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RIGHT TO LIBERTY AND SECURITY OF PERSON
(ARTICLE 6 AND 9)

**MASS ARRESTS OF MEMBERS OF THE GÜLEN
MOVEMENT AS A METHOD OF
COLLECTIVE GUILT AND PUNISHMENT**

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BERLIN

1. This report has been prepared by HRD Human Rights Defenders, a non-governmental organisation, as a contribution to the United Nations Human Rights Committee's second periodic review. This review will be conducted during the Committee's 142nd session in Geneva, from October 14 to November 8, 2024, under the International Covenant on Civil and Political Rights framework.
2. Human Rights Defenders e.V, a public interest organisation based in Berlin with operations across Germany, is pleased to present this report to the Human Rights Committee. The report aims to provide the Committee with pertinent information on the questions it has posed to the Turkish Government. HRD is an autonomous, non-profit, non-governmental organisation committed to defending human rights and assisting individuals facing persecution globally and in Turkey.
3. In Türkiye, politically motivated detentions and arrests are carried out against Kurds and members of the Gülen Movement through mass trials and mass arrests. In these cases, suspects or defendants are detained and arrested collectively based on their membership of a particular group, not based on concrete acts committed. There is no individualisation of crimes and punishments. Merely belonging to a specific group is sufficient to be accused of being a 'traitor' and 'enemy of the state', and evidence and documents of guilt are produced and obtained after the arrest.
4. The members of the group are considered guilty in advance from the beginning. Therefore, it does not matter which act they have committed concretely. The individual is eliminated, and guilt is created against a group with a collective prejudice. The accusations are directed collectively against all defendants, and they are accused of destroying the country, collaborating with foreign enemies, attempting a coup d'état and being members of a terrorist organisation. It does not matter with which actions they have committed this offence. Although there must be an act, an act of an individual and that act must constitute a violation of the law in terms of criminal law, the completely legal activities of individuals, the books they read, their social media posts, how many children they have, whether they have had an abortion, whether

they have disabled children, with whom they chat, with whom they are housemates can be considered sufficient evidence to be shown as a member of a terrorist organisation.

5. A person's right to liberty and security is considerably narrowed against political opponents, and even the most natural behaviour can be interpreted as a criminal offence through political interpretation. In many decisions by the United Nations Human Rights organisations so far, it has been found that 'widespread and systematic imprisonment or other serious deprivation of liberty' against members of the Gülen Movement has reached the level of crimes against humanity¹.
6. Indeed, the United Nations Working Group on Arbitrary Detention emphasises that mass detentions, mass arrests and mass sentences in Turkey are imposed collectively against a group without individualisation of offences and punishments. In its judgment on 94 military students sentenced to life imprisonment in relation to the events of 15 July 2016, it stated that 'mass trials are contrary to the interests of justice and do not meet fair trial standards, as it is impossible to make a specific assessment of individual responsibility during such trials.'² The military students were branded as 'traitors' and 'terrorists' by investigating officers, prosecutors and the press from the outset of the proceedings and the right to the presumption of innocence was denied to all of them. The Working Group noted the Court's failure to assess each defendant's responsibility and to individualise the sentence already imposed. In particular, the Working Group emphasises that the presumption of innocence is one of the fundamental principles of a fair trial and, therefore, cannot be derogated from and guarantees that no guilt can be presumed until proven guilty beyond reasonable doubt. It thus found a violation of Article 14 of the International Covenant on Civil and Political Rights in the case of 94 military students.³

¹ Opinion No. 51/2020 concerning Arif Komiş, Ülkü Komiş and four minors whose names are known to the Working Group (Malaysia and Turkiye) https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_51_Advance_Edited_Version.pdf

² Opinions No. 41/2020, No. 5/2020, and No. 65/2019

³ 95 per cent of the students at the Turkish Air Force Academy and all other military schools were dismissed because they were members of the Hizmet Movement, without any concrete investigation or trial. Collectively, all students have been detained and arrested for attempting to stage a coup d'état, and many have been sentenced to prison terms. A/HRC/WGAD/2020/67 - Opinion No. 67/2020 concerning Ahmet Dinçer Sakaoğlu

7. Unfortunately, all courts in Türkiye, including the Constitutional Court, continue to justify practices contrary to international principles regarding extended pre-trial and pre-trial detention. As a matter of fact, in the *Erdal Tercan* decision, the Turkish Constitutional Court concluded that the detention of persons arrested for offences related to the Gülen Movement or terrorism-related offences for up to 18 months without being brought before a judge/court does not violate the right to personal liberty and security during the state of emergency⁴. For 18 months, even the Turkish Constitutional Court found the decision to continue detention without being brought before a judge or court lawful. This practice is essential in showing how far the Turkish courts are from the standards of the United Nations Judicial bodies and the European Court of Human Rights. Again, the European Court of Human Rights has demonstrated with its recent judgement that the continued detention of journalist Aysenur Parildak for six months without being brought before a judge or a court violates her rights⁵.
8. According to the findings of the United Nations Working Group on Arbitrary Detention, many rights defenders (such as Osman Kavala, Eren Keskin, Selcuk Kozagacli, Turan Canpolat) who are being tried and imprisoned by the Turkish state with the threat of imprisonment of 10 years or more, especially human rights defenders and lawyers, are arbitrarily deprived of their freedom and are being held in various prison⁶. One of them, lawyer Ebru Timtik, died in prison as a result of a hunger strike.⁷
9. In Turkey, the mass detentions and arrests of 40-50 people, which are announced by the Ministry of Interior almost every month by social media organs and visual media organs with a big trunk show, have become commonplace practices in arbitrary terrorism accusations and investigations. Hundreds of people are arbitrarily detained and arrested en masse every

Türkiye) https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session89/A_HRC_WGAD_2020_67.pdf

⁴ <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2016/15637> (paragraph 246)

⁵ [http://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22003-7903451-10998055%22\]}](http://hudoc.echr.coe.int/eng#{%22itemid%22:[%22003-7903451-10998055%22]})

⁶ <https://spcommreports.ohchr.org/TmSearch/SummaryPrint?id=26418>

⁷ <https://www.dw.com/de/inhaftierte-anw%C3%A4ltin-eburu-timtik-stirbt-nach-hungerstreik-in-der-t%C3%BCrkei/a-54727987>

month, without individualisation of their offences and without being told what offence they are personally accused of, simply because they belong to the Gülen Movement. The government continues to apply hostile criminal law against a group it considers politically criminal and hostile, trampling on the principles of national and international law.

10. The European Court of Human Rights and the United Nations Working Group on Arbitrary Detention and the reasons for detention and arrest, which have been insistently emphasised as unlawful in dozens of judgements up to this time, continue to be used arbitrarily in today's Turkey as a method of depriving people of their freedom.
11. According to the Ministry of Interior's official statements, a total of 4,022 operations were carried out against the Gülen Movement between 1 June 2023 and 21.02.2024 and 6,045 suspects were arrested⁸. As it can be understood, in 9 months, 6,045 people were detained only because of their membership in the Gülen Movement, without knowing what their offences were, while an average of 672 people were arrested and imprisoned every month. So far, no weapons, explosives, etc., have been obtained during the operations against the Gülen movement. The materials seized with the detained persons are books, electronic materials such as mobile phones and computers and money⁹.
12. When the Justice Statistics of the Ministry of Justice are examined, the number of terrorism investigations, detentions and arrests are examined. According to the statistics, the number of investigations initiated for the crime of armed terrorist organisations under Article 314 of the Turkish Penal Code in 2021 alone is 191,964. In other words, nearly 200 thousand terrorist organisation membership investigations were initiated in the last year alone. Between 2016 and 2021, the number of terrorist organisation membership investigations initiated reached 1,768,530¹⁰. According to 2022 and 2023 data, it is estimated that the number of people who have been subjected to judicial proceedings,

⁸ <https://www.icisleri.gov.tr/fetopdy-silahli-teror-orgutune-yonelik-kiskac-7-operasyonlarinda-67-supheli-yakalandi>

⁹ <https://www.tr724.com/kitapli-teror-orgutu-erman-yalaz/>

¹⁰ <https://www.mustafayeneroglu.com/adalet-bakanliginin-2021-adalet-istatistiklerine-yansiyan-silahli-teror-orgutu-uyeligi-yargilamalari-verileri-hk-basin-aciklamasi/>

detention, and arrest due to terrorist organisation investigations is 2.2 million people.

13. Although eight years have passed since the so-called coup attempt on 15 July 2016, mass operations, mass arrests and detentions are continuing without any reasonable, justified and legal grounds to intimidate the members of the Gülen Movement and to make the society accept the perception of a terrorist organisation. A review of the recent judgements of the European Court of Human Rights, as well as the decisions of the United Nations Human Rights Committee and the Working Group on Arbitrary Detention, will reveal how the Turkish state has abused the measure of detention and how it has abused the concept of counter-terrorism and used it as a tool of repression against dissidents.
14. Statistical data on the types of charges against the Gülen movement against these detentions and arrests, which are carried out regularly and intensively every month, are also crucial in terms of showing the maliciousness of these so-called terrorist operations. The reasons and rates of detentions and arrests are as follows:

Having an account at Bankasya ¹¹ :	% 35,98
Confessor and Whistleblower/ Witness Statements:	% 31,87
the Organisation they work for :	% 25,59
Installing/Using Bylock:	% 23,71
Membership to Closed Trade Unions;	% 20,45
Being Named on Filling Lists ¹² :	% 20,42
Having worked in closed institutions;	% 16,45

¹¹ "Bankasya" is an interest-free banking system in which members of the Gülen Movement deposit their money, and it is considered a criminal offence for individuals to invest their financial savings in this bank, even if they take out loans or carry out banking transactions.

¹² Similar to the Stasi system in East Germany; reports of people who have been informing on individuals to the state.

Sending Children to Closed Schools:	% 15,88
Participating in Conversations/Tours:	% 13,90
Being in contact with the Gülen Movement:	% 13,12
Secret Witness Statements:	% 10,36
Newspaper/Magazine Subscription:	% 10,17
Donating to the Gülen Movement:	% 9,96
Membership to Closed Associations:	% 8,58
Social Environment Information:	% 7,20
Aiding the Organisation:	% 5,58
Receiving a phone call from an angered caller:	% 5,25
Making Opposing Posts on social media:	% 3,79
He doesn't know what a criminal charge is:	% 2,41
Participating in Protest Actions:	% 1,70
Becoming a Peace Signatory:	% 1,38
Being Part of the Struggle for Labour and Democracy:	% 1,21
Attempted Coup:	%0,40
Other:	% 3,44

- 16- Amnesty International's field research and reporting on Türkiye¹³ list the reasons for these arrests, detentions, and purges from the public sector similarly.
- 17- The grounds mentioned above for arrest and punishment have been repeatedly found unlawful by the European Court of Human Rights, the United Nations Human Rights Committee and the Working Committee on Arbitrary Detention, and it has been ruled that persons cannot be deprived of their liberty on these grounds. In the Grand Chamber judgment in the case of Yüksel Yalcinkaya v. Turkey dated September 2023, the ECHR ruled that the use of the Bylock communication system, depositing money to Bankasya, membership of trade unions and associations linked to the Gülen Movement cannot be sufficient grounds for arrest and conviction for membership of a terrorist organisation¹⁴.
- 18- Later, the 2nd Chamber of the ECHR ruled on 12 December 2023 in the case of Kolay and Others v. Turkey (concerning a total of 284 applicants) that, among the grounds mentioned above for arrest and conviction: Witness testimonies showing the links of individuals with the Gülen Movement; Social media posts; Possession of pro-Gülen Movement publications; Working for or being a member of organisations with links to a company that had links with the Gülen Movement but was later closed down; Providing financial support to institutions affiliated with the Gülen Movement (making donations), attending or organising chat meetings, communicating with senior executives of the Gülen Movement, ensuring communication between members of the Gülen Movement, staying in houses affiliated with the Gülen Movement, participating in various other activities upon the instructions of the Gülen Movement (trips, picnics, meetings, etc.). Organisations do not constitute a justified legal basis for arrest or extension of arrest decisions¹⁵.
- 19- Likewise, in the case of Mecit and Others v. Turkey of 12 December 2023 (concerning a total of 82 persons), the 2nd Chamber of the ECHR ruled concerning initial detention orders:
- &- Being a user of the ByLock messaging system,
 - &- having an account at Bank Asya, which is allegedly linked to the Gülen Movement,
 - &- Possession of pro-Gülen Movement publications,
 - &- Possession of one dollar US banknotes with the serial number "F", which stands for

¹³ <https://www.amnesty.org/ar/documents/eur44/9210/2018/en/> (page 18-19).

