

**THE LAW ON THE EXECUTION OF PENALTIES AND SECURITY
MEASURES**

Law No. 5275

Date of Adoption :13 December 2004

CHAPTER ONE

**Purpose and Basic Principles,
Prison Sentences and Security Measures**

PART ONE

Purpose and Basic Principles

SECTION ONE

The Purpose of the Law

Purpose

ARTICLE 1.- (1) The purpose of this Law is to lay down the procedures and rules concerning the execution of penalties and security measures.

SECTION TWO

Basic Principles

The basic principle of execution

ARTICLE 2.- (1) The rules concerning the execution of penalties and security measures shall be implemented without discrimination between convicts as regards race, language, religion, denomination, nationality, colour, gender, birth, philosophical belief, ethnic or social origin, political or other opinion, economic power or other social status, and without making any privilege to anyone.

(2) In the execution of penalties and security measures, there shall be no cruel, inhuman, degrading or humiliating treatment.

The main goal of execution

ARTICLE 3.- (1) The main goal that is sought to be reached with the execution of penalties and security measures is primarily to achieve general and special prevention and, with this aim, to strengthen factors which prevent the convict from committing an offence again, to protect society against crime, to promote the resocialisation of the convict and to facilitate his adaptation to a productive and responsible life which respects the laws, regulations and social rules.

The condition for execution

ARTICLE 4.- (1) Sentences of conviction shall not be executed until and unless they are finalised.

The foundations of execution and by whom it shall be monitored

ARTICLE 5.- (1) The court shall forward the penal judgement which has become finalised and whose execution it has approved to the Office of Chief Public Prosecutor, who shall monitor and supervise the execution of the penalty in accordance with that judgement.

PART TWO

Prison Sentences and Security Measures

SECTION ONE

Principles to be Observed in the Execution of Prison Sentences and Security Measures

Principles to be observed in the execution of prison sentences

ARTICLE 6.- (1) The regime for the execution of prison sentences shall be regulated on the basis of the following principles:

a) Convicts shall be kept in penal execution institutions securely and within a framework of order, security and discipline, taking measures to prevent escape.

b) It shall be ensured that convicts maintain an orderly life in penal execution institutions. The lack of freedom that is made necessary by the prison sentence shall be suffered under material and moral conditions that ensure respect for human dignity. Other rights of convicts which are laid down in the Constitution may be restricted in accordance with the rules envisaged in this Law, subject to the fundamental goals of execution.

c) In the execution of a prison sentence, use shall be made of available means to rehabilitate the convict. To ensure the inviolability of the convict's rights granted in the laws, bylaws and regulations, the principles of legality and conformity to law shall be adopted in the execution of the sentence and in the efforts of rehabilitation.

d) In the execution regime for those convicts who are identified not to be in need of rehabilitation, care shall be taken to include individualised programmes suitable for their characters, and these matters shall be provided for in Regulations.

e) In the execution of sentences, action shall be taken in accordance with the principles of justice. For this purpose, penal execution institutions shall be inspected by qualified staff on the basis of the powers granted in the laws, bylaws and regulations.

f) In penal execution institutions, all measures must be taken to protect the convicts' right to life and their bodily and mental integrity.

g) The convict must comply with the provisions of the laws, bylaws and regulations, in accordance with the goal of execution.

h) The disciplinary penalties specified in this Law shall be implemented against the acts and actions specified in laws and against those who violate the order of the institution. These penalties shall be decided, within the applicable periods, by the authorities specified in this Law. Appeals and objections against such penalties shall be filed with the authorities specified in this Law.

The criterion for success in rehabilitation

ARTICLE 7.- (1) The success of programmes aiming at the rehabilitation of convicts during the execution of prison sentences shall be measured by new attitudes and skills gained by convicts. For this purpose, there shall be encouragement for the convict to be willing towards the efforts of rehabilitation.

(2) The prison sentence shall be executed in accordance with such programmes, methods, means and mentality as shall be designed so as to minimise the harmful effects inherent in the prison sentence. The means of rehabilitation shall be implemented according to procedures and principles that shall ensure the protection of the convict's health and his self-respect.

SECTION TWO

Types of Penal Execution Institutions

Closed penal execution institutions

ARTICLE 8.- (1) Closed penal execution institutions are facilities which have internal and external security personnel, which are equipped with technical, mechanical, electronic or physical barriers against escape, in which the doors of rooms and corridors are kept closed, where contact between convicts who are not in the same room and with the outside world is possible only in such cases as are specified in legislation, where the sufficient level of security is provided, and where individual, group or collective rehabilitation methods can be implemented according to the needs of convicts.

High-security closed penal execution institutions

ARTICLE 9.- (1) High-security closed penal execution institutions are facilities which have internal and external security personnel, which are equipped with technical, mechanical, electronic and physical barriers against escape, in which the doors of rooms and corridors are always kept closed, where contacts between convicts who are not in the same room and with the outside world are possible only in such cases as are specified in legislation, and where convicts subject to a tight security regime are accommodated in single or three-person rooms. In such institutions, individual or group rehabilitation methods shall be implemented.

(2) Persons sentenced to heavy life imprisonment and persons sentenced to imprisonment for establishing or leading a criminal organisation or, in the framework of the activities of such an organisation:

- a) Crimes against humanity (Articles 77 and 78 of the Turkish Criminal Code);
- b) Murder (Articles 81 and 82 thereof);
- c) Production of and trafficking in drugs (Article 188 thereof);
- d) Crimes against the security of the State (Articles 302, 303, 304, 307 and 308 thereof); or
- e) Crimes against constitutional order and its operation (Articles 309 to 315 thereof) regardless of the length of such sentence, shall serve their sentences in these institutions.

(3) Those who are in a dangerous condition due to their actions and attitudes and whom it is determined must be kept under special control and supervision and those who violate order and discipline at the institutions in which they are kept or who insist on resisting measures, instruments and procedures of rehabilitation shall be sent to these institutions.

(4) Where the institutions defined in the first paragraph are insufficient for the need, the high-security parts of other closed penal execution institutions shall be used.

(5) It may be decided to send convicts who have spent one third of their total sentences in good behaviour in these institutions to other penal execution institutions appropriate for their attitudes and characters.

Closed penal execution institutions for women

ARTICLE 10.- (1) Closed penal execution institutions for women are institutions established under Articles 8 and 9 hereof in which the prison sentences of woman

convicts are executed. The internal security personnel of these institutions shall consist of women.

(2) Where the institutions established for this purpose are insufficient for the need, the prison sentences of woman convicts shall be executed in such parts of other institutions as are not connected with the parts in which man convicts are accommodated.

Closed penal execution institutions for minors

ARTICLE 11.- (1) These are institutions based on education and training where minor remand prisoners or minors who are decided to be transferred from reformatories to closed penal execution institutions for disciplinary or other reasons are accommodated, which are equipped with barriers against escape, and which have internal and external security personnel.

(2) Minors in the age group of 12 to 18 shall be kept in separate parts of these institutions in view of their gender and physical development.

(3) Where there are no special institutions for them, these convicts shall be placed in those parts of closed penal execution institutions which are allocated for minors. Where separate parts do not exist, girls shall be accommodated in one part of closed penal execution institutions for women or in such parts of other penal execution institutions as are allocated for them.

(4) In these institutions, the principle of providing minors with education and training shall be implemented in full.

Juvenile closed penal execution institutions

ARTICLE 12.- (1) Juvenile closed penal execution institutions are institutions in which young convicts who are aged 18 to 21 as of the date of beginning to execute the sentence serve their sentences, which are based on the principle of education and training, which are equipped with barriers against escape, and which have internal and external security personnel.

(2) Where no separate institutions can be established for these convicts, they shall be accommodated, in accordance with the principles laid down in this article, in those parts of other closed penal execution institutions which are allocated for juveniles.

(3) The prison sentences of those juveniles who are covered by Article 9 hereof shall be executed in the high-security parts of juvenile closed penal execution institutions.

Observation and classification centres

ARTICLE 13.- (1) The assignment of convicts to suitable institutions shall be made by the observation and classification centres mentioned in Article 23 hereof.

(2) The establishment, duties and working principles and procedures of the observation and classification centres shall be specified in a Regulation.

Open penal execution institutions

ARTICLE 14.- (1) Open penal execution institutions are institutions where priority is given to employment and vocational training of convicts in their rehabilitation, which have no barriers against escape and no external security personnel, and where supervision and control by institution personnel is considered sufficient for security. According to the need, open penal execution institutions may also be established in the form of:

- a) Open penal execution institutions for women; and
- b) Open penal execution institutions for juveniles.

(2) Principles and procedures concerning the assignment of convicts to open prisons shall be laid down in a Regulation.

(3) The sentences against those who have committed an offence for the first time or who are convicted to imprisonment for two years or less may be executed directly in open penal execution institutions.

(4) Of convicts who are in an open penal execution institution, those who have received a disciplinary penalty other than a reprimand, those against whom a remand order has been made for a criminal act other than the one of which they have been convicted, those who are being investigated or prosecuted for another offence where the upper limit of the legally prescribed sentence is not less than seven years, and those whom it is determined would not be able to adapt to the working conditions with regard to age, health condition or physical or mental abilities, shall be sent back to closed penal execution institutions by a decision of the institution's administrative board. The said decision shall be submitted to the execution judge for approval.

Reformatories for minors

ARTICLE 15.- (1) Reformatories for minors are facilities where prison sentences against minors are executed by pursuing the objectives of educating the convicted minors, teaching them a trade and achieving their social reintegration. In these institutions, there shall be no barriers against escape; their security shall be provided under the supervision and responsibility of internal security personnel.

(2) Minors attending any education and training programme within or outside the institution may be allowed to stay in these facilities after they complete the age of eighteen, until they are twenty-one years of age, so that they may complete their education and training.

(3) Convicted minors who are kept in these institutions, excluding those against whom a remand order has been made and those who fall within the scope of Article 11 hereof, shall not be sent to closed penal execution institutions.

SECTION THREE

Postponement of Execution

Postponement of execution due to illness

ARTICLE 16.- (1) The prison sentence of a convict who is mentally ill shall be postponed and the convict shall be placed under protection and treatment in the health institution specified in Article 57 of the Turkish Criminal Code until he is rehabilitated. The period of time spent in the health institution shall be deemed to have been spent in prison.

(2) In any other case of illness, the execution of the prison sentence shall be continued in those parts of official health institutions which are allocated for convicts. However, if the execution of the prison sentence even in this way presents an absolute danger for the life of the convict, its execution shall be postponed until he is cured.

(3) The decision of postponement as provided for in the paragraphs above shall be made by the Office of Chief Public Prosecutor in the place of execution, upon a report issued by the Forensic Medicine Institution or issued by the health committee of a fully equipped hospital designated by the Ministry of Justice and approved by the Forensic Medicine Institution. The decision of postponement shall be notified to the convict

himself and to his legal representative, stating the obligations to which he shall be subject. The place where the convict will be during the period of postponement shall be notified by the convict himself or his legal representative to the relevant Office of Chief Public Prosecutor. The Office of Chief Public Prosecutor that has made the decision of postponement or, upon request by the convict, the Office of Chief Public Prosecutor in the place where he is located or treated shall have the convict's health condition examined in accordance with the procedure described in this paragraph at the intervals of time specified in the health report or, if no such intervals are specified therein, at quarterly intervals. According to the results of such examination, the Office of Chief Public Prosecutor that has made the decision of postponement shall decide whether or not the postponement should continue. Upon request by the Office of Chief Public Prosecutor that has made the decision of postponement, measures for the monitoring of the convict shall be carried out by the law enforcement authorities and officers located in the place where notification has been made. In the event of acting in breach of the obligations mentioned in this paragraph, the decision of postponement shall be cancelled by the Office of Chief Public Prosecutor that has made the decision. An appeal may be filed with the office of execution judge against the decision to cancel.

(4) The execution of the prison sentence against a woman who is pregnant or who gave birth less than six months ago shall be postponed. If the child has died or has been given to someone else, the prison sentence shall begin to be executed two months after the date of birth.

