



Dignity, Justice and Freedom for All

MONITORING REPORT **ON THE PROHIBITION OF TORTURE & CONDITIONS OF DETENTION** IN THE NORTHERN PART OF CYPRUS

2022



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MONITORING REPORT
**ON THE PROHIBITION OF TORTURE
& CONDITIONS OF DETENTION**
IN THE NORTHERN PART OF CYPRUS
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Prepared by
Aslı Murat

Contributors
Ali Dayıođlu - Editor
Adem Arkadaş - Expert Opinion

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 **Girne Cad. Nicosia Cyprus**

 **insanhaklariplatformu@gmail.com**

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CONTENTS

Summary	5
Introduction	7
Methodology	7
Legal Framework	8
Prohibition and Criminalisation of Torture and Ill-Treatment	9
'Legislation'	
Implementation	
Liberty, Security of Person and Fair Trial during Arrest and Trial Proceedings	12
'Legislation'	
Implementation	
Protective Measures to Prevent Torture and Ill-Treatment and Standards for Detention Centres	15
'Legislation'	
Implementation	
Compensation for Victims of Rights Violations	23
'Legislation'	
Implementation	
Conclusions and Recommendations	24



SUMMARY

This report provides an overview of the events that occurred in the northern part of Cyprus in 2022, highlighting instances of rights violations, and examining aspects of domestic ‘laws’ that deviate from international standards and remain insufficient with regard to prohibition of torture, ill-treatment and conditions of detention. Prohibition of torture and ill-treatment is a fundamental principle designed to safeguard human dignity and physical integrity. Just as it is the case for the right to life, it must be clearly defined and consistently enforced without exemptions.

International law, including the United Nations Convention against Torture (CAT), imposes obligations on state parties to prohibit torture and ill-treatment. These obligations can be broadly categorised into four main groups: prevention, effective investigation, prosecution and punishment, and compensation for victims of rights violations. They are clearly interconnected, as preventing torture and ill-treatment can be achieved more effectively through proper adjudication, avoidance of impunity, and fair compensation for resulting damages.¹ The jurisprudence of the European Court of Human Rights (ECtHR) also imposes three obligations on state parties with regard to the prohibition in question: Negative obligation, positive obligation and effective investigation. Accordingly, states must refrain from torture and ill-treatment, take measures to prevent such acts, conduct thorough investigations and prosecutions if they occur, and provide compensation to those who have been harmed.

In the domestic ‘criminal law’ of the northern part of Cyprus, the explicit prohibition of torture and ill-treatment is not specifically defined as an offence. However, international conventions that have been unilaterally ratified have been incorporated into ‘legislation’. Additionally, the existing political structure hinders independent monitoring of ‘detention centres’ such as ‘police stations’ and ‘prisons’, through international monitoring mechanisms. During the preparation of this report, specific indicators to be used for monitoring visits to ‘detention centres’ were identified. However, the access granted was limited to specific sections of the new ‘prison’, and the ‘administrators’ of ‘police stations’, the old ‘prison’, as well as the Yıldız Dormitory² did not positively respond. Moreover, deficiencies in the existing ‘laws’ further impede local independent monitoring and reporting efforts.

The new ‘prison’ boasts a larger building capacity compared to the old one. However, the male wards currently accommodate 14 people in rooms designed for 10 people. The women’s section provides each person with a separate bedroom in addition to common areas. Men are assigned to bunk beds. There is no classification system in place that considers sexual orientation and gender identity in any ‘detention centre’, ‘prison’ or ‘police station’. The ‘prison yard’ is notably inadequate in the more crowded male wards compared to the smaller female wards. While three meals a day are provided free of charge, detainees are required to pay for their individual needs and usage of the telephone. Foreigners who lack family support are unable to deposit funds into ‘prison’ accounts and have to rely on financial assistance from their fellow inmates. The lack of interpreters for non-English-speaking foreigners hinders communication with both guards, prisoners and detainees. Although rooms have been designed to accommodate individuals with physical disabilities, other disabilities are not adequately addressed. For instance, a prisoner with hearing and speech impairment can only communicate through gestures, leading to significant challenges.

¹ Kerem Altıparmak and Hülya Üçpınar, *Common Sense in the Prevention of Torture, the Optional Protocol and the Evaluation of Visiting Practices in Turkey*, Ankara, Human Rights Foundation of Turkey Publications, 2008, p. 4.

² ‘Detention centre’ for asylum seekers and refugees, including children, as well as persons convicted of other offences who are awaiting deportation.

'Police stations' are overcrowded facilities where a large number of individuals are held in cramped cells. Only sandwiches are provided for food two or three times a day, detainees also face a scarcity of beds and clean blankets. Natural daylight is absent. From the investigation phase onwards, there is a notable absence of legal assistance, and even when individuals engage the services of paid lawyers, there is often delay in their availability, sometimes spanning several days after the detention. While this delay does not apply to all cases, detainees are restricted from meeting with their lawyers at all hours of the day at 'police stations'. Similarly, individuals who have been convicted and subsequently sent to 'prison' are prevented from contacting their lawyers due to the fact that they no longer have an open case. Although a psychologist is present on-site daily, their availability falls short in terms of adequately addressing the rehabilitation needs of detainees and prisoners. Vocational courses and sports fields have not yet been put into operation in the new 'prison'.

One of the most fundamental issues regarding the protection of liberty and security of person is the arbitrary and prolonged detention of individuals who have been tried and convicted for irregular entry into the northern part of Cyprus, particularly in cases involving human trafficking offences. This is done to coerce them into testifying in favour of the 'prosecution' in trials against those who allegedly brought them into the northern part of Cyprus.

As a result of the monitoring process, the following recommendations can be summarised for preventing rights violations in the areas of torture and ill-treatment prohibition and detention conditions:

- Criminalisation of torture and ill-treatment.
- Renovation of all 'police stations' and other 'centres of detention' to meet humanitarian conditions.
- Provision of basic needs such as food and hygiene free of charge for detainees.
- Provision of legal assistance from the investigation phase onwards.
- Obligation to have a lawyer present during interrogation and the legal establishment of an independent monitoring and oversight committee, including civil society organisations.

INTRODUCTION

Torture and ill-treatment are recognised as crimes against humanity along with genocide. These acts are absolutely prohibited under any circumstances, even in times of war. They represent some of the most severe assaults on the human dignity and identity of all individuals.

In power structures transitioning from a norm state to a security state, it has been observed that a tendency to legitimise torture and ill-treatment prevails, often under the guise of “security” concerns. When combined with existing discrimination, such violations of rights are perpetrated against various groups, including foreign workers and students, asylum seekers and refugees, migrants, dissidents, women, lesbians, gays, bisexuals, trans, intersexes, and plus (LGBTI+s), as well as ethnic, religious, or linguistic minorities and those who are tried or convicted in general, and these violations often remain concealed behind a smokescreen.

Moreover, within society, there is a prevalent perception that individuals who are detained, arrested, or convicted of a crime deserve to be subjected to any treatment that may disregard their fundamental human rights. This mind-set is contrary to the prohibition of torture and ill-treatment and disregards the principle of presumption of innocence, which is one of the fundamental tenets of criminal law. It is important to recognise that being convicted and sent to prison does not justify any form of behaviour that could lead to human rights violations against the individual.

The conditions within the centres of detention, where individuals are held, arrested, or imprisoned, as well as the actions of those who wield and abuse state authority, may contribute to the occurrence of torture and ill-treatment, thereby violating their rights. Therefore, state responsibility encompasses the supervision of facilities where individuals are deprived of their liberty, such as police stations and prisons. However, this must be carried out by independent and autonomous structures to ensure effective protection of human rights.