¹⁴ <https://hudoc.echr.coe.int/fre#%7B%22tabview%22:%5B%22document%22%22%5D%22itemid%22:%5B%22002-14187%22%5D%7D>

¹⁵ <https://hudoc.echr.coe.int/tur?i=001-229392>

Fethullah Gülen's initials,

&- Working in or being a member of institutions and organisations affiliated with the Gülen Movement,

the Court has ruled that such acts cannot be grounds for arrest¹⁶.

20- For the reasons listed above, it is estimated that by 2024, 2.2 million people will have been prosecuted, detained or arrested due to terrorism investigations. According to the official statements of the Turkish state¹⁷, 2.2 million people who had nothing to do with these events have been prosecuted for membership in a terrorist organisation, compared to 4,891 people convicted on the grounds of armed uprising on the night of 15 July 2016 and 4,891 people sentenced for their actual involvement in the events. Between 15 July 2016 and 20 June 2022, 332,884 people were detained on the grounds of being a member of the Gülen Movement; 101,000 of them were arrested, and 104,000 people were subjected to judicial control orders¹⁸. Those detained between June 2022 and March 2024 are not included in this number.

21- Europol statistics on the total number of terrorism cases/investigations with convictions and acquittals **across Europe** due to terrorism investigations. 520 in 2019, 422 in 2020, 423 in 2021, and 2022 427 trials took place in¹⁹.

22- Again, according to Europol statistics, the number of people arrested for terrorist acts in the European continent as of 2021 is calculated as 388²⁰. 260 Jihadist, 64 Right Wing Terrorism, 19 Left Wing Terrorism, 26 Ethno / Separatist / Nationalist, 5 Other, 14 Not Specified). In 2022, the number of terrorist organisation members arrested across Europe is 380. Considering that 2.2 million people were processed in terrorism investigations in Turkey in the period 2016-2023, it is clear that terrorism investigations in Turkey have been abused and used as a weapon against the opposition. Compared to European data, the number of terrorism cases in Turkey in 2022 alone is 38,910, while the number of people charged with being members of a terrorist organisation in

¹⁶

[http://hudoc.echr.coe.int/eng#%7B%22display%22:\[2\],%22tabview%22:\[%22notice%22\],%22languageisocode%22:\[%22TUR%22\],%22itemid%22:\[%22001-231793%22\]%7D](http://hudoc.echr.coe.int/eng#%7B%22display%22:[2],%22tabview%22:[%22notice%22],%22languageisocode%22:[%22TUR%22],%22itemid%22:[%22001-231793%22]%7D)

¹⁷ This is the number of 4,891 people convicted by Turkish courts under pressure from the political power and allegedly involved in the coup. These convicted persons have not received a fair and impartial trial. The convicted persons include military students and ordinary privates without any rank. Indeed, although the United Nations Working Group on Arbitrary Detention has ruled in favour of these individuals, who have been sentenced to life imprisonment, the Government has not implemented these rulings. On 15 July 2016, it was estimated that the number of people who actually used weapons was less than 1000 soldiers.

¹⁸ For the statements of Süleyman Soylu, Minister of Interior, please see:

¹⁹ <https://www.europol.europa.eu/publication-events/main-reports/european-union-terrorism-situation-and-trend-report-2023-te-sat#downloads>

²⁰ <https://www.consilium.europa.eu/de/infographics/terrorism-eu-facts-figures/>

these cases is 43,386²¹.

AN ARTIFICIAL INTELLIGENCE-LIKE ALGORITHM AND A FETOMETER

23- In addition to the above criteria used by the Turkish security services and courts for terrorist organisation accusations, detentions, and arrests, in 2019, another system was developed, this time by a member of the armed forces called Fetömetre, which uses algorithmic calculations similar to artificial intelligence to identify criminals²². With this algorithmic calculation method consisting of a total of 97 main criteria and 290 sub-criteria, reports were prepared on 810 thousand people by using all personal data available to the state²³; based on this data, people were dismissed from their jobs and at the same time went through detention and arrest phases²⁴. Detention, arrest, and conviction procedures continued within the framework of the criteria determined in this system. Moreover, the algorithmic computer system called Fetömetre, which determines whether a person is a member of a terrorist organisation, is used to scan a wide range of information about the person's spouses, children, first and second-degree relatives. Such practices contradict entirely the principles of the presumption of innocence and the individuality of offences and punishments. Using the algorithmic system called Fetömetre, nearly a hundred air cadets in their 20s have been sentenced to life imprisonment, and they are still in prison²⁵.

24- According to the system developed, for example, never having had an abortion or not having had an abortion even though it was known during the birth control that she would have a disabled child is considered a criterion for being charged with membership of a terrorist organisation²⁶.

25- In fact, among the grounds for detention and arrest of women whose husbands/husbands are in prison, there are also grounds such as how she pays the

²¹ Republic of Turkey Ministry of Justice Official Statistics Programme General Directorate of Judicial Record and Statistics: https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/29032023141410adalet_ist-2022cal%C4%B1sma100kapakl%C4%B1.pdf (Page 70).

²² <https://www.statewatch.org/publications/reports-and-books/algorithmic-persecution-in-turkey-s-post-coup-crackdown-the-feto-meter-system/>

²³ <https://www-tr724-com.cdn.ampproject.org/c/www.tr724.com/cihat-yaycinin-soykirim-kriteri-kurtaj-yaptirmayan-subay-ihrac-edilmis/amp>

²⁴ <https://boldmedya.com/2021/11/25/yayci-metre-kriteri-kurtaj-yaptirmayan-subay-ihrac-edildi/>

²⁵ <https://kronos36.news/tr/muebbet-hapis-verilen-hava-pilot-ustegmen-cengizhan-efenin-babasi-hasim-efe-bu-cezalar-havaci-pilot-ve-kurmay-tam-fetocu-iste-mantigiyla-verildi/>

²⁶ <https://www.statewatch.org/media/2943/algorithmic-persecution-in-turkey-fetometer-report.pdf> (s.23).

rent for her house, how she makes a living, why she continues to live in the metropolis even though her husband is in prison²⁷.

SERIOUSLY ILL AND DISABLED PRISONERS

26- Unlawful detentions and arrests continue against the principles of national and international law and against individuals who are disadvantaged in society, such as the disabled, pregnant, elderly, etc., without discrimination. Arrests of sick, severely disabled, elderly people and pregnant women continue on the grounds of arbitrary detention reasons, which are listed at the very beginning of the report above and which have been decided by the ECHR and the UN dozens of times before that they do not constitute a criminal offence. Hundreds of political prisoners/members of the Gülen Movement or members of the Kurdish Movement who have over 90% physical disabilities and are unable to take care of themselves and clean themselves continue to be held in prisons and are only released from prisons when they are in the process of dying or in intensive care²⁸. Bilal Konakci, once a policeman himself, who lost his eyes and hands in a bomb disposal operation, is one such person²⁹. During this time, Bilal Konakci was sentenced to 7 years and six months in prison for being a member of the Gülen Movement, spent 20 months in pre-trial detention and was only released after prolonged public pressure³⁰. Visually impaired lawyer Mehmet Ali Ucar is one of the disabled prisoners who was sentenced to 8 years and eight months in prison solely for having an account in Bankasya, donating to organisations that were closed down, and social media posts³¹. These detainees and prisoners are left to the mercy of other detainees and prisoners in prisons, and all their care, feeding and cleaning needs are met by their fellow prisoners.

27- These excuses are not taken into consideration for people whose children are severely disabled, who need to work for the care and support of the family and who should, therefore, be tried without remand. On the one hand, the family is condemned to poverty. At the same time, all medical treatment and social care expenses of the disabled child who is out of the country are cut off on the grounds of the arrested member of the Gülen Movement. Suicide incidents occur among families who are

²⁷ <https://kronos37.news/ankara-emniyetinden-operasyon-hazirliqi-esin-hapiste-kirani-nasil-oduyorsun/>

²⁸ <https://www.statewatch.org/media/2943/algorithmic-persecution-in-turkey-fetometer-report.pdf> (s.23).

²⁹ <https://www.hurriyet.com.tr/yerel-haberler/izmir/fetoden-tutuklu-yuzde-98-engelli-gazi-polise-t-40348030>

³⁰ <https://boldmedya.com/2022/10/07/tahliye-edilen-khkli-polis-bilal-konakci-cok-sevinemiyorum-geride-hastalar-ve-diger-engelliler-kaldi/>

³¹ <https://arrestedlawyers.org/2024/01/30/zulum-ve-keyfilik-avukat-ucar-in-turk-yargisindaki-cilesi/>

under heavy pressure in this way. Seher Bas, whose husband was arrested and imprisoned for being a member of the Gülen Movement, killed her 17-year-old son with Cerebral Palsy and committed suicide herself because all social benefits were cut off³². Judge Seyfullah Cakmak, who was arrested on allegations of being a member of the Gülen Movement, despite having two severely disabled children, continued to be kept in prison by cutting off all social benefits for his children, even though he could be tried without remand³³. Alparslan Altan, who was arrested when he was a member of the Constitutional Court, was not released from prison despite the judgement of the European Court of Human Rights on the violation of his rights and was forced to live separately from his son, who is being treated for autism, for seven years. Yakup Ali Çetin, the 98% disabled and autistic son of Eyüp Çetin, a teacher with a state of emergency decree, who is imprisoned in Konya E Type Prison, had his disability pension cut off and was forced to live separately from his father,³⁴.

28- Yusuf Kerim Sayin, who had terminal cancer and was undergoing treatment, was denied release by his mother and had to fight this severe illness alone in the hospital when he needed maternal care the most. Unfortunately, he was not allowed to be with his mother in the last stages of his life and died at³⁵. Mahmut Basyigit, who is currently in prison for the 4th term with severe cancer, continues to be imprisoned despite his illness, which is getting worse every day³⁶.

29- Members of the Gülen Movement who have seriously ill and disabled children have been subjected to a separate system of punishment, either by arresting the parents at the same time or by arresting the father, who is the breadwinner of the family and can be tried without remand, even though their children need them. Families with seriously ill and disabled children have all kinds of social assistance and insurance cancelled, and a separate punishment process is carried out for the remaining family members.