Postponement of execution upon request by the convict

ARTICLE 17.- (1) If it is found that the immediate execution of a prison sentence with a term of three years or less would entail for the convict or his family a heavy loss which is not intended by the conviction, its execution may be postponed by the Office of Chief Public Prosecutor upon request by the convict. The period of such postponement may not exceed six months.

(2) Prison sentences with a term of three years or less may be executed with intervals of up to six months by a decision of the Office of Chief Public Prosecutor so that the convict may complete his higher education or in essential and urgent cases such as where it has become impossible to cultivate the land of the convict's family due to the death, permanent illness or disability of his mother, father, spouse or children, or where the illness of the convict requires a continuous treatment. However, there shall be no more than two such intervals.

(3) The acceptance of a request for postponement may be subjected to the provision of a guarantee or to another condition.

Execution of prison sentences against convicts who suffer from mental disorders other than insanity

ARTICLE 18.- (1) The prison sentences against those who suffer from mental disorders other than insanity due to imprisonment or other reasons but whom it is not considered necessary to keep in a mental hospital and who are sent back to their institutions shall be executed in special parts of the designated execution institutions.

(2) The specialists and other medical officers needed by the execution institutions designated for the execution of the prison sentences of those who are mentioned in the first paragraph shall be provided by the Ministry of Health.

Apprehension order

ARTICLE 19.- (1) If the convict fails to appear within ten days following the notification of the call issued for the execution of the prison sentence or the security measure, or if he escapes or there is a suspicion that he will attempt to escape, the public prosecutor shall issue an apprehension order against him.

(2) For the execution of prison sentences longer than three years, an apprehension order shall be issued in any case.

SECTION FOUR

Procedures for the Admission of Convicts to Penal Execution Institutions

Procedures to be effected by the Office of Chief Public Prosecutor

ARTICLE 20.- (1) A finalised judgement containing a prison sentence shall be forwarded by the court to the Office of Chief Public Prosecutor, clearly indicating the identity of the convict and the nature of the sentence.

(2) A call or an apprehension order shall be issued for the convict, considering the length of the prison sentence specified in the judgement, which the Office of Chief Public Prosecutor shall record in the execution book.

(3) The call shall be notified at the address indicated in the judgement. The convict must inform any change of address to the court or the Office of Chief Public Prosecutor. Otherwise, the notification made at the address specified in the judgement shall be effective.

(4) The convict shall be given a document issued by the Office of Chief Public Prosecutor indicating the date of his admission into the penal execution institution, the scheduled date of his release, the length of his prison sentence, and the legal provision under which the sentence has been imposed.

Procedures of admission and registration

ARTICLE 21.- (1) Persons against whom there is a finalised judgement containing a prison sentence converting a court-ordered fine into a prison sentence due to non-payment shall be sent to the penal execution institution by written order of the Office of Chief Public Prosecutor. They shall be placed in admission rooms after their bodies and belongings are searched, and the procedures of placing them in the institution shall be effected following a medical examination.

(2) The names and surnames of the convicts admitted into the penal execution institution, the offences they committed, the types and durations of their sentences, the date and number of the court judgement, and the day on which the execution begins, shall be registered in the “book of convicts”. The sequence number in this book shall be the convict’s number.

(3) For the purposes of identification, finger and palm prints and photographs of the convicts shall be taken, and their blood groups, the outward features of their bodies, and their sizes shall be determined. The information that is registered in this way shall be kept in the personal file on the convict or in the electronic environment. Such information may not be disclosed to any institution or person except where required by the law.

Informing convicts, their relatives and those concerned

ARTICLE 22.- (1) The administrators of the institution shall, orally and in writing, provide convicts at the time of admission into the institution with information concerning matters such as the treatment activities to be implemented, the disciplinary offences and

penalties, the ways of obtaining information and making complaints, their rights and responsibilities, and such information as may be useful for their adaptation to life in the institution. They shall also be provided with information concerning protection and assistance following execution. Convicts of foreign nationality who do not know Turkish shall be informed in their own language or, if this is not possible, in English, French or German. Those who have an oral disability shall be given explanations in the sign language. Those who have a visual disability shall be given a booklet written in their own alphabet.

(2) When a convict is taken into a penal execution institution or transferred to another institution or placed in hospital, the situation shall be communicated, upon his request, to his family or to persons specified by him and, if the convict is a foreigner, to the diplomatic representation or consulate of the State of which he is a national unless he objects in writing.

(3) When a person who is at the military age or currently under arms is taken into a penal execution institution or transferred to another institution or released or when a person enters the military age while in an institution, the situation shall be communicated to the conscription office in which he is registered.

(4) In the event that a convict dies, the provisions above shall apply and the situation shall be immediately communicated to his family.

SECTION FIVE

Classification of Convicts and Execution of Sentences

Observation and classification of convicts

ARTICLE 23.- (1) The observation and classification of convicts shall be made according to the principles below:

a) The personal characteristics of convicts, their physical, mental and health conditions, their lives before committing a crime, their social environments and relations, their occupational activities, their moral tendencies, their views of crime, the durations of their sentences, and the types of their offences, shall be determined, they shall be assigned to execution institutions suitable for them, and the execution and treatment regimes applicable to them shall be identified accordingly, in the observation and classification centres operating by the method of observation, examination and evaluation or in those parts of closed penal execution institutions which are allocated for this service. Convicts shall be sent to high-security penal execution institutions or open penal execution institutions according to the types of their offences, to the tendencies they display, and to whether they must be kept under close supervision and control due to their attitudes and behaviour.

b) These centres shall have, as far as possible, administrators with knowledge and experience in the fields of criminology, penology, behavioural science, justice psychology and criminal law, expert staff such as psychiatrists, pedagogists, child development specialists, social workers, psychological advisors, guidance experts and teachers, and other institution staff.

c) The observation and classification of women, minors and juveniles shall be performed in separate observation and classification centres established in locations and regions where this is considered necessary or, in their absence, in those parts of closed

penal execution institutions for women, minors and juveniles which are allocated for this service.

d) The observations of convicts shall be made by the observation committee, in single rooms, starting from the date of admission into the institution. However, they may also be made in special parts allocated for this purpose where the institution has no single rooms or a limited number of them.

e) Those who are convicted to heavy life imprisonment or to life imprisonment or to a prison sentence longer than two years shall be subjected to observation in accordance with the principles specified in this Law with a view to identifying the regimes to be applied to them, the execution institutions to which they must be sent and, for this purpose, their personal and social characteristics. The period of observation may not exceed sixty days.

f) Where necessary, it may be decided not to subject a convict to observation in view of his personality, his other circumstances and the characteristics in the commission of the offence.

g) At the end of observation, the observation centre shall send the file on the convict together with its opinion to the Ministry of Justice. According to the result of observation, the Ministry shall determine the execution institution to which the convict is to be sent.

(2) The provisions concerning the observation of convicts and the classification of prisons shall not apply to military prisons and to convicts whose sentences are executed in military prisons.

(3) Short-term prison sentences shall be executed in accordance with the principles specified in this Law. Those who are convicted to such sentences shall not be subjected to observation.

Grouping of convicts

ARTICLE 24.- (1) Convicts shall be divided into groups such as:

a) First offenders, recidivists, habitual offenders or those who have made crime a profession;

b) Those who must be subjected to a special execution regime due to their mental or physical condition or their age;

c) Dangerous convicts;

d) Terrorist criminals; and

e) Members of criminal organisations or interest-seeking criminal organisations.

(2) Convicts shall also be grouped according to their age, the length of their sentences and the types of their offences.

Execution of heavy life imprisonment

ARTICLE 25.- (1) The main principles of the regime for the execution of heavy life imprisonment are set out below:

a) The convict shall be accommodated in a single room.

b) He shall have the right to walk and do exercises in the open air for one hour a day.

c) Depending on risk and security considerations and on his effort and good behaviour in rehabilitation and treatment activities, the time for which he goes out and does physical exercises in the open air may be extended and he may be allowed, to a limited extent, to have contacts with convicts who stay in the same unit with him.

d) He may carry out an artistic or occupational activity which is possible where he lives and which is considered appropriate by the administrative committee.

e) In circumstances where it is considered appropriate by the administrative committee of the institution and once every fifteen days, he may make a telephone call to the persons specified in (f) below for up to ten minutes.

f) He may be visited by his spouse, descendants and ascendants, siblings and guardian for up to one hour a day and with intervals of fifteen days, on the days, at the times and under the conditions specified.

g) He may in no case be employed outside the penal execution institution or granted a leave.

h) He may not participate in any sport and rehabilitation activity other than those specified in the internal regulations of the institution.

i) The execution of his sentence may not be suspended in any manner. All health measures to be implemented for the convict shall be implemented in the penal execution institution except for medical tests and requirements or, if this is not possible, in the single-person and high-security convict room of a fully-equipped State or university hospital.

SECTION SIX

Convict's Obligations

Serving the sentence, complying with security and rehabilitation programmes

ARTICLE 26.- (1) The convict has the obligation to serve his prison sentence and to act in compliance with the execution regime implemented for this purpose.

(2) The convict must fully comply with the security and rehabilitation programmes of the penal execution institution. Any deliberate act on his part, for any purpose whatsoever, that would endanger his own life or bodily integrity shall be considered a breach of the obligation to serve the sentence.

Compliance with the rules of health protection

ARTICLE 27.- (1) The convict must comply with the measures required and implemented for the protection of health and the prevention of epidemics, promptly notify the administration of any circumstances that present a danger to health, and behave as required for his personal hygiene and for the hygiene of the environment in which he lives.

(2) The convict must avoid any acts that could endanger his own health or the health of other convicts.

Protection of the building and property

ARTICLE 28.- (1) The convict must properly use the room in which he is accommodated, the institution building and the items given him by the administration and carefully protect them and items which belong to others.

Employment of convicts

ARTICLE 29.- (1) Convicts who do not have an occupation and who are determined by the institution doctor to be mentally and physically fit and convicts who have an occupation and who are willing to work may be employed in workshops in return for such wages as shall be fixed according to the means of the institution.

(2) The purpose of such employment is to ensure that convicts learn an art or trade which will enable them to maintain themselves after release, and to develop or strengthen their motivation to work and produce. In the employment of convicts, account shall be taken of their abilities, skills, aptitudes and mental and physical condition.

(3) The employment of minor convicts shall only be directed towards vocational training. Minors and juvenile convicts attending education institutions or formal education may not be employed in workshops during the teaching year.

(4) Their employment shall be governed by the provisions of Law No. 3308 of 5 June 1986 on Vocational Training in so far as they do not contradict the provisions of this Law.

Employment outside the institution

ARTICLE 30.- (1) Convicts in open penal execution institutions and convicts in closed penal execution institutions who are entitled to be transferred to open penal execution institutions may be employed in areas of work outside the institution.

(2) Convicts in open penal execution institutions shall be employed under the supervision of institution staff, and convicts in closed penal institutions under measures taken by internal and external security personnel.

(3) Supervision and custody by institution staff shall not be required during the employment of convicts in reformatories for minors outside the institution.

(4) Organisations with areas of work shall be encouraged to employ convicts.

(5) The principles governing the employment of convicts outside the institution shall be laid down in a bylaw.

Employment in the service of the institution

ARTICLE 31.- (1) The institution administration may employ convicts who have spent at least one year of their sentences in good behaviour in such services at the institution as are suitable for them. Minor convicts may not be employed outside their living areas or for any purpose other than educational purposes.

(2) Convicts may not be employed in personal affairs of administrators and staff.

Wages and social rights

ARTICLE 32.- (1) Employed convicts shall be paid wages for their work out of the income obtained from what they produce, and shall benefit from social rights.

(2) All types of benefits provided to and expenses incurred for convicts who are covered by a social security institution and for their dependants shall be met by the relevant social security institution.

SECTION SEVEN

Order and Security in Penal Execution Institutions

Internal order of the institutions

ARTICLE 33.- (1) The internal order of the institutions shall be provided by the execution and protection officers who are subject to the Ministry of Justice. When required, the internal security officers shall cooperate with the external security officers.

(2) The administration and the execution and protection officers in open institutions and in reformatories for minors shall be responsible for supervision and control to prevent escapes and to ensure order and discipline.

