eli and others vs Turkey (108 people) ¹¹	AİHS md. 5/1
2022	Ataman et al Turkey and Turkey (68 people) ¹²	AİHS md. 5/1
2022	Baser and Özçelik & Turkey (2 people) ¹³	AİHS md. 5/1
2022	Morale vs. Turkey and Turkey (32 people) ¹⁴	AİHS md. 5/1
2022	Rejoice vs Turkey and Turkey (135 people) ¹⁵	AİHS md. 5/1

⁴ Alpaslan Altan v. Turkey, application No. 12778/17, K.T.: 16 April 2019, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-195054%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-195054%22]})

⁵ BAS v. Turkey, application no. 66448/17, K.T.: 3 March 2020, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-206632%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-206632%22]})

⁶ Turkey v. Turkey, application No. 6158/18, K.T.: 29 June 2021, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-214477%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-214477%22]})

⁷ Turan and Others v. Türkiye, Application no. 75805/16 and 426 other applications, K.T.: 23 November 2021, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-215088%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-215088%22]})

⁸ [Nuh Uzun and othersleri/Türkiye Kararı](#), Application No. 49341/18 and others, K.T.: March 29, 2022.

⁹ [Acar and othersleri/Türkiye Kararı](#), Application No. 64251/16 and others, K.T.: 28 June 2022.

¹⁰ [Ulusoy and othersleri/Türkiye Kararı](#), Application No. 73062/16 and others, K.T.: 6 September 2022.

¹¹ [Bayram and othersleri/Türkiye Kararı](#), Application No. 20061/17 and others, K.T.: 6 September 2022.

¹² [Ataman and othersleri/Türkiye Kararı](#), Application No. 14676/17 and others, K.T.: 6 September 2022.

¹³ [Başer ve Özçelik/Türkiye Kararı](#), Application No. 30694/15 ve 30803/15, K.T.: 13 September 2022.

¹⁴ [Moral and othersleri/Türkiye Kararı](#), Application No. 49867/17 and others, K.T.: 18 October 2022.

¹⁵ [Sevinç and othersleri/Türkiye Kararı](#), Application No. 63634/16 and others, K.T.: 18 October 2022.

2022	Güngör et al & Türkiye (82 kişi) ¹⁶	AİHS md. 5/1
2023	Ayvaz vd. & Türkiye (121 kişi) ¹⁷	AİHS md. 5/1
2023	Canavci and Turkey ¹⁸	AİHS md. 8
2024	Eagle and Turkey	AİHS md. 6/1
2024	Gülçcu VD & Turkey (49 people)	AİHS md. 6/1
2024	Sözen & Turkey	AİHS md. 6/1
2024	Aydın Sefa Akay and Turkey	AİHS md. 5/1, md. 8

United Nations working Group decisions on arbitrary arrests		
Year	Decision name	Infringement items
2018	Hamza Yaman and Turkey	(A) retention without legal basis – Category I; (B) failure to comply with international guarantees of the right to a fair trial. Kategori; (C) retention on the basis of discrimination - Category V.
2019	Melike Göksan and Mehmet Fatih Göksan & Turkey	(A) retention without legal basis – Category I; (B) retention arising from the exercise of rights and freedoms – Category II; (C) failure to comply with international guarantees of the right to a fair trial. Kategori; (D) retention on a basis of discrimination - Category V

Torture of judges and prosecutors

A. Torture after July 15, 2016

The “Report on torture for judges and prosecutors in Turkey” ¹⁹ published by our association in May 2022 revealed concrete information and documents about torture practices.

¹⁶ [Güngör and othersleri/Türkiye Kararı](#), Application No. 59639/17 and others, K.T: 13 December 2022.

¹⁷ [Abdullah Kılıç/Türkiye Kararı](#), Application No. 43979/17, K.T: 31 January 2023.

¹⁸ [Canavcı and othersleri/Türkiye Kararı](#), Application No. 24074/19 and others, K.T: 14 November 2023.

