

# PRISONERS WITH SPECIAL NEEDS PROJECT FINAL REPORT

NOVEMBER 2013



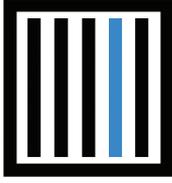
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**Prisoners with Special Needs Project  
Final Report  
November 2013**

**Project Coordinator: Mustafa Eren**

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# PRISONERS WITH SPECIAL NEEDS PROJECT FINAL REPORT

Original in Turkish by **Mustafa Eren**

## INTRODUCTION

The Prisoners with Special Needs Project began in November 2012, lasted a full year, and ended on November 2013.

This project, dealing with prisoners with disabilities, LGBT prisoners, foreign national prisoners, and elderly prisoners, aims to make their conditions clear, to identify problems, and design solutions for these problems. Furthermore, it aimed at raising awareness within the relevant non-governmental organizations, and make them execute activities regarding prisons. The third and final goal of the project was to create documents relating to prisoners with special needs at the end of the project, and to bring these documents to the public's attention as well as to present it to the lawmakers, coordinators and directors of the prisons in order to make improvements in the prisoners' lives.

In order to achieve these aims, the project was carried out in three stages. In the first phase; meetings were arranged with non-governmental organizations working in the area of prisoners with disabilities, LGBT prisoners, foreign prisoners and elderly prisoners.<sup>1</sup> The issues regarding prisons and prisoners provided were included in the agenda of these civil society organizations and the first step was taken in order to facilitate the next stages of the project. In the second stage of the project; three prisons in Istanbul were visited with the attendance of representatives of these civil society organizations. The Ministry refused to allow prisoners to be interviewed during these visits but the living areas of the prisoners were seen and information was received by the prison authorities. In the third stage of the project, the information obtained from the beginning of the project was identified and evaluated with the contribution of civil society organizations.

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1 Three of these meetings were held, while this meeting could not be held due to the absence of non-governmental organizations working in the field of the elderly; studies in this area have been carried out on the basis of interviews and literature.

### **The general findings reached in the aftermath of the three stages of the project were:**

1. It was seen during the project that The Ministry of Justice and General Directorate of Prisons and Detention Houses did not have a policy for prisoners with special needs. (The Ministry's first study on this issue arose after we started the project and shared information with the public.)
2. The Ministry and General Directorate lack statistical data that should be obtained in order to create a policy for prisoners with special needs. In particular, statistics on prisoners with disabilities and LGBT prisoners began recently and because of its criteria could not be included; it is not reliable to make an assessment yet.
3. Statistical deficiencies in the data also show that the Ministry and the General Directorate have not got an accumulation of knowledge and experience for prisoners with special needs.
4. There is no staff recruitment regarding the subject. There is no staff recruitment within the Ministry and the Directorate General, with respect to prisoners with special needs; **as well as no staffing within the prisons and also existing staff are not entered into a study for specialization in this regard.**
5. The applications and the permissions that were obtained suggest that the Ministry and the General Directorate have drawbacks regarding NGOs becoming an actor associated with prisons.

### **Final Reports Relating to Prisoners with Special Needs**

Final reports were prepared for each group after meetings with NGOs, prison visits, parliamentary questions, information applications, and interviews outside the prison.

The findings regarding all prisoners will be shared before presenting reports regarding to disabled, LGBT, foreign and elderly prisoners.

### **General Findings**

-Imprisonment has become a widely used "punishment technique" method in Turkey. According to the Ministry's explanation, the total capacity of the prisons will be doubled within the next 4 years with the construction of new prisons<sup>2</sup>. These statements are very unsettling. While discussions regarding the negative sides of imprisonment are continuing, and new alternatives to imprisonment are researched in the area of social science, law and criminology, it can be seen that Turkey is trying to increase prison capacity and ignore these developments.

During the study there were many examples in which prisoners believed that they should not be in prison. Disabled and elderly people were imprisoned for reasons such as illegal electricity usage, electricity and water bills.

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2 Sadullah Ergin Announces New prison Projects, [Aksam.com.tr](http://www.aksam.com.tr), 24 May 2013

<http://www.aksam.com.tr/guncel/sadullah-ergin-yeni-cezaevi-projelerini-acikladi/haber-209197>

According to Mr. Ergin's statements, 213 units of new prisons with the capacity of 124,000 people will be built between the years 2013-2017.