Doors not to be open and contact to be prevented

ARTICLE 34.- (1) In closed penal execution institutions, the doors of rooms and corridors shall be kept closed except in the following circumstances:

a) Visits to the institution doctor, the infirmary, the baths and the barber's, or transfer to another room;

b) Referral to hospital or a court hearing or transfer to another institution;

c) Release, visits, searches, counts, inspection, training, education, sports and rehabilitation activities;

d) Calls to appear before the committees;

e) Emergencies such as death, earthquake or fire; and

f) Other circumstances determined by the prison administration.

(2) Except in the circumstances enumerated above, convicts may not have contact with convicts in other rooms or with institution staff.

Personal items that may be kept in rooms and their annexes

ARTICLE 35.- (1) The personal items, foodstuffs, medical materials and other articles of need that convicts in closed penal execution institutions may or may not keep in their rooms and in the annexes of their rooms shall be specified in a Regulation.

Searches

ARTICLE 36.- (1) In the institutions, searches may be made without notice at all times in rooms and in their annexes and of convicts and their belongings. A search shall be made once a month in any case.

(2) When required, searches may be conducted jointly with external security personnel or law enforcement bodies or other public officers.

SECTION EIGHT

Disciplinary Penalties and Measures, Rewards

Nature of disciplinary penalties and the conditions for their implementation

ARTICLE 37.- (1) When a convict acts in breach of the behaviour and attitudes required or demanded by the laws, bylaws and regulations or the administration for an orderly life, security and discipline in the institution, one of the disciplinary penalties specified in this Law shall be implemented against him, depending on the nature and seriousness of his act.

(2) The legal prosecution brought on account of such act where it is also a criminal offence shall not preclude the disciplinary investigation and the imposition of a disciplinary penalty.

Disciplinary penalties and measures

ARTICLE 38.- (1) The disciplinary penalties applicable to convicts, excluding minors, are as follows in order of severity:

- a) Reprimand.
- b) Prevention from participating in certain activities.
- c) Deprivation of paid work.
- d) Deprivation or restriction of access to communication means.
- e) Deprivation of accepting visitors.
- f) Confinement in a cell.

(2) Collective, corporeal, cruel, inhuman or degrading penalties may not be applied as disciplinary penalties.

Reprimand

ARTICLE 39.- (1) The penalty of a reprimand means explaining to the convict the negative and inappropriate nature of his act and drawing his attention to the consequences of repeating it.

(2) The acts punishable by a reprimand are the following:

- a) Using foul language in one's letters such as threats, insults and curses.
- b) Speaking to or acting towards other prisoners rudely and immorally.
- c) Sending letters without the administration's knowledge.
- d) Giving presents to staff or attempting to do so.
- e) Making any commitment to staff.
- f) Keeping more money than the amount specified by the administration.
- g) Not keeping the convict identity with oneself.
- h) Not complying with the sleeping plan.
- i) Writing, drawing pictures or sticking posters on the walls of penal execution institutions.
- j) Misusing furniture and other items provided by the administration.
- k) Not paying attention to personal hygiene or general cleanliness.
- l) Not complying with health measures taken by the administration.
- m) Making unnecessary noise in the institution.

Prevention from participating in certain activities

ARTICLE 40.- (1) The penalty of prevention from participating in certain activities means depriving the convict of the right to participate in the cultural and sport activities of the institution for a period of one month to three months.

(2) The acts punishable by prevention from participating in certain activities are the following:

- a) Entering into forbidden areas without the administration's permission.
- b) Leaving the place of education.
- c) Neglecting education.
- d) Causing grouping towards negative behaviour or joining a group intended for this purpose.
- e) Speaking to or behaving towards institution staff improperly.
- f) Providing or selling articles to convicts or institution staff with the aim of obtaining benefit.
- g) Going on a hunger strike.

Deprivation of paid work

ARTICLE 41.- (1) The penalty of deprivation of paid work means depriving the convict, for a period of one month to three months, of the paid work he performs under the institution's guidance.

(2) The acts punishable by deprivation of paid work are the following:

- a) Not wearing the work clothes.
- b) Leaving the place of work without permission.
- c) Not complying with the work instructions at the place of work.
- d) Not taking the required care in work or the care required by work.
- e) Preventing others from working seriously.
- f) Wilfully breaking tools and instruments used in work.
- g) Endangering or heavily damaging the place of work, or those who work, through careless and reckless behaviour.
- h) Wilfully doing bad work or not working although required.

Deprivation or restriction of access to communication means

ARTICLE 42.- (1) The penalty of deprivation or restriction of access to communication means is completely or partly depriving the convict, for one month to three months, of receiving and sending letters, fax messages and telegrams, watching television, listening to the radio, making telephone calls and using other communication means.

(2) The acts punishable by this penalty are the following:

- a) Participating in a mass action of refusing the meal provided by the administration, with the aim of making a protest.
- b) Not doing the work considered appropriate by the workshop management committee of the administration.
- c) Engaging in a mass silent resistance against the administration or with the aim of protesting against anything.

d) Stocking medicines or foodstuffs in rooms, annexes or other areas.

e) Singing a march or shouting slogans unnecessarily.

(3) Letters, fax messages and telegrams sent to the convict shall be delivered to him after the execution of the disciplinary penalty. The execution of a subsequent disciplinary penalty, even if it is of the same type, may not be started before they are delivered to the convict.

(4) The provisions of this Article shall not apply to relations with the lawyer and to the necessary correspondence in the event of the death or grave illness of the mother, father, spouse, child or sibling or in cases of natural disaster.

Deprivation of accepting visitors

ARTICLE 43.- (1) The penalty of deprivation of accepting visitors is not allowing the convict to receive visits for one month to three months.

(2) The acts punishable by deprivation of accepting visitors are the following:

a) Opposing counts.

b) Opposing searches.

c) Opposing referrals, transfers, or measures taken in connection with them.

d) Speaking or behaving in such manner as would create fear, anxiety or panic in the institution.

e) Preventing convicts in any manner whatsoever from communicating, from seeing their visitors, from participating in education, sport, vocational training and workshop activities or other social and cultural activities in the framework of rehabilitation and education programmes, from being examined and treated by the institution doctor, from appointing lawyers, from going to courts or to offices of Chief Public Prosecutors, from meeting institution officers, or from going outside the institution in the case of release, encouraging convicts and remand prisoners to commit these acts, giving instructions to such effect, or hindering the possibilities of meeting and contact allowed by legislation to convicts and remand prisoners.

f) Gambling or having others gamble.

(3) The provisions of this Article shall not apply to meetings with official and competent authorities or with lawyers and legal representatives.

Confinement in a cell

ARTICLE 44.- (1) The penalty of confinement in a cell is keeping the convict in a cell by himself, for night and day, and depriving him of all contact, without prejudice to his right to go in the open air, for one day to twenty days according to the nature and seriousness of his acts.

(2) The acts punishable by confinement in a cell for one day to ten days are the following:

a) Damaging the facilities, equipment and materials of the institution.

b) Attempting to dig a tunnel.

c) Attempting to escape.

d) Instigating convicts and remand prisoners against the administration or staging a riot.

e) Wilfully wounding convicts and remand prisoners in a way that calls for a smaller penalty.

f) Obtaining benefit through pressure on convicts and remand prisoners, using them in one's personal affairs or other affairs, attempting to do so or joining groups created with these aims or being in solidarity with such groups.

g) Bringing into or keeping or using in penal execution institutions any articles, items or materials, other than those indicated in (g) of the third paragraph below, which are prohibited in accordance with this Law.

h) Using violence to prevent or attempt to prevent counts and searches or the activities mentioned in Article 43 (e).

i) Offering bribes or attempting to give bribes to institution officers or external security personnel.

j) Insulting or threatening institution officers.

k) Stealing or wilfully damaging property which belong to the institution, to institution staff or to convicts and remand prisoners.

l) Exceeding the leave period by up to two days without a justified excuse.

m) Preventing convicts and remand prisoners from feeding, or encouraging or persuading them to go on a hunger strike or "death fast", or giving instructions to such effect.

(3) The acts punishable by confinement in a cell for eleven days to twenty days are the following:

a) Staging a riot.

b) Causing heavy damage to the institution.

c) Wilfully causing a fire.

d) Killing or attempting to kill.

e) Wounding convicts and remand prisoners deliberately or seriously in terms of consequences, or deliberately wounding staff in any manner.

f) Making a sexual attack or sexually abusing minors or attempting to do so, or engaging in sexual harassment.

g) Bringing into or keeping or using in the institution any firearms, bullets, explosives, cutting, piercing, wounding or injuring instruments, burning, corroding, suffocating, intoxicating or blinding gases or pharmaceuticals, poisons and drugs, mobile telephones, wireless equipment or other electronic communication devices.

h) Taking staff or convicts and remand prisoners hostage.

i) Escaping or digging a tunnel.

j) Obtaining benefit through pressure on convicts and remand prisoners, using them in one's personal affairs or other affairs, attempting to do so, or using influence and creating a group with these aims.

k) Posting or exhibiting in any part of the institution any publications, banners, placards, pictures, drawings, symbols, signs or other articles of criminal organisations.

l) Carrying out or having others carry out education and propaganda activities of criminal organisations.

m) Giving bribes to institution officers or external security personnel.

(4) The cell shall be arranged so as to meet vital needs.

(5) The convict placed in the cell shall not be prevented from meeting official and competent authorities or his lawyer.

Disciplinary measures applicable to minor convicts.

ARTICLE 45.- (1) The disciplinary measures applicable to minor convicts are protective and preventive measures not in the nature of a penalty, which are implemented with the aim of eliminating the risk of any act that would call for a disciplinary penalty or avoiding the emergence of losses which would be difficult or impossible to compensate while an investigation is under way.

(2) The disciplinary measures applicable to minors are the following:

- a) Suspending incentive-based privileges.
- b) Changing the minor's room or dormitory.
- c) Transferring the minor to another part of the institution.
- d) Changing the minor's workplace or workshop without damaging the integrity and continuity of his vocational training.
- e) Prohibiting him from entering certain places.
- f) Prohibiting him from keeping or using certain items.

Disciplinary penalties applicable to minor convicts

ARTICLE 46.- (1) Warning: This is explaining to the minor the negative and improper character of his act and drawing his attention to the consequences of repeating it. The acts punishable by a warning are the following:

- a) Smoking in the dormitory, workshop, study hall, library or similar places.
- b) Making noise or behaving in such a way as will disturb one's inmates who share the same area or activity.
- c) Changing one's room or place of accommodation without permission.
- d) Not complying with the times of going to bed and getting up.
- e) Delaying the count or being late to turn up for the count.
- f) Entering other rooms without permission where permission is required.
- g) Eating or keeping food in the rooms while there is an eating place.
- h) Behaving rudely or disrespectfully towards institution officers, persons visiting the institution, the officers in charge of activities in which one participates outside the institution, or one's inmates.
- i) Giving false information or telling lies to institution officers about one's personal situation, address or similar matters.
- j) Not paying attention to one's dress and personal cleanliness.
- k) Not keeping with oneself the equipment and materials required to be kept in connection with activities and lessons in which one participates.
- l) Not participating in the activities at the institution in which one is required to participate, or being late to participate in them, or leaving without permission after participating in them.
- m) Keeping, hanging, exhibiting or carrying emblems, badges, writings, slogans, statements, notices, brochures and similar items of political parties or their affiliated organisations.

(2) Reprimand: Where the minor repeats an act that previously resulted in a warning, he shall be given a reprimand, which means drawing his attention for a second time to the consequences of his act.