30- Political prisoners are subjected to discrimination by the prison administration. Among the discriminatory decisions of the Prison Administrative and Observation Boards are the discriminatory treatment of sick, elderly and pregnant women. Most of the time, referrals to hospitals cannot be made due to a lack of personnel and adequate transport facilities. In the case of hospital transfers, detainees are subjected to severe

³² <https://www.habererk.com/feto-tutuklusunun-esi-engelli-oglunu-oldurup-intihar-etti>

³³ <https://www.tr724.com/evde-iki-engelli-cocugun-bekledigi-eski-savci-cakmaki-tutuksuz-yargilayin/>

³⁴ <https://twitter.com/HastaTutuklular/status/1570472762120212480>

³⁵ <https://www.yasadikca.com/kanser-hastasi-yusuf-kerim-sayin-tutuklu-annesiyle-gorustu/>

³⁶ <https://velev.news/gundem/khkli-polis-memuru-mahmut-basyigit-cezaevinde-kansere-yakalandi/>

violations of their rights during the transfers, including strip searches, handcuffed examinations and many other violations of their rights.

TREATMENT CONTRARY TO HUMAN DIGNITY IN DETENTION AND ARREST

31- Similarly, humiliating and degrading detentions and arrests are commonplace in Turkey. People who can go to testify even when they are invited or even when they are called by phone have their family members taken into custody in front of their children during operations carried out by anti-terrorist teams with heavy weapons in front of their children and by using violence and brute force in these detentions, the members of the Gülen Movement are tried to create the image of a dangerous organisation in the eyes of the public. Up to this day, there has been no resistance, resistance or objection, confrontation, or escape attempt in implementing detention or arrest measures.

32- Ali Aydeniz, whose daughter was wanted by the police because she worked at a university affiliated with the Gülen Movement, was sentenced to imprisonment for aiding a terrorist organisation just because he protected his daughter and was caught in his car. Ali Aydeniz, who had one of his legs amputated due to diabetes, continued to be kept handcuffed to his bed after the operation³⁷.

33- Pinar Sana, a woman who uses a wheelchair whose father is imprisoned for being a member of the Gülen Movement, was subjected to strip searches and treatment contrary to human dignity when she visited her father in prison³⁸.

JUVENILES AWAITING PUBERTY AND ARRESTED

34- Another unlawfulness in the implementation of the detentions and arrests is the initiation of new terrorism investigations against persons who were between 12 and 17 years old on 15 July 2016, when the alleged coup attempt took place, and who were children at that time, but who have since turned 18 and have become criminally responsible. Eight years after the so-called coup attempt, terror investigations, detentions and arrests are being carried out against young people who were children at the time.

35- Based on the world prison statistics, the number of detainees in Turkish prisons in the last ten years, the course of development over the years and the current prisoner figures compared to countries in a similar league are essential in showing the authoritarianism in Turkey in the last ten years. According to prison statistics, Turkey

³⁷ <https://www.ahmetdonmez.net/yuzde-91-engelli-bir-ayagi-kesik-kalp-ameliyatli-ama-yataga-kelepceli-sucu-feto-kizini-korumak/>

³⁸ <https://www.boldmedya.com/2020/12/18/yuzde-95-engelli-7-yasindaki-pinara-cezaevinde-defalarca-ciplak-arama/>

is the country with the highest number of prisoners in prisons in the European Region after the Russian Federation. In other words, it ranks 2nd in Europe in terms of the number of prison prisoners.

- 36- On 15 July 2016, a military uprising was carried out in Turkey by some soldiers in the Turkish Armed Forces. The political power announced this uprising to the world as a coup attempt to overthrow the government and democracy and blamed the followers of Fethullah Gülen for this uprising. Fethullah Gülen rejected these accusations and demanded the establishment of an international commission to investigate the so-called military coup attempt, but the political power rejected this demand.
- 37- On the grounds of the so-called coup attempt, 2.2 million people were subjected to terrorism investigations. In comparison, approximately 170,000 people were dismissed from public service because they were members of a terrorist organisation. Speaking on behalf of the political power, Presidential Spokesperson Ibrahim Kalin stated that these purges were carried out within the framework of the purification/lustration principle of the state, which was applied in the former East Germany and communist bloc countries.
- 38- First of all, it is helpful to analyse the number of people who have been subjected to terrorism investigations and dismissed from public service and the number of military personnel who allegedly participated in the so-called coup attempt. These figures and numbers are essential in showing the magnitude of the purges and counter-coups against the opponents by the political power after the so-called coup attempt.
- 39- According to statements made by the political power and the Turkish Armed Forces, a total of 8,651 personnel participated in the events on 15 July 2016. The proportion of the personnel who participated in the so-called coup attempt is 1.5 per cent of the total personnel of the Turkish Armed Forces. One thousand six hundred seventy-six of these personnel are ordinary soldiers without command authority. 1,214 of these personnel are military students studying at military schools.³⁹ When the number of ranked armed forces personnel alleged to have participated in the alleged coup attempt is subtracted from the number of the lowest-ranking soldiers and military students without command authority, this leaves 5,761 military personnel in ranks who were allegedly involved in the alleged coup attempt. Again, according to the official statements of the Turkish Government, a total of 289 cases have been opened against military personnel in Turkey in relation to the so-called coup attempt. 4,891 military personnel were sentenced to imprisonment, 1,634 were sentenced to aggravated life

³⁹ <https://www.aa.com.tr/tr/15-temmuz-darbe-girisimi/tskdan-fetocu-asker-aciklamasi/616536>

imprisonment, 1366 were sentenced to life imprisonment, and 1891 were sentenced to fixed-term imprisonment. In the completed trials, 3,760 people were acquitted. As a result, the number of personnel sentenced to imprisonment in the Turkish Armed Forces for the so-called coup attempt of 15 July 2016 is 4,891 people, and it is claimed that a coup attempt was attempted against the political power with this number of military personnel⁴⁰.

APPLICATION OF THE ARREST MEASURE AS A PUNISHMENT

40-Arbitrary deprivation of liberty and arbitrary detention are used as a means of punishment even if it is believed that the persons are innocent and will be acquitted. Imprisonment due to prolonged detention is deliberately abused and turned into a system of punishment for persons who will be acquitted at the end of the trial. According to the judgements of the ECHR and the UN, people who are sure to be acquitted at the end of the trial are deliberately kept in prison for 6-7 years until the decisions of the Constitutional Court and the International Courts turn the detention measure into a punishment. For example, Yakup Simsek, a former employee of the Zaman newspaper, was first sentenced to life imprisonment, then sentenced to 11 years and three months in prison after the Court of Cassation overturned his sentence, and finally acquitted after the Court of Cassation overturned his sentence again. In the meantime, Simsek was imprisoned for six years and seven months, turning his long imprisonment into a punishment system. A person who has been detained for six years and seven months in a trial lasting eight years with a life imprisonment sentence is finally acquitted but is deprived of his freedom for all these years. Even though the first instance criminal courts know that individuals will eventually be acquitted by the European Court of Human Rights or United Nations judgements, they impose a de facto punishment through extended detention until⁴¹. Political opposition groups are detained for years, even though it is clear that they will be acquitted at the end of the trial, and often, a person who has been arrested for five years or more may be acquitted at the end of the trial. Although the courts and the political power know that the arrested persons have not committed any criminal offence and will be acquitted at the end of the trial, they resort to prolonged detention to punish them.

⁴⁰ For the statements of Minister of Justice Yilmaz Tunc, see:
<https://www.adalet.gov.tr/adalet-bakani-yilmaz-tunc-15-temmuzu-degerlendirdi>

⁴¹https://ankahaber.net/haber/detay/yargitayin_ikinci_kez_verdigi_bozma_kararinin_ardindan_nazli_ili_cak_ve_ahmet_altan_hakkinda_hapis_karari_168766
<https://twitter.com/SebnemceHanim/status/1768202907948622156>
<https://kronos36.news/tr/yazici-ve-simsek-tutuklu-kaldi-curuk-delilleri-bir-kez-daha-reddediyorum/>

DECISIONS ON CONTINUED DETENTION ARE TAKEN ON CLICHÉD AND SHORT GROUNDS, AND A PERMANENT DETENTION REGIME IS APPLIED

41- Article 100/3-a of the Code of Criminal Procedure No. 5271 states that due to the existence of a strong suspicion that one of the offences listed in Article 100/3-a of the Code of Criminal Procedure No. 5271 has been committed, the continuation of the detention of the defendants under Articles 100 and following of the Code of Criminal Procedure No. 5271". Hundreds of people are being tried at the same time and no detainee is mentioned in the decision on "Continuation of detention". It is not explained which charges are levelled against which detainee and why their detention should continue. Almost all the words and sentences in the judgement are the words in the law. Even though, according to Article 141 of the Constitution, all court decisions must be reasoned, concrete relations must be established between the detainees, and the grounds for detention and detention decisions must be individualised. All detainees are arrested or decide to continue their detention on the same grounds.

42- Through mass arrests, pressures and threats, the psychological deterioration of the detainees and their denunciation of each other's legal actions and their friends is being ensured. Witnesses are produced from prisoners, witnesses become defendants, and defence and testimony are intertwined. To escape prison conditions, people accept all accusations or are forced to make incriminating statements against their friends by pressure and threats.

43- Collective arrest warrants or decisions to continue collective detention in mass cases remove individual identities, and soldiers, police officers, housewives, and civil servants are arrested on the same grounds. Such practices contravene Article 5 of the European Convention on Human Rights, which regulates a person's right to liberty and security.

[¹] 'Bankasya' is an interest-free banking system in which members of the Gülen Movement deposit their money, and it is considered a criminal offence for individuals to invest their financial savings in this bank, even if they take out loans or carry out banking transactions.

[²] Similar to the Stasi system in East Germany, there are reports of persons informing the state of individuals.

Human Rights Committee
Written Submission for the second periodic report
on Turkey

Submission to the 142nd Session of the Human
Rights Committee

(14 Oct 2024 - 08 Nov 2024)

HUMAN RIGHTS DEFENDER e.V

BERLIN

1. This report has been prepared by HRD Human Rights Defenders, a non-governmental organisation, as a contribution to the United Nations Human Rights Committee's second periodic review. This review will be conducted during the Committee's 142nd session in Geneva, from October 14 to November 8, 2024, under the International Covenant on Civil and Political Rights framework.
2. Human Rights Defenders e.V, a public interest organisation based in Berlin with operations across Germany, is pleased to present this report to the Human Rights Committee. The report aims to provide the Committee with pertinent information on the questions it has posed to the Turkish Government.
3. HRD is an autonomous, non-profit, non-governmental organisation committed to defending human rights and assisting individuals facing persecution globally and in Turkey.
4. This report primarily aims to contribute to the paragraphs mentioned below of the "List of Issues Before Reporting" (LOIPR),

Please report on any other [significant developments in the legal and institutional framework](#) within which human rights are promoted and protected that have taken place since the adoption of the Committee's previous concluding observations, including steps taken to implement Human Rights.

5. While Turkey claims to have implemented significant reforms to advance human rights, numerous independent sources and reports indicate persistent violations that contradict this narrative. Key points include:
 - a- **Torture and Abductions:** Reports from Human Rights Watch in 2017 detail widespread torture practices by police, including beatings, electric shocks, and sexual violence. Enforced disappearances, particularly targeting political dissidents, remain a serious concern.
 - b- **Kurdish Population and Political Repression:** Ongoing military operations disproportionately affect Kurdish civilians, and thousands of individuals linked to the Gülen movement face imprisonment under politically motivated charges. As seen in

politically sensitive trials, the judicial system's lack of independence exacerbates these issues.