Alternative “penitentiary” methods should be considered for all prisoners, especially for prisoners with special needs, and imprisonment should be used as a last resort.

The Ministry of Justice and the General Directorate did not allow the meeting of prisoners during prison visits conducted in the project. It is an unacceptable condition not to be allowed to interview the prisoners but only given permission to walk in the prison and take information from the administrative staff.

The Ministry and the General Directorate do not want NGOs to carry out a study in the prisons and are expecting to act within the limits drawn by them and also see that information provided by them as adequate. This attitude is worrisome.<sup>3</sup>

-The Ministry of Justice and General Directorate of Prisons and Detention Houses does not have a study or regulations related to prisoners with special needs or the ability to create a framework of law regarding them. During prison visits what they say of the director of prisons in this regard is quite striking. One of wardens stated that there is no legislation related to disabled prisoners so that they solve problems when they occur. Another warden mentioned that there are written rules as well as unwritten rules; unwritten rules enacted when regarding LGBT prisoners.

-The Ministry and the Directorate General is devoid of reliable statistical data on prisoners with special needs. In particular, the criteria to collect statistical data on disabled and LGBT prisoners have not yet been created. The Ministry and the General Directorate should work together with the relevant NGOs in order to create these criteria.

-It was stated in the response dated 13 September 2013 to our knowledge that the acquisition application dated 23 August 2013 that: 167 psychologists, 281 social workers, and 354 teachers were carrying out work in prisons as of 1 August 2013. According to data of the Directorate General, in August 2011, there were 135,511 prisoners kept in prison, in that case, it is seen that there were 811 prisoners per psychologist, 482 prisoners per social worker and 382 prisoners per teacher.<sup>4</sup>

3 psychologists and 1 social worker are in charge of the Bakırkoy Kadın Kapalı Hapishanesi (Bakırkoy Closed Prison for Women) with 769 prisoners. 2 psychologists, 2 teachers and 1 social worker are in charge of the Ümraniye E tipi Hapishanesi (Umraniye Type E prison) with 900 prisoners. 2 teachers, 2 psychologists and 1 social worker are in charge of the Maltepe 2' nolu L tipi Hapishanesi (Maltepe 2<sup>nd</sup> Type L Prison) with 1000 prisoners.

-These numbers show us that there is an insufficient number of social workers in the prisons, therefore there are not enough social studies conducted regarding prisons, and prisoners are in the palm of correction officers. It can be concluded from this frame that prisons are places that still operate with security concerns and are far from being suitable social living spaces.

-Some courses and workshops were found to stop during prison visits because there are no teachers for the summer period. The absence of teachers can be filled by NGOs efforts when there are

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3 Non-governmental organizations which carry out activities in various fields have been seen throughout the project as they are not sufficiently informed and involved regarding prisons. Our project can be seen as a step to create awareness in non-governmental organizations.

4 During the visit a small number of social workers in prisons were identified.

no teachers at public education centers. For this reason, NGOs should be encouraged to conduct studies regarding prisons.

-It was seen during one of the prison visits that three female colleagues from NGO representatives and academics had to take off their bras in order to pass through detectors and carry them in pieces of old newspapers until they reached the body search area. Representatives of civil society organizations working in the prisons faced with such a situation contrary to their dignity and human rights (seen in some of the events reflected in the report prepared by lawmakers and the courts) while prisoners were faced with naked and “captivity searches” is not understandable. If searching can be made easily with today’s technology why is there still persistence to use these systems?

-Also seen were private businesses that had set up workshops in the prisons and allowed prisoners to work. It is detected that 10% of the total prisoners work in these workshops. Prisoners are working at these workshops for 6-7 TRY a day. This amount of money is only enough for a pack of cigarettes and these prisoners, with limited social activities and without any income, were forced to work just to get away from their cells. It seems like a positive thing for them to work in these workshops to get a chance out of their cells, however it can only be positive for them if the below conditions are applied.

#### **Conditions to be applied:**

- a- It should not be mandatory.
- b- Administration should not discriminate between working and non-working prisoners and should not favour working prisoners (for instance; punishing non-working prisoners by rewarding working prisoners).
- c- The wages of prisoners should be enough to compensate the daily needs of a prisoner.
- d- Working prisoners should have social security.

#### **I -Disabled Prisoners**

1-The Ministry lacks statistical data on disabled prisoners.