¹⁹ <https://www.crossborderjurists.org/torture-report-on-judges-and-prosecutors-in-turkey/>

- Fatigue, bruising, fatigue
- Rude beating, physical violence
- Insult
- Threat
- Clamping release
- Not meeting hygiene needs
- Heavy hosting requirements
- Playing music out loud
- Lying, not cheating
- Long-term solitary confinement

C. information obtained from victim judges and prosecutors on torture practices

1nd Judge A.K.

Judge A.K. described in detail the torture practices he experienced in his testimony received in the 05.10.2017 hearing in the case No. 2017/164 E. of the 16 heavy Penal Court. He was arrested by the court for giving information about torture while on trial without arrest and for making statements contrary to what the court wanted.

Judge A.K. said in court about the torture practices he was subjected to:

“On August 9, 2016, I was detained by the police of the KOM Department. During my time in custody, I was left on the open carpet inside the KOM Department in the heat of August and under the burning sun, and most of my detention was passed under those conditions. during the 21-day detention period, i was held handcuffed for 17-18 days, while eating and sleeping with about 150 people. On August 18, 2016, the circuit and my roommate, XXXX, were taken to the relevant building next to the location of the open carpet; however, as he later told me, under the name of the interview, he was interrogated, beaten and forced to accept or express certain things. Of course, the lawyer was not ready when this was done. On August 19, 2016, the day after XXXX was taken to obtain his supposed testimony, I was taken to the relevant building next to the carpet where we were detained, and again I was interrogated under the name of an interview on August 19, August 20 and August 22. On August 19, I was taken to take my so-called testimony... I was kicked many times that day by sitting on concrete while handcuffed. I was hit with punch-style slaps. Many times I was caught in my ears. I was held in challenging positions for many hours until I could not feel my feet, legs. I was subjected to insults and swearing for 4 days, and I experienced this and the like all day long on August 20 and almost evening on August 22. I was questioned under the name of interview from the beginning of the morning hours until midnight. At night I was kept in a dark room with no windows on the ground floor of the building... I was subjected to psychological torture and threats on many occasions. On August 22th, they repeatedly stated that they would hand me over to the Anti-Terror Branch in Ankara if I did not accept what they wanted, that I would be

devastated and introduced to the Palestinian hanger and that I could not even imagine what I would use and live there until the end of my detention period. “the police officer...” we know that your brother and wife are public servants. Our managers and the prosecutors conducting the investigation are very good, it would be enough to call our brother and wife FETÖ members. We will immediately issue a detention warrant for both of them and bring them here and keep them as long as we can, and we will give them 10 times what you have experienced here.” they threatened me and pressed me. I told me, as far as I remember, the names, surnames and offices of many police officers who mistreated, tortured, oppressed and threatened me for days. I am not complaining about these people at the moment. Because I know that my possible complaint will be concluded with disobedience.”

2nd Hüsametdin Uğur

Hüsametdin Uğur²⁰, a member of the Supreme Court of Appeals, was arrested after 15 July 2016 on political grounds on charges of being a member of an armed terrorist organization.

After his arrest, Hüsametdin Uğur Keskin was put in a single-person cell in prison. As long as he is in this prison, he is kept in the cell for the entire duration of his imprisonment.

On February 17, 2020, he was physically assaulted and beaten by guards. The guards threatened him, saying, “your body will come out of here.” His daughter, who is a lawyer, Nalan Dilara Uğur, is given disciplinary punishment by using the words in the phone call as an excuse. His daughter Nalan Dilara Uğur shares on social media about the torture and ill-treatment practices that Hüsametdin Uğur has been subjected to. Upon these shares, the prison administration and the guards threaten Hüsametdin Uğur by saying “Let the girl take care of herself”²¹. Hüsametdin Uğur demands that the prison be changed because of the torture and ill-treatment he has suffered. Her daughter Nalan Dilara Uğur also runs a campaign on social media in this direction. However, one year later, Hüsametdin Uğur was transferred to Afyon closed Penal Institution on February 4, 2021. In this prison, he is put in a single-person cell. Avoid contact with other people. Most of the rights violations continue here. Hüsametdin Uğur shared his experiences in an open letter that was reflected to the public in 06.11.2021²². There have also been reactions from international associations of judges and prosecutors such as

²⁰ Hüsametdin Uğur has been widely reported and shared on the internet and social media. That is why his name is clearly stated.