- c- **Media Censorship and Freedom of Expression:** Despite legal reforms, Reporters Without Borders (RSF) ranks Turkey 165th out of 180 countries in its 2023 World Press Freedom Index. Journalists are frequently jailed, and media outlets critical of the government face severe restrictions.
- d- **European Court of Human Rights (ECHR) Rulings:** Turkey has one of the highest pending cases before the ECHR. As of 2023, Turkey leads in human rights cases with 23,400 ongoing applications, reflecting systemic issues in ensuring freedoms of expression, fair trials, and protection from arbitrary detention. The ECHR frequently finds Turkey guilty of free expression and judicial fairness violations.
- e- **State of Emergency and Emergency Decrees (KHKs):** Following the 2016 coup attempt, the Turkish government imposed a state of emergency that led to mass dismissals, arrests, and detentions without due process. Decrees issued during this period led to the dismissal of over 100,000 public servants. The United Nations Human Rights Office has expressed repeated concerns over the erosion of the rule of law and fair trial standards during this period.
- f- **International Human Rights Reports:** Both Amnesty International and Human Rights Watch have continued to report grave human rights abuses in Turkey. These include restrictions on freedom of expression, assembly, and media, as well as cases of arbitrary detention and torture.
- g- **Press Freedom:** According to the RSF 2023 report, Turkey has worsened regarding press freedom, moving from a "problematic" to a "critical" category. Journalists continue to face increasing pressure, especially in the lead-up to elections.
- h- **Decree-Law (KHK) No. 667:** This decree, issued on July 23, 2016, provides immunity to public officials for any actions taken during post-coup investigations, including torture and ill-treatment. Article 9 explicitly shields these officials from legal, administrative, financial, or criminal liabilities. International human rights organisations have heavily criticised this decree. It violates the European Convention on Human Rights and the International Covenant on Civil and Political Rights (ICCPR), to which Turkey is a signatory. Despite numerous allegations of torture, no prosecutions have been carried out under this law.

6. These findings collectively demonstrate that Turkey's human rights reforms have not been fully realised in practice, as severe violations continue in crucial areas such as freedom of expression, judicial independence, and the treatment of political dissidents and minorities.
7. While Turkey has made several constitutional and legal reforms, aligning its legal framework with international standards on paper, serious doubts remain about effectively implementing these standards in practice.
 - a- **Judicial Independence Concerns:** Despite reforms, concerns about the judiciary's independence persist. Critics frequently argue that the judiciary in Turkey is not fully independent from the government. The executive has heavily influenced the appointment of judges and prosecutors, particularly since the post-2016 coup period, leading to the politicisation of the judicial process. This undermines Turkey's alignment with the European Court of Human Rights (ECtHR) jurisprudence and European standards on judicial independence.
 - b- **European Court of Human Rights (ECHR) Rulings:** Turkey's track record in implementing ECtHR decisions needs to be revised. The ECtHR has repeatedly ruled against Turkey for human rights violations, but many of these judgments, particularly in high-profile cases such as Selahattin Demirtaş and Osman Kavala, remain unimplemented. This reflects a lack of genuine compliance with the ECtHR's case law despite claims of harmonisation.
 - c- **European Union Progress Reports:** The European Commission's Progress Reports on Turkey frequently highlight significant shortcomings in judicial independence, freedom of expression, and assembly. The 2022 Turkey Progress Report expressed concerns over serious backsliding in these areas, which are critical to EU accession criteria and demonstrate Turkey's failure to align with the EU acquis in practice fully.
 - d- **United Nations and Other International Reports:** Reports from the UN Human Rights Office have expressed grave concerns over increasing human rights violations, especially during and after the State of Emergency (OHAL) declared in the wake of the 2016 coup attempt. The 2021 UN report specifically highlighted breaches of freedom of expression, assembly, and the independence of the judiciary. Despite Turkey's legal commitments to UN conventions, these violations suggest that the legal framework's alignment with international standards has not translated into actual protections.

- e- **Selective Implementation of Reforms:** While Turkey has tried to harmonise its legal system with international standards, applying these reforms needs to be more selective and consistent. This is particularly evident in politically sensitive cases, where laws are used in ways that benefit the government's political agenda rather than ensuring the protection of human rights and freedoms.

- 8. Although Turkey's legal framework might reflect international standards, continued concerns over judicial independence, selective implementation of ECtHR rulings, and recurring human rights violations illustrate a significant gap between legislation and practice. This disparity raises severe doubts about Turkey's full compliance with its international obligations.

- 9. Although Article 90 of the Turkish Constitution grants international agreements precedence over national laws concerning fundamental rights, the reality presents a stark contrast. There is a significant gap between the constitutional framework and the practical application of these agreements. Several critical points highlight this discrepancy:
 - a- **Judicial Independence:** Despite formal legal reforms, concerns regarding the independence of the judiciary persist. Many reports indicate that the judiciary often aligns with the government's political interests, undermining the effective implementation of international human rights agreements. This undermines Turkey's commitment to European Court of Human Rights (ECHR) standards.
 - b- **Failure to Implement ECHR Rulings:** Turkey has frequently ignored critical European Court of Human Rights (ECHR) rulings. For example, the court's rulings in the Demirtaş and Kavala cases called for the immediate release of both individuals. However, Turkish courts have failed to comply with these decisions, showcasing Turkey's selective application of international law.
 - c- **Presidential Defamation and Prosecutions:** In 2023 alone, 53,583 people were investigated for crimes such as insulting the president and offending state symbols, including minors as young as 13 years old. These investigations led to numerous arrests, violating Turkey's international obligations under the International Covenant on Civil and Political Rights (ICCPR), which protects freedom of expression.
 - d- **Collective Punishment:** Following the 2016 coup attempt, the use of collective punishment has raised significant concerns. Decrees enacted during this period, especially Decree-Law (KHK) No. 667, led to mass dismissals, asset seizures, and

travel bans against not only those accused of involvement in the coup but also their family members. This violates the principle of individual criminal responsibility, a core tenet of international law.

- e- **International Human Rights Reports:** Organizations such as Amnesty International and Human Rights Watch continue to document widespread violations of human rights in Turkey, particularly concerning freedom of expression, arbitrary detention, and the suppression of civil society. These reports demonstrate that Turkey's commitment to international agreements is more rhetorical than practical.
 - f- **European Union Progress Reports:** The 2022 European Commission Progress Report on Turkey expressed concerns over severe judicial independence, freedom of expression, and assembly setbacks. These findings indicate that, despite constitutional guarantees, Turkey's legal system is not fully aligned with EU human rights standards.
 - g- **Decree-Law (KHK) No. 667:** Issued in 2016, this decree provided immunity to public officials for actions taken during the coup investigations, including torture and ill-treatment. This law, which violates the European Convention on Human Rights and the International Covenant on Civil and Political Rights, has been heavily criticised by international organisations yet remains in force. It allows for impunity, further eroding the rule of law and protecting human rights.
10. These points collectively highlight that although Turkey's legal framework may be aligned with international standards on paper, its practical application remains inconsistent and selective, with significant gaps in protecting fundamental rights and freedoms. This undermines the effectiveness of Article 90 in ensuring that international human rights obligations are respected in practice.
11. Introducing the individual application mechanism to Turkey's Constitutional Court (AYM) significantly protected fundamental rights and freedoms. However, the practical implementation of this remedy has been met with considerable challenges:
- a- **Selective Implementation of Constitutional Court Rulings:** Although the Constitutional Court has issued numerous rulings on fundamental rights, including freedom of expression and fair trials, there have been cases where lower courts or authorities ignored these rulings. For example, in the case of Can Atalay, a member of parliament for the Workers' Party of Turkey (TİP), the Constitutional Court ruled twice in favour of his release, yet the government did not implement the decisions. This selective enforcement raises serious questions about the effectiveness of the individual application mechanism.

- b- **Suppression of Press Freedom:** Hundreds of journalists in Turkey have been prosecuted for their journalistic activities, with many facing charges of terrorism or terrorist propaganda for news reports or social media posts. These cases often violate press freedoms despite the Constitutional Court's rulings that should safeguard these rights. Many favourable rulings for journalists have been either delayed or ignored, reflecting the political pressures on the judiciary.
- c- **Effectiveness of the Individual Application Mechanism:** While introducing the individual application right to the Constitutional Court was a step forward, its effectiveness has been limited due to authorities' failure to implement the court's rulings. The Constitutional Court's decisions on freedom of expression, press freedom, and the right to a fair trial have sometimes been disregarded, especially when they do not align with the government's interests.
- d- **Judicial Independence Concerns:** The independence of the judiciary, including the Constitutional Court, has been a growing concern in Turkey. Numerous international observers and reports have noted the weakening of judicial independence, which undermines the effectiveness of the individual application process. Ensuring that rights are effectively protected in a judicial system where independence is compromised becomes difficult, even with a formal mechanism like individual application.

12. These points highlight that while establishing the individual application process to the Constitutional Court was a significant reform, its real-world impact is diminished by selective enforcement and concerns about judicial independence. The failure to implement specific court rulings, such as those in the Can Atalay case, illustrates the limitations of this mechanism in practice.

13. While the Turkish Human Rights and Equality Institution (TİHEK) and the Ombudsman Institution (OI) are presented as vital tools for strengthening democracy and human rights, the effectiveness of these institutions in practice is highly questionable. Several critical points demonstrate the limitations of their work:

- a- **Low Percentage of Rights Violations:** Analyzing the decisions published on TİHEK's official website reveals a different picture. Upon reviewing 2,631 cases, TİHEK found human rights violations in only 104 instances, constituting a mere 4.14% of the total cases. Furthermore, none of the decisions involved torture allegations, which is a serious and prevalent issue in the country. The decisions concerned relatively minor matters, such as changes in prisoners' living conditions, permission to purchase items

from the canteen, providing adequate water, and extending phone call durations. These findings indicate that TIHEK's role in addressing serious human rights violations is minimal, raising concerns about its effectiveness.

- b- **Lack of Torture Investigations:** Despite widespread reports of torture and ill-treatment in Turkey, there has been no decision by TIHEK concerning allegations of torture. For example, between January 2016 and June 2024, 5,553 individuals who were subjected to torture or other forms of ill-treatment within Turkey's borders sought treatment, rehabilitation, and documentation from the Human Rights Foundation of Turkey (TIHV). However, these cases appear to have received little attention from TIHEK.
- c- **International Criticism:** Reports from Amnesty International, Human Rights Watch, and other international organisations highlight concerns regarding the ineffectiveness of HREIT and OI in addressing human rights violations. These institutions are often criticised for their limited intervention and insufficient action in the face of widespread violations.
- d- **Local Reports and Observations:** Domestic human rights organisations like the Human Rights Association (IHD) and the Human Rights Foundation of Turkey (TIHV) have echoed similar criticisms. They argue that HREIT and OI are not sufficiently active or effective in addressing human rights issues and have called for more robust oversight mechanisms. They suggest that these institutions, while theoretically valuable tools are hampered by political influence and lack of independence. These findings demonstrate that although HREIT and OI are theoretically crucial for strengthening human rights and the rule of law, their practical impact is limited. The institutions' lack of action on serious human rights violations, such as torture, and their inability to function independently of government influence raise serious concerns about their effectiveness.

14. While the Turkish government claims the State of Emergency (SoE) was necessary in response to the 15 July 2016 coup attempt, the steps taken under the SoE extended far beyond countering the immediate threat of the coup. In reality, purges in the police force and judiciary had begun well before the coup, indicating a broader plan of political consolidation and control over state institutions.

15. **Pre-Coup Purges in the Police Force:** The government's efforts to cleanse the police force of individuals allegedly linked to FETO started long before the coup attempt.

For example, Law No. 6638, enacted in April 2015, facilitated the dismissal and forced retirement of over 1,786 police officers, including many senior-ranking officials. These actions were framed as a way to fight FETO infiltration in the police but were also part of a broader political effort to reshape law enforcement agencies well before the coup attempt. This preemptive move contradicts the government's narrative that the SoE measures were purely reactive to the coup.