METHODOLOGY

To gather information on relevant practices and rights violations, information requests were submitted to ‘ministries’, ‘prosecutor’s offices’, ‘prisons’, and ‘police directorates’ during the monitoring period of 2022. However, access to the requested information from ‘local authorities’ was limited, and the responses received were mostly incomplete. As a result, concrete data contributing to the monitoring process was obtained through interviews with lawyers from the Human Rights Platform (HRP), detainees, as well as news reports.

The prohibition of torture and ill-treatment is usually assessed by international legal mechanisms in a number of detention centres such as prisons, police stations, mental hospitals, homes for the elderly and children. However, this report will only focus on detention standards and practices in ‘police stations’, ‘prisons’ and the Yildiz Dormitory in the northern part of Cyprus.

Regarding the legal aspects of this report, the analysis is based on domestic ‘legislation’ in the northern part of Cyprus, as well as conventions unilaterally ratified and incorporated into ‘domestic laws’, and international standard-setting instruments. In addition to assessing the ‘legal framework’, the implementation of the ‘legislation’ in question was also analysed. The research process heavily relied on primary sources, with the author predominantly consulting them for gathering information. In addition, the author drew upon their personal experiences and interpretations derived from the sources.

LEGAL FRAMEWORK

The international conventions directly related to the prohibition of torture and ill-treatment, as well as conditions of detention, which are considered part of domestic 'law' and their transposition dates, are as follows:

- European Convention on Human Rights (1962)
- UN Geneva Convention (1954)
- UN Convention on the Rights of the Child (1996)
- UN International Covenant on Civil and Political Rights (2004)
- UN Convention on the Elimination of All Forms of Racial Discrimination (2004)
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2004)
- UN International Convention on the Rights of Persons with Disabilities (2010)

According to 'article 90 (5)' of the 'constitution', which came into force in 1985:

'International treaties duly put into force shall have the force of law. They cannot be applied to the 'supreme court', which acts as the 'constitutional court', with the claim of unconstitutionality. The 'constitutional court' confirmed the validity of this 'article' in 2006 in the case between the National Unity Party (UBP) and the northern part of Cyprus 'parliament', affirming that the European Convention on Human Rights (ECHR) is part of 'domestic law'.³

Despite the existence of the aforementioned 'article' in the 'constitution' and the 'supreme court judgment' cited above, it is observed that local 'authorities' do not consistently apply the rules stipulated by the conventions. Although the convention articles or ECtHR judgments cited by lawyers in 'court' cases are taken into account, they do not consistently lead to the criminalisation of torture, prevention of ill-treatment, establishment of standards in 'centres of detention', and the possibility of independent investigations and inspections.

In addition to the conventions incorporated into 'domestic legislation', 'local laws' such as, 'chapter 154 criminal law', 'chapter 155 criminal procedures law', 'chapter 148 torts law', 'chapter 286 prison discipline law', 'chapter 157 juvenile offenders law', 'chapter 105 aliens and immigration law', 'law no. 51/1984' on 'police' force (establishment, duties and powers) and 'prisons' 'regulations' were examined.

Furthermore, court decisions, protocols and guidelines developed for interpretation and implementation have been taken into consideration during the evaluation. These include the Universal Declaration of Human Rights (UDHR), Guidelines on Applicable Criteria and Standards for Detention of Asylum Seekers and Alternatives to Detention, UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), UN Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules), regulations such as the UN Manual on the Prevention and Investigation of Extra-Legal and Summary Executions (Minnesota Protocol), Manual for the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), ECtHR judgments and decisions from the European Committee for the Prevention of Torture, which were also followed during the monitoring process.

³ National Unity Party and northern part of Cyprus 'parliament' [2006], 'constitutional court', Case no: 3/2006, Date of 'judgment': 21.06.2006.

PROHIBITION AND CRIMINALISATION OF TORTURE AND ILL-TREATMENT

‘LEGISLATION’

According to Article 5 of the UDHR, “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. The prohibition of torture and ill-treatment has been recognised as an absolute right, especially due to the atrocities and severe rights violations of rights witnessed during World War II. Article 3 of the ECHR states: “No one shall be subjected to torture or to inhuman or degrading treatment or punishment”. The aforementioned convention does not provide specific details regarding the elements and nature of torture. From the wording of the article, it is evident that this right falls under the category of absolute rights that are not subject to any limitation. Article 7 of the International Covenant on Civil and Political Rights (ICCPR) reads as follows: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected to medical or scientific experimentation without their free consent.”

Torture and discrimination are two closely intertwined concepts.⁴ This is one of the reasons why torture and discrimination are often inflicted upon marginalised and vulnerable groups in society. When an individual is subjected to torture, it results in a complete severance of all connections with humanity. In a sense, the torturer begins to perceive the victim as an “object” rather than a human being, thus demonstrating a form of discrimination. In this context, the Committee against Torture has made the following observation:

“Any form of discrimination fosters intolerance and a greater acceptance of the persecution of the other group subjected to discriminatory treatment and hinders the realisation of equality of all before the law.”⁵

Article 1 of the UN Convention against Torture (CAT) defines the concept of torture for the purposes of the Convention.⁶ Violation of the principle of “non-refoulement” in Article 3 of CAT is also regulated as a measure against the prohibition of torture and ill-treatment.

The prohibition of torture and ill-treatment is particularly crucial in the case of asylum seekers and refugees. Of course, in such cases, the individual concerned must convince the ‘authorities’ that he or she may be subjected to torture and ill-treatment if returned to their home country. Asylum-seekers and refugees, as vulnerable groups, may also experience difficulties in presenting a legal challenge. Therefore, in terms of the burden of proof, certain findings are required: “strong evidence” indicating that the person will be subjected to torture if deported and sent to another location, and that this risk is “foreseeable, real and probable” based on an external environmental assessment.⁷

4 Action Guide to Combat Torture, Amnesty International Publications, 2013, p.15.

5 Ibid, p.15.

6 The term “torture” means an act of severe pain or suffering, whether physical or mental, inflicted on a person or on a third party at the instigation of, or with the consent or acquiescence of, a public official or other person acting in that capacity, for an act committed or suspected to have been committed by that person or third party, to obtain information or a confession for the purpose of punishment, or for any other discriminatory reason.

7 Mehmet Semih Gemalmaz, ‘Comparative National Human Rights Procedural Law Legislation with Explanations and Case Laws’ - General Comment No. 31 adopted by the ‘committee’ at its 2187th meeting on 29.03.2004, I. Kitap, Legal Yayıncılık, 2006, p. 286. CAT/C719/D028/1995 EA v Switzerland (1997), CAT/C/30/D/197/2002 para 7.7 U.S. v Finland.

One of the absolute provisions of the UN Convention against Torture is Article 4, which calls on State Parties to ensure that all acts of torture are criminal offences under their criminal law. It also criminalises attempted torture and the participation or complicity of individuals in acts of torture.

Apart from international conventions, torture is also prohibited by 'article 14' of the northern part of Cyprus 'constitution' under the title inviolability of the person.

“(1) Every person shall have the right to live in peace, security and tranquillity, and to develop and protect his material and moral existence. (2) No person shall be subjected to ill-treatment or torture. (3) No person shall be subjected to any punishment or treatment incompatible with human honour and dignity. (4) A person’s honour and dignity are inviolable. Every person shall be under the obligation to respect and protect it.”

Furthermore, the issue of torture was addressed in the final report of the 'special committee' established by the 'parliament' in 2011, following increased allegations of torture and ill-treatment. The 'committee' acknowledged indications of the existence of torture in stations affiliated with the 'police force', although it is not systematic or organised in the northern part of Cyprus. The 'committee' stressed the need for prompt legal arrangements to prevent torture. Additionally, the 'committee' recommended the urgent establishment of a forensic medicine institute in the northern part of Cyprus to ensure that the relevant 'authorities' have access to concrete information and doctors are able to write reports independently.⁸ However, as of December 2022, torture has not been criminalised and a forensic medicine institute is yet to be established. Only 1 forensic medicine expert is currently available.

