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İHD’s Main Concerns on the Amended Law on the Enforcement of Sentences and Security Measures

İHD has sent its written assessment to the chairperson and members of the Grand National Assembly of Turkey’s (GNAT) Justice Committee, to the group deputy chairpersons of the political parties with a group at the GNAT on 2 April 2020 as soon as it learnt about the bill to introduce amendments to the Law on the Enforcement of Sentences tabled by the group deputy chairpersons of AKP and MHP before the GNAT on 31 March 2020.

Although İHD asked to sit in for the Justice Committee meeting, it learnt that only a representative from the Union of Turkish Bar Associations (UTBA) and another from the Law School at Ankara University had been invited. İHD would like to specifically indicate that the arguments and evaluations put forth in the committee report are strictly against human rights. The fact that the chairperson of the UTBA has been constantly resorting to an anti-terrorism discourse instead of protecting human rights also demonstrates that he indeed is following the same line of power with those of AKP and MHP.

Recommendations and warnings by opposition parties and civil society organizations including İHD during the deliberations at the Justice Committee and the GNAT General Assembly have certainly not been taken into account.

“Bill on Amendments to Some Laws and the Law on the Enforcement of Sentences and Security Measures” has been passed into law on 14 April 2020 with number 7242. The law was published in the *Official Gazette* of 15 April 2020 and entered into force. Republican People’s Party (CHP) has stated that it would lodge an application before the Constitutional Court about the law. İHD and other CSOs would like to present their views to the CHP and contribute to the process.

İHD’s primary concerns are as follows:

1. This newly introduced law has extended the powers of enforcement judgeships while transferring certain powers of courts to these judgeships. Therefore Articles 1, 4, 8 and 9 of Law No. 7242 should be brought before the Constitutional Court for annulment. The political power wishes to maintain control over the enforcement judgeship model by extending its powers as it did so with the criminal peace judgeship model.
2. Article 16 of the law introduced an addition to Article 112 of the Code of Criminal Procedure No. 5271 (CCP) putting forth that first instance courts could deliver detention orders for violations of the judicial control measure in cases of appeals lodged before courts of appeal [temyiz & istinaf]. This state of affairs signifies an intervention into the powers and jurisdiction of both courts.
3. Article 21 of the law set forth that a search warrant could be issued by a criminal peace judgeship decision instead of a court judgement to apprehend those whose sentences were

Human Rights Association (İnsan Hakları Derneği-İHD) is a non-governmental, independent, and voluntary body. The association, which was founded in 1986 by 98 human rights defenders, today has 28 branches, 5 representative offices, and 7,945 members. İHD is the oldest and largest human rights organization in Turkey and its “sole and specific goal is to promote ‘human rights and freedoms.’”

finalized through the addition of Subclause 4 to Article 19 of the enforcement law. The powers of criminal peace judgeships have thus been extended.

4. Prisoners were discriminated in such issues as conditional release terms, disciplinary action, right to communication, good conduct and supervised release practices in the enforcement law; conditional release ratios were taken down to $\frac{1}{2}$ as per various types of offenses and the supervised release of those who had three more years to serve have been paved for through regulations introduced to Articles 18, 23, 24, 25, 27, 28, 31, 32, 36, 37, 41, 42, 43, 44, 48, 49, 50, 52, 53 and 65 of the law. Moreover some articles have even been drafted so as to give way the easy release of leaders and members of the mafia, defined as various ordinary criminal organizations. The conditional release ratio for offenses under anti-terrorism, on the contrary, was maintained as $\frac{3}{4}$ while this ratio was even taken up from the current $\frac{2}{3}$ to $\frac{3}{4}$ under Articles 6 and 7 of the Anti-Terror Code (ATC) that are defined as offenses punishing freedom of expression. For instance, a person stands trial for making propaganda for an illegal organization, i.e. for writing, speaking, posting on the social media about their views sharing them with the public, and has to spend $\frac{3}{4}$ of a prison sentence of 1 to 5 years handed down to them under Article 7 § 2 of the ATC. Yet, if another person is sentenced for offenses like robbery, fraud, forgery, bid rigging; bodily harm, notably violence against women, insult and threat and handed down 6 years in prison, the term they will serve will be $\frac{1}{2}$. Further, since the same person will be eligible for supervised release for the last 3 remaining years, they will never be put behind bars. This, unfortunately, is the point Turkey has arrived. Those who tabled the bill had acknowledged that supervised release had indeed led to impunity. They, however, recanted their statements on supervised release at the General Assembly and paved the way for the broad implementation of supervised release. This, in fact, points to a veiled amnesty. This law is now being referred to as the “Alaattin Çakıcı Amnesty,” after the said mob leader, by the public opinion in Turkey.

İHD has drafted a comprehensive report on the unconstitutional elements of the law and sent it to opposition parties. İHD’s recommendation for the release of disadvantaged groups and political prisoners, notably for non-convicted prisoners (deputies, mayors, provincial and municipal council members, politicians, journalists, intellectuals and authors, human rights defenders, trade unionists, lawyers and activists) because of the COVID-19 pandemic has not been taken into account by the authorities either.

Human Rights Association