

**Submission to the Human Rights Committee
132nd Session (28 June 2021-23 July 2021)
For the adoption of the LOIPR of Turkey**



**International Association for Human Rights Advocacy Geneva
(IAHRAG)**

May 2021

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I. The International Association for Human Rights Advocacy in Geneva

1. The International Association for Human Rights in Geneva (IAHRAG) thanks the Human Rights Committee (Committee) for his engagement with civil society and for providing this opportunity to be associated in the process of adoption of the list of issues prior to reporting in relation to the second periodic report of Turkey.

2. IAHRAG has been created in 2017; its purpose is to assist, support, guide and sustain victims of human rights violations. One of the main concerns of its interest is the violations of human rights in Turkey. It particularly provides support and guidance to supporters of the “Hizmet Movement” (also known as the Gülen Movement) that are victims of a relentless witch-hunt and persecution, particularly since the coup attempt of 15 July 2016.

II. The Hizmet Movement

3. The “Hizmet Movement” (HM) is a transnational faith-based civil society group of persons, essentially Sunni Muslims (hereafter supporters), in Turkey but also elsewhere, that intend to follow the inspirational teachings and writings of Fethullah Gülen, an intellectual self-exiled in the USA Pennsylvania since 1999. The movement is known for its attachment to values of services, philanthropy, and education, and many of its supporters are educators or teachers running schools open to all students, regardless of religious beliefs or origins. Within a few decades, people inspired by Mr. Gülen had built schools in 140 different countries; schools that often served the poor and underprivileged. HM volunteers have established professional and intellectual associations as well as educational, dialogue, media, health and humanitarian organizations. As rightly noted by the Commissioner for Human Rights of the Council of Europe, the HM have developed over decades and enjoyed, until 15 July 2016, considerable freedom to establish a pervasive and respectable presence in all sectors of Turkish society, including religious institutions, education, civil society and trade unions, media, finance and business. Many organizations affiliated to the HM, closed after 15 July 2016, were open and legally operating in Turkey until that date. Although

the human rights situation is globally worrisome in Turkey, this report aims at stressing the systematic discrimination and human rights violations the supporters of the HM face in Turkey.

III. Systematic hate speech at the highest level against the Hizmet Movement since 2013 (arts. 2 and 20)

4. Despite the executive power's using hate speech and hurtful narrative towards minorities, vulnerable groups, opposition figures and foreigners (Kurds, Alevi, Christian, Jews...) is quite common, the demonizing of the HM is, however, quite unprecedented in the recent history of Turkey and started even before 2016. Here below a selection of few statements.

The President, then Prime Minister, stated, 21 December 2013, in a public meeting at Cumhuriyet Square Ordu:

“Those who seek to establish a parallel structure within the state must know that we will come into your lairs even if you settle firmly there. ... We will search every nook and cranny. ... We will combat the organizations which act as sub-contractors for the international organizations in the same way we have fought the gangs to date. “This is ignominy, abjection, and dishonesty. This collusion, this conspiracy, has been masterminded abroad and subcontracted to the pawns in Turkey. This is blatant treason. We will make those who are behind this treason pay for this espionage. No one, group or shady center can conduct an operation in my country.”¹

In 2014, 26 January, the President then Prime Minister, stated at the Haliç Congress Center:

“This is such a great civilization that it has rejected false prophets, false saints, hollow, empty-hearted, empty-minded so-called scholars and sent them to the dustbin of history just as the body rejects viruses.”²

In 2014, 17 March 2014, Rally in Kahrmanmaras, the President, then Prime Minister, stated:

“You don't have to cover your head,’ they said; ‘Remove your headscarf to attend university,’ they said. So he is a preacher; you're kidding; he is nothing close to a preacher.”³

In 2014, 11 May 2014, in Afyon (Akp Consultation meeting), the President, then Prime Minister, stated:

“They frequently claim that the struggle against the parallel structure has turned into a witch-hunt. If reassigning individuals who betray this country is called a witch-hunt, then yes, we will carry out

¹ See *Erdogan's Vile Campaign Of Hate Speech Case Study: Targeting Of The Gülen Movement*, https://stockholmcf.org/wp-content/uploads/2017/06/Erdogans-Vile-Campaign-Of-Hate-Speech-Case-Study-Targeting-Of-The-Gulen-Movement_2017.pdf

² *Ibid.*

³ *Ibid.*

*this witch-hunt. ... You will always report their identities and actions. I tell this to all of my citizens: You will report, and we will take action against them. We will sterilize the dirty water that has contaminated the milk either by boiling the milk or separating the molecules in the mixture*⁴.

In 2015, 31 January, Ankara (All industrialists and Businessmen's Association, General Assembly), the President stated:

*"The frank people who innocently support the parallel structure should see and question with whom this structure colludes. It is a pity if they still fail to see this structure's collaboration with Mossad."*⁵

In 2015, 22 November, Ankara (Labor Confederation, General Assembly), the President stated:

*"This structure is more insidious, more dangerous and more destructive than others as it exploits the nation's sacred values. FETÖ is layered as pious supporters at the bottom, money grubbers in the middle and traitors at the top."*⁶

In 2016, 27 May, Kırşehir (Ahi Order festivities), the President stated:

*"We made a new resolution yesterday. We defined it as the illegal structure in legal disguise. We sent it to the government, and we are now waiting for the Cabinet decision. We will eventually ensure that they are recognized as a terrorist organization. They will be tried in the same category as the Democratic Union Party [PYD], and the Kurdistan Workers' Party [PKK]"*⁷.

In 2016, 28 May, Kırşehir - Ahi Evran Tomb (Ahi Culture Week celebration), the President stated:

*"They are blood suckers; we are waiting for the Cabinet decision. We will ensure that they are recognized as a terrorist organization"*⁸.

In 2016, September 1, Nihat Zeybekci, then Minister of Economy, stated:

*"We will give them such a punishment that they will wish that they had rather died. They won't be able to see any other human being, they won't be able to talk to anyone else"*⁹.

In 2016, 12 October, Dolmabahçe Palace, İstanbul (9th Eurasia Islamic Council Meeting), the President stated:

*"FETÖ, which has haunted Turkey like a dark cloud, is a seditious movement that abuses religion and legitimizes everything for its aims and has questionable funds and works to fragment the Ummah and whose real face cannot be seen due to its secret nature."*¹⁰

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

⁹ <https://www.birgun.net/haber/bakan-zeybekcigebertin-bizi-diye-yalvaracaklar-122392>

¹⁰ Stockholm Center for Freedom, *op.cit.*

In 2016, 29 November, Ankara (High Speed Train Station opening), the President stated:

“I call on those who insist on being part of FETÖ: If you choose to stay with it [FETÖ], you will hit this nation’s wall. This nation will make you pay a price. We have entered the lairs of the separatist terrorist organization. We will enter FETÖ’s lair as well”.¹¹

In 2017, 19 January, Meeting of headmen at the Presidential Palace, the President stated:

*“The FETÖ cleansing is not over; it will continue. (...) These microbes and viruses will still be there. Such a thing is unacceptable. This cleansing is not yet done. We have a lot of work to do. This will be completed.”*¹²

In 2017, 29 March. Ankara, Presidential Palace, the President stated:

*“We have no state other than the Republic of Turkey. We are not going to recognize the right to life for those who divide our state and the FETÖ parallel state structure.”*¹³

5. All these quotations illustrate the level of political hate speech against the HM and its supporters; they are crucial to understand the level of suspicion and hostility that HM supporters face on their daily life in Turkey, and from all sectors.