It is stated in the Turkey Disability Survey, conducted by the State Institute of Statistics and the Administration of Disabled People under the coordination of the State Planning Organization in 2002, that the ratio of disabled people in Turkey is 12.29. According to this statistical data, coordinated by governmental institutions, every 13 people out of 100 are disabled in Turkey. It is stated in the obtained information in response to our application dated July 8, 2013, that 115 prisoners are disabled in penal institutions and prisons in Turkey. It corresponds to a ratio even less than 1 per cent of over 130,000 prisoners. This situation creates the impression that the Ministry of Justice held a very narrow definition of disability.

According to the response of the General Directorate to our information application, there are 6

prisoners with mental disabilities in prisons and the penal institutions in Turkey. The United Nations' criteria for "mental disability" includes both "psychiatric disability" and "mental disability". The term "psychiatric disability" is used for schizophrenia and bipolar disorder as well as psychosocial disorders like mild anxiety disorders and other milder mental health problems. As for "mental disability", it is used for mental weakness or lack of learning, language, motor or social skills. It is not known which criteria the Ministry takes into account for the term "mental disability".

Again, according to the answer to information application, "chronic disease" is not taken into account as a disability. As referenced above, the Turkey Disability Survey, dated 2002, carried out by state institutions in Turkey, chronic disease described as; "Blood diseases, cardiovascular diseases, digestive system diseases, urinary tract and reproductive organs diseases, skin diseases, cancer, endocrine and metabolic disorders, mental, behavioral disorders, nervous system disorders, HIV" are included in the term disability for the statistical data. Not counting chronic diseases as a disability by the Ministry of Justice means that the statistical data is insufficient.

Recommendation: In order to maintain healthy statistical data regarding disabled prisoners, collaborative work should be carried out with associations for disabled people, and criteria for statistical data should be created and the statistical data should be conducted by this criteria.

2-Prison visits showed that prisons are not built to suit disabled people in terms of architecture. The important thing is that newly built prisons also do not suit the needs of disabled prisoners.

Simply put, almost all prisons built in Turkey after 1980 are built on two floors. The wards are mostly located on the first floors but workshops, ateliers, visitor cabins in some prisons, and medical rooms are located on the second floor in most of the prisons in Turkey. Since there is no equipment for visually and orthopedically handicapped prisoners, it is very difficult for them to use common places as well as other places on the second floor. Besides, Type F, L and T prisons built in Turkey after the year 2000 have two floor rooms. The living space where the bathroom, lavatory, tables and chairs are located are on ground floor, and beds are located on the second floor. This model itself shows that disabled prisoners are ignored. Again in these prisons, essential parts of living spaces and workshops are located on upper floors.

It is obvious that prisons in Turkey have more than one floor; however, the Ministry of Justice stated in both responses to our information applications that "There are 360 prisons across the country. Because these institutions are not multi-floored, there is no case that prevents the living conditions of people with disabilities". In this case, the Ministry shows that it is far from understanding disability and accessibility issues.

Recommendation: Accessibility criteria are already described in international terms. Associations related to disabled people are familiar with these criteria and they are executing activities regarding the observation and monitoring of institutions. The Ministry and Directorate General should give these associates permission to monitor the prisons regarding their accessibility features, and specify what to do according to the reports from these associations.

3-Prison visits showed that not only are the insides of the prisons not suitable for disabled people but also the outside surroundings and prison yards. For instance, there are no tactile surfaces for

sight disabled prisoners or walkways designed for prisoners who use wheelchairs or orthopedically handicapped prisoners. It was seen during prison visits made with representatives from associations that handicapped prisoners had to proceed to the entrance in need of at least two people.

Recommendation: Prisons should be accessible for disabled visitors, as well as prison yards, for the purpose of prisoners to go to hospital and court.

4- Disabled prisoners are in need of special equipment. For instance, special pillows for handicapped prisoners, special beds which prevent bedsores for paralyzed prisoners, and equipment for parietic prisoners for their special exercises. It was detected during project studies and prison visits that some of the equipment which affect the quality of health and life are not covered by the state. A prison official stated that this kind of equipment is provided by a report which indicates there is a vital necessity. Protocol requires such reports.

Recommendation: The protocol which describes ill and disabled prisoner's requirements should be reorganized with the attendance of related associations by taking their opinion. Not only vital necessities but also a person's life quality should be taken into account.