²¹

https://twitter.com/nalandilora/status/1282352336283762688?s=20&t=45_SYY5gkDnmulfGFjvRBg

²² [Nalan Dilara Uğur on Twitter: "This is the open letter of my father Hüsametdin Uğur, a former member of the Court of Cassation, who has been held "captive" in prison for 5.5 years and subjected to systematic torture, to all institutions and organizations concerned with human rights and to everyone who says "I am human" @adalet_bakanlik @TCYargitay https://t.co/VQZ8WUNHOs" / Twitter, https://kronos35.news/tr/eski-yargitay-uyesi-husametdin-ugur-insanim-diye-herkese-acik-mektup/, IOpen letter to all institutions and organizations interested in human rights, to everyone who says "I am human"....pdf - Google Drive](#)

MEDEL to the torture and ill-treatment practices that Hüsamettin Uğur²³ is dealing with, and to the deprivation of rights.

3rd female Judge S.P.

Female judge S.P. is one of the female judges who were detained and tortured after July 15, 2016. She was kept in the prison alone for days. Even though he was in the cell, his handcuffs were not untied. No food and water support was provided. Hygiene needs are not met. He was openly told that he was detained to ensure his wife's surrender and then arrested. The judge who made the arrest stated that he would remain in prison until his wife arrived. Her husband is missing and she is a prisoner. The children remained. Judge S.P. suffered a severe trauma due to their experience. His psychology deteriorated further due to the drugs he was given while in prison. Unable to stand the unjust and unlawful practices, material and moral torture he was subjected to, he attempted suicide and was even admitted to a mental hospital. When he was ill, he was given several statements.

4nd Judge A.K.

Judge A.K. was detained after July 15, 2016 and tortured at the Ankara Anti-Terror Branch.

In his testimony in Ankara's 5th Criminal Magistrate on 29.08.2016, he described the torture practices he was subjected to as follows:

“During the approximately 20 days of detention, I and other detainees were tortured. So we had to sleep on hard ground for 20 days, the lights were left on until the morning. Music was played out loud at night. No shower was allowed. I was also slapped during the security statement. Rather, he was slapped in the interview held under the name of “interview” before the testimony was taken in front of his defender.”

5nd Judge A.B.

Judge A.B. was detained on July 21, 2016 and tortured at the Ankara Anti-Terror Branch.

He described some of the torture he suffered in the 04.10.2017 hearing in the case No. 2017/164 E. of the Ankara 16th High Criminal Court as follows:

²³ [MEDEL Twitter'da: "In times where peace and justice are celebrated, our solidarity to the Turkish magistrates who face injustice. A letter by Hüsamettin UĞUR, Court of Cassation judge, in jail for 5.5 years: "this petition \(open letter\) has been written in order to ensure injustice is registered". https://t.co/MZrROcX48H" / Twitter](https://t.co/MZrROcX48H)

“As long as I was in custody, handcuffs were not removed even when I was going to the bathroom at night. No bedding material was provided. the lights were not turned off for 24 hours. On July 22 and 23, 2 people were given 1 rolls of bread in the morning and evening²⁴ .

6nd Judge A.S.Y.

Judge A.S. Y. described some of the torture he saw in the 04.10.2017 hearing in the case file No. 2017/164 E. of Ankara heavy Penal Court 16 as follows:

“After our detention, I was not given shower facilities for 21 days at the Ankara KOM Department’s campus in Anittepe and was held in custody with handcuffs for 24 hours.”

7th Judge A.A.