6. This systematic public hate speech created an atmosphere of intimidation and of general entitlement for anyone self-proclaimed true nationalist, to insult or harass HM supporters, perceived as inferior traitors that deserve hostility at least. An emblematic case of the devastating consequences of political hate speech against the HM is the one of this research assistant at Osmangazi University who murdered four of his colleagues in 2018 for alleged links with the HM. The first statement of the murderer to the police while in custody was that he felt no repentance for his act. In December 2020, a former teacher who was arbitrarily dismissed from his position following the State of emergency decrees (see paragraphs below) and who had to convert into a farmer, have seen his fields set on fire. The HDP (Pro-Kurdish Peoples’ Democratic Party) Parliamentarian and Human Rights Defender Ömer Faruk Gergerlioğlu (dismissed as deputy, stripped off his immunity and arrested in March 2021¹⁴) condemned the incident in his Twitter account and stated that former public servants were deliberately targeted and deprived of income. A

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ See <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26936&LangID=E>

position confirmed by the speech of Osman Zabun, head of the Justice and Development Party (AKP) Isparta branch who stated on Kanal 32, a local TV Station based in Isparta:

“some people tend to raise their voice against the dismissals, asking what people who were fired will eat and drink and how they will survive. Let them eat tree roots. This country has nothing to give them”.

IV. From vilification of the Hizmet Movement to qualification of terrorist movement (arts. 2 and 26)

7. The scapegoating of the HM and its supporters started on December 2013, after cases of large scales bribery and corruptions’ investigations (cases concerning billions of dollars) against the President himself (then Prime Minister) and members of his cabinet. In an attempt to discredit the process, the President (at then Prime Minister) claimed he has been framed by judges and prosecutors (accusing them of being supporters of the HM) and started to use the terminology of “parallel structure” while referring to the HM. This terminology turned into an official one when the National Security Council (MGK), presided by Mr. Erdoğan (elected as President on 10 August 2014), adopted a decision to include the concept of “Parallel State Structure” in the National Security Policy Document on January 2, 2015. **The vilification of the HM and its supporters culminated on May 30, 2016 when the MGK adopted an advisory resolution defining the HM as “Fetullahist Terror Organization – FETÖ”.**

8. These accusations were never supported by concrete evidence and the **HM and its supporters had no remedy, administrative or judicial, to challenge such a qualification/decision operated by the executive power only.** In fact, before the abuse and misuse of antiterrorism legal frameworks by the Turkish government (see below), no HM supporter had ever been investigated for any acts of violence or terrorism. The HM is adamantly opposed to acts of violence and terrors.

9. President Erdoğan’s using the qualification “terrorists” to designate opponents or displeasing voices is quite a pattern: the Office for Security and Co-operation in Europe (OSCE) election observers’ mission also received this label after stating that the campaign for the April 16, 2017 referendum was unfair and unfree. The International Monetary Fund (IMF) has also been accused to be backed by the HM and to be

de facto a terrorist organization. However, the human rights consequences for the HM, compared to other institutions or groups, have been quite disastrous.

V. Abuse and misuse of emergency measures against the HM and its supporters: the purges/massive arbitrary dismissals (arts. 2, 4, 14, 15, 25 and 26)

10. Right after the coup attempt of 15 July 2016, Turkey suspended provisions of international and regional human rights treaties and adopted many emergency law decrees, which were subsequently incorporated in ordinary legislation adopted by the Turkish Parliament. **On the ground of 36 decrees¹⁵ the Turkish government initiated the “purge” process. All in all, 150.348 state officials (teachers, bureaucrats), 4.463 judges and prosecutors, and 6.021 academics were dismissed under State of emergency law decrees for being real or alleged HM supporters (and 20.571 military personnel have been dismissed from the Turkish Armed Forces on alleged links with the HM). Those dismissals based on those decrees were totally arbitrary (the criteria used to assess the links of the individuals to the Gülenist network have not been made public, at least not officially).**

11. Decree n° 667¹⁶, article 3 gave to the Plenary of the Constitutional Court the power to dismiss constitutional court’s judges “*who are considered to be a member of, or have relation, connection or contact with terrorist organizations or structure/entities*”. The Court dismissed two of its judges (Alparslan Altan and Erdal Tercan) for alleged links with the HM movement in its decision of August, 4 2016. **The paragraph 84 of the decision deserves the outmost attention to understand the level of arbitrariness faced by the HM supporters, including at the highest level of the judiciary system:**

*“Establishing a link between members of the Constitutional Court and the terrorist organization [...] was not necessarily sought for the application of the measure; it was considered sufficient to establish their link with ‘structures’, ‘organizations’ or ‘groups’ [...]. [T]he link in question does not necessarily have to be in the form of ‘membership of’ or ‘affiliation with a structure, organization or group; it is sufficient for it to be in the form of ‘connection’ or ‘contact’ in order for the measure of dismissal from profession to be applied. Lastly, **establishing the evidentiary link between the members and the structures, organizations or groups [...] is not sought in the Article [of Decree Law no. 667]. ‘Assessment’ of such link by the Plenary Session of the Constitutional***

¹⁵ The text of all those decrees can be consulted here in English :<https://publicsearch.coe.int/#k=Turkey%20decree#f=%5B%5D#s=51>

¹⁶ The Commissioner for Human Rights of the Council of Europe also expressed its serious concerns on this decree: see July 26, 2016, <https://www.coe.int/en/web/commissioner/-/measures-taken-under-the-state-of-emergency-in-turkey>

Court is deemed sufficient. The assessment in question means a ‘conviction’ formed by the absolute majority of the Plenary Session. Undoubtedly, this conviction is solely an assessment on whether the person concerned is suitable to remain in the profession irrespective of whether there is criminal liability. Article 3 of the Decree Law prescribes no requirement to rely on a certain kind of evidence in order to reach this conviction.”