16. **Pre-Coup Judiciary Purges:** Similar efforts were made to restructure the judiciary before the coup. Law No. 6723, passed just days before the coup in July 2016, dismissed judges and reduced the number of members in the Court of Cassation and the Council of State. Although framed as post-coup restructuring, these judicial reforms were part of a longer-standing agenda to control the judiciary.
17. **Constitutional Violations:** These purges violated several articles of the Turkish Constitution, particularly those safeguarding judicial independence:
 - a- Article 138 protects judges from interference by external bodies, yet the removal of judges during the SoE breached this provision.
 - b- Article 139 guarantees that judges and prosecutors cannot be dismissed before the legal retirement age without due cause, a principle ignored mainly in the mass dismissals following the coup.
18. **Venice Commission Criticism:** The Venice Commission condemned the emergency decrees for exceeding the boundaries of the Turkish Constitution and international standards. The Commission noted that tens of thousands of public servants were dismissed without sufficient judicial oversight and that these actions created a strong impression of arbitrariness. Furthermore, the use of emergency powers to appoint unelected officials (Kayyım), particularly in the southeast of Turkey, eroded local democracy and undermined the rule of law.
19. **Misuse of FETO Allegations:** While the government justifies these purges as necessary to combat FETO, many dismissed had no genuine connection to the organisation. The government used FETO allegations to remove political opponents, including journalists, academics, and civil servants. Reports from Amnesty International and Human Rights Watch highlight how the SoE became a tool to stifle dissent and consolidate government power. Many of those purged have been denied the ability to challenge their dismissals through legal channels, depriving them of due process.

20. **Political Repression During the SoE:** The State of Emergency also facilitated widespread political repression. Thousands of individuals were dismissed from their positions or detained, often without clear evidence linking them to any criminal activity. Journalists, human rights defenders, and political opponents were mainly targeted, with many remaining unable to return to their previous roles even after the end of the SOE.
21. In conclusion, while the government frames the State of Emergency as a reaction to the 2016 coup, the pre-existing purges in the police and judiciary, the violation of constitutional protections, and the misuse of FETO allegations suggest a broader strategy of political consolidation and suppression of dissent. These actions, combined with international condemnation from bodies like the Venice Commission, reflect a significant overreach that undermined democratic principles and the rule of law in Turkey.
22. While Turkey claims to continue implementing reforms to strengthen democracy and the rule of law, significant concerns have been raised about their effectiveness and sincerity. Numerous international bodies and human rights organisations have expressed doubts about the country's actual progress in these areas.
- a. **Inadequacy of Reforms and Democratic Backsliding:** Despite the government's assertions, widespread criticism suggests that Turkey's reforms in recent years have been insufficient. There are ongoing concerns about the weakening of judicial independence, restrictions on media freedom, and limitations on civil society organisations. For example, the 2022 European Union Progress Report highlights severe issues in some areas, such as judicial independence, freedom of expression, and the rule of law. The report indicates that Turkey has experienced significant backsliding in these crucial areas.
- b. **Human Rights Violations and International Criticism:** Leading international human rights organisations, including Amnesty International and Human Rights Watch, continue to report on human rights violations in Turkey. These organisations have criticised the country's ongoing failure to protect fundamental rights such as freedom of expression, fair trials, and freedom of assembly. Despite the government's reform claims, the situation suggests deep-rooted unresolved issues.
- c. **Relations with International Organizations:** Although Turkey claims to maintain constructive cooperation with international organisations like the UN, CoE, and OSCE,

these bodies have frequently criticised Turkey for failing to uphold democratic standards and human rights. The European Court of Human Rights (ECHR) has repeatedly ruled against Turkey in cases involving human rights violations. Turkey's failure to implement many of these rulings has strained its relations with the Council of Europe (CoE). Turkey's refusal to comply with critical rulings, such as those concerning Selahattin Demirtaş and Osman Kavala, has further escalated tensions and placed Turkey at risk of sanctions, including expulsion from the CoE.

- d. **Pressure on Civil Society and Media:** Turkey's organisations and independent media have faced increasing pressure. The closure of independent media outlets, the arrest of journalists, and the restriction of civil society activities illustrate the widespread suppression of dissent. Organisations such as Reporters Without Borders (RSF) and Freedom House have consistently ranked Turkey low in terms of press freedom and democratic governance. These ongoing pressures contradict the government's claims of strengthening democracy and respecting fundamental liberties.

23. In conclusion, while Turkey may claim to pursue democratic reforms and maintain international cooperation, the reality, as global organisations and human rights groups observed, indicates ongoing violations of democratic norms, human rights, and the rule of law. The gap between official rhetoric and actual practices raises serious questions about the effectiveness of Turkey's reform efforts.

II- Please report on any **other significant developments in the legal and institutional framework** within which human rights are promoted and protected that have taken place since the adoption of the Committee's previous concluding observations, including steps taken to implement the Human Rights Action Plan. Recalling the previous recommendation of the Committee (para. 5), please provide information on progress in withdrawing the reservation to article 27 of the Covenant. Please also indicate the procedures for the implementation of the Committee's Views under the Optional Protocol and provide information on measures to ensure full compliance with each of the Views in respect of the State party, including in *Özçelik et al. v. Turkey*. (CCPR/C/125/D/2980/2017).

24. There's no need to go too far back; just this month, the following events have occurred in relation to the goals set out in the Human Rights Action Plan (HRAP):

1. Can Atalay's Continued Detention: Despite the Constitutional Court's ruling that Can Atalay, a member of parliament, should be released, he remains imprisoned. This defiance of a court decision significantly undermines judicial independence and the rule of law, which are critical objectives outlined in the HRAP. Additionally, during a parliamentary session about Atalay's case, AK Party MP Alpay Özalan physically attacked TIP MP Ahmet Şık due to remarks made during the debate. President Erdoğan's support for Özalan's behaviour reflects increasing hostility towards opposition voices and a lack of respect for democratic discussion, further contradicting HRAP's goal of creating a political culture where differing opinions are respected. Can Atalay's continued detention despite a Constitutional Court ruling undermine judicial independence, a key element of HRAP's commitment to upholding the rule of law? Additionally, the physical attack on Ahmet Şık during a parliamentary session exemplifies the erosion of democratic debate, which HRAP pledges to strengthen. These examples show that while the HRAP outlines ambitious goals, the reality remains that freedom of expression, judicial independence, and democratic governance are still under significant threat in Turkey.

25. The Human Rights Action Plan Monitoring and Evaluation Board, formed under the presidency of Turkey's President, includes critical figures such as the Vice President, Minister of Justice, and Minister of the Interior. Although the board oversees the implementation of human rights reforms, the involvement of several key figures who have faced criticism for undermining human rights and judicial independence raises concerns.

- a. **Political Interference in Judicial Decisions:** President Erdoğan has repeatedly made statements suggesting judiciary interference. Following the life sentence of Osman Kavala in April 2022, Erdoğan's remarks were directed at European Union countries and institutions that criticised the decision. He stated, "If they do not respect the judicial decision, they do not respect the judiciary of this country," aligning judicial rulings with political power. Similarly, in response to the European Court of Human Rights (ECHR) ruling for Selahattin Demirtaş's release in 2020, Erdoğan responded defiantly: "The decisions of the ECHR do not bind us." These statements, aimed at European institutions, disregard international legal standards, raising concerns about Turkey's commitment to international obligations.

- b. **Criticism of the Constitutional Court:** Süleyman Soylu, Turkey’s Minister of Interior, has been particularly vocal in his criticism of the Constitutional Court. After the court overturned a decision restricting public demonstrations, Soylu sarcastically challenged the court’s president to ride a bike without protection, highlighting the tensions between political leaders and the judiciary. Soylu’s statements and similar comments from other government officials reflect a pattern of undermining judicial independence, which contradicts the goals of the Human Rights Action Plan.
- c. **Devlet Bahçeli’s Calls to Close or Restructure the Constitutional Court:** Devlet Bahçeli, the leader of the Nationalist Movement Party (MHP) and a key partner in the Cumhur Alliance with the AK Party, has escalated the political pressure on the Constitutional Court. In 2023, Bahçeli described the court as a "national security threat" due to its rulings on human rights violations. He called for the court to be closed or restructured, citing its decisions, such as those favouring Selahattin Demirtaş. Bahçeli’s statements reflect the political dissatisfaction within the Cumhur Alliance, and his comments indicate the broader struggle between European human rights standards and Turkey's current political leadership.
26. These examples illustrate how political interference undermines the goals of the Human Rights Action Plan, which aims to protect judicial independence and promote the rule of law. The presence of such political figures on the board responsible for monitoring the plan raises doubts about the effectiveness of these reforms.
27. The Turkish government claims that the Human Rights Action Plan (HRAP) website is a transparent platform, offering access to the plan in Turkish, English, French, and Arabic, along with implementation guidelines and schedules. However, an inspection of the website reveals several inconsistencies and issues that undermine this claim.
- a- **Language Availability and Content Discrepancies:** While the government asserts that the HRAP site is available in multiple languages, only the **Turkish** and **English** sections are functional. The supposed **French** and **Arabic** translations only apply to select HRAP documents, not the entire website. Additionally, even within the **English** version, much of the content found in the **Turkish** section—such as updates and detailed reports on implementation—is missing. The English page, for instance, contains only **four news items**, lacking detailed information on the implementation

progress of human rights reforms. This inconsistency undermines the platform's goal of providing full transparency to international stakeholders.

- b- **Limited Information on Implementation and Monitoring:** Despite claims that the website is a tool for monitoring HRAP's progress, it provides little information about **implementation progress** or **follow-up activities**. The site mainly includes updates from the **Ministry of Justice**, offering no insight into broader **human rights improvements** or tracking metrics. For a platform intended to showcase transparency, this lack of detailed reporting raises questions about its effectiveness and purpose.
- c- **Lack of Public and Stakeholder Interaction:** The website lacks an interactive platform where **civil society** or **stakeholders** can engage with the HRAP's processes. There is no space for public feedback or contributions, which is crucial for ensuring transparency in human rights matters. The absence of engagement tools—such as a "Contact Us" feature or interactive forums—limits its role as an effective monitoring tool for **stakeholders** and **human rights organisations**.
- d- **Inadequate Translation Efforts:** Although the HRAP documents have been translated into **French** and **Arabic**, the rest of the website content must be. This incomplete translation undermines the website's accessibility for non-Turkish speakers. Such limitations in translation create barriers for international stakeholders who wish to track Turkey's progress in human rights reforms.

28. In conclusion, although establishing the HRAP website is theoretically a positive step towards transparency, its functionality and content fall short of expectations. The lack of meaningful updates, incomplete translations, and absence of public interaction highlights the website's limitations in effectively supporting the **Human Rights Action Plan**. These issues suggest that the platform is not fulfilling its intended role of promoting transparency and accountability in human rights reforms.

29. Despite the legal amendments and administrative measures outlined in the **Human Rights Action Plan (HRAP)**, significant issues still need to be addressed, and the real-world impact of these reforms is questioned. The following concerns illustrate the **implementation gaps** and ongoing challenges:

- a- **Arbitrary Use of Arrest and Judicial Control:** While the HRAP introduced reforms such as requiring **concrete evidence** for arrests in catalogue crimes and setting upper time limits for judicial control measures, reports suggest that **arbitrary arrests** and **judicial control measures** are still prevalent. These issues continue to affect

individuals, especially in politically sensitive cases, undermining the plan's intent to safeguard **due process** and **fair trials**.

