



**Submission to the Committee against Torture  
80<sup>th</sup> Session (July 8 – July 26 2024)  
For the consideration of Türkiye's fifth Periodic Report**

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

*June 2024*

1. The International Association for Human Rights in Geneva (IAHRAG) thanks the Committee against Torture (Committee) for its engagement with civil society and for providing this opportunity to be associated with the process of considering the fifth periodic report of Türkiye.

2. IAHRAG was created in 2017 to assist, support, guide, and sustain victims of human rights violations. One of its main concerns of interest are the violations of human rights in Türkiye. It particularly provides support and guidance to sympathizers of the “*Hizmet* Movement” (also known as the Gülen Movement) that are victims of a relentless witch-hunt and persecution, particularly since the coup attempt on July 15, 2016, from the Turkish authorities.

3. IAHRAG’s report focuses on:

- Türkiye’s state of emergency and the derogation of its human rights obligations (Article 2, paragraph 2 of the Convention) - section 3 of the report;
- Extraordinary renditions and extraditions in the context of so-called “counter-terrorism” measures (Articles 2, 11, and 16 of the Convention) - section 4 of the report;
- Children of incarcerated parents for so-called “terrorism” (articles 2, 11 and 16 of the Convention) - section 5 of the report.

None of these topics can be fully captured without a global contextualization of the abuse of counter-terrorism legal frameworks, particularly against *Hizmet* Movement sympathizers, since July 15, 2016 (section 2 of the report).

### **1. Introduction: Resurgence of systematic torture and impunity in Türkiye**

4. IAHRAG shares the OMCT (World Organization against Torture) concerns over the intensive resurgence of systematic torture in Türkiye.<sup>1</sup> Although the Government officially states its commitment to a “zero tolerance policy” and to investigate, prosecute and adequately punish the perpetrators, consistent reliable reports and testimonies of many victims show a very different reality. Torture and ill-treatment have again become systematic practices in Türkiye due to the violation of procedural guarantees, long term custody periods, widespread unlawful confinement practice and recklessness. The practice even became government policy, after the coup attempt in July 2016, targeting sympathizers of the *Hizmet* Movement and pro-Kurdish supporters.<sup>2</sup> Regularly reported methods of torture and ill-treatment include heavy beating, being stripped naked, sexual abuse, death and rape threats, other psychological torture, deprivation of sleep, food, drink and use of the toilet. Some detainees are also subjected to electric shocks, hanging by the arms, beating of the soles of the feet and exposure to icy water. In addition, new patterns of human rights violations and torture have been revealed in the frame of secret detention facilities of the Turkish intelligence services. The lack of condemnation from and tacit acquiescence of higher officials, the tendency to cover up allegations of torture instead of investigating, as well as the very poor judicial reaction (a maximum of 1% of the complaints lead to an imprisonment), create a climate of widespread impunity for security forces. Despite repeated motions submitted by parliamentarians, neither the Ministry of Interior nor the Ministry of Justice provide adequate answers, rather dismissing the requests for being “*baseless statements and smear campaigns against the security forces*”.

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<sup>1</sup> See OMCT, *Five years into visit by united Nations Special Rapporteur, torture remains widespread*, December 2021, [here](#). See also the *Turkey Tribunal* report on torture in Türkiye, drafted by Eric Sottas, Former OMCT Director and Johan Vande Lanotte, [here](#).

<sup>2</sup> The *Turkey Tribunal*, a people’s tribunal composed of former Judges and human rights experts found that “*Based upon the various reports from the UN Treaty bodies and other international organisations, five targeted groups can be identified: (1) Kurdish people; (2) people perceived to be linked with or supportive of the Gülen movement; (3) suspects of “ordinary” crimes and especially aggravated and sexual crimes; (4) juveniles; and (5) people arrested with the intention of “convincing” them to become police informant*”, [here](#).