Judge A. A. A. described some of the torture he saw in the 04.10.2017 hearing in the case No. 2017/164 E. of the Ankara 16th High Criminal Court as follows:

“after i was arrested, i was handcuffed in reverse and subjected to unusual treatment. I was beaten up by the police. I have been subjected to insults and I am sure we have faced many negative situations that I cannot count yet, and I am aware that this has been done on many judge prosecutors. In this sense, I felt the need to express it; because the unlawful and degrading treatment and criminal acts in the process of taking statements were not only with these, but also by making unlawful promises, people were forced to be slanderous under the name of confession.”

8nd Judge A.

Judge A.Ç., in his testimony received in the 05.10.2017 hearing in the case file No. 2017/164 E. of 16 heavy Penal Court, said, “I was subjected to torture in custody. I was threatened with death.” he said.

9nd Attorney R.A.

Prosecutor R. A. described the torture practices he had been subjected to in his testimony on 10.10.2017 in the 16 heavy Penal Court case No. 2017/164 E. as follows:

²⁴ Small bread, also known as "Brötchen" in German https://en.wikipedia.org/wiki/Bread_roll

“I was detained on August 9, 2016, and I was detained until August 24, 2016. I was arrested on August 24, 2016. During the detention, I was exposed to extreme heat during the day and cold at night for 15 days on the carpet field. I went through this process by constantly being deprived of sleep with handcuffs and eating very, very limited foods. “I was threatened with torture and pressure.”

10ND Judge M.S.

Judge M.S.O., in his testimony given on 10.10.2017 in the case file No. 2017/164 E. of 16 heavy Penal Court, described the torture practices he was subjected to as follows:

“Gazi University has an indoor sports hall, belongs to the volleyball federation, we stayed there under surveillance, then we were brought to the tent in Xinjiang. We were in the wrong handcuffs. We were subjected to torture and ill-treatment. I and 39 other military judges were treated the same way. I just want to point this out here. I will not go into details. When I am in custody, in a reverse handcuffed torture position, I report the name of a police chief as Tahir. I don’t know if he was even calling himself Azrael. He asked me if I was stealing the questions. I said there was no such thing. He kicked me, kicked me very violently. He asked me the same question again. I told him I didn’t play again. He repeated it and repeated it several times. I mean, I didn’t make sense of that moment. Because at that moment I was detained just because my name was on the strict management assignment list about me. There was no information in the file regarding the exam questions. However, despite this, I was confronted with such a question by the police chief with such a question and then I was beaten. I filed a criminal complaint with the public prosecutor’s office regarding torture and ill-treatment. The public prosecutor gave a dismissal. I have seen dozens of witnesses. I explained things in detail. But he gave indifference. I later objected. My decision was rejected without any reason. I applied individually to the Constitutional Court. I still don’t know what happened, but I think that on the day my testimony was taken and my interrogation was made, this was witnessed by the lawyer lady. I had not eaten a single bite in the last 24 hours, so my feet were shaking with hunger and I was interrogated in this way, exhausted and miserable. I was later arrested. we have 21-22 people in the ward of 8 people. So some of us are lying on the ground and our most basic human needs are significantly restricted.”

11th Judge T.Ö.

Judge T.Ö., in his statement received on 06.10.2017 days in the case file No. 2017/164 E. of Ankara 16 heavy Penal Court, described the torture practices he was subjected to as follows:

"On July 21, 2016, I was dismissed from office, and I was detained while married for 25 days. i was held in handcuffs on the carpet in conditions that would be called systematic torture for 16 days."

12th Judge S.Ö

Judge S.O. in case no. 2017/164 of the Ankara 16 heavy Penal Court, described the torture practices he was subjected to in the 6.10.2017 hearing as follows:

"I was arrested on August 9, 2016, and I was arrested on August 23. During this 14-day detention period, I was kept in handcuffs, including while eating and sleeping, and even during my police testimony, my handcuffs were not untied. My CMK lawyer is also a witness. If he remembers, his objection was not even taken into account. Part of my testimony was taken in an environment where there was no lawyer called an interview. At this stage, I was exposed to the physical intervention of the police. In addition, I was taken to TEM's basement and threatened to be subjected to torture, such as giving electricity to my body, and my family members were detained, and I was subjected to various insults. Although my statement was taken on the seventh day after I was detained, I was kept in unfavorable conditions for seven more days, and then I was referred to the courthouse and arrested. Afterwards, I was taken to Sincan Type L Prison No. 1. 45 people stayed in a ward for 14 people for 9 months. At the end of 9 months, I was transferred to Keskin Type T Prison without any justification, and for about 5 months we have been staying with 24 people in wards for 7 people."