IMPLEMENTATION

Torture is not specifically defined as a criminal offence in 'chapter 154 the criminal law'. Until today, investigations⁹ launched against the allegations of acts that can be classified as torture and ill-treatment have been carried out under different criminal offences, and from time to time, 'police officers' have even been punished for acts such as battery.¹⁰ In 2022, the following events and developments were recorded:

On August 26, 2022, during a demonstration in front of the 'parliament' protesting the reform of the 'law' on 'municipalities', images of a 'police officer' grabbing a protester by the throat were captured in the press. However, on August 28, the aforementioned protester was presented before the 'court' on charges of assaulting the 'police' and impeding the performance of their duties. He was released on bail pending trial.¹¹

⁸ Report of the 'parliamentary investigation committee' on whether 'detainees' are tortured in 'police stations' *, 23rd Session, 26 December 2011. <http://cm.gov.nc.tr/Tutanaklar>, accessed 24.02.2023.

⁹ 'police' once again on the agenda with violence incident, <https://www.yeniduzen.com/polis-yine-siddet-olayiy-la-gundemde-117441h.htm>, access date, 28.02.2023.

¹⁰ 'police officer' sentenced to 50 days in 'prison' for violence against passenger at Tymbou/Ercan airport https://www.kibrispostasi.com/c35-KIBRIS_HABERLERI/n373701-ercanda-yolcuya-siddet-uygulayan-polis-50-gun-hapis-cezasina-carptirildi, access date, 12.02.2023

¹¹ 'Police' grabbed my client's throat and beat him <https://www.yeniduzen.com/polis-muvekkilimin-bogazini-sikip-darp-etti-155907h.htm>, During the protest, he beat the 'police!' <https://www.gundemkibris.com/eylem-sirasinda-polisi-darp-etti>, 'Police' violence: They grabbed the 'municipality' labourer by the throat <https://gazeddakibris.com/polis-siddeti-belediye-emekcisinin-bo-gazina-sarildilar/>, access date, 13.02.2023.

Conditions in ‘police stations’ are much worse than in ‘prisons’. An example from the Kyrenia ‘police station’s judicial branch’ reveals important data, regarding torture and ill-treatment, collected through the testimony of a witness who was himself detained in a ‘police station’ cell for 13 days. The foreign suspect was detained for arson and kept separately from the others because he was Covid 19. As the ‘police officers’ did not speak English, he was not spoken to and was not provided with any interpreter support. Other detainees assisted him in communicating with the ‘police’. On one occasion, he stripped naked and smeared faeces on his body while in the toilet. He was not allowed to clean himself, was handcuffed and left naked in a cell where he was denied food as punishment.¹²

In 2022, a Yemeni national, who initially arrived in the northern part of Cyprus as a student in 2013 but discontinued his studies in 2016, was arrested due to lack of a valid residence permit. He was subsequently held at the ‘judicial branch police station’ in Famagusta for 13 days. During his detention, he reported that the ‘police officers’ neglected his basic needs, continuously informed him of his imminent deportation while discouraging any hopeful expectations, and subjected him to psychological abuse.¹³

A request for information submitted to the ‘ministry of health’ on 04.01.2023 regarding the reports kept during the examination of detainees in emergency services in ‘police stations’ or ‘prisons’, was not answered within the legal time frame or thereafter. In the aforementioned request, apart from the reasons for bringing detainees and prisoners to the ‘hospital’, the number of detainees and prisoners, whether there are individuals seeking medical reports of battering, and whether the examinations are carried out in accordance with the Istanbul Protocol were left unanswered.

Furthermore, the information request submitted to the ‘legal department- attorney general’s office’ on January 04, 2023, regarding lawsuits filed against detainees and prisoners due to beatings by ‘police officers’ and ‘prison guards’, and whether any of these lawsuits were withdrawn, was not answered within the legal timeframe or thereafter.

According to a news report by Avrupa newspaper dated 21/10/2022, a strip search was carried out by guards within a ward in the ‘prison’, but no evidence of a crime was found.¹⁴

The deportation of asylum seekers and refugees, which violates the prohibition of torture according to ECtHR case law, was addressed in an application made to the ‘general directorate of police’ on November 28, 2022, under the ‘law’ on access to information. The ‘directorate’ provided statistics only for “inadmissible travellers”¹⁵ (INAD) between January 1, 2022, and November 1, 2022, as well as deportation statistics until November 2022. Syrian nationals, who are required to obtain a visa upon arrival, are categorised as INAD travellers and are not allowed entry without a ‘visa’. The numbers of INAD travellers are as follows for each month: January 7, February 5, March 15, April 5, May 4, June 6, June 6, July 15, August 6, September 16, October 20 and November 0. The numbers of deportations are as follows: January 56, February 76, March 64, April 66, May 39, June 122, July 33, August 159, September 37, October 47 and November 103. These practices violate the principle of non-refoulement, in other words, contradicting the prohibition of torture. Without any risk assessment, Syrians are deported to the Republic of Turkey (RoT) if they have a RoT visa, otherwise they are first deported to the RoT and then to Syria.¹⁶

¹² Interview with suspect S. on 22.02.2023.

¹³ Interview with Yemeni refugee A. on 18.08.2022.

¹⁴ Naked search at the central ‘prison’, Avrupa newspaper, 21.10.2022, cover.

¹⁵ The term is used to describe travellers who are not allowed by the relevant ‘authorities’ to enter the northern part of Cyprus

¹⁶ Interview with lawyer Zeliş Sanı on 07.03.2023.

LIBERTY, SECURITY OF PERSON AND FAIR TRIAL DURING ARREST AND TRIAL PROCEEDINGS

‘LEGISLATION’

The international standards emphasise that detention should be the exception rather than the norm. However, states often resort to the power of detention and imprisonment in response to public outcry against crime. Detention for security purposes is automatically used as a default measure even when alternatives could be employed during the trial proceedings.¹⁷

Since a detained person is cut off from society, they may face violence and unlawful behaviour as a result of the abuse of power by state authorities. To address this concern, many international legal texts and conventions have established safeguards. Reports from the European Committee for the Prevention of Torture (CPT) highlight the importance of effective complaints and monitoring procedures in combating torture and ill-treatment in prisons. Detainees and prisoners should have channels of complaint available to them inside or outside the prison, including confidential contact with the relevant authority.¹⁸ Article 5 of the European Convention on Human Rights (ECHR), Article 9 of the International Covenant on Civil and Political Rights (ICCPR), and Article 14 of the European Convention on Human Rights in the Field of Information Society Services (EHIS) regulate the right to liberty and security. Additionally, Article 10 of the ICCPR governs the rights of the accused. Furthermore, Article 6 of the ECHR emphasizes the significance of ensuring certain rights, including the presumption of innocence, in relation to the right to a fair trial.

‘Article 16’ of the ‘constitution’ establishes ‘regulations’ on “Liberty and Security of the Person” while ‘Article 17’ addresses “Freedom to Seek Rights and Due Process”. In terms of content, these articles align with the ECHR’s provisions on the rights to liberty and security and a fair trial.

Upon analysis of the current ‘laws’, it becomes evident that one of the major problems lies in the gaps pertaining to free legal aid. ‘Article 4 of chapter 155 the law’ on criminal procedure addresses the appointment of a lawyer by the ‘court’, granting discretionary power to the ‘court’ to appoint a lawyer if deemed necessary based on the gravity of the matter. However, this falls short of the comprehensive right protected in both international texts and the ‘constitution’. The current ‘regulations’ are incomplete. Legal assistance should encompass legal representation but also legal information and advice, representation in local, regional, and international courts, legal training, legislation drafting, and advocacy. It is crucial to address another issue that arises in the aftermath of torture, ill-treatment or violence namely the security of survivors. The UN Declaration on this matter makes it clear that survivors must be protected from further criminalisation, including reprisals and intimidation. Without this guaranty, survivors may hesitate to report such acts. Support and assistance mechanisms should encompass more than just legal information. According to the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), necessary material, medical, psychological and social assistance should also be provided.