12. This quotation demonstrates the level of arbitrariness the executive and the judiciary demonstrated to achieve their witch-hunt of the HM movement supporters: neither the decree law nor the Constitutional Court’s judges required any kind of evidence for dismissals. A subjective conviction of a link with the HM Movement was sufficient to decide the dismissal. The decision of the High Council of Judges and Prosecutors of 31 August 2016 (n° 2016/428) leading to the dismissals of thousands of judges and prosecutors did not mention even a very first evidence supporting allegations of connections with the HM. **This very same approach is still applied by all courts in Turkey to date, not only to dismiss people but also to arrest and convict them.** In reality, as mentioned by the Venice Commission, in view of the scale of the presence of the HM in all spheres of public, social and economic life, there must have been thousands of people who entered in contact with HM supporters at some point¹⁷. Virtually, the executive and the judiciary are hence in a position to dismiss any public servant (since the decrees, although passed during the state of emergency, have been incorporated as regular legislations through amendments to the Anti-Terror Law and the Turkish Penal Code) or as we will see below, to arbitrary arrest and detain any Turkish citizen.

13. Article 9 of the Decree n° 667 also foresees complete legal, administrative, criminal and financial impunity for administrative authorities acting within its framework.

14. In response to recommendations by various bodies of the Council of Europe, the government issued Decree n° 685 published in the Official Gazette on 23 January 2017 establishing the Inquiry Commission for State of Emergency Measures to review the cases of dismissals. HM supporters targeted by dismissals decrees had therefore no remedies until the establishment of the Commission for State of Emergency Measures.

¹⁷ Opinion on Emergency Decree Laws Nos.667-676 adopted following the failed coup of 15 July 2016 (12 December 2016), para. 121.

15. The State of Emergency Procedures Investigation Commission, had made decisions on 112.310 of a total of 126.630 applications as of December 31, 2020. It ruled in favor of the applicants in only 13.170 of the cases. Only those last figures raise serious doubts regarding the effectiveness of the Commission as a remedy for the victims of those arbitrary dismissals. The European commission also raised serious concerns:

“The lack of institutional independence, lengthy review procedures, the absence of sufficiently individualized criteria, and the absence of a proper means of defence cast serious doubt over the Inquiry Commission on the State of Emergency Measures’ ability to provide an effective remedy against dismissals”¹⁸.

This Commission (led by former Justice Ministry deputy undersecretary Selahaddin Menteş, who had been openly supportive of President Erdoğan) purpose was to simply delay or prevent European Court of Human Rights or Treaty bodies’ decisions.

16. Many Special Procedures of the Human Rights Council have expressed concerns about Turkey’s derogation from the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), and the arbitrary arrest, detention and dismissals of tens of thousands of police officers, judges, prosecutors, lawyers, teachers and other civil servants, following the coup attempt in July 2016 (see TUR 7/2016, TUR 4/2017, TUR 5/2017, TUR 6/2017, TUR 18/2020), all of them on the ground of their real or alleged support to the HM.

17. Neither the Turkish Government nor any Court, including the Constitutional Court, ever provided concrete evidence to proceed to the dismissal or arrest of HM supporters. It is legitimate to raise serious doubts on the necessity and proportionality of dismissal measures affecting more than 150.000 persons, under a state of emergency, on the ground of alleged links with a group, arbitrarily qualified of terrorist by the executive power only and with absolutely no evidence.

¹⁸ Turkey 2020 Report, SWD(2020) 355, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/turkey_report_2020.pdf

VI. Abuse and misuse of anti-terrorism legal frameworks to arbitrary arrests and detentions against supporters of the Hizmet Movement” (arts. 2, 3, 7, 9, 10, 14, 15, 17 and 26)

a) Broad and uncertain anti-terrorism legal frameworks (arts. 2 and 9)

18. Special rapporteurs recently concluded that “*the Anti-Terror Law adopts an overly-broad definition of terrorist acts and terrorist offenders that implicates a range of activities protected by the freedoms of opinion, expression, association, and political participation*” (OL TUR 13/2020) and recommended the urgent review and revision of the Anti-Terror law. They also expressed concerns that many of the national security powers adopted during this period were incorporated into ordinary law through amendments to the Anti-Terror Law and the Turkish Penal Code.

19. Particularly problematic are articles 1 and 2 of the Anti-Terror Law. Article 1 defines terrorist conduct to include any act done by one or more persons belonging to an organization with the “*aim of changing the characteristics of the Republic*” or “*weakening or destroying or seizing authority of the State*” by means of “*pressure, force and violence, terror intimidation, oppression or threat.*” Article 2 gives a definition of “*terrorist offender*” that includes any member of an organization with a terrorist aim, even if he or she does not commit a crime in furtherance of the terrorist aim. Article 314 of the Turkish Penal code also establishes the offence of “*being a member of an armed terrorist organization*”. On this combination of provisions, anyone deemed a “*member of a terrorist organization*” can be qualified as “*terrorist offender*”, regardless any specific involvement in any criminal conduct. The Grand Chamber of the European Court of Human Rights (ECtHR) has most recently, in the case of *Selahattin Demirtas v. Turkey* (2)¹⁹, established that Turkey’s anti-terror provision was not foreseeable. Terrorism charges in Turkey are widely misused against HM supporters to arbitrarily arrest and detain them.

b) Violation of the principle of nullum crimen sine lege and of the non-retro activity principle: arbitrary mass arrests and detentions against HM supporters (arts. 2, 3, 7, 9, 14, 15, 17 and 26)

20. Only based on the figures of the Ministry of Interior, around 282.000 persons were taken into custody from July 2016 until December 2020, and more than 95.000 persons were arrested. Since 15 July 2016,

¹⁹<https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22Demirtas%22%2C%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%2C%22CHAMBER%22%5D%2C%22itemid%22:%5B%22001-207173%22%5D%7D>

there have been on average 3 police operations per day targeting HM supporters, and the average daily number of persons arrested was 74 on terrorism charges²⁰. A few figures could help the Committee realizing the scale of this phenomenon: in 2016, 52.100 persons have been taken into custody on terrorism charges in Turkey, while only 1.002 persons were taken into custody on terrorism charges all over Europe; in 2017, 61.070 persons in Turkey *versus* 1.219 all over Europe; in 2018, 72.293 persons in Turkey *versus* 1.056 all over Europe; in 2019, 20.567 in Turkey *versus* 1.100 all over Europe.

21. Most of the persons arrested and detained for links with the HM or with HM affiliated institutions: employees of HM schools or universities, for getting an account with Bank Asya (a bank that have been the largest Islamic lender), for being a member of the Trade Union TUSKON, being a donor to the charity organization Kimse Yok Mu; and subscribers of critical magazines and newspapers such as Zaman, the most highly circulated daily in Turkey (1 million sales and subscriptions)... **All of these institutions were perfectly legal entities until the executive decided to declare the HM as enemy of the State.** The Council of Europe Commissioner for Human Rights stated:

“It is also beyond doubt that many organisations affiliated to this movement, which were closed after 15 July, were open and legally operating until that date. There seems to be general agreement that it would be rare for a Turkish citizen never to have had any contact or dealings with this movement in one way or another”²¹.

All these persons in links with these perfectly legal entities have been declared terrorists overnight in Turkey after 15 July 2016. This is raising serious concerns regarding the principle of legality, *nullum crimen sine lege*, and non-retro-activity of the law.