5- This case is very important as it should not be limited to disabled prisoners. The employment of disabled people in prisons also occurs and new problems occur when the needed working conditions are not established. It was seen during prison visits that one of the sight-disabled employees in the prison, because of a lack of equipment, was held inactive in the parking area of the prison. In this case it looks like a disabled employee is employed on paper, however it is understood that disabled employees are a burden and expensive.

Recommendation: Prisons should be reviewed from a disabled employee point of view, measures should be taken with respect to make disabled employees active and working areas should be reorganized for such purposes. For example, there was no tactile surface or sound signaling in the prison where sight disabled employees are employed and their working areas were located on the second floor. That prison was not suitable for employing disabled employees.

6- Another point regarding this case is disabled visitors. Statements of two orthopaedic disabled visitors in the scope of the study were indication of some practices which are incompatible with human dignity; two prisoner's relatives with wheelchairs stated that they had to get out of their wheelchair in order to pass through the walkway detector and had to crawl in order to pass through the door.

Recommendation: No safety concerns can justify this and similar applications. Measures to eliminate this practice should be considered. A wheelchair made of materials that can pass through this detector should be provided by the Ministry.

7- It was seen in the results of prison visits and interviews with the prisoners and responses to our information applications that shuttle busses are not suitable for disabled people. It creates difficulties for orthopaedic disabled prisoners obliged to use these vehicles when going to hospital or court.

Recommendation: Shuttle busses must be regulated according to the needs of people with disabilities and should be made available to disabled prisoners. Until that is accomplished, temporary

solutions, like taking prisoners to hospital or the court with an ambulance instead of shuttle busses - which is torturous to disabled prisoners - should be found and used.

8-Another condition found during prison visits was that there were no emergency plans to be used in case of a fire or earthquake. This absence put prisoners' lives in danger. There are plenty of examples in which prisoners lost their lives because of a lack of emergency and evacuation plans in the case of fires. To prepare an emergency and evacuation plan is of vital importance for prisoners as well as the prison staff. It is obvious that disabled prisoners would be influenced directly from such an absence. An emergency evacuation plan should be prepared for all prisons and this plan also should look out for disabled prisoners.

9-Studies made during the project showed that disability issues and conditions of disabled prisoners requires different regulations in terms of architecture, legal and administrative processes. Every kind of disability requires unique measures, and all prisons should be reorganized to comply with every kind of disability. The needs of disabled prisoners and accessibility standards should be determined accordingly. In one of the prison visits made with a sight-disabled representative of an association was one example of this kind of need. In that case, the representative required the use of a sound recorder, since there was no chance for a sight-disabled prisoner to use a letter in the prison. (Administration of the prison informed us that it was not possible to use a sound recording device in the prison as per existing laws and regulations.) Another simple example is about the chairs in the meeting cabin. The chairs in the meeting cabin are fixed to the ground, therefore prisoners with wheelchairs may have difficulty entering the cabin and would be waiting at the back of the chair and meeting with their visitor with an extra half a meter added to the normal distance to the double glass window.

10- It should be stated, at the cost of falling into repetition, that regulations which will be made according to disabled prisoner's and visitor's needs should not only be for show but should increase the accessibility for reality and while doing that, they should be collaborated with the related associations which have the background, experience and knowledge about the topic. Any regulations which leave these actors out of the topic is likely to have the possibility of being problematic.

During the prison visit which was held with associations of disabled people, it was noticed that the handicapped entrance door was slightly raised above the ground level and the wheelchair ramp in front of the door had a high slope in which a handicapped person could not go over by themselves, and more importantly, it was built before stairs. Two handicapped associations' representatives had to go over the ramp with the help of two other people, moreover, in order to pass the stairs, they needed 4 people's help. This so-called disabled entrance door is not suitable for disabled people. To avoid this kind of error, the attendance of related associations to the regulations should be provided.

## **2-LGBT Prisoners**

1-It was stated in the July 24 2013 dated response of the Directorate General to our information application dated July 5 2013 that there are 79 LGBT prisoners in the prisons of Turkey as of May 15, 2013. Considering the fact that LGBT prisoners tend to hide their identity to protect their individuality, LGBT prisoner's records were limited by their own statements, and that it is

obvious that this number does not reflect the truth. The number 79 mentioned by the Directorate General only includes transgender prisoners. To provide reliable statistical data, prisoners need an environment that doesn't discriminate in terms of gender identity and sexual orientation along with expressing themselves freely.