¹⁷ Action Guide to Combat Torture, Amnesty International Publications, 2013, p. 126.

¹⁸ CPT General Comment No. 2 (CPT - Inf 92/3).

In order to prevent delays in accessing a lawyer for individuals in police custody, systems should be set up, in collaboration with professional organisations, whereby lawyers can be selected from pre-prepared lists, thereby avoiding potential delays. It should include the right to be contacted and visited by a lawyer (in both cases under conditions that ensure the confidentiality of conversations), as well as the right to have a lawyer present during questioning.

This service should be provided from the investigation stage onward, without being subject to the discretion of any authority. The only consideration that may be taken into account is whether the person has sufficient financial means to receive legal assistance. In fact, the primary purpose of legal assistance is to facilitate effective access to justice for vulnerable groups who are disadvantaged in society.

IMPLEMENTATION

The fact that legal assistance is not provided from the investigation stage and that there is no obligation to be accompanied by a lawyer creates grounds for torture and ill-treatment and violates the right to a fair trial. For example, S. reported that he only had access to his lawyer three days after his arrest in April 2022. His statement was taken on the first day.¹⁹

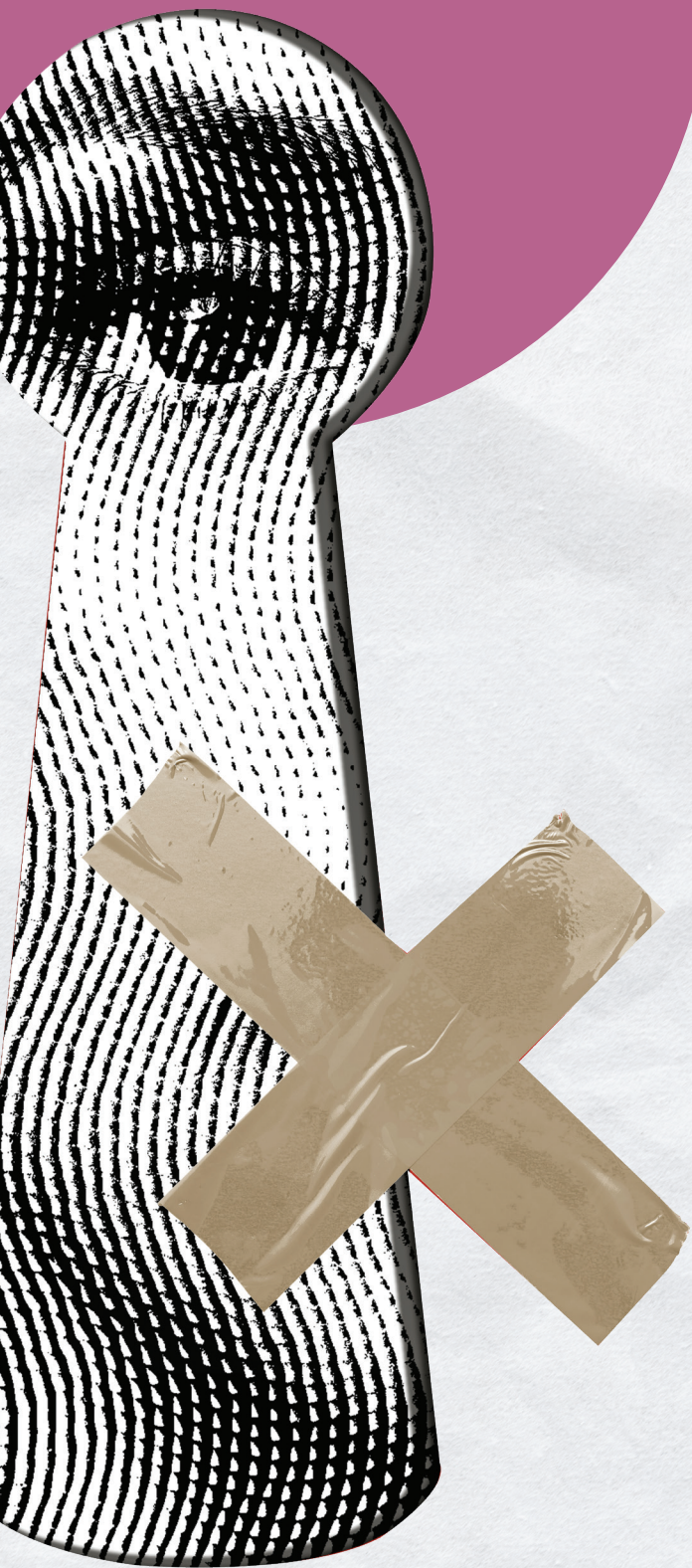
In response to an information request submitted to the ‘central prison’ regarding the refugees’ access to lawyer and interpreter services, it was stated that only 15–20 people out of 779 convicted refugees requested to make use of such services in 2022. While it is possible to consult with a lawyer at any time according to the ‘constitution’, people convicted of a criminal offence and held in ‘prison’ are prevented from seeing a lawyer unless they have an ongoing case.

A recent practice has gravely infringed upon the right to liberty and security of persons, particularly those who are detained without a detention order following the completion of their sentences. Some prisoners convicted and sentenced to imprisonment for irregular entry into the in the northern part of Cyprus or breaching a military zone are being held in pre-trial detention at the Yıldız Dormitory without any legal basis. Their ‘detention’ continues even after their convictions have expired, solely for the purpose of testifying in the trial of individuals arrested for the offence of trafficking in human beings. Generally, foreign prisoners are released from ‘prison’ and deported once their sentences have been served. According to legal provisions, individuals declared prohibited migrants cannot be arrested or imprisoned for more than eight days.²⁰ However, this rule has been violated for about a year, and persons whose sentences have been completed are unjustly deprived of their liberty as witnesses, although there is no ‘court’ decision.²¹ As a result of the petitions written by lawyers to the ‘general directorate of police’, either individuals awaiting trial are brought to trial early or deportation is carried out upon application of a “writ of habeas corpus” for the lifting of unauthorised detention as stipulated in ‘article 151 of the constitution’. As such, detention ends before the ‘court of cassation’ can render any judgement.

¹⁹ Interview with suspect S. on 22.02.2023.

²⁰ Chapter 105 of the ‘law’ on aliens and Immigration art. 13/f2.

²¹ Interviews with Av. Tekin Söymek and Av. Zeliş Sarı on 22.02.2023.



W. and H., Syrian nationals against whom a dismissal order was issued after completing their sentences, were unlawfully detained from 22/07/2022 until 01/02/2023, initially at the Nicosia 'police headquarters' and later at the Yıldız Dormitory, in order to testify for the 'prosecution' in human trafficking trials.²² Similarly, a parent and two children were detained at the Yıldız Dormitory from 22/07/2022 until 01/02/2023 to testify in a human trafficking case against individuals alleged to have illegally smuggled them into the northern part of Cyprus, despite their sentences having expired around October 2022.²³ In both cases, correspondence between the 'police force' and the 'ministry of the interior' resulted in the suspension of removal proceedings for the individuals concerned. However, instead of being released, these individuals continued to be arbitrarily deprived of their liberty at the Yıldız Dormitory, which operated as a 'police' custody facility, with locked iron bars on the doors of their rooms, rendering them unable to leave voluntarily until the relevant cases were heard.

²² Interview with Av. Zeliş Sarı on 22.02.2023.

²³ Interview with Av. Tekin Söylemez on 22.02.2023.