(3) Repairing, compensating, or restoring to former condition: This means that the minor eliminates the consequences of an act which calls for a disciplinary penalty by means of repairing, compensating, or restoring to former condition, provided that he is willing. The acts punishable by this disciplinary penalty are the following:

- a) Taking or using another's property without permission.
- b) Not complying with the health measures taken by the administration.
- c) Not paying attention to general cleanliness, and polluting the institution and the area.
- d) Insisting on not doing one's personal cleaning.
- e) Leaving one's place of work or education in the institution without permission.
- f) Taking or using institution property in a manner contrary to rules.
- g) Wilfully doing bad work or not working although required to work.
- h) Not performing the assignments or tasks given to one in rehabilitation and education activities.
- i) Not returning in time or in full, or causing damage to, books, instruments or materials borrowed from places such as the institution library, the workshop and the classrooms.
- j) Carelessly burning, breaking or otherwise damaging the building, annexes and installations of the institution, the movable or immovable property of the institution, or another's property.
- k) Keeping items or money in excess of what is allowed or keeping items not allowed to be kept.
- l) Bringing into the institution or annexed places, or keeping, any type of prohibited publications.
- m) Making immoral, ideological or political drawings, signs or the like on institution property or on the equipment and materials of one's own or one's inmates, or writing and posting such items.

(4) Imposing a limit on expenditure: Where the minor repeats an act that previously resulted in a penalty of repairing, compensating, or restoring to former condition, he shall be punished by deducting for a period of thirty days one third of his weekly limit of expenditure out of the wages he receives for work and the money he receives from his family.

(5) Prevention from participating in certain activities: This means depriving the minor of participation in social, cultural and sport activities for up to thirty days. The acts punishable by this disciplinary penalty are the following:

- a) Gambling.
- b) Fighting.
- c) Endangering the safety or health of others through careless behaviour.
- d) Not returning in time from activities in which one participates outside the institution, or not complying with the required conditions in this regard.
- e) Selling or giving away an item provided to one for one's own use.

- f) Offering bribes to institution officers or external security personnel.
- g) Posting or exhibiting in any part of the institution any publications, banners, placards, drawings, symbols, signs or similar items of criminal organisations.
- h) Engaging in deliberate acts to prevent or disrupt the conduct and order of activities in which one participates, and insisting on such acts despite a warning from the person in charge of the activity.
- i) Preventing one's inmates from performing their assignments.

(6) Withdrawing incentive-based privileges: Where the minor repeats an act that previously resulted in a penalty of prevention from participating in certain activities, any incentive-based privileges he may have been given shall be withdrawn from him.

(7) Suspension of a leave: This means suspending the minor's leave for up to sixty days according to the nature and seriousness of the act that calls for this penalty. The acts punishable by this penalty are the following:

- a) Seeking to establish influence on other children or to instigate hostile feelings among them or to create in them an ambition for privilege and benefit.
- b) Bringing into, or using, keeping or selling in the institution any substance that causes addiction or coming to the institution after using such a substance.
- c) Using force to take money or articles which belong to others, or extorting money.
- d) Making, hiding or keeping items or tools which are intended for attack or escape or which can be used for this purpose.
- e) Seizing beds, blankets, mattresses, lockers or other things which belong to the administration and which have not been given to one and selling them to newcomers.
- f) Insulting or opposing institution officers.
- g) Engaging in acts that endanger the safety or health of others.
- h) Returning late from a leave without a justified excuse and not complying with the required conditions in this regard.
- i) Bringing prohibited items into the institution, giving or selling such items to others.
- j) Not going to a place where one must go such as the school and the workplace or not participating in activities in which one must participate.
- k) Making insults or slanders, speaking or behaving in a degrading manner or inciting others to act in this way.
- l) Carrying out or having others carry out propaganda and education activities for criminal organisations.
- m) Going outside the institution without permission.
- n) Falsifying the identity card issued by the institution or any other documents issued to one, making or using false documents.
- o) Hindering rehabilitation and education activities, forcing or instigating participants to leave these activities.
- p) Deliberately wounding others.

(8) Return to a closed penal execution institution: This means returning the minor, for a period of six months, to a closed penal execution institution for minors or to that part of such an institution which is allocated for minors, for a period of six months, where this is required by the nature and seriousness of the act committed by the minor. The minor may

not be returned to a closed penal execution institution for minors on account of disciplinary offences committed and disciplinary penalties imposed except under this paragraph. The acts that call for the return to a closed penal execution institution are the following:

- a) Attempting to wound or wounding any person within or outside the institution by means of any wounding or killing instrument, weapon or explosive.
- b) Detaining any person against his will.
- c) Using violence and threats to prevent institution officers from performing their duties.
- d) Attempting to escape or escaping.
- e) Deliberately burning or attempting to burn or heavily damaging the building or attempting to burn or heavily damaging the building, annexes, installations and movable or immovable property of the institution.
- f) Instigating convicts and remand prisoners against the administration, staging a riot or attempting to organise a riot.
- g) Killing or attempting to kill.
- h) Making a sexual attack, sexually abusing or harassing other children or attempting to do so, or instigating others to act in this way.
- i) Torturing staff or other children or having them tortured.

(9) Confinement in a room: If a minor who is in the closed execution institution referred to in the eighth paragraph above commits one of the acts specified in that paragraph, he shall be kept in a room by himself for up to five days, for night and day, without prejudice to his right to go in the open air. This penalty shall be implemented without preventing the minor from access to institution officers whenever he wants. The minor shall be subjected to a medical check before, during and after the execution of the penalty. During the execution of the penalty, the minor shall be allowed to see his family, lawyer and legal representative.

Disciplinary investigation

ARTICLE 47.- (1) The penalties of a reprimand and of prevention from participating in certain activities shall be imposed and implemented by the highest authority of the institution.

(2) Within two days of learning that a convict has committed an act that calls for one of the other disciplinary penalties, an investigation shall be started by an officer appointed by the highest authority of the institution.

(3) The investigation shall be completed within seven days and the report drawn up at the end of it together with any annexes shall be submitted to the disciplinary committee. The investigation period may be extended by up to seven days with the written approval of the execution judge according to the nature of the act and of the investigation.

(4) No disciplinary penalty may be imposed without receiving a defence. The convict against whom a disciplinary investigation has been started shall be notified in writing of the nature and consequences of the act with which he is charged and that he must submit a defence within three days, failing which he shall be deemed to have waived this right. The defence may be submitted in writing or made orally. The oral defence shall be taken down in writing. The defence of a convict who does not know Turkish or who is deaf and mute shall be received through an interpreter.

(5) Disciplinary penalties shall be discussed by the disciplinary committee on the basis of documents and shall be decided within three days. The disciplinary committee may decide to impose the disciplinary penalty specified in the law or that a disciplinary penalty is not called for. The decision of the disciplinary committee shall be supported by a justification and clearly indicate the authority and the time-limit for appeal.

(6) The decision of the disciplinary committee shall be immediately notified by the administration to the convict.

(7) In cases where it is necessary to take urgent action because the internal order of the institution or the life and bodily integrity of convicts is seriously endangered, the highest authority of the institution shall start the investigation while at the same time taking the measures specified in Article 49 below. In such event, the execution judge shall be informed.

Repetition of acts that call for a disciplinary penalty; execution and lifting of disciplinary penalties

ARTICLE 48.- (1) Acts which do not conform to the definition of any of the acts in Articles 37 to 46 and which are not defined elsewhere in this Law shall be met by the disciplinary penalties specified in those articles where they are similar in nature and seriousness to those acts.

(2) A convict who again commits an act punishable by a disciplinary penalty within the period at the end of which a previous finalised disciplinary penalty may be lifted shall be liable to the next heavier penalty each time.

(3) Execution of disciplinary penalties:

a) The penalty of confinement in a cell shall be started after it is approved by the execution judge. Without prejudice to the other provisions concerning the penalty of confinement in a cell, the execution of other finalised disciplinary penalties shall be started immediately. If several disciplinary penalties are imposed, they shall be executed separately in order of their dates of finalisation. Before the execution of one penalty is completed, the execution of the next one shall not be started.

b) There shall be no conditional release before all disciplinary penalties are executed and lifted, but the date of deserved release shall not be exceeded.

c) Before and during the execution of a penalty of confinement in a cell, the convict shall be examined by the doctor. If it is found that the convict would not be able to sustain this penalty, the execution shall be postponed until later or take place with such intervals as the doctor shall determine. If it is established by the health committee of a fully-equipped State or university hospital that the convict would not become able to sustain the penalty by the date of conditional release, the penalty of confinement in a cell shall not be executed; instead, the penalty of depriving him of accepting visitors shall be implemented twice the applicable period. The report of the health committee shall be placed in the execution file.

(4) In lifting a disciplinary penalty and giving back the status of being in good behaviour, the basis shall be the following periods, which start to run from the date of execution:

- a) Fifteen days in the case of a reprimand;
- b) One month in the case of prevention from participating in certain activities;
- c) Three months in the case of deprivation of paid work;

d) Three months in the case of deprivation or restriction of access to communication means;

e) Three months in the case of deprivation of accepting visitors.

f) In the case of confinement in a cell, six months if it was imposed under the second paragraph of Article 44 or one year if it was imposed under the third; and

g) The same period as in (f) above in the case of deprivation of accepting visitors as an alternative to the penalty of confinement in a cell.

At the end of these periods and on condition of being in good behaviour, the penalties indicated in (a) and (b) shall be lifted by the highest authority of the institution, and the other penalties upon a proposal of the highest authority of the institution and a decision of the disciplinary committee.

(5) Disciplinary penalties imposed on minor convicts shall be automatically lifted:

a) At the same time as the decision in the case of a warning or reprimand;

b) At the end of seven days in the case of a penalty of repairing, compensating, or restoring to former condition;

c) At the end of thirty days in the case of imposing a limit on expenditure;

d) At the end of thirty days in the case of prevention from participating in certain activities;

e) At the end of thirty days in the case of withdrawing incentive-based privileges;

f) At the end of sixty days in the case of suspending a leave;

g) At the end of sixty days in the case of returning to a closed penal execution institution; and

h) At the end of ninety days in the case of confinement in a room.

Except for (a), the periods in this paragraph shall start to run from the date of decision or, in the case of escape, from the date of execution.

(6) The disciplinary committee may lift a disciplinary penalty at all times, without waiting for the end of the required period, where the child complies with the rules of the institution and makes progress in the rehabilitation programme or where the intended result of the penalty is achieved.

Measures that may be taken by the administration

ARTICLE 49.- (1) The administration may change the room or the workplace of a convict against whom a disciplinary investigation is continuing, may transfer the convict to another part of the institution, or may separate him from other convicts.

(2) Where the order of the institution or the security of persons is seriously endangered, other measures not explicitly stated in this Law shall also be taken to ensure order and security. The implementation of such measures shall not preclude the imposition of a disciplinary penalty.

Use of constraining devices

ARTICLE 50.- (1) In no case shall chaining or ironing be implemented as a measure. Handcuffs and other body restraints may be used:

a) To prevent escape during referral or transfer, on condition that they are removed when the convict is brought before the competent authority;

b) For medical reasons, under the doctor's guidance and supervision; or

c) By order of the highest authority of the institution, where other methods of control fail, in order to prevent the convict from injuring himself or others or causing damage to property.

(2) The provision of item (a) in the first paragraph shall not apply to minor convicts.

Rewarding

ARTICLE 51.- (1) Incentive-based privileges shall be granted to convicts who display the desirable behaviour and attitudes in terms of their general condition within and outside the institution, their interest in and harmony with rehabilitation activities, their attitude regarding the order of the institution, and their effort in work assigned to them.

(2) The provision of the first paragraph above shall also apply to minor convicts.

(3) The principles and procedures of the system of rewards shall be laid down in a bylaw.

Complaints and objections

ARTICLE 52.- (1) Complaints and objections against disciplinary penalties and measures shall be governed by the provisions of Law No. 4675 dated 16 May 2001 on the Office of Execution Judge.

(2) The right to petitions and complaints under other legislation shall be reserved.

SECTION NINE
Transfers of Convicts

Transfers

ARTICLE 53.- (1) Convicts may be transferred to another institution at their own request or for reasons of mass referral, discipline, order and security, illness, training, education, crime or location of trial.

(2) Before transfer, the convict shall be examined by the institution doctor or, if not available, by another official physician. If it is found that he is not fit for the journey, the highest authority of the institution shall immediately refer him to an official health organisation. Where his condition is certified by an official report signed by at least two medical specialists, one of whom must be a specialist in the disease of the convict, and approved by the chief doctor of the hospital, the transfer shall be postponed until the time when the health condition of the convict is suitable, and the situation shall be communicated to the Ministry of Justice.