13th Judge Candidate: M.F.Ö.

M.F.Ö., in his statement taken on 18.12.2017 in Ankara 16th High Criminal Court case file no. 2017/164 E., described the torture practices he was subjected to as follows

"I was detained on July 21 at the end of my working day and was subjected to various forms of torture and ill-treatment in custody.... Between July 21/24, 2016, I was subjected to ill-treatment amounting to torture in detention, during which time I may have lost my entire future."

14th Judge M.A.

M.A. described the torture practices he was subjected to during the hearing on 17.10.2017 in the case file No. 2017/164 E. of Ankara 16 Assize Court as follows

"First of all, I would like to tell what I went through in detention. I was handcuffed for 24 hours, I was kept under the sun on the astroturf, they didn't let me sleep by not turning off some of the lights in the gym. I couldn't take a shower, I took medicine almost every day because of a headache. When I was called to testify, I was interviewed, as they call it. My testimony was taken without a lawyer for about three, three and a half hours. When I entered the room, there were two policemen. They told me to sit down. I sat on the chair and he said 'Mr. M. welcome' and then the first thing he said was 'my elders have taught me so many types of torture that I will use them all on you without leaving any trace'. He left his gun on the table. I continued to

be interrogated with a headache and sleeplessness. They threatened me with my brother because he is a contracted soldier. They said we would take him and bring him here. At one point, the person who took my statement was tempted to hit me, but when the doctor told me that I had been hospitalized for five days in Ankara GATA due to a colonoscopy, he told me to stay away from any kind of beating or force. I had a colonoscopy appointment in September 2016. The doctor said we would see if there was the beginning of cancer. I have been living for thirteen months without knowing what was in my colon. I did not see any beating or force during my testimony, but I was subjected to mental exhaustion, pressure, threats and insults. Later, my lawyer came. Even with the lawyer, they did not remove the handcuffs during my statement. At one point I wanted to go to the restroom but they didn't let me. My testimony lasted about six to six and a half hours. After my statement was over, I was taken to the gymnasium with about 100-120 people, including other professional groups. In the gymnasium, they prevented us from sleeping by playing music with all the lights on. Eleven days later, when we were referred to the prosecutor's office, I sat on the concrete floor in the corridor of the prosecutor's office for about nine hours. There were the families of other friends in the prosecutor's office and when I looked in that direction, one of the police officers asked me 'what are you looking at, who are you signaling with' and we had an argument and I said 'I have no one in that direction, no one from my family is there'. Then the argument ended. Later, when I looked in the direction of the lawyers of the families again because my lawyer didn't come, we had another argument with the police officer and he said to me, with all due respect, 'I'm going to fuck you up, I'm going to job you', and as if that wasn't enough, I was subjected to such ill-treatment in the carpet field, in the sports hall, during the statement at the police station and in the corridor of the prosecutor's office."

15th Judge A.P.

A.P., in her testimony given at the hearing on 17.10.2017 in the case file No. 2017/164 E. of Ankara 16 Assize Court, described the torture practices she and her husband were subjected to as follows

