

Question 13.a.

The Law on Monitoring Board of Penitentiary Institutions and Detention Houses dated 14.06.2001 and numbered 4681 and the Bylaws on Monitoring Board of Penitentiary Institutions and Detention Houses dated 07.08.2001 and numbered 24486 were enacted within the scope of the audit of the penitentiary institutions in our country by independent institutions, and the mentioned nongovernmental monitoring boards may visit the penitentiary institution or detention house concerned any time which is deemed necessary, not less than once every two months. By evaluating the findings concluded and the information they receive during these visits, they prepare a report at least once every four months and submit a copy of the report to the Ministry of Justice, the the Human Rights Inquiry Commission of the Grand National Assembly of Türkiye, the Chief Public Prosecutor's Office in the jurisdiction where the monitoring board is located, and the execution judgship if there is a complaint subject within its jurisdiction, as well as to the Ombudsman's Insitution and the Human Rights and Equality Institution of Türkiye.

Excluding the issues concerning the security of the penitentiary institution, the Ministry of Justice informs the public every year by a report covering the numbers and subjects of the reports drawn up by the monitoring boards for the previous year, the recommendations fulfilled and not fulfilled and the reasons thereof.

Monitoring boards of penitentiary institutions and detention houses are completely independent. The Law No. 4681, which was prepared for this purpose, governs the principles and procedures regarding the establishment, duties and powers of the monitoring boards of penitentiary institutions and detention houses in order to observe, examine, obtain information on the management, functioning and practices of penitentiary institutions and detention houses within the framework of the principles determined by the legislation in force and international conventions to which our country is a party, and to report their findings to the competent and relevant authorities.

Between 01.01.2021 and 31.12.2021, 147 monitoring boards visited 404 penitentiary institutions for 1700 times, and 1153 reports were drafted as a result of these visits. 1090 recommendations were submitted in these reports.

Besides, the Provincial and District Human Rights Board consisting of the nongovernmental representatives in the provinces and districts may visit and audit the penitentiary institutions.

The Ombudsman Institution and Human Rights and Equality Institution of Türkiye (with an independent auditing authority within the scope of OPCAT) may also conduct on-site inspections without the requirement of a permission to evaluate the complaints submitted by the penitentiary institutions.

Within the scope of the parliament audit, the Human Rights Inquiry Commission of the Grand National Assembly of Türkiye or the chairpersons and members of the inspection commissions may conduct inspection and auditing activities by visiting the penitentiary institutions.

The measures which ensure the security during these visits and interviews are taken by the administration of the institution, and the visits and interviews are conducted in the presence of the officials from institution. However, the Human Rights Inquiry Commission, members of the Monitoring Board, execution judges, probation staff, and delegations and persons authorised by law may also conduct private interviews with convicts and detainees.

No collective interview is conducted with the convicts and detainees who cannot be gathered because of the security matters; although it has been granted beforehand, the visits and interviews may be postponed in extraordinary cases such as natural disaster, fire and uprising.

Besides, the controllers, who are assigned with the audit of the penitentiary institutions, are provided with applied training for three years in order to teach the general legislation to be applied upon their taking the office, as well as to prevent the human rights violations concerning the convicts and detainees at the penitentiary institutions and to train them concerning the compliance of the living conditions in the institutions with the minimum requirements. Moreover, during the meetings held every year with the audit personnel and institution personnel, these issues are evaluated in details and the necessary information is provided.

Apart from these, our penitentiary institutions can also be inspected by international inspection mechanisms with recognised inspection authority, such as the European Committee for the Prevention of Torture, as well as by the Council of Europe Commissioner for Human Rights, the United Nations Working Group on Arbitrary Detention and within the scope of the Additional Optional Protocol to the United Nations Convention against Torture (OPCAT).

The significance of the regular visits to the penitentiary institutions and reporting and submitting the report concerning the detected issues is underlined frequently during the online and face-to-face training activities and meetings conducted for the monitoring board members.

Besides, in order to strengthen the nongovernmental audit at the penitentiary institutions, the closing of “the Project on Increasing the Efficiency of the Nongovernmental Monitoring Boards” which was initiated in 2019 and conducted with the support of the Council of Europe and through a co-financing for an amount of 1.600.000 Euro (Türkiye, Sweden, Switzerland, Canada, Canada and the Human Rights Trust Fund) was held on 24 November 2022.

The project aims to strengthen and at the same time establish coordinated working standards in the context of national and international human rights criteria for the members of the nongovernmental monitoring board, public prosecutors, execution judges, controllers and inspectors of the Ministry of Justice who are involved in the inspection mechanism in penitentiary institutions. For this purpose, activities aim at extending and sustaining best practice examples, organising trainings in this context, creating supporting materials and implementing a more effective control mechanism.

“In the project, there are 4 main elements, namely;

Revising the Legal and Regulatory Framework and Strengthening Nongovernmental Monitoring Boards,

Increasing the Efficiency of Nongovernmental Monitoring Boards by Developing Monitoring Standards, Methodology and Tools,

Developing Training and Capacity Building of Nongovernmental Monitoring Boards

Strengthening Coordination and Communication Capacities among Control Mechanisms”.