Transfer at the convict's own request

ARTICLE 54.- (1) A convict may be transferred from the institution in which he is kept to another institution at his own request on condition that:

- a) He submits a petition indicating at least three institutions to which he wishes to be transferred;
- b) He agrees to pay the expenses of transfer in advance;
- c) There are not less than five months to his conditional release;
- d) He is in good behaviour; he has not received any disciplinary penalty or those he received have been lifted;
- e) The institution to which he is to be transferred is suitable in terms of space, capacity and category and is not a remand house;
- f) It is an institution where convicts with sentences of similar length are kept; and
- g) It is not an institution he had to leave in the past by reason of discipline.

(2) The convict must stay in the institution to which he is transferred for at least one year, except for a new transfer due to education, training or illness. This period shall be six months in the case of minors.

Transfer by reason of discipline

ARTICLE 55.- (1) If a convict commits an act punishable by confinement in a cell, the administration shall take disciplinary action against him and, at the request of the highest authority of the institution, the Ministry may transfer him to another institution. His disciplinary penalty shall be executed in the other institution.

(2) The convict must stay in the institution to which he is transferred for at least six months except for a new transfer for reasons of a court order, institution security, safety of life or illness.

Transfer due to necessity

ARTICLE 56.- (1) Convicts whose transfer to other institutions is considered necessary because their current institutions have become unsuitable or insufficient, their capacity is exceeded or they have become unusable or due to reasons of necessity such as order, security, natural disaster, fire or major repair may be transferred to other

institutions outside the same area of jurisdiction which are determined by the Ministry of Justice and which are suitable for their condition.

Transfer due to illness

ARTICLE 57.- (1) A convict whose referral to hospital is considered necessary shall be placed in the convict ward of the nearest fully-equipped State or university hospital.

(2) A convict sent to such a hospital may be referred to a hospital in another place only by a report of the health committee or, if there is an urgent and vital danger, by a report issued by two medical specialists, one of whom must be a specialist in the disease in question, and approved by the chief doctor, which clearly indicates the cause of the disease, the reason that the disease cannot be treated in that hospital, what kind of treatment is required for the patient, and where it is available. In such event, the nearest State or university hospital with a convict ward shall be preferred.

(3) Whether or not the convict will continue to be treated and supervised in that hospital must be certified by a report of the health committee. Otherwise, the convict shall be returned to the institution to which he belongs.

(4) The convict may not be treated in private health organisations except for urgent cases. In such cases, the Ministry of Justice shall be informed.

(5) A convict may be transferred to another institution if it is certified by a report of the health committee issued upon a proposal of the institution doctor and at the request of the highest authority of the institution that it is not appropriate for him to stay in the current institution due to health reasons.

Measures to be taken in transfers

ARTICLE 58.- (1) While convicts are transported to the institution or another place, measures shall be taken to prevent them from coming into contact with the public and being seen by others.

(2) The convict shall not be transferred in a vehicle with inadequate ventilation and lighting, in a distressful or degrading way. The measures to be taken during a transfer shall not go beyond what is necessary to prevent escape and to achieve the purposes of the first paragraph above, and shall not extend to the point of preventing the convicts from speaking with each other or with the staff.

(3) Transfers to open penal execution institutions and to reformatories for minors shall take place under the supervision of institution officers.

(4) The feeding and other natural needs of the convict during the transfer shall be provided.

PART THREE

Rights and Guarantees of the Convict in the Penal Execution Institution, and Restrictions

SECTION ONE

Exercising the Rights of Defence, Participation in Cultural and Artistic Activities, Freedom of Expression

The right to see a lawyer or a notary

ARTICLE 59.- (1) The convict shall have the right to meet a lawyer up to three times without a power of attorney in the framework of legal practice.

(2) Meetings with a lawyer or a notary shall take place upon presentation of professional identification papers, outside holidays and within business hours, in places allocated for this purpose, out of hearing but within sight for security reasons.

(3) A lawyer may not have meetings with several convicts at the same time, even if he holds powers of attorney issued by them.

(4) The lawyer's documents and files related to defence and his records of the meetings with his client shall not be subject to examination.

(5) Convicts of Turkish or foreign nationality against whom there is an investigation or prosecution under way in foreign countries, who intend to bring a legal action in foreign countries or before international judicial authorities, or who have a pending legal action for or against them in foreign countries or before such authorities, may have a meeting with their lawyers of foreign nationality, provided that a power of attorney is furnished and that the meeting is limited to the said investigation, prosecution or legal action. A lawyer of foreign nationality who does not hold a power of attorney may have a meeting with such a convict only if he is accompanied by a lawyer who is registered with a Turkish bar association.

Participation in cultural and artistic activities, freedom of expression

ARTICLE 60.- (1) Programmes representing various branches of culture and art shall be organised in penal execution institutions as far as permitted by available means, and procedures shall be arranged for the participation of convicts in them.

(2) The main objective of such programmes shall be to ensure that convicts develop their capacity of expression and increase their knowledge.

(3) The culture and art programmes of the institution shall be organised by the highest authority of the institution according to the principles specified by the Ministry of Justice. The organisations of the State in charge of culture and art shall extend the necessary assistance to this end.

(4) Activities of publication which convicts may carry out in the framework of freedom of expression shall be subject to the provisions governing work in the institution and to the conditions in that regard.

Using the library

ARTICLE 61.- (1) In penal execution institutions, a library shall be created according to the size of the institution. In the library, there shall be reference books for the subjects that are taught and, as far as possible, such books as will enable convicts to make good use of their free time, to acquire the habit of reading and to open up their horizons culturally.

(2) Convicts shall be allowed to use the library of the institution.

(3) This service may also be provided by means of a mobile library.

The right to benefit from periodical or non-periodical publications

ARTICLE 62.- (1) The convict shall have the right to benefit from periodical and non-periodical publications on condition that they are not prohibited by the courts and that he pays their price.

(2) Newspapers, books and other printed works published by official institutions, universities, professional organisations in the status of a public body, and foundations and non-profit associations to which the Council of Ministers has granted tax exemption – provided that their publications are not prohibited by the courts – shall be given to convicts freely and without charge. The textbooks of convicts attending education shall not be subject to control.

(3) Publications containing news, writings, photographs or comments which endanger the security of the institution or which are obscene shall not be given to convicts.

SECTION TWO

Rights and Obligations in Daily Life

Accommodation and bedding of convicts

ARTICLE 63.- (1) Dangerous convicts shall be accommodated only in single or three-person rooms, and other convicts in rooms for such number of convicts as shall be determined by the prison administration in view of the physical condition and capacity of the institution and security requirements.

(2) Each convict shall be provided with a standard bed and a sufficient number of bedclothes suitable for the local climate.

(3) Women and men, remand prisoners and convicts, minors and adults, organisation or interest-seeking organisation criminals and terrorism criminals shall not be allowed to come together or to establish contact with each other except in the cases specified in this Law.

(4) Adequate space, lighting, heating, ventilation and hygiene shall be provided in rooms and parts in view of climatic conditions.

Clothing of convicts

ARTICLE 64.- (1) At their request, convicts in need shall be provided by the administration with clothes suitable for the climate and adequate for health.

(2) The clothes of convicts shall not be similar in form or colour to the uniforms worn by internal and external security personnel.

Accommodation of the convict's children in need of care

ARTICLE 65.- (1) Children aged zero to six whose mothers are convicts and who have no one outside to look after them may stay with their mothers. Such children shall be accommodated during daytime in the crèches or daycare centres of penal execution institutions or the Institution for Social Work and Child Protection or other public organisations and institutions.

(2) The children staying with their mothers shall be given food and drinks suitable for their age and condition and according to their needs.

(3) Children who have completed the age of three may be placed by court decision in a nursery school or in an orphanage. It shall be ensured that such children have contact with their mothers from time to time, according to a certain programme and procedure.

The convict's right to communicate by telephone

ARTICLE 66.- (1) Convicts in closed penal execution institutions may have telephone calls using paid telephones controlled by the administration, in accordance with the principles and procedures specified in the bylaw. Telephone calls shall be listened to and recorded by the administration. This right may be restricted for dangerous convicts and for convicts of organised crime.

(2) Convicts in open penal execution institutions and in reformatories for minors may freely have telephone calls using paid telephones.

(3) Convicts in open or closed penal execution institutions shall be immediately allowed to use the telephone or fax machine of the institution in the event of the death or grave illness of their descendants, ascendants, spouses or siblings or in the case of a natural disaster. The conversation or communication shall be documented by minutes and these minutes shall be kept in a special file.

(4) In open or closed penal execution institutions and in reformatories for minors, convicts shall not be allowed to keep or use vehicle telephones, mobile telephones, wireless equipment or similar communication devices.

The convict's right to receive radio and television broadcasts and to use the Internet

ARTICLE 67.- (1) Where there is a central broadcasting system in the penal execution institution, the convict shall have the right to hear or watch radio and television broadcasts provided by this system.

(2) In those institutions where there is no central broadcasting system, permission shall be given to hear or watch radio and television broadcasts by means of an independent antenna, on condition that measures are in place to prevent hearing or watching of broadcasts which are not useful. Such equipment shall be purchased by the institution on behalf of the convict, who shall pay its price. Radios, televisions and computers brought by others from the outside in any manner whatsoever shall not be admitted into the institution.

(3) In closed or open penal execution institutions and in reformatories for minors, audio-visual education materials and equipment may only be permitted to be used in places specified by the administration and in the framework of education and rehabilitation programmes. Where such programmes require, the Internet may also be used under supervision. The convict may not keep a computer in his room. However, if it is considered appropriate by the Ministry of Justice, permission may be given to bring a computer into the penal execution institution for educational and cultural purposes.

(4) These rights may be restricted for dangerous convicts and for convicts of organised crime.

The convict's right to send and receive letters, fax messages and telegrams

ARTICLE 68.- (1) Subject to the restrictions specified below, the convict shall have the right to receive letters, fax messages and telegrams sent to him, and to send letters, fax messages and telegrams at his own cost and expense.

(2) Letters, fax messages and telegrams sent by the convict or arriving for him shall be inspected by the letter-reading committee or, if this committee does not exist, by the highest authority of the institution.

(3) Letters, fax messages and telegrams endangering the order and security of the institution, holding up officers as a target, serving for communication between members of terrorist or interest-seeking criminal organisations or other criminal organisations, containing false and untrue information which would lead to panic, or containing threats or insults, shall not be delivered to the convict, or shall not be sent if they are written by the convict.

(4) Letters, fax messages and telegrams sent by the convict to official authorities or to his lawyer for the purpose of defence shall not be subject to inspection.

The right to accept presents sent from the outside

ARTICLE 69.- (1) Convicts in closed penal execution institutions shall have the right to accept presents sent from the outside on religious holidays, on New Year's Day or on their birthdays, provided that they are not dangerous for the security of the institution. The principles and procedures applicable in this regard shall be set out in the bylaw.

Freedom of religion and conscience

ARTICLE 70.- (1) In the penal execution institution, the convict may freely perform his religion's worship without disturbing order and preventing work and may obtain and keep articles used in worship as well as books and works required for his religious life.

(2) The convict shall be permitted to be visited by officers of his religion and to communicate with them on condition that the security of the institution is not thereby endangered.

Convict's requests for examination and treatment

ARTICLE 71.- (1) The convict shall have the right to benefit from examination and treatment possibilities and medical means for the diagnosis of his diseases. To this end, the convict shall be treated primarily in the institution infirmary or, where this is not possible, in the convict rooms of State or university hospitals.

Feeding of the convict

ARTICLE 72.- (1) The convict shall be given a reasonable variety of nutritious food sufficient in quality and quantity for him to stay healthy and strong, conforming to health requirements, on a calorie basis to be determined jointly by the Ministries of Justice and Health, considering his age, his health condition, the nature of the work he performs, and his religious and cultural requirements, and shall be provided with drinking water.

(2) The convict may obtain from the institution's canteen any items he may need other than the daily food and necessities provided to him. Where the institution does not have a canteen, such items may be procured from the outside subject to permission and control by the administration.

(3) Convicts who are ill shall be given such food as shall be determined by the institution doctor.