"We were handed over to the police team, who were not authorized to take any judicial action against us, at around 21:30 on July 20, 2016. I was subjected to material and moral torture throughout the detention period and no judicial action was taken against me. I will not describe what I went through in detention here, but the psychological effects of what I went through are still continuing even though 15 months have passed. On July 25, 2016, I was unlawfully arrested and locked up in prison, where I stay in a ten-person ward with about three times as many people as the capacity. I have been in detention for about 15 months. During the four-day detention period, I was not allowed to contact my family, my family was not allowed to receive news from me and I was not allowed to receive news from my family. During this period, my wife became ill due to the lack of news from me and the media coverage of photographs and video recordings showing that detainees were severely tortured. She had a panic attack and was treated several times in the emergency room of the hospital. As a result of the fear and trauma she experienced, her body resistance decreased and her sleep patterns deteriorated. Therefore,

she started to receive psychiatric treatment. He started taking antidepressants, sleep and vitamin medication. During the critical phase of her illness, she was unlawfully detained by Ankara TEM branch teams. He was detained for three days without any judicial proceedings. During his detention he was subjected to insults and threats that amounted to torture. Although he was released by the prosecutor's office after the detention process, his illness became increasingly severe due to the traumas he experienced one after another. He lost weight suddenly and excessively, dropping to 33 kilograms, but he was able to sleep and stand up with medication and came back from the brink of death. After a while, while there was an investigation being carried out against him by the Ankara Chief Public Prosecutor's Office, an investigation for the same offense was initiated by the Tokat Chief Public Prosecutor's Office, even though it was unauthorized, and in this context, he was detained by the TEM branch teams and detained here for two days. He was subjected to the same treatment here and his ailments are still continuing."

c. Current and Ongoing Torture Practices

1- Long-term Solitary Confinement

One of the most severe forms of torture against detainees is undoubtedly prolonged solitary confinement. Many scientific reports have been published on the effect of solitary confinement on brain activity, which is equivalent to torture²⁵. Since July 15, 2016, dozens of judges and prosecutors have been kept in solitary confinement. Dozens of them are still being held in solitary confinement.

Teoman Gökçe, who was a member of the High Council of Judges and Prosecutors between 2010 and 2014, passed away on April 2, 2018. Mr. Gökçe had been in solitary confinement for 2 years when he passed away²⁶. During the time he was in solitary confinement, no effective treatment was provided for Mr. Gökçe's health problems. There are important testimonies and documents indicating that Mr. Gökçe was subjected to psychological pressure during his detention and imprisonment due to his previous position.

There are also women judges who have been detained during the entire trial and execution of their sentences. Nesibe Özer, a member of the HSYK between 2010 and 2014, and Ayşe Neşe Gül, a candidate in the 2014 HSYK elections, are just two of these women. They were released on parole after a long prison sentence. These judges have been widely reported and shared on the internet and social media. For this reason, their names are clearly mentioned in this document.

²⁵ https://en.wikipedia.org/wiki/Solitary_confinement#cite_note-Grassian2006-33 ,
https://openscholarship.wustl.edu/cgi/viewcontent.cgi?referer=https://en.wikipedia.org/&httpsredir=1&article=1362&context=law_journal_law_policy E.T.26.05.2024

²⁶ <https://medelnet.eu/23rd-of-may-alert-day-for-the-independence-of-justice-2021/> E.T. 26.05.2024

2- Use of Good Conduct Decisions as a Tool of Torture

In Turkey, convicts with good behavior benefit from parole and probation. People who have nothing to prevent them from being considered good behavior are arbitrarily kept in prisons. These practices have turned into torture in Turkey. The definition belongs to Dr. Şebnem Korur Fincancı, President of the Turkish Medical Association²⁷.

According to the parole calculation method, the mandatory period of imprisonment for judicial crimes is $\frac{1}{2}$, while for political crimes it is $\frac{3}{4}$. In other words, a person convicted of political crimes is released on parole after serving at least $\frac{3}{4}$ of his/her sentence in prison.

According to the penal execution system, convicts can be released 1 year before their parole date by benefiting from probation. Thus, execution is continued outside the prison.

The reason why not benefiting from probation and parole is defined as torture is the method applied. As is known, the simplest definition of torture is "the systematic persecution of a person by public officials in order to force them to say something or to admit a crime". Prison Administrative and Monitoring Boards have introduced a new condition of good behavior for those convicted of political crimes. This condition is that the person identifies himself/herself as a "terrorist" and makes accusations against himself/herself or others in the capacity of a "confessor", even though he/she has never admitted this during the trial. Those who do not fulfill these conditions are neither eligible for probation nor for conditional release.