- b- **Continued Human Rights Violations:** The HRAP emphasises reforms to strengthen fundamental rights like **freedom of expression**, **fair trials**, and **assembly**. However, **human rights organisations** and **international observers** such as the **European Court of Human Rights (ECHR)** and the **United Nations Human Rights Council** continue criticising Turkey for **violations of these fundamental rights**. **Freedom of expression**, **judicial independence**, and **press freedoms** remain restricted, with journalists, activists, and opposition members frequently subjected to **arrests** and **legal pressures**.
 - c- **Pressure on Civil Society and Media:** Despite HRAP's claims of strengthening democratic representation, **civil society organisations** and **independent media** in Turkey still face significant restrictions. Ongoing pressure on these entities contradicts the plan's objectives and raises concerns about the genuine commitment to **democratic reforms**. Organisations like **Reporters Without Borders (RSF)** and **Freedom House** continue to highlight the **decline in press freedom** and **censorship** in Turkey, demonstrating that the reforms have had little practical effect in protecting these freedoms.
 - d- **Lack of Independent Oversight:** A key challenge in HRAP's implementation is the **lack of independent monitoring** and evaluation mechanisms. Although the government asserts that the reforms are being tracked, **transparency** in the reporting process remains limited, with **few public updates** on the effectiveness of the measures. Human rights organisations have called for **greater accountability** and **independent oversight** to ensure the reforms are properly implemented, and the violations are addressed promptly.
 - e- **Feedback and Participation Gaps:** While the HRAP outlines steps to improve participation by various stakeholders, public engagement still needs improvement. **Human rights activists** and **civil society groups** have reported a lack of opportunities to provide meaningful feedback or monitor the progress of HRAP's implementation. The absence of public input mechanisms further hinders the plan's effectiveness.
30. In conclusion, although theoretically significant, the legal and administrative changes under HRAP still need to fully address the persistent human rights violations in Turkey. The continued **arbitrary arrests**, **suppression of free speech**, and **lack of independent oversight** demonstrate the **limitations** of these reforms in practice. To

achieve the HRAP's objectives, **greater transparency, independent monitoring,** and a genuine commitment to **upholding fundamental rights must be achieved.**

31. Despite the legal reforms in Turkey, such as setting limits on pre-trial detention and ensuring judicial oversight, numerous **high-profile cases** show ongoing issues with **prolonged detention** and **arbitrary judicial practices**, particularly in politically sensitive cases.

a- **Prolonged Pre-Trial Detention:** Selahattin Demirtaş, the former co-chair of the **Peoples' Democratic Party (HDP)**, has been in detention since **November 2016**, despite multiple **European Court of Human Rights (ECHR)** rulings for his release. His six-year pre-trial detention far exceeds the legal limits set by Turkey's **Human Rights Action Plan (HRAP)** and has been criticised as politically motivated.

Similarly, **Osman Kavala**, a prominent **businessman and philanthropist**, has been detained since **October 2017**. His prolonged detention, despite court orders for his release, highlights concerns over judicial independence and the manipulation of legal processes.

Many **journalists** and **academics** face similarly prolonged detentions. For example, **journalist Ahmet Altan** spent years in detention on charges related to the 2016 coup attempt without clear evidence.

b- **Ongoing Freedom of Expression Violations:** Although legal reforms state that expressions of opinion for **criticism** do not constitute a crime, **journalists, writers,** and **academics** continue to face prosecution and imprisonment for critical views. **International Press Institute (IPI)** and **Reporters Without Borders (RSF)** regularly document ongoing media suppression and censorship in Turkey.

Turkey ranks poorly on **global press freedom indices**. **Freedom House** categorises the country as "**Not Free**", reflecting the ongoing challenges in **freedom of speech** and **press freedom**.

c- **Internet Censorship and Access Restrictions:** Reforms have shifted from blocking entire websites to more targeted blocks, but **internet censorship** remains a significant

problem in Turkey. Websites, especially those critical of the government, continue to be restricted.

Freedom House frequently highlights **Turkey's extensive use of censorship and surveillance tools**, which contradict the goals of the HRAP to uphold **freedom of expression** online.

- d- **Judicial Independence and Promotion Criteria:** The HRAP introduced reforms that require **judges** and **prosecutors** to consider **ECHR** and **Constitutional Court** rulings when making decisions. However, **political influence** over the judiciary remains a serious concern.

The **Venice Commission** and other international organisations have raised concerns about **judicial independence**, particularly in cases involving political opposition figures, where rulings are perceived to favour the government's agenda.

- e- **Home Confinement and Alternative Sentences:** The HRAP introduced reforms to allow **elderly individuals, women, and children** to serve sentences under **home confinement** instead of in prison. In contrast, a positive step, implementing these reforms, has been inconsistent and limited.

International human rights organisations advocate for the broader use of **alternative sentencing** measures, particularly to address **overcrowding** and improve conditions within Turkish prisons.

- f- **HRC Recommendations Implementation:** The transmission of **Human Rights Committee (HRC)** recommendations to national authorities is a positive development, but in practice, these recommendations have had little impact. Merely informing authorities is insufficient to address the underlying human rights issues, and the lack of concrete progress demonstrates the limitations of this approach. **United Nations (UN)** and other international organisations have frequently voiced concerns over Turkey's failure to implement HRC recommendations fully.

- g- **Follow-Up Procedures and Transparency:** Providing information to the HRC is essential for ensuring **transparency** and **accountability**, but there are concerns about

how transparent this process truly is. Public and civil society organisations need more access to details on how these recommendations are being implemented. **International human rights organisations** have called for more transparency in follow-up procedures and public information sharing regarding the implementation process.

- h- Concrete Actions and Outcomes:** The HRC's recommendations are tested by their implementation and impact on human rights in Turkey. Independent evaluations and reports are needed to assess how effectively these recommendations are implemented. Organisations like the **Council of Europe** and the **European Union (EU)** monitor Turkey's compliance with international human rights standards and regularly issue reports highlighting areas needing improvement.
- i- National Authorities' Engagement:** The **engagement** and **capacity** of national authorities to implement HRC recommendations are crucial for progress. These authorities must have adequate resources and authority to align national legislation with human rights standards. Several **civil society organisations** and **human rights defenders** have criticised Turkey's national authorities for their lack of commitment to fully implementing these recommendations.
- j- Impact of HRC Views:** It is essential to assess the impact of specific HRC views on individual cases, such as those in **CCPR/C/104/D/1853-1854/2008**, **CCPR/C/123/D/2274/2013**, and **CCPR/C/125/D/2980/2017**. While these views are communicated to national authorities, independent organisations such as **Amnesty International** and **Human Rights Watch** have reported that they often fail to bring about meaningful change, particularly in political repression or freedom of expression cases.

32. These numbered points demonstrate the ongoing issues with applying **reforms** outlined in the HRAP. While significant steps have been made on paper, their **implementation** remains limited, and **human rights violations** continue.

33. The evidence shows that while transmitting HRC recommendations and follow-up procedures is a positive step toward **improving human rights**, significant limitations

exist. Transparency issues, the need for concrete actions, and national authorities' reluctance to implement the recommendations reduce their effectiveness. More excellent **monitoring, independent evaluations, and accountability** are required to ensure these recommendations are fully implemented, and their outcomes are appropriately tracked.

III- **Non-discrimination (Arts. 2, 3, 6, 25 and 26):** Discrimination based on gender, sexual orientation, disability, race, ethnicity, religion, and nationality; hate speech by individuals, media outlets, and political figures against groups, such as ethnic Kurds and persons, on the grounds of their sexual orientation or gender identity.

34. The Turkish Constitution, specifically Article 10, guarantees equality before the law without discrimination. Additional provisions, such as Article 68, prohibit discriminatory actions in political activities and public service access (Article 70). However, in practice, these constitutional protections are often undermined.
35. **ICCPR and Minority Rights:** Article 27 of the **International Covenant on Civil and Political Rights (ICCPR)** protects the **cultural, religious, and linguistic rights** of minority groups. However, Turkey's **reservation** to this article has raised concerns about its adherence to **international standards** on minority rights protection. The **UN Human Rights Committee** has expressed concern that this reservation may impede the complete protection of minority rights.
36. **UN Human Rights Committee's Concerns:** The **United Nations Human Rights Committee** has emphasised that Turkey's reservation on **Article 27** could obstruct the protection of **minority rights**, limiting the cultural and linguistic freedoms of minority groups in Turkey. This is particularly problematic in light of Turkey's international obligations under the **ICCPR**.
37. **Lozan Peace Treaty and Minority Rights:** The **Lausanne Peace Treaty** of 1923 governs the rights of minorities in Turkey but only recognises **non-Muslim minorities**, such as **Greeks, Armenians, and Jews**. This leaves out groups like the **Kurdish and Alevi** communities, which are not granted the same recognition or protection under this treaty. The **Council of Europe (CoE)** has criticised Turkey's reliance on the Lausanne Treaty, noting that it excludes other **ethnic and religious minorities** from receiving the same protections.

38. **Constitutional Equality vs. Practical Challenges:** Article 10 of the Turkish Constitution enshrines the principle of **equality before the law**. However, in practice, **ethnic** and **religious minorities**, such as **Kurds** and **Alevis**, often face discrimination and inequality in **education**, **language rights**, and **cultural representation**. **Human Rights Watch (HRW)** and **Amnesty International** have both published reports documenting the **systematic violations** of minority rights in Turkey, including restrictions on **Kurdish language rights**.
39. **Implementation Issues in Minority Rights:** Despite the constitutional guarantees, minority groups in Turkey continue to face barriers to accessing **equal rights** in areas such as **language**, **education**, and **cultural expression**. Reports suggest that Turkey's focus on the Lausanne framework has not evolved to address the needs of **ethnic** and **religious minorities** beyond those recognised by the treaty. **European Union (EU) Progress Reports** have urged Turkey to make further efforts to **enhance and protect minority rights**, calling for a more **inclusive approach** that extends beyond non-Muslim minorities.
40. **International Standards and Turkey's Compliance:** Turkey's reservation to **Article 27** of the ICCPR is seen as inconsistent with **international human rights standards**. Both the **United Nations** and the **Council of Europe** have urged Turkey to **withdraw its reservation** and adopt policies that fully protect the rights of all minority groups.
41. **Discriminatory Remarks by President Erdoğan:** President Recep Tayyip Erdoğan, during a campaign event in earthquake-stricken Hatay, openly admitted that the government had not supported the city because the ruling party did not govern it. He stated, "Hatay remains desolate, left behind because it is not run by us," indicating that municipal and state cooperation is conditional upon political alignment. This admission reflects the selective and discriminatory practices in delivering essential services to citizens based on their political affiliations.
42. **Discrimination Against Gülen Movement Affiliates:** Following the 2016 coup attempt, individuals linked to the Gülen movement and their families faced systematic discrimination. Those accused of affiliation with FETÖ (the Gülen movement) were denied access to earthquake relief and other state aid. Despite suffering from the same disaster as other citizens, they were deliberately excluded from state assistance, further showcasing the disparity in treatment based on political and ideological grounds.