22. **The HM supporters arbitrarily arrested and detained since 15 July 2016 have been so on extremely fallacious charges:** subscription to the Zaman newspaper, being a client of Bank Asya, being a member of the Aksiyon-İş Union, membership in business association TUKSON, volunteering for the Kimse Yok Mu charity, for being a doctor associated with the HM (Tens of thousands of doctors, medical staff and professional health workers who were employed by hospitals, health centers and medical schools

²⁰ See Solidarity with others, https://b2923f8b-dcd2-4bd5-81cd869a72b88bdf.filesusr.com/ugd/b886b2_826d5f69e0384da68dba565882d96bdf.pdf

²¹ Council of Europe Commissioner for Human Rights. Memorandum on the human rights implications of the measures taken under the state of emergency in Turkey” 7 October 2016, <https://rm.coe.int/16806db6f1>

affiliated with the HM were branded by the government as ‘terrorists’), for being a lawyer supporter of the HM, possession of books of Fethullah Gülen, being a user of a smart-phone application called ByLock (the executive alleges that the app is a secret communication tool among HM supporters and whoever downloaded it from the Internet is a “terrorist”). A young woman had ever been arrested and sentenced for packing and sending a suit case to her mother who fled the country to the UK: this is how absurd is the system. **Such arrests grounded on fallacious charges, vague, imprecise, on discrimination grounds, appear as arbitrary with the motivation to persecute HM supporters.** UN experts as well as Council of Europe bodies repeatedly asked the Government the criteria and evidence used to arrest and detain thousands of HM supporters²². The Government never provided concrete answer. It would actually be hard for the Government to explain the use of the software called “Fetömeter” to collect and analyze data about suspected persons (the software uses more than 200 criteria, in order to review suspect's training, lifestyle, career, evaluation by superiors, family ties, marriage, service locations, courses attended, postgraduate studies, education of his wife and children and financial situation). It seems that just in the Turkish navy, 810.000 active and retires personnel have been investigated through this software. We do not possess the exact figures on how many persons have been arrested and detained on the results of the “Fetömeter”. In addition to credible allegations of Turkish diplomatic missions²³ spying on suspected HM supporters, this is raising serious concerns regarding article 17 of the ICCPR and the right to private life.

23. Every day, in different provinces of Turkey, many alleged members HM supporters movement are arrested and detained, in most cases in a very humiliating manner. Women have been subjected to humiliating and degrading systematic and widespread unlawful strip-searches carried out in a way that is

²² See Working Group on Arbitrary Detention, Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism who asked to the Government: “*please provide detailed information on individuals affected by the latest wave of arrests, and indicate the crimes they are charged for and the evidence used to proceed to their arrest*” (AL TUR 18/2020). The Government did not provide any concrete answer.

²³ Foreign Minister Mevlüt Çavuşoğlu officially confirmed systematic spying on Turkish government critics on foreign soil by Turkish diplomatic missions in February 2020. There are credible sources that affirm that HM supporters are spied by Turkish diplomatic missions in the United States, Switzerland, Australia, Bulgaria, Norway, Georgia, Sweden, North Macedonia, New Zealand, South Korea and the United Kingdom.

in contradiction with the relevant national legislation and international standards during their admission to detention centres or police custodies.²⁴

24. Another disturbing pattern of violations from the Turkish government targeting HM supporters (but not only) is the arrest of relatives of the suspect when he or she is not found, in total violation of the principle of individual criminal responsibility. A well-known case is that of journalist Bülent Korucu. When police could not find him at home, they arrested his wife, Hacer Korucu, a housewife and mother of five, and kept her under arrest for eight months. The indictment clearly stated her husband's situation as legal grounds for her arrest and prosecution. Sermet Şükür, father of renowned Turkish football player Hakan Şükür, was detained when police were unable to find his son. Other examples were cited in the 2016 human rights report of the US Department of State.

25. In 19 opinions issued between June 2017 and March 2021 on allegations of arbitrary detentions in Turkey, the UN Working Group on Arbitrary Detention (WGAD) consistently concluded that the detentions of the individuals in question had no legal basis whatsoever and deplored the widespread practice of 'guilt-by-association'. The WGAD noted the existence of a pattern of targeting those with alleged links to the HM on the discriminatory basis of their political or other opinion, based on the significant increase in the number of cases brought to it concerning arbitrary detention in Turkey. The WGAD expressed concern over the pattern that all these cases follow and recalled "*that under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity*"²⁵.

c) Torture and suspicious deaths in detention (arts. 6, 7, 10 and 26)

26. Torture and ill-treatment became a rising systematic practice after the tentative attempted coup and became government policy, as stated in many reports. Torture, ill-treatment and abusive, inhuman and

²⁴ BBC News, [in Turkish], *Türkiye'de çıplak aramaya maruz kaldığını söyleyenler anlatıyor* [The people who were subjected to strip-search were telling their stories], December 30, 2020, at <https://www.bbc.com/turkce/haberler-turkiye-55492703>

²⁵ Kahraman Demirez, Mustafa Erdem, Hasan Hüseyin Günakan, Yusuf Karabina, Osman Karakaya and Cihan Özkan v. Turkey and Kosovo, WGAD Opinion No. 47/2020; Levent Kart, WGAD Opinion No. 66/2020, 2 February 2020; Nermin Yaşar, WGAD Opinion No. 47/2020, 2 February 2020; WGAD Opinion No. 67/2020 concerning Ahmet Dinçer Sakaoğlu, 2 February 2021, para. 96; WGAD Opinion No. 84/2020 concerning Osman Karaca v. Cambodia and Turkey, 3 March 2021.

degrading treatment of people deprived of their liberty in Turkey's detention centres and prisons after the July 15, 2016 coup, have become the norm rather than the exception. This worrying situation has also been expressed²⁶ and reported²⁷ by the United Nations Special Rapporteur Against Torture and Ill-treatment. The sharp increase in reports of serious and systematic human rights violations following the coup attempt was also noted by OHCHR²⁸ and the European Union Commission²⁹. The Amnesty international 2016 report states that

“around 90,000 civil servants, most of them presumed Gulenists, were dismissed by executive decree. At least 40,000 people were remanded in custody, amid widespread allegations of torture and other ill-treatment... Widespread torture and other ill-treatment of suspects accused of taking part in the coup attempt was reported in its immediate aftermath. In July, severe beatings, sexual assault, threats of rape and cases of rape were reported, as thousands were detained in official and unofficial police detention.... spokespeople summarily dismissed reports against them, stating that coup plotters deserved abuse and that allegations would not be investigated”³⁰.

27. The Deputy Chairman of the Human Rights Review Commission of the Turkish Grand National Assembly, Sezgin Tanrikulu, a member of Parliament, prepared a report on cases of torture, indicating that Turkey has seen a significant increase in torture since 2015, with 16.266 people were tortured during the state of emergency. The majority of these victims were accused of being members of the HM and 24 people were subjected to enforced disappearance. It was stated that they were subjected to intense torture during this period³¹. Very few investigations have been initiated (also because of impunity granted through emergency decrees).