2-In the second information application regarding LGBT prisoners dated 23 August 2013, it was asked to the Ministry "whether 79 LGBT prisoners only consisted of transgender prisoners? If not, are there lesbian, gay and bisexual categorizations and statistics?" The response of the Ministry was indicated that the Ministry and the Directorate General are unprepared and inexperienced regarding the topic:

"Regarding your application; because of the lack of related data, the Directorate General could not answer your first question."

Recommendation: The Ministry and Directorate General should benefit from LGBT and NGO knowledge and experiences and create criteria which defines the framework of the data in order to collect reliable statistics.

3-In response to the parliamentary question of CHP member congressman Melda Onur; it was stated that there are 81 prisoners with different sexual orientations in prisons as of 12 April, 2013. The important point here are the acts of which LGBT prisoners are convicted of. According to the response, 22 LGBT prisoners committed murder, 30 of them committed plunder, 14 of them committed theft, 6 of them committed drug related crimes, 3 of them committed sexual assault, 2 of them committed violations of the immunity of residence, 2 of them committed unauthorized use of someone else's credit card, 1 of them was charged with damaging public property, and 1 of them committed assault. Judging from these acts, a quarter of LGBT prisoners are kept in prison for murder, more than half of the LGBT prisoners are kept in prison for stealing and theft. It can be said that a major issue facing LGBT people in Turkey are the deprivation of their safety and livelihood. LGBT individuals "end up" in prison because of these issues.

4-According to the 24 July 2013 dated response of the Directorate General, 79 LGBT prisoners are kept in 18 different prisons in Turkey. Excluding 11 prisoners from Maltepe Prison and 9 in Eskişehir, the other 59 prisoners are in 16 different prisons.

<b>LGBT Prisoners in Turkey</b>		
<b>Number of Prisoners</b>	<b>Number of Prisons</b>	<b>Prisons</b>
11	1	Maltepe
9	1	Eskişehir
7	2	Antalya L, Metris 2
6	4	Alanya L, Ankara 2 L, Bafra T, Kocaeli 2 T
5	1	Çorum
4	1	Ankara 1 L
3	1	Kocaeli 1 T
2	2	Adana E, Buca
1	5	Afyonkarahisar E, Burdur E, Nevşehir E, Sivas E, Tokat T

As understood from the above table prepared from the data, provided by the Directorate General, there is 1 prisoner in each of the Afyon, Burdur, Nevşehir, Sivas and Tokat prisons, 2 prisoners each in Buca and Adana prisons, and 3 prisoners each in the Kocaeli prison. These numbers follows as 4,5,6,7,9, and 11 numbers of prisoners kept in prisons. The significance of these numbers makes sense with the information of LGBT prisoners who are not sharing living spaces with other prisoners. The Directorate General stated in the same response that using common areas and participating in social activities with LGBT prisoners is not suitable for the other prisoners. When LGBT prisoners are not sharing living spaces with other prisoners for security reasons it creates “isolation” for them. Moreover, LGBT prisoners have the feeling of a prison within a prison because of poor common area conditions in prisons in Turkey as well as isolation. Upon a LGBT prisoner application who was kept in 7 square meter prison cell for 8 months, Turkey was convicted by the ECHR on October 2012.<sup>5</sup>

**The following measures can be taken as a first step for the elimination of isolating situations for LGBT prisoners:**

- a- Personnel and prisoners should be informed regarding LGBT prisoners with the purpose of eliminating these discriminatory attitudes. For this purpose, LGBT organizations should be encouraged to work in prisons
- b- The limited numbers of common areas should be increased. By eliminating the security concerns of LGBT prisoners they should attend workshops together with other prisoners.
- c- In the case where the number of common areas is insufficient, employment of LGBT prisoners in hair salons, cafeterias, libraries etc. should be provided. The feeling of an imprisoned life within a prison can be avoided with these kinds of solutions.
- d- LGBT organizations should be allowed to make workshops, particularly in prisons where the LGBT prisoners are kept. The adaptation of the prisoners to prison social life should be improved with these kinds of programs held by related associations.

5-It was seen in the July 24, 2013 dated response of the Directorate General that the Ministry and the Directorate General prefer easy solutions instead of encouraging LGBT prisoners to participate in prisons. Moreover, they are planning to build a prison only for LGBT prisoners. However, building a “Special type of prison for LGBT prisoners and detainees” would create more problems instead of finding a solution. Prisoners will be collected from 18 different prisons where prisoners had been held in the same city as their family or social environment to one single building. In this case, it would mean severing LGBT prisoners from their social living conditions. In addition, the blacklisting of prisoners and their visitors will dramatically increase.