43. **Criminalisation of Humanitarian Aid to Gülen Affiliates:** Individuals who attempt to offer humanitarian aid to those associated with the Gülen movement, such as friends, neighbours, or relatives, risk prosecution under "supporting terrorism." The Turkish government equates such aid with facilitating the potential resurgence of the Gülen movement, thereby criminalising the act of providing essential assistance to those affected by state repression. This policy has led to numerous cases where individuals were charged for merely offering help, reinforcing the government's hardline stance against those linked to FETÖ.
44. **Prison Conditions and Discrimination:** In addition, the prison conditions for those accused of being part of the Gülen movement and other political prisoners, as highlighted in the **U.S. Department of State Human Rights Report** and other sources, demonstrate severe mistreatment. Torture, overcrowding, and denial of fundamental rights, such as healthcare, were commonly reported. These findings are echoed in the **Gülen Movement Report (2023)**, which highlights the significant abuse of power by Turkish authorities in dealing with political prisoners.
45. According to Article 7 of the Law on Civil Servants, "Civil servants cannot become members of a political organisation, nor act in favour or against a political party, person, or group; they cannot discriminate based on language, race, sex, political thought, philosophical belief, religion, or sect, cannot make any politically or ideologically-oriented statements or actions and cannot take part in such actions." Despite this regulation, those who support the ruling AK Party are often rewarded, while individuals showing support for opposition parties face various forms of punishment.
46. These examples illustrate that while the law prohibits civil servants from engaging in political activities, public sector employees and students are often coerced into attending AK Party events. In contrast, those who support other political movements face consequences. The lack of enforcement of Article 7 raises concerns about the political neutrality of civil servants in Turkey.
47. According to the **Probation Services Law** (Law Number: 5402), probation boards are responsible for assisting released convicts in acquiring a profession or skill, finding employment, providing tools and loans to those who wish to engage in agriculture or open a business, and helping children and young convicts continue their education. However, individuals convicted due to alleged links to the **Gülen Movement** face severe discrimination. Instead of being supported, those who attempt to assist such

individuals or their financially struggling families are prosecuted for "aiding a terrorist organisation." Additionally, gathering with fellow former convicts after release is considered a terrorist activity. According to the government, these humanitarian actions prevent the organisation's dissolution. Thus, such activities are met with immediate and harsh punishment under the pretext of "restructuring the movement." There are **thousands of people who, after serving 6-7 years in prison**, have been rearrested for simply meeting with their former prison mates or for helping the families of those still incarcerated. The government has imposed **collective punishment** on these individuals, targeting not only the convicted but also their families and children, aiming to eliminate them. This approach amounts to **genocide** against these individuals.

48. **Students expelled from military academies and police schools** under **Decree-Law No. 669** have added the note "dismissed under Decree-Law No. 669" to the back of their high school diplomas. This labelling effectively **blacklists them** for life, preventing them from pursuing further education or employment, particularly in public service.
49. Similarly, individuals dismissed from their jobs have added the note "dismissed" to their **Social Security Institution (SGK)** records, barring them from being rehired. This results in these individuals and their families being condemned to **civil death**, with no access to employment or social reintegration.
50. In addition to legal and economic barriers, people suspected of having links to the movement have been subjected to **social exclusion**. Families of those arrested or dismissed have faced significant social stigma. Reports indicate that children of these individuals are often **bullied** and **discriminated against** in schools, leading to emotional and psychological harm. Furthermore, entire families are **ostracised** by their communities, leaving them socially isolated and unable to access social networks or support.
51. The **social marginalisation** of these individuals extends beyond their personal lives, as many have had to move to different cities or countries to escape constant harassment and discrimination. In some cases, families are denied essential services and opportunities, with their neighbours and former friends distancing themselves for fear of being associated with them. The stigma is so pervasive that even innocent family members, including young children, are affected, further perpetuating a cycle of **social and psychological harm**.

52. This **systematic social exclusion** serves as another form of punishment and control, reinforcing the government's objective of dismantling the social and economic structures of those linked to the Gülen Movement. The cumulative effect of this exclusion, combined with legal and financial barriers, creates a form of **collective punishment** that seeks to eliminate any remaining ties to the movement, both directly and indirectly.

IV. Enforced disappearances and abductions (Arts. 6, 9 and 12)

53. In Turkey, cases of enforced disappearances and abductions have increasingly gained attention, especially in the post-2016 coup attempt period. These cases, often involving political opponents or individuals accused of links to the Gülen movement (FETÖ), highlight deep concerns about human rights violations. Below is an overview of these incidents based on available reports and studies.

54. **Enforced Disappearances Post-2016:** After the failed coup attempt in 2016, Turkey saw a significant rise in enforced disappearances. Individuals suspected of involvement with FETÖ were reportedly abducted by security forces and held in secret detention centres. Human rights organisations like Human Rights Watch and Stockholm Freedom Center have documented numerous cases where individuals disappeared for months before resurfacing in official custody. A prominent case is Gökhan Türkmen, who testified to being abducted by state actors and subjected to nine months of torture in a secret location before being officially arrested. He reported that during his time in custody, he was constantly threatened to retract his claims, and his family was also targeted with intimidation.

55. **Pattern of Abductions and Reappearances:** Many of those abducted later resurfaced in police custody under questionable circumstances. In several instances, individuals were held without any formal charges or legal representation for extended periods, during which they reportedly faced torture and coercion. Salim Zeybek, Yasin Ugan, and Mustafa Yılmaz are among the victims who were kidnapped in 2019, only to reappear months later in Turkish prisons. These disappearances are part of a broader strategy to suppress dissent and intimidate those linked to opposition groups.

56. **International Concerns:** Turkey's pattern of enforced disappearances has garnered international attention, with the United Nations and the European Court of Human Rights (ECHR) raising concerns. In multiple cases, including those involving Turkish

citizens abducted from foreign countries such as Azerbaijan and Malaysia, international human rights bodies have condemned the Turkish government's actions. These cases often involve individuals with alleged ties to FETÖ living abroad. Despite international pressure, Turkey has been reluctant to investigate these cases, and the perpetrators continue to enjoy impunity.

57. **Failure to Investigate:** A significant issue is the Turkish state's failure to conduct meaningful investigations into these disappearances. Families of the disappeared have repeatedly appealed to Turkish authorities for justice but often face harassment, threats, or legal reprisals. Human rights organisations have noted that the Turkish judiciary frequently closes investigations prematurely, claiming that the victims left voluntarily or are not in danger. This approach has allowed a culture of impunity to persist.
58. **Legal Implications:** Under international law, enforced disappearance is considered a continuous crime, with obligations on the state to ensure it does not occur and to investigate such cases. However, Turkey's refusal to ratify fundamental international conventions, such as the International Convention for the Protection of All Persons from Enforced Disappearance, has exacerbated the issue. As the European Commission and the U.S. State Department have noted, Turkey's legal framework does not adequately protect against such violations, leading to widespread abuses of power.
59. **Broader Context: Global Operations by MIT:** This abduction attempt is part of a wider strategy by MIT to target dissidents abroad, particularly members of the Gülen movement. Numerous media outlets, including German ZDF and the collaborative "Black Sites Turkey" report, have detailed MIT's global operations span countries such as Kosovo, Gabon, Sudan, and Malaysia. In Kosovo, for instance, six Gülen-affiliated teachers were abducted in 2018 and forcibly brought back to Turkey. Similar operations have been reported in Moldova, where Turkish nationals were abducted and flown out of the country under the guise of legal deportations.
60. **The Swiss Abduction Attempt:** One of the most prominent cases occurred in Switzerland in 2016, where Turkish diplomats, in coordination with MIT agents, attempted to abduct a Gülen-affiliated businessman named Arcan. According to investigations conducted by Swiss authorities, two senior diplomats from the Turkish Embassy in Bern held secret meetings at a cemetery in Zurich, where they discussed plans to drug Arcan and smuggle him back to Turkey. The Swiss intelligence services

(CBC) monitored these meetings and recorded the conversations. Upon uncovering the plot, Swiss authorities provided Arcan with police protection and launched an investigation into the diplomats involved. Despite this, Turkey refused to lift the diplomats' immunity, leading to a diplomatic standoff.

61. **International Repercussions:** These abduction operations have led to tensions between Turkey and the countries where these acts have been attempted. In Switzerland, the Federal Council initiated legal action against the Turkish diplomats involved, citing political espionage and abduction attempts as violations of Swiss sovereignty. Similarly, in Mongolia, MIT's attempt to abduct a school director was foiled when Mongolian authorities intervened, preventing the Turkish plane from taking off. The exposure of these operations has drawn criticism from human rights organisations, which have called for greater accountability and an end to Turkey's extrajudicial rendition program.
62. Despite growing international pressure, Turkey continues to deny the allegations of enforced disappearances and abduction operations, framing them as legitimate efforts to bring accused terrorists to justice. The overall picture painted by these incidents is one of state collaboration, a lack of judicial accountability, and severe human rights violations. The situation is further exacerbated by the post-2016 decrees (KHKs) issued under the state of emergency, which provide legal protection to state actors involved in these operations, effectively shielding them from prosecution. This legal framework has created a barrier to holding individuals accountable for serious crimes such as enforced disappearances, allowing those responsible to avoid justice and reinforcing the systemic nature of these human rights abuses.
63. -Despite the existence of these Civil Monitoring Boards (CMBs), reports of torture and ill-treatment in Turkish prisons are on the rise. This raises significant concerns about the reliability and functionality of these monitoring institutions. International human rights organisations such as **Amnesty International** and **Human Rights Watch** have documented multiple cases of torture, abuse, and poor conditions in Turkish prisons. These reports suggest that CMBs are either not functioning effectively or lack the power to address the systemic issues within the prison system.

IV- Human rights defenders (Arts. 6, 17, 19, 20, 21, 22 and 26)

64. In Turkey, terrorism investigations and repressions against human rights defenders and lawyers who undertake defence work have been increasing since 2016. Some lawyers have been sentenced to 35 years in prison solely for undertaking the defence of people belonging to the Gülen movement. Lawyers are stigmatised according to the position of the people they defend, and terrorism investigations are opened against them.¹
65. According to Article 18 of the UN Basic Principles on the Role of Lawyers, lawyers may not be identified with their clients or their clients' cases by performing their duties. However, Turkish prosecutors, courts and the Ankara Court of Appeal have persistently detained and arrested lawyers defending individuals or organisations linked to the Gülen Movement and sent them to prison on charges of membership of a terrorist organisation. Finding a lawyer in Turkey who can freely defend a person or organisation affiliated with the Gülen movement is almost impossible. Representing and acting as a lawyer for persons prosecuted under anti-terrorism laws or for organisations such as schools, associations or companies that have been closed down or seized by decrees is considered incriminating evidence. The police raids and court orders against lawyers between 2016 and 2024 are the most significant evidence of this unlawful practice. Many lawyers are withdrawing and resigning as lawyers in cases related to the Gülen movement due to increasing police raids and prosecutorial investigations².
66. Since Turkey's 2016 coup attempt, the legal profession across the country has faced an unyielding campaign of arbitrary detainment, imprisonment, unfair trials, and widespread harassment from authorities, often charged with overbroad and vague

¹ [Fetullah Gülen'in avukatlarından Adnan Şeker'e 35 yıl hapis cezası - Son Dakika Türkiye Haberleri | Cumhuriyet](https://www.cumhuriyet.com.tr/turkiye/fetullah-gulenin-avukatlarindan-adnan-sekere-35-yil-hapis-cezasi-1872836)

<https://www.cumhuriyet.com.tr/turkiye/fetullah-gulenin-avukatlarindan-adnan-sekere-35-yil-hapis-cezasi-1872836>

<https://www.yenisafak.com/gundem/feto-elebasinin-avukati-adnan-sekere-35-yil-hapis-3704606>

² [FETÖ'nün İzmir'deki avukat yapılanması çöktü! \(egedesonsoz.com\)](https://www.egedesonsoz.com/haber/FETO-nun-lzmir-deki-avukat-yapilanmasi-cokertildi/933179)

<https://www.egedesonsoz.com/haber/FETO-nun-lzmir-deki-avukat-yapilanmasi-cokertildi/933179>

counter-terrorism offences, in violation of UN Basic Principles on the Role of Lawyers. In 77 of Turkey's 81 provinces, lawyers have been detained, prosecuted, and convicted due to alleged terror-linked offences, resulting in the prosecution of over 1700 lawyers, including 700 lawyers, remanded to pretrial detention. So far, at least 553 lawyers have been sentenced to a total of 3380 years in prison, with sentencing passed based on counter-terrorism legislation, especially on the grounds of membership to an armed terrorism organisation or of spreading terrorist propaganda.³ Lawyers arrested and prosecuted for membership in a terrorist organisation subsequently lose their lawyers' licences. Even lawyers who have been indicted for terrorism cannot find lawyers to defend them in Turkish courts. Lawyers who act as lawyers (lawyer for lawyer) to defend the rights of arrested lawyers are also re-arrested in terrorism investigations.