With regard to the aim of the project for strengthening and at the same time establishing coordinated working standards in the context of national and international human rights criteria for the members of the nongovernmental monitoring board, public prosecutors, execution judges, controllers and inspectors of the Ministry of Justice who are involved in the auditing mechanism in penitentiary institutions;

Various activities have been carried out to realise the objectives of revising the legal and regulatory framework, developing monitoring standards, methodologies and tools, building the capacity of monitoring boards through training, strengthening coordination and communication among all auditing and monitoring mechanisms.

For conducting an efficient monitoring activity through the project, “the Guide on Monitoring Boards of Penitentiary Institutions and Detention Houses” and “the Tool Box on Monitoring the Penitentiary Institutions” have been drawn up and provided to the members of all monitoring boards.

4 booklets to raise awareness on the issues such as the selection criteria for the monitoring boards, their competence, working procedure, contacting the monitoring boards have been prepared and distributed all around the country.

In order to increase cooperation and coordination between the boards, a web-based platform specific to the monitoring boards has been developed, and a public web page has been created to raise awareness about the monitoring boards.

Three different handbooks have been prepared and distributed separately to Execution Judges and Public Prosecutors, Justice Inspectors and Controllers, Ombudsman Institution and Human Rights and Equality Institution of Türkiye employees who play an active role in the monitoring and supervision of penal execution institutions.

Within the scope of the training activities of the project, 7 different training modules based on adult education have been developed thanks to the academic cooperation with 8 universities across the country to be submitted to the members of the monitoring board, and subsequently training of trainers and dissemination trainings have been carried out.

Within the scope of the sustainability of the project, our Directorate General have completed the preparations to continue the extending trainings, in its Training Plan for 2023.

In addition, article 84 titled “Prohibition to go to specified places or areas” of the Bylaws on Probation Services entered into force on 10/11/2021 upon the promulgation on the Official Gazette numbered 31655 governs that “1) Prohibition to go to specified places or areas is an obligation that aims to prohibit the convict from going to places that have an impact on the commission of offence or the tendency to commit offence, especially to protect children and victims of offence.

2) This obligation may be ordered accompanied by other obligations according to the risk of harm to children, society and the victim and the characteristics of the offence committed by the convict. The prohibited place or area and the duration of the prohibition shall be determined by the probation directorate.” In accordance with this provision, the person who have been convicted of the child sexual abuse are imposed the measure of prohibition to go to specified places and areas, and thus, these persons are monitored through the electronic monitoring systems.

Moreover, article 6 titled “General Principles” of the Bylaws on the Treatments and Other Obligations on the Convicts of the Offences Committed against Sexual Inviolability entered into force on 26/07/2016 upon the promulgation on the Official Gazette numbered 29782 provides for that “(1) For those convicted of sexual offences, the Chief Public Prosecutor's Office shall immediately apply to the execution judge, during the execution of the sentence or during the probation period if they are released conditionally, to decide on one or more of the treatment or obligations specified in paragraph 2.

(2) The obligations referred to in paragraph 1 are as follows:

- a) Undergoing medical treatment,
- b) Participating in therapeutic programmes,
- c) Prohibition from residing in the residential area where the victim of the offence lives and works,
- ç) Prohibition from approaching places where the victim is present,
- d) Being banned from working in an environment that requires being together with children,
- e) Prohibition from carrying out activities that require the obligation of care and supervision of children." By implementing these provisions, it is ensured that the persons convicted of the child sexual abuse are monitored and supervised.

Likewise, article 108/9 of the Law on the Execution of the Penalties and Security Measures No. 5275 and article 6/2.b of the Bylaws on the Treatments and Other Obligations on the Convicts of the Offences Committed against Sexual Inviolability govern, through the provision of "Participating in therapeutic programmes", the psycho-social support service programs intended for the convicts of sexual offences kept in the penitentiary institutions

Article 8 of the Bylaws provides for that participating to the organized therapeutic programmes is a legal obligation, the treatment programs which are to be applied to the convicts ordered to participate in therapeutic programmes are applied by the psycho-social support service at the penitentiary institution, and where necessary, the support may be received from the relevant public institutions and organizations.

For the convicts of sexual offences, individual intervention programs are conducted by the psycho-social support service regarding "Impulsive Behaviors" and "Problematic Sexual Behaviors" within the scope of the Structured Mental Assessment and Intervention Program (YARDM). Furthermore, with regard to 15 intervention programs, which have been developed within the framework of "Project on the Development of Assessment, Profit Tools and Rehabilitation Programs (DEPAR)" which is financed by the European Union and to which our Directorate General stands as beneficiary, all physiologists and social workers serving in prisons have received trainings. With the purpose of preventing the recurrence of sexual offences, "Intervention Program for the Control of Sexual Impulses" and "Intervention Program on Impulsive Behaviors", developed and taught under the DEPAR Project, are practiced.