28. The Turkish parliament passed an early parole law on April 14, 2020 aimed at reducing the inmate population of the country's overcrowded prisons due to the pandemic. The legislation excluded political prisoners such as politicians, journalists, lawyers, academics and human rights defenders convicted under counterterrorism laws. Many HM supporters died in detention due to COVID virus or due to health negligence. The NGO Stockholm Center for Freedom documented the deaths of 54 persons in 2017 under

²⁶ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22718&LangID=E>

²⁷ <https://digitallibrary.un.org/record/3843477>

²⁸ https://www.ohchr.org/Documents/Countries/TR/2018-03-19_Second_OHCHR_Turkey_Report.pdf, para. 20.

²⁹ https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417_strategy_paper_en.pdf, p. 7, 30

³⁰ <https://www.amnesty.org/download/Documents/POL1048002017English.PDF>

³¹ https://ankahaber.net/haber/detay/chpli_tanrikulu_son_18_yilda_27_bin_493_kisi_iskenceye_ugradi_26709#.YAm6SqKOa9w.whatsapp

suspicious circumstances and under lock up³². In some cases, deaths are believed to have taken place after severe torture suspects were subjected in Turkey's prisons and detention centers. In several cases, suspects reportedly took their lives immediately before an imminent arrest or right after the release. The psychological pressure of being targeted as HM supporter have also played a role in some reported suicide cases. Very few inquiries are launched, and when inquiries are launched, there are serious concerns regarding the effectiveness, impartiality and independence of investigations.

d) De facto separation of families (arts. 6, 7, 9 and 24)

29. The persecution of the HM supporters in Turkey also strikes back on children. Most of the arrests are brutal and take place in the family home. Separation of families is another disturbing epiphenomenon linked to the arbitrary mass arrests: many children are left alone after their two parents are arrested on fabricated charges for being real or imputed HM supporters. Family separation enhances risk of psychiatric disorders, traumatism, inhibition and could constitute a form of torture³³. Separation of children from parents is a widespread and systematic practice against real or imputed HM supporters with a clear purpose to break them down. The recent case of Hakan Dağdeviren in March 2021 lead to a huge public campaign: the 12 years old boy was diagnosed with leukaemia (T-ALL) with his 2 parents serving sentences for terrorism fabricated charges. Little boy Ahmet Burhan Ataç lost his life to cancer while his father was jailed (his father, Harun Reha Ataç, was sentenced to 10 years' imprisonment because he had worked at a student hostel affiliated with the HM) and his mother was standing trial. In September 2021, Seven-year-old Selman Çalışkan succumbed to brain cancer without being able to see his father, a teacher jailed on bogus terrorism charges, one last time. Those cases are unfortunately far from being isolated.

³² https://stockholmcf.org/wp-content/uploads/2017/03/Suspicious-Deaths-And-Suicides-In-Turkey_22.03.2017.pdf

³³ See Physicians for Human Rights, "You will never see your child again", <https://phr.org/our-work/resources/you-will-never-see-your-child-again-the-persistent-psychological-effects-of-family-separation/>

VII. From mass arrests to enforced disappearances and abductions against supporters of the Hizmet Movement (arts. 2, 6, 7 and 9)

a) Enforced disappearances in Turkey (arts. 2, 6, 7 and 9)

30. It is impossible to provide exact numbers on the individuals abducted by the Turkish officials, both domestically and internationally.³⁴ As stated by the UN Working Group on Enforced or Involuntary Disappearances (WGEID), at least 26 individuals have been subjected to enforced disappearance in broad daylight across Turkey, in strikingly similar circumstances. Many remain unaccounted for.³⁵ For example, in 2019, Salim Zeybek, Gökhan Türkmen, Erkan Irmak, Yasin Ugan, Özgür Kaya and Mustafa Yılmaz were abducted and held for 7 months. In 2020, both Mr. Türkmen and Mr. Ugan testified at the hearings of their trials that they had been abducted and subjected to torture for 7 months. No effective investigations, however, were initiated in. About a month later after the reappearance of these persons, Yusuf Bilge Tunç was subjected to enforced disappearance on 6 August 2020 (his whereabouts still remain unknown).

31. The Human Rights Association (İHD) conducted a press conference on 27 January 2021 regarding the recent incidents of enforced disappearance.³⁶ Amnesty International also launched an urgent action appeal urging authorities to carry out a prompt investigation into the enforced disappearance of Mr. Küçüközyiğit.³⁷ He was dismissed from his job as chief legal counsel at the Turkish Prime Ministry Office following the coup attempt and sentenced to 6 years' and 3 months' imprisonment on account of his alleged links with the HM. Authorities' inaction and silence over the serious allegations raised by the family since the day of his disappearance raises the suspicion of involvement of state officials. Other opposition groups became target of the Government's enforced disappearance practice (see for instance,

³⁴ See UN Working Group on Enforced or Involuntary Disappearances, Report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/42/40) of 30 July 2019, p. 46. See Letter sent by the UN Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the human rights of migrants, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Turkey on 5 May 2020 (Reference: AL TUR 5/2020); UN Working Group on Enforced or Involuntary Disappearances, Report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/42/40), 30 July 2019, at 56.

³⁵ <https://undocs.org/en/A/HRC/45/13/Add.4>, Also see https://b2923f8b-dcd2-4bd5-81cd-869a72b88bdf.filesusr.com/ugd/b886b2_e59e82b397704cb3bf609c872c46c28d.pdf

³⁶ <https://ihd.org.tr/en/ihd-statement-on-enforced-disappearances/>

³⁷ <https://www.amnesty.org/download/Documents/EUR4436032021ENGLISH.pdf>

the case of Gökhan Güneş disappeared on 20 January 2021, released after an intense pressure of human rights organizations, who claimed he was imprisoned in a place called the “grave” was tortured).

b) Abroad abductions of HM supporters (arts. 2 and 9)

32. In addition to enforced disappearances, through a variety of illegal means, the Government of Turkey has managed to forcibly bring back over 100 HM supporters from other countries. Many targets of renditions have been teachers or education administrators who worked at schools that the HM runs around the world. The Turkish Government says it has returned 116 people from 27 countries in connection with the coup attempt.³⁸ In a letter to the Turkish Government in May 2020, UN experts referred to “*at least 100 individuals ... subjected to arbitrary arrests and detention, enforced disappearance and torture.*”³⁹ Freedom House was able to identify 58 people rendered from 17 countries. Turkey’s top officials openly claim credit for the kidnapping offensive against the HM, and praise the role of the MİT (Turkish National Intelligence Agency) in the renditions.⁴⁰ Freedom House stated that:

*“Ankara’s campaign has primarily targeted people affiliated with the movement of religious leader Fethullah Gülen, which the government blames for the coup attempt. Recently, however, the effort has expanded, applying the same tactics to Kurdish and leftist individuals.”*⁴¹