(4) Children staying with their mothers in the institution, and nursing mothers, shall be given suitable food.

PART FOUR

Rehabilitation
SECTION ONE
Individualisation

Determination of rehabilitation programmes

ARTICLE 73.- (1) Rehabilitation programmes to enable the convict to maintain his life as a law-abiding and productive member of society shall be implemented in accordance with his individual needs, considering his past, the causes of his criminality, his criminal record, his physical ability and mental character, his personal nature, the dangers he may present, the length of his sentence, and his expectations after release. In penal execution institutions, educational and psycho-social services shall be established to prepare and implement such programmes.

(2) The convict shall be placed in an institution or section where appropriate rehabilitation can be implemented.

Number of convicts and the security measures to be applied

ARTICLE 74.- (1) Care shall be taken to keep the convicts in the institutions or sections in which they are placed in such number as shall make individualisation possible.

(2) Different security measures shall be in place according to the characteristics of the groups to whom rehabilitation programmes are applied.

(3) Convicts who are identified to be dangerous shall not be grouped in excess of ten in the activities to be undertaken for their individualisation.

SECTION TWO
Education

Education programmes

ARTICLE 75.- (1) Programmes to develop his personality, to strengthen his education, to provide him with new skills, to eliminate his criminal tendency and to prepare him for life after release shall be applied to the convict during the period he is kept in penal execution institutions.

(2) Education programmes, arranged in accordance with the economic and cultural condition of the convict, taking account of his age, the length of his sentence, and his abilities, shall consist of basic education, secondary and higher education, vocational education, religious education, physical education, library services and psycho-social services.

Benefiting from education

ARTICLE 76.- (1) It shall be ensured that convicts in open penal execution institutions and in reformatories for minors benefit from formal and extended education and those in closed penal execution institutions from extended education.

Relations with associations, foundations, voluntary organisations and governmental agencies

ARTICLE 77.- (1) There may be cooperation with associations, foundations and voluntary organisations and individuals for the success of rehabilitation efforts towards convicts. With this aim, governmental agencies must extend the required assistance to the extent permitted by their available means.

SECTION THREE

Protection of Health and Medical Interventions

Examination and treatment of the convict

ARTICLE 78.- (1) The arrangement of health conditions in the institution and the emergency or regular examination and treatment of convicts shall be carried out by the doctor of the institution. The results of all examinations and treatments performed in general or due to illness shall be recorded on the health monitoring card and kept in the relevant file.

(2) The Ministries of Health and of Labour and Social Security and the health organisations of universities must provide the necessary assistance for the treatment of convicts.

(3) No medical experiments may be performed on any convict even if he agrees.

Health inspection

ARTICLE 79.- (1) The institution doctor shall inspect the institution at least once a month and shall draw up and submit to the administration a report containing his proposals concerning any diseases against which general and specific measures are required and concerning measures that need to be taken with regard to health conditions in the institution.

Referral to hospital

ARTICLE 80.- (1) Where it is necessary to refer a convict to hospital for health reasons, the institution doctor shall immediately report the situation to the administration of the penal execution institution.

Illness to prevent execution

ARTICLE 81.- (1) If examinations and tests performed by the institution doctor or another doctor in charge show that the convict has an illness that can prevent the execution of his sentence, the situation shall be reported to the administration.

Convict's refusal of food and drinks given to him

ARTICLE 82.- (1) If convicts insist on refusing the food and drinks given to them for whatever reason, they shall be informed by the doctor of the penal execution institution about the harmful consequences of their act and the physical and mental damage it may cause to them. The psycho-social service unit shall also make efforts for them to give up this attitude and, if these efforts fail to produce results, their feeding shall be started in an appropriate environment according to the regime determined by the institution doctor.

(2) Regarding any convicts who refuse food and carry on a hunger strike or "death fast" and who are determined by the institution doctor to be in vital danger or to have lost consciousness despite the measures taken and the efforts made under the first paragraph, medical tests, treatment, feeding and other measures for examination and diagnosis shall be implemented in the institution or, where this is not possible, by immediately taking them to a hospital, regardless of their will, provided that such measures and interventions do not pose a danger to their health and life.

(3) The provisions of the second paragraph shall also apply where the health or life of a convict who has a health problem and refuses examination and treatment is in serious

danger or where there is a situation posing a danger to the health or life of those who are in the penal execution institution.

(4) The measures envisaged in this Article shall be implemented under the guidance and supervision of the institution doctor. However, where a failure of the institution doctor to intervene in time or a delay on his part would create a vital danger for the convict, the said measures shall be implemented without requiring the conditions specified in the second paragraph.

(5) Compulsory measures to protect the health of convicts and to provide their treatment under this Article shall not be implemented degradingly.

SECTION FOUR

Contacts with the Outside

Visits to the convict

ARTICLE 83.- (1) The convict may be visited once a week for half an hour as a minimum and one hour as a maximum, within working hours, by his spouse, his relatives of up to the third degree, on condition that the relationship is documented, and his guardian or trustee and by a maximum of three other persons whose names and addresses he notified at the time of admission into the institution, not to be changed except in overriding cases.

(2) Visits by persons other than those mentioned in the first paragraph may be permitted in writing by the Office of Chief Public Prosecutor.

(3) Visits shall be of two types, open and closed, with their conditions and durations specified in the Regulation issued by the Ministry of Justice.

Visits to foreign convicts

ARTICLE 84.- (1) Requests to visit foreign convicts by the diplomatic representations or consulates of the States of which they are nationals shall be granted without delay in accordance with the principles and procedures laid down in the applicable legislation.

(2) The paragraph above shall apply also to visits of convicts who are nationals of States which do not have a diplomatic representation or consulate in Turkey, and convicts who are in the status of a refugee or a stateless person, by the diplomatic representations of the States that protect their interests or by national or international organisations working to protect such persons.

(3) The provisions of Article 83 shall be reserved.

Visits by delegations to penal execution institutions

ARTICLE 85.- (1) Official institutions and organisations must obtain permission from the Ministry of Justice to visit penal execution institutions in a delegation or individually and to meet convicts. This shall also apply to those who are doing scientific research and to members of the media.

(2) Convicts may be visited for the purpose of inspection by representatives of organisations recognised under international conventions to which Turkey is party, by indicating the reason and with permission from the Ministry of Justice.

(3) The administration shall take measures to ensure security during such visits and meetings, which shall take place under the supervision of institution staff unless legally otherwise required.

(4) There shall be no collective meeting with convicts who may not be brought together for security reasons. Even if permission has already been granted, visits and meetings may be postponed in emergencies such as a natural disaster, fire or insurrection.

Principles to be observed during visits and meetings

ARTICLE 86.- (1) Official delegations and private individuals coming for a visit or meeting to an open or closed penal execution institution may not engage in acts that would endanger the security of the institution and may not request any changes in legal and administrative measures taken and implemented for the security of the institution.

(2) Articles and items that could disturb the order and security of the institution or damage the health of convicts, any communication devices, and weapons even if there is a licence to carry, shall not be brought into the institution. No money, valuable papers and similar items may be given to convicts during visits and meetings.

(3) All persons entering into a penal execution institution, regardless of their status and function, including institution officers and external security personnel, must go through the sensitive door. These persons shall be searched by metal detector, and their belongings shall be passed through x-ray equipment or similar security devices and, in the event of suspicion, also searched manually. Where such equipment is not available, the search and inspection shall be performed manually. However, Members of Parliament, civil governors, judges, public prosecutors and those who are considered to be in this category, lawyers, notaries, inspectors of penal execution institutions and remand houses, presidents and members of monitoring boards, representatives of persons and organisations whose authority is recognised by international conventions, the commander of the unit guarding the penal execution institution or remand house, and the institution director, shall not be searched manually except in cases of flagrant crime. If the sensitive door equipment keeps giving a signal, these persons may only enter into the institution if they agree to be searched manually. The visit areas shall also be searched before and after the visit.

(4) Documents and files which lawyers entering into penal execution institutions state in writing are related to defence shall not be subject to inspection.

(5) Any items which, although not of a criminal nature, are prohibited to be brought into penal execution institutions shall be placed in custody by the administration, to be returned to their owners during exit.

(6) Convicts shall be searched at different places and by different officers while leaving and returning to their rooms.

(7) Human dignity shall be respected in searches.

(8) Visits and meetings by delegations or individuals not complying with the applicable rules shall be terminated immediately. Any offence shall be reported to the administrative and judicial authorities concerned. Any acts or demands by private individuals who have the right to make visits in breach of the measures taken with the aim of protecting the security of the institution may result in their right being restricted by the highest authority of the institution for one month to one year. The legal provisions concerning lawyers shall be reserved.

SECTION FIVE

Physical Education and Spare Time Activities

Physical education

ARTICLE 87.- (1) To ensure his social, mental and physical development, the convict shall be permitted to take part in sport, physical education and recreational activities to the extent allowed by his physical and mental health condition, and for this purpose space and materials shall be provided to the extent available.

(2) Convicts who do not work in the open air or who are in closed penal execution institutions shall be permitted to walk in the open air for at least one hour a day, to the extent allowed by weather conditions. Individual exercises may also be performed during this time. Convicts in open penal execution institutions and in reformatories for minors may participate in activities outside the institution.

Using the library and participating in courses

ARTICLE 88.- (1) Outside the working hours and according to the rules determined by the administration, convicts may participate in courses organised by the administration and use the library. The programmes in this regard shall be prepared by the administration, giving consideration to the proposals of experts and to the wishes of convicts.

SECTION SIX

Preparations for Release

Determination of good behaviour in conditional release

ARTICLE 89.- (1) The convict must have spent the periods specified in Article 107 hereof by sincerely complying with the rules laid down for the order and security of penal execution institutions, using his rights in good faith and performing his obligations in full and it must be determined by the administrative committee, based on the opinion of the disciplinary committee, that he is ready for reintegration into society in accordance with the rehabilitation programmes that have been implemented.

Measures and contacts before release

ARTICLE 90.- (1) Measures shall be taken ensuring that the convict thinks about arranging his future after release, and he shall be given assistance and contributions towards establishing contact with official and private organisations or persons offering services in this area for his social adaptation and for the interests of his family.

Assistance to the convict in finding employment

ARTICLE 91.- (1) The convict shall be encouraged to find employment or start his own business when he is released. To this end, there shall be cooperation with voluntary persons and organisations and official institutions. Details in this regard shall be provided in the bylaw.

SECTION SEVEN

Leaves

Cases of going outside the closed penal execution institution

ARTICLE 92.- (1) The convict shall not be allowed to go outside the closed institution except for a leave, referral to hospital, to the office of chief public prosecutor

or to a hearing, education, training, workshop activity, the postponement of his sentence, release, transfer or natural disasters such as earthquake or flood, and without a written order issued by the competent authority.

Leaves

ARTICLE 93.- (1) An excuse leave, a special leave or a leave to look for work may be granted to convicts except those in high-security penal execution institutions. Time spent on a leave shall be counted towards the prison sentence.

(2) Details regarding the use of leaves shall be set out in the bylaw.

Excuse leave

ARTICLE 94.- (1) Upon request by a convict who has spent one fifth of his sentence in good behaviour, an excuse leave of up to ten days excluding the travel time may be granted to him:

a) In the event of the death of his mother, father, spouse, sibling or child, upon a proposal by the highest authority of the penal execution institution and with the approval of this proposal by the office of chief public prosecutor;

b) In the event of an important and heavy illness of one of the above-mentioned relatives which poses a vital danger or in the event of a disaster such as an earthquake, flood or fire which has caused a loss to them provided that this is certified, upon an opinion from the highest authority of the institution, a proposal by the office of chief public prosecutor and the approval of this proposal by the Ministry of Justice.

(2) Except dangerous convicts, a convict may be allowed, at his request and with the approval of this request by the chief public prosecutor, to attend the funeral of his mother, father, spouse, sibling or child, on condition that the funeral is held in the place where the execution institution is located and that he participates in it under escort by external security personnel.