6- The application of information and knowledge gained during prison interviews shows that LGBT prisoners have had to prove their sexual orientation by a medical board report on admis-

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5 See the link below for related article: An Interview in the feminine magazine and the Testimony of an LGBT prisoner. <http://lgbthapiste.wordpress.com/2013/07/04/kadinca-dergisinde-bir-roportaj-ve-bir-lgbt-mahpusun-tanikligi/>

sion to prison if they want to be kept with other LGBT prisoners. LGBT prisoners are sent to state hospitals to get a committee report and are forced to pass the examinations. To prove their identity with a medical report is an application which disrespects the honor of the particular person.

To prove one's LGBT identity with a medical board report on admission to prison is an application which offends human dignity. This application should be abolished. New applications with the benefit from LGBT association's experiences and knowledge should be regulated in order to eliminate the security concerns of LGBT prisoners.

7- The response of the Directorate General reveals another negation. This possible discrimination can be seen when looking at the arrest-conviction rate, which came up at the trial stage. 8 LGBT prisoners were arrested and 71 LGBT prisoners were convicted according to the response of the General Directorate, meaning that 1 in 9 prisoners were arrested. 26,809 prisoners were arrested and 105,419 prisoners were convicted in total in Turkish prisons (as of July 17, 2013) meaning that 1 in 4 prisoners were arrested. When we look at these numbers we can say that the trial process for LGBT prisoners is faster than other trials. Faster processing is far from being a positive approach, rather it is negative thing sourced from blacklisting.

8- Another problem faced by transgender prisoners is the variety of products available in the prison canteen. It is very important to satisfy transgender prisoner's small needs, such as nail clippers, wax etc. which affect their whole lives. Prison canteens should be regulated to have a sufficient variety of products which satisfy their needs.

9-Studies shows that another issue mentioned by transgender prisoners is that their distinctive health expenses are not covered by the state. Transgender prisoners request gender-change surgery during their time in prison. The Ministry and the Directorate General should consider LGBT associations in this regard and handle the subject together with them.

Another topic, which came to the foreground regarding the health issues of LGBT prisoners, were hormones that transgender prisoners use. It was stated during prison visits that these hormones are provided to the prisoners by the state. Monitoring of this issue by NGOs and making them reach reliable information should also be provided. The hormone needs of transgender prisoners should be seen as indispensable and should be covered by the state.

### **3-Foreign Prisoners**

1- Issues regarding foreign prisoners start when they are taken into custody and interrogation, made by law-enforcement officers, and are not conducted in a common language. They might be arrested during the prosecution process because they cannot express themselves correctly. Information of a condition, which was delivered to us during the project study, states that some foreigners are arrested when they should to be seen as refugees.

2- The main issue regarding foreign prisoners is attorneys who do not speak a common language according to consulate representatives of Germany, the Netherlands, England and Kenya, who attended the meeting regarding foreign prisoners. Most of the prisoners with poor financial situations

cannot hire a lawyer and are obliged to be defended by a lawyer assigned by the bar association. Since these lawyers do not speak other languages, foreign prisoners cannot defend themselves.

**Recommendation:** In order to prevent such situations there should be coordination between the Ministry of Justice and bar associations, and lawyers with foreign language skills should be assigned to foreign prisoners.

3- Because of the lack of multilingual staff in prisons, there are some problems regarding the diagnosis and treatment of diseases of foreign prisoners. The diagnosing and treatment of health problems of foreign prisoners might be delayed or fail because of medical employees who are not multilingual and also because of the unavailability of translators in prisons. According to the consulate representative's narration in the meeting regarding foreign prisoners, citizens who are diagnosed with HIV apply to consulates because they cannot understand the examination results. Consulate officials informed their citizen after they have contacted prison officials.

**Recommendation:** Necessary measures must be taken in order to avoid troubles, in terms of diagnosis and treatment of diseases, due to the language problems of foreign prisoners. These measures may be employing multilingual staff (or at least English as a common language) in prisons as well as employing a translator in the infirmary section of the prison. Until staff recruitment is done in this regard, it can be achieved with the help of prisoners who can translate. Thereby attendance of the prisoner to social life is provided as well as a step in the diagnosis and treatment of prisoners.