33. On 29 March 2018 in Kosovo, Turkish nationals, Cihan Özkan, Kahraman Demirez, Hasan Hüseyin Günakan, Mustafa Erdem and Yusuf Karabina, who had been working at HM affiliated schools in Kosovo and Turkish cardiology professor Osman Karakaya were abducted by a joint operation of the Turkish MİT and Kosovo Intelligence Organization.⁴² The interview of Bekir Bozdağ, Turkey’s Deputy Prime Minister, confirmed that the abduction of the six Turkish men was performed by the Turkish MİT.⁴³

³⁸ 7 Kemal Karadağ, “Firari FETÖ’cüler için 105 ülkeyle yürütülen iade trafiği” [Return traffic with 105 countries for fugitive FETÖ members], Anadolu Agency, July 13, 2020, <https://www.aa.com.tr/tr/15-temmuz-darbe-girisimi/firari-fetoculer-icin-105-ulkeyle-yurutulen-iade-trafigi/1908422>

³⁹ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25209>

⁴⁰ Sinan Balcıkoca and Mirac Kaya, “Turkish Deputy PM Praises Anti-FETO Op in Kosovo,” Anadolu Agency, April 2, 2019, <https://www.aa.com.tr/en/europe/turkish-deputy-pm-praises-anti-feto-op-in-kosovo/1106396>

⁴¹ https://freedomhouse.org/sites/default/files/2021-02/FH_TransnationalRepressionReport2021_rev020221_CaseStudy_Turkey.pdf

⁴² Turkey Purge, *Local Amnesty office asks Kosovo to avoid extradition of Turkish teachers*, March 30, 2018, at <https://turkeypurge.com/today-in-crackdown/page/126?lang=fr%2F>

⁴³ The New York Times, *Turkish School Leader Abducted, and Released, in Mongolia*, July 28, 2018, at <https://www.nytimes.com/2018/07/28/world/europe/turkish-school-leader-abducted-and-released-in-mongolia.html>

VIII. The absence of effective remedy for the supporters of the Hizmet movement in a partial and non-independent judiciary system (arts. 9 and 14)

a) No effective remedy for HM supporters: a judiciary partial and under political influence (art. 14)

34. The exceedingly large number of consistent and reliable reports concerning the independence, efficiency and impartiality of the judiciary is extremely worrisome. Within the two years of State of emergency, the Government (through the Turkey's High Council of Judges and Prosecutors) dismissed more than 4.000 judges and prosecutors and hired more than 9.000 new judges. Not only judges and prosecutors were dismissed, but there is also a strong pattern in Turkey of reassignment of judges and prosecutors because of decisions displeasing the Government. For instance, the 20th Regional Appeal Court of Ankara was dismantled the next day after acquitting a military (Metin Iyidil) for the coup attempt charges, based on the evidence that he was abroad at this time: all of the judges of the case were unseated and investigated. Following this case, the President himself publicly stated:

“How can a court follow getting a person sentenced to life imprisonment, by getting him acquitted or releasing him immediately? This is not understandable. Thank God, our Justice Minister and prosecutors were involved. They caught him as soon as possible [...]. It has been a cheerless step for our legal community. We gave all the necessary instructions on it. [...] He is now inside [in prison]”⁴⁴.

The Selahattin Demirtas case, former Co-Chair of the pro-Kurdish Peoples' Democratic Party (HDP), is also quite well-known; in September 2019, the President himself publicly stated:

“This nation does not forget, and will not forget, those who invited people to the streets and then killed 53 of our children in Diyarbakır. We have been following, will follow, this issue, until the end. We cannot release those people. If we release them, our martyrs will hold us accountable”⁴⁵.

The day of this public presidential statement, his release was prevented through a new detention based on a new investigation.

35. The Council of Judges and Prosecutors amended in 2017, through law n° 6771, have seen his members reduced from 22 to 13: 4 members are selected by the President; 7 members are appointed by the Parliament (with a simple majority vote); 2 members appointed by the Minister of Justice and

⁴⁴ <https://ipa.news/2020/01/19/general-re-arrested-as-erdogan-fumes-at-judges-for-freeing-him/>

⁴⁵ <https://ahvalnews.com/recep-tayyip-erdogan/turkeys-erdogan-signals-continued-imprisonment-former-hdp-leaders>

undersecretary of the Justice Ministry. The amendments to the Constitution terminated the membership of all members whose tenure was due to last until 2018. This gave the opportunity to refresh the Council: *de facto*, the composition of the Council is in the hands of the President, particularly since the AKP that he chairs, constitutes the majority of the Parliament. The OHCHR expressed its concerns stating that:

*“the new appointment system for the members of the Council of Judges and Prosecutors (formerly High Council of Judges and Prosecutors), introduced through amendments to the Constitution, does not abide by international standards. (...) Because of the Council’s key role of overseeing the appointment, promotion and dismissal of judges and public prosecutors, the President’s control over it effectively extends to the whole judiciary branch. **The United Nations Human Rights Committee has noted that a situation where the executive is able to control or direct the judiciary is incompatible with the notion of an independent tribunal**”⁴⁶.*

In view of the facts presented in this report, it is legitimate to raise serious doubts on the effectivity of judicial remedies at the disposal of HM supporters in Turkey. In its recent views n° 2980/2017⁴⁷, concerning the arbitrary detention of two Turkish citizens, HM supporters, removed from Malaysia to Turkey, the Committee found inadmissible the claims of the authors based on articles 6, 7, 10 and 14 pursuant to the rule of exhaustion of local remedies (the authors claimed that they have no legal background or knowledge of the Turkish criminal justice system). Should the Committee have decided to *ex officio* raise arguments not submitted by the authors (on the ground of the *jura novit curia* principle), the question of the effectiveness of the judicial remedies in Turkey for HM supporters would certainly have risen up. Mr. Gentian Zyberi, member of the Committee, rightly raised in his individual opinion on the case that:

*“The authors have claimed that they are impeded from exhausting domestic remedies, as they cannot rely on actual legal representation and assistance given that finding defence counsel has been extremely burdensome (para. 5.6). Moreover, the authors have noted that they have no legal background or knowledge of the Turkish criminal justice system and they are therefore not in a position to initiate domestic proceedings in the absence of legal assistance (para. 5.6). While I agree with the Committee that authors of communications must exercise due diligence in the pursuit of available remedies, such pursuit can only take place in an environment which is conducive to such efforts. **The Turkish legal system after the coup, in which almost one third (4,424) of the judges and prosecutors have been dismissed on allegations of conspiring with the Gülen movement and 2,386 judges and prosecutors have been detained (para. 5.7), does not provide an environment conducive to upholding the standards of due process**”.*

⁴⁶ https://www.ohchr.org/Documents/Countries/TR/2018-03-19_Second_OHCHR_Turkey_Report.pdf

⁴⁷ **We would like to bring to the attention of the Rapporteur on follow-up to communications that Turkey ignored the Committee’s decision.**

b) Harassment of lawyers defending HM supporters (arts. 2, 6, 7, 9 and 14)

36. Bar associations all over Turkey, including in Istanbul, Ankara, Izmir and Diyarbakir, have voiced concerns over the arrests of dozens of lawyers, just for representing their clients accused of being HM supporters. The last mass arrest occurred in September 2020, with the arrest of 47 lawyers suspected of operating with the HM, right after the President declared on September 1st, 2020:

“we will do what is necessary to cut off the bloody path from attorneyship to terrorism”.