Special leave

ARTICLE 95.- (1) Convicts in open penal execution institutions and those who are in closed penal execution institutions and who are entitled to be transferred to open penal execution institutions may be granted a leave for up to three days excluding the travel time, for a maximum of three times a year, upon a proposal by the highest authority of the institution and with the approval of this proposal by the office of chief public prosecutor, to ensure that they maintain or strengthen their ties with their families and to achieve their adaptation to the outside world.

Leave to look for work

ARTICLE 96.- (1) Convicts who have spent at least six months of their sentences in penal execution institutions without interruption and who have one month left before their conditional release may be granted a leave for up to eight hours on working days, upon a proposal by the highest authority of the institution and with the approval of this proposal by the office of chief public prosecutor, so that they should not face adaptation problems when they return to their normal lives and in order to enable them to look for work.

Not returning from a leave, being late to return

ARTICLE 97.- (1) Convicts who fail to return from a leave or who return with a delay of more than two days shall be liable to the provisions stipulated in Article 292 and the following articles of the Turkish Criminal Code.

(2) Disciplinary action shall be taken against convicts returning from a leave with a delay of two days or less. No other leave shall be granted to a convict who has escaped while on leave.

SECTION EIGHT

Decisions Concerning Execution

Doubt about the interpretation of the sentence or the calculation of the prison term to be served

ARTICLE 98.- (1) If there is a doubt about the interpretation of the court sentence or the calculation of the prison term to be served, if there is a suggestion as to whether the sentence may be executed partly or wholly, or if a subsequently passed law is in favour of the convict, the court that imposed the sentence shall be requested to make a decision to eliminate the doubt or to determine the length of the sentence to be served.

(2) The same provision shall apply in the event that a request for the postponement of the sentence under Article 16 hereof is rejected.

(3) An application made under the paragraphs above shall not suspend the execution of the sentence. However, depending on the nature of the case, the court may decide that the execution shall be postponed or stopped.

Unification of several prison sentences

ARTICLE 99.- (1) Each prison sentence against a person shall be independent of the others. However, where there are several finalised sentences against a person, the court shall be requested to give a unification decision for purposes of implementing Article 107 hereof.

Deducting time spent in hospital from the prison term

ARTICLE 100.- (1) If a convict is taken from the penal execution institution to hospital due to illness after the execution of his sentence has begun, the time spent in hospital shall be deducted from the prison term.

(2) However, if the convict has deliberately caused his illness in order to stop the execution of the sentence, he shall not be entitled to benefit from the provision above. In such event, the public prosecutor shall request the court to make a decision.

Authority and procedure for decisions during execution

ARTICLE 101.- (1) Court decisions to be made under Articles 98 to 100 hereof during the execution of a sentence shall be made without a hearing. The public prosecutor and the convict may be asked to state their opinions in writing before a decision is made.

(2) Where a unification of sentences is required under Article 99 above, the authority to make a decision in this regard shall be the court that imposed the heaviest sentence or, in the event of equality in this regard, the court that imposed the most recent sentence, and the regional court if one of the sentences was imposed directly by that court or the Supreme Court of Appeals if it was made by the Supreme Court of Appeals.

(3) Appeals may be filed against such decisions where they have been made by courts other than a regional court or the Supreme Court of Appeals.

PART FIVE

Assistance to Convicts and Ex-convicts Before and After Release

SECTION ONE

External Assistance to the Execution Institution and Mutual Assistance Between Convicts

External assistance to the execution institution

ARTICLE 102.- (1) Relevant ministries, governmental agencies and other public organisations and institutions must provide the necessary support and services in their respective areas to ensure that convicts overcome their personal difficulties, are rehabilitated and adapt themselves to life on the outside before or after they are released from penal execution institutions.

(2) Assistance may be sought in this regard from voluntary individuals, organisations and institutions.

(3) The methods and procedures concerning such assistance, support and services shall be set out in the bylaw.

Mutual assistance between convicts

ARTICLE 103.- (1) Convicts who are skilled in various trades or arts may assist other convicts who are able and willing to work in learning a skill, trade or art in the penal execution institution and in their life after release, in cooperation with the administration.

SECTION TWO

Controlled Freedom and Assistance Centres and Protection Boards

Controlled freedom and assistance centres and protection boards

ARTICLE 104.- (1) Controlled freedom and assistance centres shall be established to perform functions such as monitoring within the community the convicts whose prison sentences have been postponed, who have been released, or regarding whom a non-custodial measure has been decided, rehabilitating them, solving their psycho-social problems, protecting them after release, drawing up social investigation reports on persons who are on trial, and protecting the victims.

(2) Protection boards shall be established to provide convicts with employment after release.

(3) The establishment and the working methods and principles of controlled freedom and assistance centres and protection boards shall be set out in the relevant law.

CHAPTER TWO

Other Penalties, Measures, Conditional Release and Remand

PART ONE

Other Penalties

SECTION ONE

Employment in Work Useful to the Public and Execution of Judicial Fines

Employment in work useful to the public

ARTICLE 105.- (1) Employment in work useful to the public as one of the alternatives to a short-term prison sentence which are provided in item (f) of the first paragraph of Article 50 of the Turkish Criminal Code means employing the convict,

without pay, in certain services of a public institution or a private organisation working for public benefit.

(2) Controlled freedom and assistance centres shall obtain information from such institutions and organisations located in their respective areas as to how they can employ convicts, and shall prepare lists of services. These lists shall be submitted to the courts. The court shall offer to the convict an appropriate service from these lists and the duration of the service and remind him that he has the right to refuse the service that is offered.

(3) If another prison sentence is imposed, no decision to employ in public work may be made.

(4) A convict who is sentenced to a prison term of two years or less and who has spent half that term in good behaviour may be ordered by the court to work in a service useful to the public for the rest of his term at his own request or at the request of his legal representative or the office of chief public prosecutor on condition that he is willing.

(5) In the event of failure to comply with the principles and regimes of work specified in the court decision, the remaining prison sentence shall be served in full.

Execution of judicial fines

ARTICLE 106.- (1) A judicial fine means the payment to the State Treasury of a certain amount of money determined in accordance with the procedure in the first paragraph of Article 52 of the Turkish Criminal Code.

(2) The finalised judgement ordering a fine shall be delivered to the office of chief public prosecutor, who shall serve an order on the convicted person under the third paragraph of Article 20 for the payment of the fine within thirty days.

(3) If the convicted person fails to pay the judicial fine within the specified period following service of the payment order upon him, he shall be imprisoned by decision of the public prosecutor for the number of days that corresponds to the unpaid amount.

(4) In the event of failure to pay a judicial fine imposed against a minor, or a judicial fine converted from a short-term prison sentence imposed against a minor, the child shall not be imprisoned. Instead, the eleventh paragraph below shall be applied.

(5) Even if the court judgement does not state that the judicial fine is convertible to imprisonment, the office of chief public prosecutor shall apply the third paragraph above.

(6) Where the court judgement does not specify any instalments for the payment of the judicial fine, if the convicted person has paid one third of the fine within the period of one month, permission shall be granted at his request for the balance of the fine to be paid in two equal monthly instalments. If the first instalment is not paid in due time, the permission shall become null and void.

(7) The period of imprisonment in lieu of a judicial fine shall not exceed three years. In the event of being sentenced to judicial fines under several court judgements, the maximum period shall be five years.

(8) The convicted person shall be released if he pays the amount corresponding to the number of days not yet served in prison.

(9) Without prejudice to item (a) of the first paragraph of Article 50 of the Turkish Criminal Code, the execution of a prison term converted from a judicial fine shall not be postponed and shall not be subject to the provisions of conditional release. Even if a

judicial fine has been converted into a prison term, the former shall be considered with regard to the deprivation of rights.

(10) The execution of judicial fines converted form a short-term prison sentence under item (a) of the first paragraph of Article 50 of the Turkish Criminal Code shall be without prejudice to the provisions of the sixth and seventh paragraphs of that Article.

(11) If the duration of the prison term served does not fully meet the amount of the judicial fine, the court judgement shall be delivered by the office of chief public prosecutor to the highest treasury officer of the place for the balance of the fine to be collected. The treasury officer shall collect the said balance in accordance with Law No. 6183 Concerning the Procedure for the Collection of Public Receivables.

SECTION TWO

Conditional Release, the Execution Regime Applicable to Recidivists, and the Measure of Controlled Freedom

Conditional release

ARTICLE 107.- (1) To benefit from conditional release, the convict must spend his prison term in good behaviour.

(2) Those who are convicted to heavy life imprisonment shall be entitled to conditional release if they have spent thirty years in the execution institution, those who are convicted to life imprisonment twenty-four years, and those who are convicted to other prison sentences two-thirds of their respective sentences.

(3) The period that must be spent in the execution institution for conditional release shall be:

a) Thirty-six years in the case of being convicted to several sentences of heavy life imprisonment or to one sentence of heavy life imprisonment and one sentence of life imprisonment;

b) Thirty years in the case of being convicted to several sentences of life imprisonment;

c) Up to thirty-six years in the case of being convicted to one sentence of heavy life imprisonment and one other sentence of imprisonment;

d) Up to thirty years in the case of being convicted to one sentence of life imprisonment and one other sentence of imprisonment;

e) Up to twenty-eight years in the case of being convicted to several sentences of imprisonment.

(4) In the case of being convicted of establishing or leading a criminal organisation or committing offences as part of the activities of such an organisation, those convicted to heavy life imprisonment shall be entitled to conditional release if they have spent thirty-six years in the execution institution, those convicted to life imprisonment thirty years, and those convicted to other prison sentences three-fourths of their respective sentences. However, these periods shall be:

a) Forty years in the case of being convicted to several sentences of heavy life imprisonment or to one sentence of heavy life imprisonment and one sentence of life imprisonment;

b) Thirty-four years in the case of being convicted to several sentences of life imprisonment;

c) Forty years in the case of being convicted to several sentences of heavy life imprisonment and to one other sentence of imprisonment;

d) Up to thirty-four years in the case of being convicted to one sentence of life imprisonment and to one other sentence of imprisonment;

e) Up to thirty-two years in the case of being convicted to several sentences of imprisonment.

(5) In calculating the period for conditional release, each day spent by the convict in the execution institution until the age of eighteen shall be counted as two days.

(6) The control period to which a conditionally released convict is subject shall be half the period that must be spent in the execution institution under the paragraphs above.

However, it shall not go beyond the date of deserved release in the case of prison sentences with a definite term.

(7) During the control period, the convict may be employed with pay in a public institution to perform the art or trade he has learned in the execution institution, or under the supervision of another person who performs the same art or trade privately.

(8) Convicts who are under eighteen years of age shall continue with their education during the control period, if necessary in an institution that offers accommodation.

(9) The judge may appoint an expert to guide the convict during the control period. This expert shall advise the convict to keep away from circles where he could acquire bad habits and to lead a good life with awareness of responsibility, shall meet and consult with the officials of the institution where the convict is receiving education or with the persons together with whom he is working, and shall draw up and submit to the judge quarterly reports on the convict's behaviour, his social adaptation and the progress in his awareness of responsibility.

(10) Considering the personality of the conditionally released convict and his success in social adaptation, the judge may decide that the control period be spent without implementing the measure of controlled freedom or specifying any obligation or may lift the measure of controlled freedom or the specified obligations during the control period.

(11) The report with a justification prepared by the administration of the penal execution institution regarding the conditional release of a convict shall be submitted to the court that made the sentence or, if the convict is in another place, to the court of the same level in that place. If the court finds this report appropriate, it shall decide on the basis of the file that the convict be conditionally released. If the court does not find the report appropriate, it shall indicate the reason in its decision. An appeal may be filed against this decision.

(12) The decision of conditional release shall be revoked if the conditionally released convict during the control period deliberately commits an offence punishable by imprisonment or insists on not complying with his obligations despite a warning by the judge.

(13) If the decision of conditional release is revoked, it shall be decided that he serve in the penal execution institution:

a) The remainder of his sentence in full as from the date of committing the subsequent offence; or

b) In the case of failure to comply with his obligations, a period of time to be determined at the discretion of the court, between the date of finalisation of the decision to revoke the decision of conditional release and the date of deserved release.

Once the decision of conditional release has been revoked, no other decision of conditional release may be made regarding the execution of the same sentence.