PROTECTIVE MEASURES TO PREVENT TORTURE AND ILL-TREATMENT AND STANDARDS FOR DETENTION CENTRES

‘LEGISLATION’

Article 2 of the ICCPR imposes an obligation on state parties to recognise and uphold the rights enshrined in the Convention, without any form of discrimination. It further emphasises the necessity of implementing legal and institutional measures to effectively safeguard these rights. General Comment 20 on Article 7 of the Convention highlights not only the prohibition and criminalisation of torture but also the requirements for prevention, effective investigation, punishment and compensations.²⁴

The CAT provides a much more comprehensive account of what needs to be done to prevent torture and ill-treatment. The Convention underscores several key points: Torture should be criminalised²⁵, public officials involved in detention and arrest should receive trainings²⁶, prompt and impartial investigations should be conducted in case of torture allegations²⁷, victims of torture should be compensated²⁸, asylum seekers should not be returned to countries where they are likely to face torture and persecution²⁹.

Too many detainees and prisoners around the world are held in conditions that undermine their physical and mental well-being, thereby posing threats to their health and even their lives. Factors such as inadequate health and legal services, overcrowding, isolation, food scarcity, poor hygiene, and more contribute to an environment that can be characterised as a form of ill-treatment or even torture. The “Standard Minimum Rules for the Treatment of Prisoners”, commonly referred to as the “Nelson Mandela Rules”, were adopted by the UN Economic and Social Council in 1955 and updated in 2015.

The Nelson Mandela Rules emphasise the importance of using non-custodial measures to reduce prison overcrowding, including alternatives to pre-trial detention, particularly at the trial stage. They promote greater access to justice and legal defence mechanisms, as well as support for rehabilitation and social reintegration programmes for detainees and prisoners.³⁰ Article 11, which addresses categorisation, highlights the need for separate facilities for women and men, prisoners and detainees, individuals convicted for debt, and young people and adults. Additionally, the rules emphasize the importance of ensuring adequate daylight, size, and ventilation in the living and working spaces. The provision of an adequate number of showers and toilets, as well as free access to medical and psychological support is also emphasized. In the event of torture and ill-treatment, health officials are obliged to document such cases and report them to the competent medical, administrative, or judicial authorities.³¹

24 UN Human Rights Committee General Comment 20 (1992) on Article 7 of the ICCPR, A/47/40, Annex VI.B

25 Article 4 of CAT.

26 Article 10 of CAT.

27 Article 12 of CAT.

28 Article 14 of CAT.

29 Article 3 of CAT.

30 “United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)” revised para. 12, Ankara, Human Rights Foundation of Turkey Publications 121, June 2019, <https://tihv.org.tr/iskenceye-karsi-uluslararasi-belgeler/nelson-mandela-kurallari-mahpuslara-muameleye-dair-birlesmis-milletler-asgari-standart-kurallari/>

31 The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) were adopted as an annex to United Nations General Assembly resolution 70/175 of 17 December 2015.

Access to a lawyer must be ensured without exception at all stages of detention or imprisonment. Article 61 guarantees prisoners the adequate opportunity, time and facilities to meet, consult and speak with a lawyer or legal assistance provider of their choice, without delay or interception, uncensored and in complete confidentiality, in accordance with local laws.

Prison inspections are regarded as one of the most crucial protection mechanisms. Rule 83 of the Nelson Mandela Rules outlines the following principles regarding the inspections:

- Internal or administrative inspections conducted by the central prison administration;
- External inspections conducted by a body independent of the prison administration, which may include competent international or regional bodies.”

The Recommendation of the Committee of Ministers of the Council of Europe (CoE) on the European Prison Rules also includes provisions on access to legal assistance and the inspection of detention centres by independent bodies.³²

The recommendation, known as the Tokyo Rules³³, is designed to ensure greater community involvement in the administration of criminal justice, particularly in the rehabilitation and reintegration of offenders, as well as to foster a sense of responsibility towards society among offenders.

The UN Optional Protocol to the Convention against Torture (OPCAT), adopted by the UN General Assembly in 2002, aims to ensure visit-based monitoring of centres of detention. The Protocol envisions the establishment of local-level mechanisms and requires reporting through visits to be carried out throughout the country. The objective, mandate, independence, election of members, autonomous budget and powers of the local preventive mechanism should be legally determined.³⁴

For social groups with different needs, similar rules have been introduced for health, housing, labour and protection. During the detention period, internal and external audits are conducted and reports are prepared. It is crucial to keep disaggregated data within these reports, particularly by age and gender.³⁵ This enables the identification and monitoring of measures and protective mechanisms more effectively.

According to ‘chapter 286 law on prison discipline’³⁶ specific procedures for disciplining both prisoners and ‘prison staff’ shall be established through ‘regulations’. ‘Articles 4 and 6’ of the ‘law’ stipulate that ‘prison’ discipline and staff discipline shall be laid down in ‘regulations’. ‘Article 7 of the law’ stipulates that if offences related to statutory breaches are alleged to have taken place within or in connection with a ‘prison’, the ‘prison director’ has the authority to initiate summary proceedings. During these proceedings, the director can impose appropriate penalties on the perpetrators as prescribed by the relevant statutes.

32 Recommendation Rec(2006)2-rev of the Committee of Ministers to Member States on the European Prison Rules, Rec(2006)2-rev, 01.07.2020, <https://rm.coe.int/cm-revision-of-epr-01072020-tr/1680a09978>, accessed 25.02.2023

33 The United Nations Minimum Standard Rules on Non-custodial Measures (Tokyo Rules) were adopted by the United Nations General Assembly Recommendation A/NeB/45/110 dated 02.04.1991.

34 Altıparmak and Uçpınar, The Optional Protocol to Prevent Torture and the Evaluation of Visit Practices in Turkey, p. 134.

35 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment GENERAL OPINION No. 2* Implementation of Article 2 by States Parties, para 23, CAT/C/GC/2 24.01.2008, http://ihop.org.tr/wp-content/uploads/2007/04/CAT-Genel_Yorum-No02.pdf, accessed 23.02.2023.

36 Chapter 286 (As Amended by Law No. 48/1995) ‘law on prison discipline’ available at <https://www.mahkemeler.net/cgi-bin/elektrosharf.aspx?which-letter=C> Access date, 26.02.2023.

Although the 'prisons' 'regulation' issued under 'article 4 of chapter 286, law on prison discipline' seems to address the most fundamental rights that should be provided to prisoners and convicts, it can be argued that the 'regulation' is open to arbitrariness due to its lack of clear rules. Noteworthy articles in the 'regulation', which in fact infringe upon rights include forced feeding 'art. 23, corporal punishments art. 29, beating punishment art. 149'.

One of the primary objectives envisaged by international law and expected from states is the effective monitoring and supervision of torture and ill-treatment through the physical conditions and functioning of centres of detention. At this point, the only 'authorised body' in 'domestic law' is the 'prison advisory board', which is regulated in 'articles 45-50 of the regulation on the prisons'. However, the 'board' consists of persons appointed by the 'council of ministers' and the 'district governor' of Nicosia. In other words, all members are political appointees. Likewise, the director of the 'prison' is appointed through a process known as a triple decree, requiring the approval of political 'authorities'. The whole situation hinders objective monitoring and reporting.

'Chapter 157 of the law on juvenile offenders'³⁷ is inadequate and outdated for the operation of a juvenile justice system that respects human rights in accordance with the Convention on the Rights of the Child (CRC) and includes many regulations that consist of rights violations. Although the 'law' specifies the establishment of juvenile detention centres, they do not exist in practice, resulting in children being sent to 'prison'. Article 12, titled Methods of Procedures to be Applied to Children Who Commit Offences, specifies the "flogging" punishment. In fact, the analysis of the continuation of the regulation indicates that imposing only the flogging punishment prevents the decision from being appealed.