67. Mass arrests and detentions do not just characterise the operations against lawyers, but these actions are carried out arbitrarily, without regard for individual cases. Defending cases related to the Gülen movement, depositing money in a bank associated with the movement, subscribing to certain newspapers or magazines, or being a member of a related non-governmental organisation can lead to a lawyer's arrest. These arbitrary criteria justify mass arrests in operations against lawyers across Turkey. For instance, in Ankara, a single police operation led to the detention of 60 lawyers. In 2016, 30 of the 38 lawyers detained in Istanbul during a police operation were arrested. In 2022, 20 lawyers were again. In Izmir, 25 lawyers detained in Ist were arrested during police operations in 2016 detained in Ist, and 33 lawyers were arrested during police operations in 2020.

68. In 2016, 30 of the 38 lawyers detained in Istanbul during a police operation were arrested. In 2022, 20 lawyers were detained again in Istanbul. According to the report prepared by Amnesty International⁴;

“Police and prosecutor's investigations into lawyers, they were mainly questioned concerning their professional activities lawyers were mainly questioned about their professional activities

³ <https://arrestedlawyers.org/2024/02/14/tali-ibahri-joint-report-on-the-mass-imprisonment-of-lawyers-in-turkey/>

⁴ <https://www.amnesty.org/en/documents/eur44/3221/2020/en/>

such as the types of cases they litigate and the number of cases related to suspects alleged to have links with the Gülen movement; contractual and monetary relations with their clients; how they find their clients and the average fee charged to the clients.

During their interrogation at Ankara Security Directorate, the lawyers were shown a list of names, including other lawyers being investigated as part of the same criminal investigation and asked which ones they knew. They were also interrogated about their historic mobile traffic search (HTS) records and wiretapped telephone conversations with their clients and colleagues, which should have remained confidential to protect lawyer-client confidentiality, as outlined in the UN Basic Principles on the Role of Lawyers, which state that: “Governments shall recognise and respect that all communications and consultations between lawyers and their clients within their relationship are confidential.”

69. The lawyers whose interrogation records Amnesty International examined show they were questioned about their professional relations with other lawyers arising from basic lawyering practices, such as attending each other’s hearings or allocating case files to each other, which implied an organisational relationship. As the investigation is subject to a secrecy order, the lawyers and their legal representatives were not allowed to examine the investigation files or obtain information concerning the substance of the allegations until their clients were interrogated at Ankara Security Directorate, denying them the right to adequate time and facilities to prepare a defence. The lawyer of one suspect who was remanded in pre-trial detention after 12 days in police detention at the Ankara Security Directorate Anti-Terrorism branch told Amnesty International that he was not allowed to access and examine HTS and interception records to inform and assist his client before the interrogation legally. He further stated that his client was questioned about the cases that mainly concerned the legal representation of relatives and family friends alleged to have links with the Gülen Movement.

70. Amnesty International notes with concern that the prosecutor’s office did not respect procedural law during the searches of lawyers’ homes in Ankara. According to Article 58 of the Attorney’s Act (No. 1136), lawyers’ offices and residences may be searched only by the public prosecutor and a lawyer from the bar association. The Ankara Bar

Association reported in a public statement that home searches of lawyers in Ankara were carried out without a lawyer from the Bar being present⁵.

71. According to Article 18 of the UN Basic Principles on the Role of Lawyers, lawyers shall not be identified with their clients or their clients' cases because of the performance of their duties. However, despite this fundamental principle and prohibition, prosecutors and courts in Turkey categorise lawyers according to the identity and affiliation of the persons whose defence rights they are undertaking, and mass arrests and detentions have been carried out against lawyers who have taken on the cases of Kurds or members of the Gülen movement. Representing people prosecuted under anti-terror laws or organisations such as schools, associations, or companies closed or confiscated by decree has been considered incriminating evidence. Similarly, lawyers who expose the corruption of the political power and the relations between the corrupt bureaucracy and the judicial institutions are silenced and arrested, most recently the lawyer Dilek Ekmekci, who exposed the relations and photographs of President Erdogan's special advisor Hasan Dogan with mafia organisations, was arrested in 2024 and sent to prison⁶.

72. In September 2023, the Court of Cassation, Türkiye's top appeals court, upheld the baseless conviction and life sentence of human rights defender Osman Kavala as well as the 18-year sentences of Çiğdem Mater, Can Atalay, Mine Özerden, and Tayfun Kahraman on charges of attempting to overthrow the government for their alleged role in the lawful and overwhelmingly peaceful 2013 Istanbul Gezi Park protests. The court quashed the convictions of three others, two of whom (Mücella Yapıcı and Hakan Altınay) were released from prison pending retrial. Kavala has been arbitrarily detained since November 2017, and the others since their conviction in April 2022. President Erdoğan has made repeated public speeches against Kavala throughout the trial, and the case demonstrates the Erdoğan administration's high level of political control over Türkiye's courts and flagrant defiance of Council of Europe infringement

⁵ Press Statement of Ankara Bar Association, 14 September 2020,

<http://www.ankarabarasu.org.tr/HaberDuyuru.aspx?DUYURU&=7348>

⁶ <https://t24.com.tr/haber/mhp-ve-ulku-ocaklari-yoneticileri-hakkinda-suc-duyurusunda-bulunmustu-ceza-hukucusu-avukat-dr-dilek-ekmekci-kamu-gorevlisine-hakaret-ten-gozaltina-alindi.1181960>

proceedings against Türkiye over its failure to implement two ECtHR judgments ordering Kavala's release⁷.

73. In direct contravention of an October 2023 Constitutional Court decision ordering his release, human rights lawyer Can Atalay, a defendant in the Gezi trial, remained in prison and was unable to take up the parliamentary seat he won on behalf of the Workers Party of Türkiye in the May elections. The authorities continue to use terrorism and defamation charges to harass rights defenders; sometimes, lawyers representing terrorism suspects are also targeted for arrest pending trial and prosecuted on terrorism charges⁸.

V- Liberty and security of person (Arts. 6 and 9)

74. Prolonged pretrial detention has emerged as a significant human rights concern in Turkey, particularly following the failed coup attempt of July 2016 and the state of emergency that followed. The European Court of Human Rights (ECHR) has issued multiple rulings against Turkey in this regard, condemning the country's failure to adhere to international standards.

75. According to Article 102 of the Turkish Criminal Procedure Code (CMK), the maximum length of pretrial detention is regulated by law. For crimes outside the jurisdiction of high criminal courts, the limit is one year, extendable by six months. The detention period may be extended to five years for more severe offences like terrorism-related crimes. However, in practice, these limits are frequently exceeded, especially in cases involving political opponents or those accused of terrorism. Courts often issue repeated extensions with minimal judicial review, exacerbating concerns about the rule of law.

76. Selahattin Demirtaş: Selahattin Demirtaş, former co-chair of the Peoples' Democratic Party (HDP), has been a prominent victim of prolonged detention. Arrested in November 2016 on terrorism charges, Demirtaş has been in pretrial detention for more

⁷ <https://www.hrw.org/world-report/2024/country-chapters/turkey>

⁸ <https://www.hrw.org/world-report/2024/country-chapters/turkey>

than four years, far exceeding the legal limits under Turkish law. The ECHR ruled in both 2018 and 2020 that his detention was politically motivated, violating his right to liberty and freedom of expression. Despite these rulings, Turkish authorities have failed to release him, showcasing their disregard for both national and international legal standards.

77. **Osman Kavala:** Osman Kavala, a businessman and civil society leader, has similarly endured extended pretrial detention. Arrested in October 2017 for alleged involvement in the Gezi Park protests and later the 2016 coup attempt, Kavala's detention continues despite a 2019 ECHR ruling calling for his immediate release. The court found his detention unjustified and violated the European Convention on Human Rights. Nevertheless, Turkish authorities have kept him in custody, issuing new charges to circumvent the ECHR's decision.
78. **Journalists and Intellectuals:** Prominent journalists and intellectuals, such as Ahmet Altan, Mümtazer Türköne, and Nazlı Ilıcak, have also faced long-term detention. These individuals were arrested on terrorism-related charges, often without substantial evidence. Ahmet Altan spent several years in detention before his release in 2021, following international pressure, while Türköne and Ilıcak also endured lengthy detentions, all in violation of Turkish and European legal standards.
79. The European Court of Human Rights (ECHR) has consistently condemned Turkey for its use of prolonged pretrial detention, finding numerous violations of Article 5 (right to liberty and security) and Article 10 (freedom of expression) of the European Convention on Human Rights. In particular, the court has ruled that Turkey's detention practices fail to meet the standards required by international law, as judicial authorities rarely provide sufficient grounds for extended detention.
80. The ECHR has issued multiple decisions emphasising that detention should be a measure of last resort and that extended pretrial detention without adequate justification constitutes a violation of human rights. Despite these rulings, Turkey has frequently ignored or delayed the implementation of ECHR judgments, further undermining its commitments to international law.
81. The cases of Selahattin Demirtaş, Osman Kavala, and prominent journalists highlight the broader issue of prolonged pretrial detention in Turkey. Despite legal limits on detention, Turkish authorities continue to use detention as a tool to silence opposition and control the media. The ECHR has repeatedly condemned these practices, yet

Turkey's non-compliance with its rulings continues to damage the country's international standing.

82. The 2023 U.S. Department of State Human Rights Reports provide detailed accounts of the ongoing human rights abuses in Turkey's prison system, including torture and ill-treatment, especially targeting individuals linked to political movements like the PKK and the Gülen movement. Key findings regarding prisons and detention centres in Turkey include:

- a- Torture and Ill-treatment:** Despite the constitutional prohibition on torture, credible reports indicate that mistreatment, such as beatings and psychological abuse, occurred in police stations and prisons. Political detainees and individuals linked to the PKK or the Gülen movement were particularly vulnerable. Various NGOs, such as Human Rights Watch (HRW) and Amnesty International, reported on these abuses.
- b- Overcrowding and Poor Conditions:** Turkish prisons are significantly overcrowded, which has led to inadequate access to necessities like potable water, proper food, and medical care. NGOs and the European Committee for the Prevention of Torture (CPT) highlighted these issues, pointing out that poor sanitary conditions exacerbate health risks.
- c- Healthcare in Prisons:** There were also significant concerns about inadequate healthcare services. Reports suggested that prison wardens, rather than medical professionals, often decided whether an inmate could receive medical attention, resulting in delayed or denied care. Additionally, some doctors allegedly refused to document cases of abuse due to fear of reprisal.
- d- Independent Monitoring:** Although some international organisations like the CPT were allowed to visit prisons, NGOs were generally prohibited from monitoring these facilities. Reports from civil society groups were based on accounts from inmates, their families, and legal representatives.
- e- Political Prisoners:** Political prisoners often faced harsher conditions than regular inmates, including prolonged solitary confinement and restricted access to outdoor activities and family visits. They were also frequently excluded from government initiatives to reduce the prison population.

These findings underscore the grave human rights concerns in Turkey's prisons despite existing legal frameworks meant to safeguard against such abuses. The increase in reports of torture

and mistreatment is a sign that independent oversight and adherence to international standards remain limited.

This paints a grim picture of the Turkish prison system, where human rights violations, especially against political prisoners, persist despite international pressure and legal prohibitions.