(14) Where the control period has been spent in compliance with the obligations and in good behaviour, the sentence shall be deemed to have been executed.

(15) The decision to revoke the decision of conditional release shall be made on the basis of the file:

a) If the convict is sentenced to imprisonment for a deliberate offence he has committed during the remainder of the original sentence, by the court of the first level or the regional court that made the sentence; or

b) If the convict has failed to comply with his obligations, by the court of the first level or the regional court that made the sentence forming a basis for the decision of conditional release or by the court that made the decision of conditional release.

An appeal may be filed against this decision.

(16) The provisions of conditional release shall not apply in the event of conviction to heavy life imprisonment for committing, as part of the activities of an illegal organisation, one of the crimes included under Section Four headed “Crimes Against the Security of the State”, Section Five headed “Crimes Against the Constitutional Order and the Functioning of this Order”, and Section Six headed “Crimes Against National Defence”, in Part Four, Chapter Two of the Turkish Criminal Code (Law No. 5237).

The execution regime applicable to recidivists and the measure of controlled freedom

ARTICLE 108.- (1) It shall be possible to benefit from conditional release if the following periods have been spent in the execution institution in good behaviour under a prison sentence imposed for a new crime committed by the same person:

- a) Thirty-nine years of a sentence of heavy life imprisonment;
- b) Thirty-three years of a sentence of life imprisonment; or
- c) Three-fourths of another sentence of imprisonment.

(2) The time to be added to the period for conditional release on account of recidivism shall not be more than the heaviest punishment taken as a basis for recidivism.

(3) If the provisions concerning recidivism are applied for a second time, the convict shall not be conditionally released.

(4) The judge shall specify for the recidivist a control period to start after the execution of the penalty is completed and not to be less than one year.

(5) The provisions related to conditional release shall apply during the control period specified on account of recidivism.

(6) The judge may decide to extend the control period for the recidivist. The control period may be extended by up to five years.

PART TWO

Measures and Remand

SECTION ONE

Alternative Sanctions to Short-Term Prison Sentences and the Special Modes of Execution for Short-Term Prison Sentences

Implementation of alternative sanctions

ARTICLE 109.- (1) The regime applicable in the execution of the alternative sanctions imposed under Article 50 of the Turkish Criminal Code in lieu of short-term prison sentences shall be specified in the bylaw.

Special procedures of execution

ARTICLE 110.- (1) The court that made the original sentence or, if the convict is in another place, the court of the same level in that place may decide that the prison sentence with a term of six months or less shall be served:

a) At weekends, by entering at 19.00 o'clock on Friday every week and leaving at the same time on Sunday; or

b) At night, by entering at 19.00 o'clock every day and leaving at 07.00 o'clock the next day.

(2) It may be decided that female convicts or those convicts who are over sixty-five years of age serve their sentences with a term of six months or less in their homes.

(3) If it is determined through a report issued by a fully equipped State or university hospital that the health condition of a person over seventy-five years of age who is convicted to a prison sentence of three years or less is not suitable for him to serve this sentence in a penal execution institution, the court that has made the sentence or, if the convicted person is in another place, the court of the same level in that place may decide that he serve his sentence in his home. However, if any loss has arisen from the offence of which the person is committed, he shall be required to make up for this loss in full by means of return in rem, restoration to former condition, or compensation. The provisions of the fifth paragraph shall not apply to such persons.

(4) The decision for the sentence to be served under a special procedure may also be made after the execution of the sentence has started.

(5) The provisions of conditional release shall not apply to persons whose sentences are decided to be served under a special procedure.

(6) In the event of failure to comply with the requirements of a special execution procedure, it shall be decided that the sentence be served in a penal execution institution under the general procedure as from the beginning.

(7) Appeals may be filed against decisions made under the provisions of this Article.

SECTION TWO

Implementation of the Remand Order

Institutions where remand orders are implemented

ARTICLE 111.- (1) Remand prisoners shall be kept in remand houses based on the normal security principle which have internal and external security personnel, which are equipped with technical, mechanical, electronic or physical barriers against escape, where the doors of rooms and corridors are kept closed at all times except for the circumstances enumerated in Article 34 hereof, and where there is no possibility of contact and communication with the outside except for legal requirements, or in those parts of other closed penal execution institutions which are allocated for this purpose.

(2) Remand prisoners who, through their actions and behaviour, fall under Article 9 hereof shall be kept in high-security remand houses or in those parts of high-security closed penal execution institutions which are allocated for remand prisoners.

(3) Separate remand houses may be established for women, minors and juveniles. In remand houses or in those parts of closed penal execution institutions which are allocated for them, remand prisoners shall be kept in separate places for adults, women, juveniles and minors and considering the types of crime.

Admission into the remand house

ARTICLE 112.- (1) For an accused person to be admitted into the remand house, there must a remand order issued by the judge or the court.

(2) The fact that the remand prisoner has been placed in the remand house shall be notified to the judge or court that has issued the order, indicating the day and the time.

Accommodation of remand prisoners

ARTICLE 113.- (1) To the extent permitted by available means, remand prisoners shall be accommodated in separate rooms according to their offences and to the security risks presented by them. Remand prisoners between whom there is hostility and those who are accomplices shall not be accommodated in the same rooms, and measures shall be taken to prevent them from being in contact with each other.

SECTION THREE

The Rights of Remand Prisoners and the Restrictive Measures

The rights of remand prisoners

ARTICLE 114.- (1) Remand prisoners may be asked to work, but they shall not be compelled to do so. The administration may permit remand prisoners to work in their own rooms where they so request. If it is not possible to work in their own rooms, they may also be allowed to work in the workplaces. In such event, they shall be subject to the regime applicable to convicts who work.

(2) During the stages of investigation and prosecution, remand prisoners may receive visitors in compliance with the general regulations of the institution in this regard. However, the public prosecutor during the stage of investigation and the judge or court during the stage of prosecution may prohibit the reception of visitors or impose restrictions in this regard for the sake of the investigation or legal action.

(3) Written communications and telephone calls by remand prisoners may be restricted by the public prosecutor during the stage of investigation or by the judge or court during the stage of prosecution.

(4) The remand prisoner shall have the right to appoint a defence attorney of his own choosing. No institution staff of any level may give the remand prisoner advice in this regard.

(5) The remand prisoner's communication with his defence attorney and their contacts and meetings in the framework of institution order shall not be hindered or restricted in any manner.

(6) The provisions contained in the special law shall be reserved.

Restrictive measures

ARTICLE 115.- (1) Remand prisoners who present a danger, who could attempt to destroy evidence, who endanger the purpose of the investigation or the security of the remand house, or who perform acts which would enable the crime to be repeated, may be subjected to the following measures by the public prosecutor during the stage of investigation or by the judge or court during the stage of prosecution:

a) Keeping the remand prisoner by himself in custody under a tight regime and monitoring his room by camera;

b) Restricting his contact with the outside, his reception of visitors and his telephone calls for a certain period of time;

c) If necessary, keeping him in a special room which is so designed as to prevent him from causing damage to himself or to others and monitoring his room by camera;

d) If he displays aggressive behaviour, handcuffing him or restricting his movements for a certain period of time; or

e) Transferring him to a high-security institution.

The obligations of remand prisoners

ARTICLE 116.- (1) The provisions of this Law in Articles 9, 16, 21, 22, 26 to 28, 34 to 53, 55 to 62, 66 to 76, 78 to 84 and 86 to 88 hereof concerning high-security closed penal execution institutions, the postponement of the execution of prison sentences due to illness, procedures of admission and registration, informing convicts, their relatives and those concerned, serving the sentence, complying with security and rehabilitation programmes and with the rules of health protection, protection of the building and property, doors not to be open and contact to be prevented, personal items that may be kept in rooms and their annexes, searches, the nature of disciplinary penalties and the conditions for their implementation, reprimands, prevention from participating in certain activities, deprivation of paid work, deprivation or restriction of access to communication means, deprivation of accepting visitors, confinement in a cell, disciplinary measures and penalties applicable to minor convicts, disciplinary investigation, repetition of acts that call for a disciplinary penalty, execution and lifting of disciplinary penalties, measures that may be taken by the administration, use of constraining devices, rewarding, complaints and objections, transfers, transfer by reason of discipline, transfer due to necessity, transfer due to illness, measures to be taken during transfers, the right to see a lawyer or a notary, participation in cultural and artistic activities, freedom of expression, using the library, the right to benefit from periodical or non-periodical publications, the right to communicate by telephone, the right to receive radio and television broadcasts and to use the Internet, the right to send and receive letters, fax messages and telegrams, the right to accept presents sent from the outside on the days specified in this Law, freedom of religion and conscience, requests for examination and treatment, feeding of the convict, determination of rehabilitation programmes, the number of convicts and the security measures to be applied, education programmes, benefiting from education, examination and treatment, health inspection, referral to hospital, illness to prevent execution, refusal of food and rinks, visits, visits to foreign convicts, principles to be observed during visits and meetings, physical education, and using the library and participating in courses, may also be applied to remand prisoners in so far as they are compatible with their status.

SECTION FOUR

Final Provisions

Provisions in other laws to be considered and applied during the execution of prison sentences and measures

ARTICLE 117.- (1) Article 39 of Law No. 1111 dated 21 June 1927 concerning military service shall be considered and applied regarding the execution or postponement of prison sentences against persons who are recruited into the army after their sentences become finalised.

Execution of sentences against persons recruited

ARTICLE 118.- (1) The execution of the measures specified in items (c), (e) and (f) of the first paragraph of Article 50 of the Turkish Criminal Code which are decided in lieu of a short-term prison sentence against privates, non-commissioned officers or reserve officers for offences committed by them before they were recruited into the army or during their military service, and of the judicial fine specified in Article 106 of this Law, shall be postponed until the end of the military service period. The statute of limitations shall be suspended during the said period.

(2) Prison sentences which are imposed by general courts, or which are imposed by military courts and which, under Article 39 of the Military Criminal Code (Law No. 1632 dated 22 May 1930), must be served in penal execution institutions of the Ministry of Justice, against persons who are remanded in military prisons or remand houses for any crime shall be executed in military prisons or remand houses, suspending their remand status. When the remand status is ended, if the sentence against the convict has not yet been executed, he shall be sent to a penal execution institution of the Ministry of Justice. Persons whose sentences are executed in military prisons or remand houses under this paragraph shall be subject to the provisions of this Law relating to conditional release.

Effect of the terms used in this Law

ARTICLE 119.- (1) The terms used in this Law shall replace the equivalent terms used in legislation.

References in other laws

ARTICLE 120.- (1) References in other laws to those provisions of Law No. 647 dated 13 July 1965 on the Execution of Penalties which concern prison sentences and measures shall be deemed to have been made to the corresponding provisions of this Law.

Bylaws and regulations

ARTICLE 121.- (1) The bylaws and regulations that must be issued under this Law shall be issued within six months of the effective date of this Law.

Provisions repealed

ARTICLE 122.- (1) Law No. 647 dated 13 July 1965 on the Execution of Penalties and Articles 3,4 and 6 of Law No. 1721 dated 14 June 1930 on the Administration of Prisons and Remand Houses are hereby repealed.

TEMPORARY ARTICLE 1.- (1) In the event of failure to pay the judicial fines stipulated in laws other than the Turkish Criminal Code (Law No. 5237 dated 26 September 2004), the convicted persons shall be imprisoned at one hundred Turkish Liras a day.

TEMPORARY ARTICLE 2.- (1) Terrorist criminals whose death sentences are converted to heavy life imprisonment under Law No. 4771 dated 3 August 2002 Concerning the Amendment of Various Laws, as amended by Article 1 of Law No. 5218 dated 14 July 2004, and terrorist criminals who are sentenced to heavy life imprisonment, shall not be entitled to benefit from the provisions of conditional release. They shall serve their sentences throughout their lives.

Entry into force

ARTICLE 123.- (1) Of this Law:

- a) Temporary Article 1 shall enter into force on 1 January 2005; and
- b) The other provisions on 1 April 2005.

Enforcement

ARTICLE 124.- (1) The provisions of this Law shall be enforced by the Council of Ministers.

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