The Committee on the Rights of the Child (CRC) has made it clear that corporal punishment as a sanction is a violation of the rights of the child. Referring to the Convention on the Rights of the Child, the committee highlights the child's right to protection from corporal punishment and other cruel or degrading forms of punishment.³⁸ Article 37 of the Convention requires states to ensure that "no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment". Corporal punishment and other forms of cruel or degrading punishment constitute acts of violence and states must take appropriate legislative, administrative, social and educational measures to eliminate them.³⁹ This article should be repealed even if it is no longer applicable.^{40 41}

'Article 3 of the law no. 51/1984' on the 'police organisation' stipulates that "the functioning, operation, management, supervision, discipline and control of the organisation shall be carried out by the "security forces command (GKK)". This provision creates a structure that operates independently from civilian 'administration', making it challenging for civilian 'authorities' to monitor and supervise the internal operations of the 'police organisation'. If an allegation arises against a 'police officer' for the abuse of their duties in accordance with the 'laws' and 'regulations', it is possible to initiate a disciplinary investigation against the 'police officer' as outlined in 'article 106'. However, the 'police force disciplinary commission' as regulated in 'article 107 of the law' is the one conducting this investigation. It is important to note that such a structure does not provide for an independent investigation. In cases involving criminal offences falling under the jurisdiction of 'criminal law', separate criminal proceedings may also be carried out, but these proceedings also remain within the purview of the 'police organisation'.

³⁷ Chapter 157 'law on juvenile offenders', available at

<https://www.mahkemeler.net/cgi-bin/elektroksharf.aspx?which-letter=%C3%87>, last accessed: 26/02/2023.

³⁸ Committee on the Rights of the Child, "General comment No. 24 (2019) on children's rights in the child justice system", para. 75,

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/275/57/PDF/G1927557.pdf?OpenElement>, last accessed: 18/3/2023.

³⁹ Committee on the Rights of the Child, "General comment no. 8 (2006) - The right of the child to protection from corporal punishment and other cruel or degrading forms of punishment", para 18, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkGld%2FPPRiCAqhKb7yhsqkirkQZLK2M58RF%2F5F0vF1b6rTFNjw4eY3W5adlOuDFzpiGdKUZ8oRYHJyiPeOS%2Bc-Q90I8KHM75DD7B5IIMbhlZPgDtB5J7OmNi%2BoP0erF>, last accessed: 18/03/2023.

⁴⁰ Age, para 32.

⁴¹ 'law' no. 51/1984 on 'police organisation' (Establishment, Duties and Powers)', available at ", <https://www.mahkemeler.net/cgi-bin/elektroksharf.aspx?which-letter=P>. Date of access, 26.02.2023.

IMPLEMENTATION

After the completion of the building, which remained vacant for about a year and a half, the relocation to the new 'prison' was finalised in November 2022. The responses to an information request submitted to the 'central prison' on 04/01/2023 to assess the situation in 2022 are as follows:

- No complaints have been filed against the guards.
- Due to the Covid 19 pandemic and the process of moving to the new 'prison', the trainings within the 'prison' could not be carried out.
- The old 'prison' had a capacity of 375 inmates while the new one has a capacity of 625, resulting in a total capacity of 850 inmates across both 'prisons'.
- 13 male wards in the former 'prison'; 3 toilets, 2 bathrooms in each ward. 4 female wards; 1 toilet, 5 bathrooms in each ward. 45 male wards in the new 'prison'; 2 toilets and 1 bathroom in each ward. 4 female wards; each ward consists of 13 separate rooms, 1 toilet, 1 bathroom in each ward. 62 children's wards, 1 toilet, 1 bathroom in each ward. Each ward has its own yard.
- 1 female and 1 male⁴² prisoner passed away in the former 'prison' due to illness.
- Foreigners receive interpreter support from wardens and psychologists. Although requests made to the 'ministry of foreign affairs', no interpreter support has been provided.
- The old 'prison' relied on stoves for heating and fans for cooling, while the new 'prison' is equipped with a central air conditioning system.
- There is 1 dentist (Thursdays), 1 psychologist (every day during working hours), 1 doctor (Mondays and Thursdays) working in the 'central prison'.
- 3 meals are provided free of charge. Prisoners and other detainees can meet other needs from the 'prison canteen' with the money deposited in their accounts.
- The 'central prison' houses blacksmiths, electricians, ceramics, bookbinders and maintenance and repair workshops. Only inmates are offered work opportunities in 'ministries' and are paid the wages laid down in 'legislation'.

In response to a request submitted on 18.11.2022 regarding conducting visits to 'prisons' and 'police stations', only access to the new 'prison' was granted, however, visiting the old 'prison' and 'police stations', which are under the control of the 'military' rather than civilian 'administration', were not allowed.

⁴² "Osman Demir lost his life", <https://www.yeniduzen.com/osman-demir-yasamini-yitirdi-151523h.htm>, accessed 23.02.2023.



The first-hand information obtained during the visit to the new 'prison' on 30/11/2022 together with the management of the 'Turkish Cypriot bar association' (KTBB) ⁴³ is as follows:

- The 'prison' accommodates 580 people out of the 625 inmate capacity. 160 people have been released from the former 'prison', mainly asylum seekers and refugees who were prosecuted for border violations.⁴⁴
- A psychologist has yet to be hired.
- The rooms for the disabled are single rooms but are only suitable for the physically disabled. The 'prison' is not equipped to meet the needs of visually impaired people. Likewise, there is a female prisoner with hearing and speech disabilities who does not have access to a dedicated interpreter, she relies on assistance from other inmates in her section.
- Women's wards consist of single rooms. The common area television switches off at 01:00. The yard in the ward for 13-14 persons covers an area of approximately 180 square metres. Fresh water is available at all times.
- Two HIV+ foreign women are incarcerated but since it was not possible to talk to them one-on-one, it was not possible to ascertain how their health needs are being addressed. Likewise, due to the problems their families have in sending money, they rely on their ward mates to meet their basic needs.
- Workshops are not yet operational. There are personnel shortages.
- While Greek and English-speaking staff are available, Arabic-speaking detainees and inmates face a shortage of interpreters.
- A card system is used for shopping in the canteen. If foreigners do not have access to a lawyer, their families cannot send them money from their home country. They rely on other inmates for their money needs.
- There is a telephone in the corridor, but those who do not have money cannot use it.
- There is a ward system in the male section. The common yard is considerably smaller than for women. For a ward of 14 people (the wards are built for 10 people) there is 40 square metres of yard. Some of the beds in the ward do not have sheets and duvets. Although the 'prison administration' said that the prisoners did not want them, this could not be confirmed as we did not have the opportunity to speak to the prisoners individually and out of earshot of the guards.

In recent times, both inmates and labour unions have periodically protested against 'prison' conditions. On 15/03/2022, Güven Bengihan, the chairperson of the Turkish Cypriot 'public' employees' union (Turkish: KTAMS), stated that the 'central prison', originally built for 175 people in 1982, currently houses 578 inmates and other detainees.⁴⁵ The inhumane conditions in the old 'prison' have led to hunger strikes among inmates on multiple occasions.⁴⁶

Due to the denial of access to 'police stations' and the lack of response to the information request submitted to the 'director general of police' on 04/01/2023, information was obtained from individuals who were held in 'police' cells for periods of detention and arrest exceeding 24 hours.

43 'KTBB' chairperson Hasan Esendağlı: "Moving to the new 'prison' with very serious deficiencies caused concern" <https://www.yeniduzen.com/esendagli-cok-ciddi-eksikliklerle-yeni-cezaevine-tasinma-endise-yaratti-157695h.htm>, access date, 25.02.2023.

44 Refugees are not sent to prison, but to a "former 'prison' that no longer looks like a prison" <https://www.yeniduzen.com/multeciler-hapse-degil-hapis-gorunumunden-cikarilmis-eski-cezaevine-159393h.htm>, accessed on 25.02.2023.

45 "Neither the building nor the number of personnel can keep up with the increasing number of crimes", <https://www.yeniduzen.com/ne-bina-ne-de-personel-sayisi-artan-suclara-yetisebiliyor-150637h.htm>, access date, 23.02.2023.