Human Rights Watch produced a statement on this arrest⁴⁸ and mentioned that:

*“The Turkish government has an appalling track record of abusing the legal system, and in particular misusing terrorism charges, to pursue government critics, despite the absence of evidence of material connection to violent acts of terrorism. Lawyers have repeatedly found themselves targeted and associated with the crimes of their clients (...) **most lawyers targeted in recent years have been accused of Gülenist links**”.*

All in all, from 2016 to 2020, 14 provincial Bar Associations’ Presidents have been arrested or detained, 441 were sentenced to a total of 2728 years in prison⁴⁹. During these processes, the legal safeguards for lawyers have been ignored. This is another example of the many abuses of the anti-terrorism legal frameworks. The Government also decided to target the bar associations with a new law aimed at diminishing their authority; the Venice Commission reviewing the July 2020 amendments to the attorneyship law of 1969, stressed the risk of politicization and of weakening the capacity of the bar associations to be involved in the human rights work⁵⁰. In this context, many of the HM supporters arbitrarily arrested and detained struggle to find a lawyer accepting their case.

IX. The social annihilation of the Hizmet Movement supporters in Turkey (arts. 18, 19, 22 and 26)

a) Arrests of journalists and annihilation of any written material linked with the HM (art. 19)

37. Freedom of expression has massively been violated in Turkey as reported by Human Rights Watch alongside another 10 international rights groups in a shared statement: *Turkey: Press Freedom Under*

⁴⁸ Turkey : plan to divide, undermine legal profession ; <https://www.hrw.org/news/2020/09/16/turkey-lawyers-arrested-terror-probe>

⁴⁹ See report of Arrested Lawyers : <https://arrestedlawyers.files.wordpress.com/2020/07/mass-prosecution-of-lawyers-in-turkey-aug-2020.pdf>

⁵⁰ [https://www.venice.coe.int/webforms/documents/default.aspx?pdf=CDL-AD\(2020\)029-e&lang=en](https://www.venice.coe.int/webforms/documents/default.aspx?pdf=CDL-AD(2020)029-e&lang=en)

*Attack*⁵¹ published in October 2020. The figure of jailed journalists has also risen in Turkey with 37 journalists to have been found imprisoned according to The Committee to Protect Journalists in 2020. For example, Can Dündar has been sentenced for 27 years in jail on terrorism-related charges that his legal team has described as politically motivated. Dündar was sentenced for providing support to the HM. Kerim Balci, former editor-in-chief of Turkish Review and a columnist for Zaman, was sentenced to three consecutive life-term and his articles and books were censored by the Government due to his support to the HM. Ahmet Altan, prominent novelist, journalist, and former editor-in-chief of *Taraf* a liberal daily newspaper was sentenced on the ground of “subliminal messages” he would have disseminated in support of the coup attempt (he recently has been released following a decision of the ECHR). These last years, the social annihilation of the HM also took the form of a systematic destruction and censorship of anything written on the HM or by an alleged HM supporter: deletion of all digital archives of Zaman, Today’s Zaman, Aksiyon newspapers; deletion of entries written by alleged HM academics in digital encyclopedia; deletion of MA and PhD thesis written by alleged HM supporters, or with a sympathetic eye about the Movement; thousands of books published by the publication houses of the HM were banned en masse; content created for national education curriculum by any known HM supporter, or by HM linked publication house are all taken out of the curriculum. Recently, the Turkish Education Ministry decided to collect and revise 518 different textbooks with the claim to clear alleged propaganda from the HM.

b) Shut down of associations, foundations, including trade unions linked with the HM (art. 22)

38. Any association or foundation, perfectly legal before July 2016, have been arbitrarily shut down on the ground of the emergency decrees. The case of the trade union Action Workers’ Union Confederation (Aksiyon-Is), linked to the HM, is quite emblematic: this umbrella confederation to 18 unions, with 29.000 members, was closed and dissolved by the emergency decree no 667 and thousands of trade union members were fired without trial for guilty by association with the HM. A complaint has been submitted to the International Labour Organisation. Very recently the Governing Body of the ILO gave its decision and found that Turkey violated the Freedom of Association and Protection of the Right to Organise Convention, no 87 and the Termination of Employment Convention, no 158⁵². It stated:

⁵¹https://www.hrw.org/sites/default/files/media_2020/10/Download%20the%20statement%20here_0.pdf

⁵² Governing Body of the ILO, 24 March 2021, GB.341/INS/13/5, https://www.ilo.org/gb/GBSessions/GB341/ins/WCMS_776590/lang--en/index.htm

“the Committee considers that the administrative dissolution of trade union organizations constitutes a clear violation of article 4 of Convention no 87. Furthermore, the Committee is of the view that the dissolution by the executive branch of the government pursuant to a law conferring full powers, or acting in the exercise of legislative functions, like dissolution by virtue of administrative powers, does not ensure the right of defence which normal procedure alone can guarantee” (para. 23).

c) Systematic discrimination faced by “purged” public servants (arts. 2 and 26)

39. Purged public servants continue to face discrimination on a daily basis: getting access to a bank account, benefitting from a real estate tax break granted to people with no income, receiving an educational certificate or degree, attending a course organized by the Turkish Employment Agency... All these very simple facts of the daily life are not accessible to purged public servants associated with the HM whose names have been publicly diffused. The dismissals have affected a wide range of dismissed people in terms of loss of the right to work, the right to an adequate standard of living, adequate housing, to health, to freedom of movement... Along with their families, dismissed public officials have also lost health care benefits related to their jobs. In an academic paper *“Planting Hate Speech to Harvest Hatred: How Does Political Hate Speech Fuel Hate Crimes in Turkey?”*, four academics⁵³ mentioned that there is general fear in the Turkish society of being stereotyped and stressed that many HM supporters had to isolate themselves. They quote one HM supporter’ testimony:

“It was like the beginning of a genocide. We were forced to civic death. I knew about the Holocaust; I knew the apartheid. It was going in that direction. The kids were attacked by their teachers and classmated at school for having parents who are members of the Gülen Movement”.

The persistent discrimination faced by HM supporters in the Turkish society had indeed reached the level of civic death.

d) Deprivation of property for HM supporters (arts. 2 and 26)

40. In its views n° 516/1992, the Committee stated that:

“the right to property, as such, is not protected under the Covenant. However, a confiscation of private property (...) could still entail a breach of the Covenant if the relevant act or omission was based on discriminatory grounds in violation of article 26 of the Covenant”.