4-HIV prevalence is more common among African prisoners. According to the information gathered during the project study, prison staff with hearsay information about HIV disease might show a discriminatory approach to prisoners with HIV.

**Recommendation:** Prison staff and prisoners with HIV need to be informed periodically about this disease in order to prevent discriminatory attitudes towards prisoners suffering from HIV in the prisons where foreign national prisoners are kept. Therefore, associations with expertise and experience in the field of fighting against HIV, such as the Positive Living Association (Pozitif Yaşam Derneği), should be allowed to make studies in these prisons and facilities, and incentives should be given to NGOs in this regard.<sup>6</sup>

***Example: HIV Patient Angel Mtsweni***

*South African Angel was an HIV patient. She stated to the Human Rights Association lawyer that she was fired from the workshop she used to work in after her disease was discovered by the administration and she was deprived from the money she earned to satisfy her needs. Moreover, she exposed dismissive behaviours and she requested that administration should be informed about HIV. According to Angel, if the administration were informed regarding this disease then their dismissive attitude would change.*

*As seen in the case of Angel, foreign prisoners exposed to exclusionary attitudes because of HIV disease can also be economically limited, and get into a situation in which they cannot satisfy their needs.*

<sup>6</sup> Pozitif Yasam Derneği (Positive Living Association) conducted a study regarding the same issue in prisons.

5- Foreign prisoners cannot watch a TV channel in their own language because it does not take place in the central broadcast in prison.

**Recommendation:** Necessary arrangements in order for foreign prisoners to watch TV channels that broadcast in their own language should be made. The demands of foreign prisoners regarding central broadcasting should be taken into consideration; demanded TV channels must be set.

6-Visiting and phone rights of foreign prisoners are same with Turkish prisoners. Visitors of foreign prisoners coming from hundreds of kilometres away, have the same one-hour visiting time as normal visitors of Turkish prisoners, however, they spend much more money relative to Turkish visitors. This situation looks “equitable” in appearance, however, it creates inequality in reality. The same is true for the telephone rights of prisoners. A reverse discrimination approach should be applied to the foreign prisoners in terms of phone rights and family visits. Their visiting periods with their families who come from many kilometres away by spending so much money should be increased, especially for the prisoners who do not have visitors; phone rights should be increased as well.

7-Another issue regarding visitor rights faced by foreign national prisoners is visitors of prisoners who are “convicted or arrested for juridical crimes” must apply to the public prosecution office 1 week earlier than the visiting date and visitors of prisoners who are “convicted or arrested for terror or organized crime” should apply to the Ministry of Justice 15 days prior to the visiting date.<sup>7</sup> Because of this obligation, families have to arrive and stay in Turkey many days before their visiting date. This application puts families into difficulty in terms of cost and time when considering accommodation and travel expenses which make visits harder.

8- Delays in referring to prisoners who want to spend the remaining time of their final sentence close to their families is another issue. Some prisoners we reached out to during the project were waiting for transfers to their home countries for years even though they already completed the procedure and paid the necessary fees.

9-It was seen during visits to prisons where foreign prisoners were kept that prisoners were working in the workshops. It is important to create such opportunities for prisoners who do not have outside contact and who are deprived of financial income, in order to make them earn some income, even if in small amounts. However, a packet of cigarette’s price (7 Lira) as a daily wage cannot be accepted. The cost of work in workshops in prisons should be re-determined by consulting the organization of labor and prisoners.

10-It should be taken into consideration that prisoners might ask for asylum request and ways and methods of providing information in this manner should be created.

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7 See on this issue: Regulations on visiting the prisoners and detainees.

#### 4-Elder Prisoners:

-There is no general agreement on elderliness.<sup>8</sup> Different countries have different age limits regarding elderliness. In Turkey, the General Directorate of Prisons and Detention houses assesses prisoners between 65-79 years of age as “old”, and prisoners over the age 80 assess as “elderly”.

- The “old” and “elderly” status of prisoner’s genders and detainee–convict conditions as of September 17, 2013 in Turkey are as follows:

Elder Prisoners in Turkey (17 September 2013)									
Age Groups	Detainee			Convict			General Total		
	Female	Male	Total	Female	Male	Total	Female	Male	Total
65-79	6	276	282	51	1465	1516	57	1.741	1798
80 +	1	11	12	1	87	88	2	98	100
Total	7	287	294	52	1552	1604	59	1839	1898

As it can be seen in the table there are 1898 prisoners over the age 65 in total in Turkey as of September 17, 2013. 59 of them are female and 1839 of them are male prisoners and 100 of them are over the age of 80.