46 Öztürkler Listened to the Prisoners' Problems <https://icisleri.gov.ct.tr/AR%C5%9E%C4%B0V/214zt220rkler-mahkumlarin-sorunlarini-d%C4%B0ned%C4%B0>, access date, 26.02.2023.

In the light of the information obtained, the following general observations can be made: Cells in 'police stations' are structures designed for short-term arrests. In these cells, detainees sleep on broken concrete, are fed very basic and uniform food, children and adults are kept together, have limited or no access to the outside world or to their lawyers. Additionally, the showers in the cells lack adequate hygiene, the cells are narrow with no daylight and insufficient ventilation, and there is a possibility of exceeding the cell capacity at times. Detainees are not allowed outdoor access, and the psychological services available in 'prisons' are not provided in the cells. Furthermore, children are being deprived of their right to education.

S. was detained at the Kyrenia 'police headquarters' in April 2022 for approximately 13 days. According to his account of experiences during this period:

- There are no beds in the cells, he slept on the concrete floor.
- Blankets with a strong odour that have not been cleaned for a very long time.
- There is 1 shared toilet cleaned by the detainees and 1 non-functional bathroom.
- For the first 5 days, S. stayed in a dark and poorly ventilated area with no light, windows, or ventilation, along with 5 other individuals. He was unable to perceive the time of day or night due to the constant darkness. Afterwards, he was transferred to another cell of about 4 square metres where two people were kept. He was left alone for the last 3 days.
- Due to the circumstances, S. was unable to sleep for 3-4 nights.
- He was given 2-3 pieces of cheese in bread as food, the food brought by his family was not delivered to him. Sometimes he received tea, even if it was cold.
- There was no way for him to change his clothes, or buy new ones.
- He did not feel safe during his stay there, there was constant smoking and he could not breathe properly.⁴⁷

17 year old Greek Cypriot C. was arrested on 11/11/21 and according to his own statement was subjected to extreme violence. On 12/11/21 he was brought to the Famagusta 'criminal court' for arrest and a 3 day detention order was issued. On 15/11/21, C.'s detention period was extended to 18/11/21. On 18/11/21, Famagusta 'criminal court' ordered C. to be detained in the 'central prison' for a period not exceeding 45 days until the cases against him were prepared. Between 18/11/2021 and 5/12/21, despite the 'court' order, he was held at Famagusta 'police station' instead of the 'prison'. During this period, he filed a complaint No. 557/2022 on the grounds of the inhumane conditions of his detention. According to C's allegations, the conditions were as follows:

- Although C. was 17 years old, he was housed with adults.
- In an area of 2 x 2 square metres, C. slept on broken concrete in a cell without a bed.
- There was no daylight in his cell, it was dark. There was no heating.
- C. was able to take cold showers twice a week. The shower and toilet lacked hygiene.
- They were given three sandwiches a day, the ingredients of which were sometimes spoilt.
- Some nights the cell door was not opened for C. to go to the toilet and he was given a bottle instead.
- C. never felt safe because there were not enough English-speaking staff.
- C. was unable to meet with his lawyer often or long enough.

⁴⁷ Interview with suspect S. on 22.02.2023.

Based on the information provided, C., who brought case No. 588/2022 on 6/12/21-8/8/22 alleging inhumane treatment in the former 'prison'⁴⁸, reported the following conditions:

- Although a child under 18 years of age, he was kept with about 20 adults who were constantly smoking.
- In addition to the fact that the ward did not receive enough daylight, it was also poorly ventilated, there was no stove and the windows did not close.
- He was not provided with adequate heating between December 2021 and April 2022, the coldest period of the year.
- During the hot months of May and June, and until the day of his release in July, C. had to rely on a fan he had bought with his own money to cool down.
- The toilets in the 'prison' were unhygienic and did not meet basic standards.
- He always had to shower with cold water in an environment infested with worms..
- Inadequate nutrition in terms of quantity, quality and diversity.
- Psychological services were not consistently provided. Although he met with a 'prison' psychologist in February or March 2022, subsequent meetings were not arranged despite his request.
- He was unable to pursue his education.
- The frequency and duration of meetings with his lawyer and family were insufficient.
- Some prisoners and guards mistreated him because he was a Greek Cypriot.
- He was not given the opportunity to write letters, follow the press in a language he understood, and was not provided with books in his own language.
- The claimant was unable to participate in any cultural activities.
- The claimant was not given the opportunity to exercise except for lifting weights.
- The claimant never felt safe due to the lack of staff proficient in either English or Greek.
- The claimant was not informed of his rights during his period of deprivation of freedom.
- The claimant's friends who were under the age of 18 were not allowed to visit him.
- Poor telephone connection made it difficult for him to contact his family.
- The claimant was not given any written document about the rules he had to follow when he entered the 'prison', or it was not explained to him in a language he could understand, and/or it was not explained to him at all.
- He could not watch TV and/or read newspapers in a language he could understand and was completely isolated from the outside world.

In the response from the 'central prison' on 04/01/2023, it was mentioned that all refugees were held in the old 'prison', with 25-30 people housed in 100-120 square metre sections, and yards of 50 square metres for these people.

⁴⁸ Case numbers 557/2022- 588/2022 filed by Lawyer Öncel Polilli at the Nicosia and Famagusta 'district court'



The Bulgarian transgender, who was tried and convicted on 13/12/2022, submitted the following points to the ‘court’ through their lawyer⁴⁹

- Due to the ‘prison administration’s inability to decide whether to place the individual in a male or female ward, they were accommodated in a room alone, leading to conditions of isolation. They had no contact with anyone during meals or socialisation, causing them psychological distress.
- They were unable to use the hormone pills they used during their transition process as those pills were not on the list of permissible medications in the ‘prison’. They had difficulty in accessing a doctor, violating their right to healthcare.

Apart from these issues, a significant development took place concerning the amendment of the ‘prison’ ‘law’. One of the most critical ‘articles’ of the ‘law’, which was discussed and agreed upon by the northern part of Cyprus ‘parliamentary committee on administrative, public and health affairs’, is the part that allows the use of pepper spray inside the ‘prison’. However, when the ‘law’ was brought to the ‘plenary’ of the ‘parliament’, a proposal was submitted to remove the words “pepper spray, baton, pepper spray, handcuffs and similar devices” from the text.⁵¹

49 The information provided by lawyer Yağmur İzcan to the ‘court’ on 13.12.2022 was monitored during the hearing and added to the report.

50 Aslı Murat, “How Are We Legalising the Use of Pepper Gas and Firearms in ‘Prison?’” <https://www.yeniduzen.com/cezaevinde-biber-gazi-ve-atesli-silah-kullanimini-nasil-yasalastiriyoruz-19242yy.htm>, accessed on 13.02.2023.

51 northern part of Cyprus ‘parliament’ ‘journal of minutes’, 29th Meeting 27 June 2022, Monday, p. 97 et seq.

COMPENSATION FOR VICTIMS OF RIGHTS VIOLATIONS

‘LEGISLATION’

When state officials are found responsible for torture and ill-treatment, the state has an obligation to compensate the victims. Article 14 of the CAT stipulates that:

“(1) Each State Party is required to ensure, within its legal framework, that victims of torture are entitled to receive just and adequate compensation for the harm suffered and to obtain feasible, fair, and appropriate reparation, including potential rehabilitation. In the event of the death of the victim resulting from an act of torture, their dependents are entitled to compensation as well.

(2) It is important to note that this article does not diminish or interfere with the right of the victim or any other individuals to seek compensation available under domestic law.”

In general, the CAT Committee calls on state parties to compensate victims.⁵² The CAT Committee also reminded⁵³ state parties that they should develop legislation in this regard and suggested the establishment of a national compensation fund for this purpose.⁵⁴

Chapter 148 law’ on torts,⁵⁵ serves as a ‘legal instrument’ that enables individuals to pursue legal action and seek compensation for damages they have suffered.