One of these judges and prosecutors is Murat Arslan²⁸ who has been in prison since October 2016. Murat Arslan has been held in solitary confinement for a long time. Mr. Arslan was the last president of the Association of Judges and Prosecutors (YARSAV), which was shut down during the State of Emergency. Mr. Arslan is the recipient of the 2017 Vaclav Havel Prize for Human Rights awarded by the Parliamentary Assembly of the Council of Europe and the International Association of Judges (IAJ) Award for Judicial Independence in 2022.

Mr. Arslan was the last president of the Association of Judges and Prosecutors, which was shut down after July 15, 2016. He was targeted for his efforts to ensure the independence and impartiality of the judiciary during his presidency²⁹. Mr. Arslan did not receive a fair trial. He has spent the entire trial in pre-trial detention despite the absence of any concrete charges or evidence against him. International judicial organizations such as the Association of European Administrative Judges (AEAJ), the European Association of Judges (EAJ), Judges for Judges, Magistrats Européens pour la Démocratie et les Libertés (MEDEL) have issued

²⁷ <https://x.com/SKorurFincanci/status/1780416946996977716E.T>; 25.05.2024

²⁸ Murat Arslan's name is explicitly mentioned here as there have been many posts about him in the international community, online media and social media.

²⁹ <https://www.yargiclar SENDIKASI.org/post/murat-arslan-hakkinda-basin-aciklamasi>

dozens of press releases and calls for Mr. Arslan's arbitrary arrest, trial and arbitrary denial of his probation and parole rights³⁰ .

The arbitrariness in the execution system was clearly expressed in the statement made by MEDEL on its X (Twitter) account on 30.04.2024 and signed by the presidents of the above-mentioned international judicial organizations³¹ .

Probation and not benefiting from good behavior has become such that the situation has reached such dimensions that it threatens people's lives. Judge Mustafa Başer³² , although he has cancer, has been operated on several times and is awaiting reoperation, has not benefited from probation and has not been granted parole³³ .

Judge Metin Özçelik³⁴ is a member of the judiciary who was kept in solitary confinement for a long time, subjected to various forms of torture, and whose trial process was particularly monitored by the government. He was subjected to discriminatory practices during the execution of his unlawfully imposed sentence. Like Mustafa Başer, Metin Özçelik has been denied conditional release in violation of the law.

Judges Mustafa Başer and Metin Özçelik applied to the Constitutional Court claiming that the criminal proceedings against them and the measures taken against them were unlawful. Their application was unlawfully rejected. The European Court of Human Rights found that Başer and Özçelik were unlawfully detained and issued a violation decision against Turkey³⁵ .

The reason why Murat Arslan, Metin Özçelik, Mustafa Başer Başer and similarly situated judges and prosecutors have been kept in solitary confinement for long periods of time, and why they have not been released in violation of the execution law, is that they did not make statements during and after the trial as demanded by the government. The government wants these members of the judiciary to become "confessors".

D- Protection of Torturers

(NOTE: Mr. Dr. Hasan Dursun has given permission to use his name in the context of the following due diligence)

³⁰ <https://medelnet.eu/medel-in-support-of-murat/> E.T. 25.05.2024

³¹ <https://x.com/MedelEurope/status/1785216955428790675E.T>, 25.05.2024

³² Since there have been many posts about Mustafa Başer in the internet media and social media, his name is clearly written here.

³³ <https://boldmedya.com/2023/02/02/cezaevinde-3ncu-kez-ameliyat-olan-kanser-hastasi-eski-hakim-mustafa-baserin-esi-21-aydir-hukuksuz-yere-tutuyorlar/#:~:text=Tutuldu%C4%9Fu%20Sincan%20Cezaevi'nde%20Mustafa%20de%20tirmi%20kinci%20kezeti m%20 ameliyat%20ge%20C3%A7irdi>, E.T. 25.05.2024

³⁴ Since there have been many posts about Metin Özçelik on the internet and social media, his name is clearly written here.