⁵³ Perry (B.), Akca (D.), Karakus (F.), Bastug (M), *“Planting Hate Speech to Harvest Hatred: How Does Political Hate Speech Fuel Hate Crimes in Turkey?”*, *International Journal for Crime, Justice and Social Democracy*, 9 (4), 2020.

It is a well-established fact that HM supporters face general persecution and discrimination in Turkey. Very recently, in December 2020, the President publicly stated regarding the HM supporters:

“They do not have property rights. They have a large debt to pay to this nation. So many people were killed (during the coup attempt). What will happen to their property rights?”⁵⁴.

On the basis of reliable sources of information, the total value of confiscated or frozen assets is \$ 32 billion on the ground of HM links or connections. Those confiscations actually occurred even before 2016 and are ongoing. Recently, last June 2020, the Culture and Tourism Ministry seized the house of Sittika Atay, an 87-year-old woman in the western province of Manisa because she donated it to a foundation linked to the HM (Feza Education and Culture Foundation) in 2007. Again, this is raising serious concerns regarding the non-retroactivity principle since in 2007, this Foundation was a legal entity. Although the Constitutional Court stated in 2017 that the government decrees, including those issued during the State of emergency, seizing people’s assets were against the Constitution, the HM supporters never got access to judicial or administrative remedies and to date did not get access back to their properties in Turkey.

X. Forced exile for HM supporters in Turkey as a result of the persecution (arts. 6, 7 and 12)

41. In view of the intense persecution faced by the HM supporters, that “*may constitute crimes against humanity*” (see WGAD above) both from the judiciary and police forces, they do not have other choice than exile.

42. However, such self-exile remains quite a complex solution in view of the arbitrary restrictions faced by HM supporters or alleged supporters. Indeed, in total violation of article 12 para. 1 of the ICCPR, heavy restrictions to freedom of movement have been implemented on the ground of the decreed passed during the State of emergency. The administration proceeded to a mass passport cancellation’ arbitrary operation that affected hundreds of thousands of persons. The Ministry of Interior, Süleyman Soylu declared in a public speech on December 12, 2017 that

“234.419 passports have been cancelled within the scope of FETÖ investigations”⁵⁵.

⁵⁴ <https://stockholmcf.org/erdogan-says-gulen-movement-supporters-have-no-property-rights/>

⁵⁵ <https://www.cnnturk.com/turkiye/bakan-soyludan-feto-aciklamasi-actikca-icinden-cikmaya-devam-ediyor>

It should also be highlighted that passport of persons prosecuted on terrorism charges are cancelled. In 2019, the Ministry of Justice stated that more than 500.000 persons have been prosecuted for charges on the ground of links with the HM. Passports of the spouses of persons prosecuted on such charges have also been cancelled. It is in reality impossible to give precise figures of persons who lost their right to travel outside Turkey only for being HM supporters or associated with the HM.

43. Many HM supporters are thus forced to leave the country under illegal and unsafe conditions: most of them arrived in Greece by crossing by boat the Evros-Maritsa River. They are then potentially subject to detention and violent push-backs. Testimonies from asylum-seekers reveal a pattern of being strip-searched, stripped of any belongings, beaten-up and pushed-back on boats on the Evros-Maritsa River to Turkey. The German Bild daily reported in February 2018 that according to local authorities, approximately 1.300 persons are estimated to have drowned in the Evros-Maritsa River trying to flee to Greece (among them pregnant women and children).

XI. Suggestion of questions for the list of issues prior to reporting in relation to the second report of Turkey

44. IAHRAG respectfully requests the Committee to consider raising these questions to Turkey:

- Please answer to credible allegations of systematic public hate speech, including at the highest level, against Hizmet Movement supporters. Please report on the measures taken to address hate crimes, discrimination and social exclusion of HM supporters and elaborate on the compatibility with the Covenant of measures of systematic censorship, shut down of associations, spying and deprivations of property of HM supporters or institutions linked to the HM. Report on the remedies at the disposal of HM supporters to legally challenge these measures and comment on their effectiveness (arts. 2, 6, 9, 14, 17, 19, 20, 22, 25 and 26).
- Please elaborate on the compatibility of the law decrees adopted during the State of emergency, particularly regarding the impunity for administrative authorities acting within the decrees framework, with the provisions of the Covenant and the rule of law principles enshrined within it.

Provide information on the criteria used to determine the list of public servants, among them judges and prosecutors, to be dismissed after the coup attempt of July 2016 and provide the official figures of dismissals by professional category. Provide information on the measures taken to ensure the efficiency, independence and impartiality of the Inquiry Commission for State Emergency Measures and provide figures on the number of applications, decisions and their outcomes (arts. 2, 4, 9, 14 and 25).

- Please provide information on the decision' process leading to the legal qualification of groups as terrorist, in particular the HM (FETÖ); clarify the measures aimed at preventing arbitrariness of such decisions and whether the individuals affected by such decisions can access to effective remedy (arts. 2, 9 and 14)
- Please provide information on the compatibility of the Anti-terror Law No. 3713 and the amendments made to this law and the Penal Code through Law NO. 7145 adopted on 31 July 2018 with the provisions of the Covenant, and the principles of legality, certainty and individual criminal responsibility encapsulated in the Covenant. Answer to credible allegations that mass arbitrary arrests and detention operations based on vague and imprecise legislation, in particular against HM supporters but not only, are taking place on a daily basis in Turkey and provide figures, per year, of persons into custody on the ground of terrorism charges. Provide information on measures taken to ensure that the rights protected under article 9 of the Covenant are implemented, including for HM supporters. Provide information on the measures aimed at ensuring the respect of the interest of the child when the two parents are arbitrarily detained (arts. 9, 7 and 24).
- Please respond to credible allegations of torture and suspicious deaths of HM supporters in detention and report on measures to address and effectively investigate such cases and, where appropriate to bring to justice those responsible and provide remedies to victims' families (arts. 2, 3, 6, 7 and 9).
- Please comment on the compatibility of the measures, adopted during the States of emergency, leading to massive cancellation of passports with article 12 of the Covenant (arts. 2 and 12).
- Please provide information on the measures taken to address the practice of enforced disappearances that is quite common, particularly against HM supporters. Comment on cases of abroad abductions of HM supporters, perpetrated by the Turkish Service Secrets (MIT) and

comment on their compatibility with the provisions of the Covenant. Indicate the measures taken to implement the views of the Committee in the case n° 2980/2017 (arts. 2, 7 and 9).

- Please describe all measures taken to guarantee, in law and in practice, the full independence, impartiality, competence and tenure of judges, including measures to address concerns regarding the influence by the executive on the judiciary. Elaborate on the compatibility of the current procedures and criteria for selection, appointment, suspension and removal of judges. Report on measures adopted that all groups, in particular HM supporters, have access to effective remedies in case of human rights violations. Comment on credible and concurring allegations that lawyers defending HM supporters' cases are harassed, arrested and detained (arts. 2, 9 and 14).