IMPLEMENTATION

On July 9, 2011, Pembe Birinci, who was subjected to physical assault by the ‘police’ during a demonstration held in front of the former Cyprus Turkish Airlines (KTHY) building to protest the visit of then Turkish Prime Minister Recep Tayyip Erdoğan to the island, successfully won her lawsuit for compensation against ‘chief inspector’ Aslan Coşkun and the ‘general directorate of police’.⁵⁶

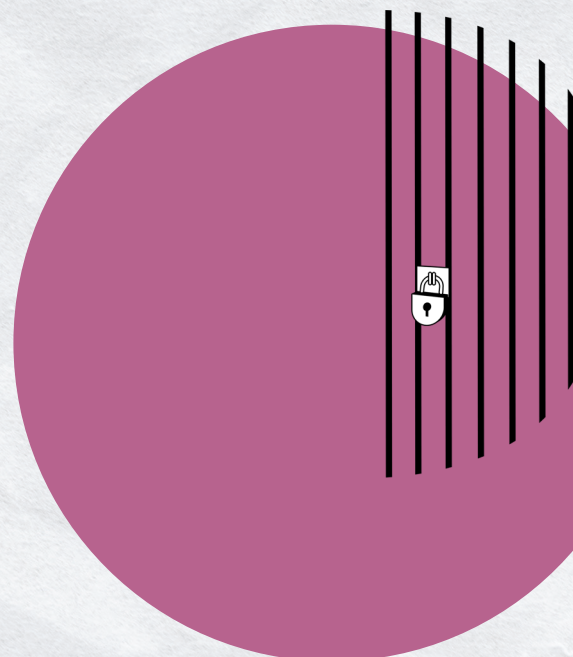
52 A/50/44, para 11, Morocco.

53 A/56/44, para 66(a), Cameroon.

54 A/53/44, para 118(h), Cuba.

55 Chapter 148 Torts ‘law’, available at <https://www.mahkemeler.net/cgi-bin/elektroksharf.aspx?which-letter=H>, accessed on 26.02.2023.

56 ‘court’: “police” guilty <https://www.yeniduzen.com/mahkemepolis-suclu-13267lh.htm>, “ ‘dgp’ and ‘police officer’ to pay compensation for ‘assault’” <https://www.kibrisgazetesi.com/kibris/pgm-ve-polis-darp-tazminat-odeyecek-h126093.html>, access date, 22.02.2023.



CONCLUSIONS AND RECOMMENDATIONS

The 'administration' should undertake several key steps to address the prevention of torture and ill-treatment, eradicate impunity, and establish a fair punishment system. These steps include prohibiting torture in the legal framework, ensuring effective investigation of all complaints and reports of torture and ill-treatment, as well as prosecuting and holding accountable those responsible, and compensating individuals who have been subjected to rights violations. The 'administration' must actively engage with existing international conventions and monitoring mechanisms in the field of law.

- The act of torture and ill-treatment should be criminalised in 'chapter 154 criminal law'.
- The 'law' on juvenile offenders should be promptly amended to incorporate a contemporary legislative framework that ensures child-friendly criminal justice within the existing 'legislation'.
- Ensure that 'police' and 'prison' guards who come into contact with vulnerable groups receive regular training on human rights, in particular on the prohibition of torture and ill-treatment.
- A juvenile police unit should be established within the 'police' organisation, staffed by specialised 'police officers' trained in child rights.
- An asylum system should be established to ensure the rights of people in need of international protection.
- Asylum-seekers and refugees should not be treated as criminals on the grounds of irregular entry and should not be returned to their countries of origin.
- Efforts should be made to enhance the effectiveness of the 'legislation' concerning free legal assistance, and if required, a separate 'law' on legal assistance should be developed for better 'regulation'.
- Free, competent and impartial interpreters should be available in all 'centres of detention'.
- The Istanbul Protocol procedures and methods should be used for mandatory and systematic health checks of persons in custody, detainees, and convicts.
- An amendment to 'Chapter 155 law' on criminal procedures should be made to ensure that statements obtained without the presence of a lawyer and in camera cannot be admitted as evidence in 'court'.
- Alternative measures to 'pre-trial' detention and imprisonment should be developed and the relevant provisions of 'chapter 155 the law' on criminal procedures should be diversified in this respect.
- 'Detention centres' such as 'police stations', 'prisons' etc. should be reorganised in accordance with the standards set by the European Committee for the Prevention of Torture in terms of accommodation, provision of special needs, health and hygiene.
- The Optional Protocol to CAT should be incorporated into domestic 'law' through ratification 'legislation'.
- A "local Prevention Mechanism" should be established to inspect 'detention centres' such as 'police stations' and 'prisons', inspections should be carried out at routine intervals and the reports prepared should be made accessible to the 'public'.

INTERVIEWS

Interview with suspect S. on 22/02/2023.

Interview with Yemeni refugee interpreter A. on 18/08/2022.

Interview with lawyer Zeliş Sarı on 07/03/2023.

Av. Tekin Söylemek Interview conducted on 22/02/2023.

NEWS IN THE PRESS

'police' once again on the agenda with violence incident,

<https://www.yeniduzen.com/polis-yine-siddet-olayıyla-gundemde-117441h.htm>

'Police officer' sentenced to 50 days in 'prison' for violence against passenger at Tymbou/Ercan 'airport'

https://www.kibrispostasi.com/c35-KIBRIS_HABERLERI/n373701-ercanda-yolcuya-siddet-uygulayan-polis-50-gun-hapis-cezasina-carptirildi

The 'police' grabbed my client by the throat and beat him

<https://www.yeniduzen.com/polis-muvekkilimin-bogazini-sikip-darp-etti-155907h.htm>

During the protest, he beat the 'police'!

<https://www.gundemkibris.com/eylem-sirasinda-polisi-darp-etti>,

'Police' violence: They grabbed the 'municipality' employee by the throat

<https://gazeddakibris.com/polis-siddeti-belediye-emekcisinin-bogazina-sarildilar/>

Osman Demir lost his life

<https://www.yeniduzen.com/osman-demir-yasamini-yitirdi-151523h.htm>

Esendağlı: Moving to the new 'prison' with major deficiencies caused concern

<https://www.yeniduzen.com/esendagli-cok-ciddi-eksikliklerle-yeni-cezaevine-tasinma-endi-se-yaratti-157695h.htm>

Refugees not in 'prison', but in a "former 'prison' no longer looking like a 'prison'

<https://www.yeniduzen.com/multeciler-hapse-degil-hapis-gorunumunden-cikarilmis-eski-cezaevine-159393h.htm>

Neither the building nor the number of staff can keep up with the increasing number of crime.

<https://www.yeniduzen.com/ne-bina-ne-de-personel-sayisi-artan-suclara-yetisebiliyor-150637h.htm>

Öztürkler listened to the Problems of Prisoners' problems

<https://icisleri.gov.ct.tr/AR%C5%9E%C4%B0V/214zt220rkler-mahkumlarin-sorunlarini-d%C4%B0nled%C4%B0>

Article on the 'prison' (Amendment) 'law', Aslı Murat

<https://www.yeniduzen.com/cezaevinde-biber-gazi-ve-atesli-silah-kullanimini-nasil-yasalastiriyoruz-19242yy.htm>

'Court': the 'police' is guilty Yenidüzen

<https://www.yeniduzen.com/mahkemepolis-suclu-132671h.htm>,

Kıbrıs newspaper: 'dgp' and 'police officer' to pay compensation for 'assault'

<https://www.kibrisgazetesi.com/kibris/pgm-ve-polis-darp-tazminatı-odeyecek-h126093.html>

 **Girne Cad. Nicosia Cyprus**

 **insanhaklariplatformu@gmail.com**

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