³⁵

[https://hudoc.echr.coe.int/fre#{%22languageisocode%22:\[%22ENG%22\],%22appno%22:\[%2230694/15%22,%2230803/15%22\],%22documentcollectionid%22:\[%22CHAMBER%22\],%22itemid%22:\[%22001-219095%22\]}](https://hudoc.echr.coe.int/fre#{%22languageisocode%22:[%22ENG%22],%22appno%22:[%2230694/15%22,%2230803/15%22],%22documentcollectionid%22:[%22CHAMBER%22],%22itemid%22:[%22001-219095%22]})

On 16 July 2016, dismissed prosecutor Dr. Hasan Dursun was detained and arrested on the same day. After spending 3 months in Sivas Closed Prison, he was transferred to Silivri Closed Prison where he will stay for 27 months. Dursun, who has long hair, was verbally and physically pressured by the prison administration to cut his hair, and in this context he was reprimanded by Silivri Prison No. 6 on 17.7.2017. During this period, the prison administration verbally stated that the Ministry of Justice had verbally instructed them to cut his hair. Upon Dursun's objection, the disciplinary penalty was lifted by Silivri Heavy Penal Court on 13.2.2018.

Mr. Dursun was transferred to Ankara Sincan Prison No. 1 on 15 May 2018 in order to attend his trial at Ankara Heavy Penal Court No. 25. On May 21, 2018, Mr. Dursun was verbally ordered to cut his hair by the wardens on duty and the deputy director of the prison. Dursun stated that this issue had come up before and that the Silivri Heavy Penal Court had ruled in his favor that the length of his hair was in accordance with the legislation. Despite this information, on May 24, 2018, in front of other prisoners, prosecutor Hasan Dursun was held by around 8 correctional officers on the instruction of the deputy director of the prison and his hair was forcibly cut. During this process Mr. Dursun was injured in many places. During the forced haircut, Mr. Dursun shouted at the officers that what they were doing was against the law, that he was being subjected to torture and ill-treatment, that their actions were criminal, that they would be tried when the law was restored, and this was heard by those around.

On May 25, 2018, Dursun was examined by the doctor on duty at the Sincan Prison campus and had his injuries identified.

Mr. Hasan Dursun filed a petition dated 28.5.2018 to Ankara West Chief Public Prosecutor's Office for the crimes of injury, ill-treatment, torture, threat and abuse of office against the relevant prison officials. The said denunciation file was carried out through file number 2018/22023.

The prosecutor decided not to prosecute Dursun's complaints on 28.11.2018 without hearing the witnesses, without examining the video footage, without collecting and securing the evidence immediately after the incident, and without evaluating the doctor's report. The decision was based on the statements of the prison staff that Dursun had complained about.

Ankara West Chief Public Prosecutor's Office filed a lawsuit against Dursun on 2.12.2019 on the charge of "resisting to prevent the execution of his duty". This case is still pending at Ankara West 6th Criminal Court of First Instance, file number 2019/1030.

While Mr. Dursun was a victim of torture and ill-treatment, he is on trial for not facilitating torture and ill-treatment defendants during their crimes.

Dursun objected to the non-prosecution decision of the prosecutor's office on 8.1.2020, and this objection was rejected by Ankara West 1st Criminal Court of Peace on 4.2.2020 without justification.

Mr. Dursun has filed an individual application to the Constitutional Court against this action. No decision has yet been made on his application.

II. Recommendations

In light of our findings above, we urge the Human Rights Committee to recommend that the State Party

- End the arbitrary use of the "Determination of Good Behavior" criteria in Article 89 of the Execution Law for torture purposes. Amend the law and introduce objective criteria to prevent the arbitrariness of Prison Administration and Observation Boards.
- Immediately end the systematic torture of judges and prosecutors.
- Since July 15, 2016, immediately investigate allegations of torture against judges and prosecutors under different names.
- Immediately suspend and prosecute anyone found to have participated in torture.
- Invalidate statements taken under torture.