-Elderly prisoners should not be considered as a heterogeneous group. For instance, the physical and emotional health of prisoners who reside in prison for a long time and who are arrested in old age will not be the same. Elderly prisoners have unique needs arising from their older age. These needs can be architectural and administrative (for example, suitability of the activities for the elder prisoners), as well as juridical (for example, keeping elder prisoners under house arrest where there is no necessity for a prison building, if there is a decision regarding keeping a prisoner in prison and if there are no mandatory conditions, keeping the prisoner in the open prison.)

We asked in the information application to the Ministry of Justice: “Are there arrangements regarding elder prisoners in prisons and detention houses in Turkey? If so, what are those arrangements?”, dated July 5, 2013. The response, dated July 24, 2013, showed that there are no arrangements regarding elder prisoners in prisons and detention houses in Turkey, as the Ministry stated, “there is no legislative work regarding elder prisoners kept in penal institutions”

“Was there any study conducted regarding the problem and condition of elderly prisoners kept in prison and detention houses in Turkey, and is there any on-going study of the same issue?” - A question that was asked in the same information application request. The response of the Directorate General can be read as an indication that elder prisoners are ignored: “Education and vocational training programs are given in the open and closed penal institutions in order to facilitate social adaptation, attendance of the elder prisoners to these programs is also provided as their health con-

8 Please refer to the discussion on this issue: the United Nations Handbook on Prisoners with Special Needs, Elderly Prisoners section

ditions allow. Additionally, psycho-social support programs are provided by the psychologist and social workers in penal institutions.”

It is mentioned in the Elderly Prisoners Section of the United Nation’s Handbook for Prisoners with Special Needs that elderly prisoners might need other programs rather than “education and vocational training programs” and “psycho-social support programs” which are planned for the general prisoner population in prisons.

“Programs oriented for prisoners are generally designed for the needs of young prisoners, and aim at preventing them from committing a crime after their release by making contributions to their working skills and education. Most of the elder prisoners need different requirements and have different skills than young prisoners. For example, if they are over the retirement age and will not look for a job after release, they will not be interested in educational skills programs. Educational skill programs aim to satisfy the needs of young prisoners by aiming to improve literacy and computer skills. Elder prisoners who have been out of education system for years are not interested in these programs or they are abstain from attending these programs with younger prisoners. It is not possible to work for some elder prisoners due to their health problems and physical disability unless changes are made in work tasks.”<sup>9</sup>

As commented by the UN, in the case where programs do not pay attention to elderly prisoners, these prisoners are incapacitated from social activities during their time in prison and are therefore confronted with a double punishment.

It is suggested in the UN’s manual that;

“In places where elderly prisoners are kept with other prisoners, prison authorities should make changes in existing programs and attendance to these programs from all groups of prisoners, including elderly prisoners, should be provided.”<sup>10</sup>

Preparing programs without respect to elderly prisoners is a serious deficiency and in order to eliminate this deficiency studies should be carried out with the participation from the geriatrics department of universities and related NGOs.

### **Our recommendations:**

1. It is seen when older news is searched that elder, paralyzed citizens and citizens with different disabilities are kept in prison for using illegal electricity and were not be able to pay electricity and water bills.<sup>11</sup>
2. Elder citizens who are committed to prison should be kept in open prisons where they are close to their families, unless there is a different necessity.

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9 Prisoners with Special Needs Manual, UN Office of the fight against Drugs and Crime, Criminal Justice Handbook Series, CÍSS, 2013, page 129

10 Age, page 138

11 For examples of articles on this topic please see blogs on the Elderly in Prison and Disabled in Prison.

3. Elder prisoners should undergo medical screening periodically by the institution doctor, they should be transferred to hospital if appropriate. Required procedures for their evacuation should be made in case of a frustrating situation to their imprisonment found during a periodic health screening.
4. Elder prisoner's existence should be taken into consideration when social and sport activities are planned, new programs should be prepared for the elder prisoner's participation.
5. Prison employees should be educated regarding old age, these programs should aim at creating awareness of the unique needs of the elderly prisoners to the prison employee.
6. NGOs should be encouraged to conduct studies in prisons regarding elder prisoners, just like they have done in senior citizen centers. These activities should encourage elder prisoners to create stronger social ties.

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