5. In Türkiye, there is still a “significant disparity between the high number of allegations of torture reported by non-governmental organizations and the data provided by the State party” (CAT/C/TUR/CO/4, para. 9), particularly after the horrific wave of torture in the aftermath of the Coup attempt. The former Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment pointed that

*“The low number of investigations and prosecutions initiated in response to allegations of torture and ill-treatment seemed grossly disproportionate to the alleged frequency of such violations, indicating insufficient determination on the part of the responsible authorities to take such cases forward. The Ankara Chief Public Prosecutor’s Office, for example, advised that, from 1 January 2016 to 1 December 2016, only 24 law enforcement officers had come under suspicion of having committed torture, without a single one of those cases leading to an indictment. While about half of those cases were still pending, several of them had been dismissed for lack of grounds for legal action or for lack of jurisdiction. Of seven cases of suspected deliberate injury (not amounting to torture) in the same time period, only one had led to an indictment. Given the large number of allegations and of public reports about the prevalence of torture and other forms of ill-treatment in the immediate aftermath of the failed coup, it is troubling to see that, in one of the areas most affected by the attempted coup, only a handful of allegations appear to have been registered by the Prosecutor’s Office” (A/HRC/37/50/Add.1, para. 74 and 75).*

Below is a table concerning complaints of torture and ill-treatment under custody, in prisons and in extra-custodial places, lodged before the HRA (Turkish Human Rights Association), one of the main civil society organizations supporting victims of torture and ill-treatment, for the 2013-2021 period.

<b>Year</b>	<b>Custody</b>	<b>Extra-custodial Places</b>	<b>Prisons</b>	<b>Total</b>
2003	818	241	113	1172
2004	526	249	57	832
2005	309	165	158	632
2006	179	261	173	613
2007	234	184	90	508
2008	448	264	333	1045
2009	305	358	397	1060
2010	230	138	512	880
2011	310	517	724	1551
2012	293	433	583	1309
2013	233	307	843	1383
2014	1021	213	235	1469
2015	1379	474	215	2068
2016	830	628	1348	2806
2017	427	489	1988	2904
2018	356	246	1149	1751
2019	726	751	495	1972
2020	379	397	358	1134
2021	532	704	1414	2649
<b>TOTAL</b>	<b>9535</b>	<b>7019</b>	<b>11185</b>	<b>27738</b>
<b>AVERAGE</b>	<b>502</b>	<b>369</b>	<b>589</b>	<b>1460</b>
<b>%</b>	<b>34</b>	<b>25</b>	<b>41</b>	<b>100</b>

It shall also be taken into consideration that many victims do not dare lodging complaints out of fear of retaliation. The Special Rapporteur noted that

*“In interactions with inmates, lawyers and civil society organizations, the Special Rapporteur was informed that most victims of torture or other forms of ill-treatment did not file complaints with the authorities for fear of retaliation against them or their families, and due to a deep*

*distrust in the independence of the prosecution and the judiciary and — consequently — in their willingness or ability to adequately investigate and adjudicate claims”, (A/HRC/37/50/Add.1, para. 71).*

6. Below is a table of judicial actions on cases of torture and ill-treatment (article 94 and 95 of the Turkish Criminal Code), from public sources of the Ministry of Justice (available on the website of the Ministry in Turkish and English).

Year	Total	Investigation Phase		Trial Phase	
		Non-Prosecution	Filing a Public Case (Indictment)	Acquittals	Imprisonment
2013	1826	1148	211	86	20
2014	1719	1029	248	99	13
2015	1475	894	294	65	17
2016	1359	903	128	52	11
2017	1191	804	98	144	7
2018	960	652	83	38	10
<b>Total</b>	<b>8530</b>	<b>5430</b>	<b>1062</b>	<b>484</b>	<b>78</b>
<b>Yearly</b>	<b>1422</b>	<b>905</b>	<b>177</b>	<b>80</b>	<b>13</b>

Out of the 1422 cases of torture brought before judicial authorities, only 13 led to prison sentences for the perpetrators.

## **2. Context: abuse of counter-terrorism legal frameworks, in particular against *Hizmet* Movement sympathizers since July 15, 2016**

7. IAHRAG brings to the attention of the Committee that the Turkish fifth periodic report (CAT/C/TUR/5) contains 15 references to the term “*FETO*”, with occurrences since the paragraphs 2 and 3 of the report. “*FETO*” stands for “Fethullah Terrorist Organization,” the derogatory name given by the Turkish government to the *Hizmet* Movement. Based on the fifth periodic report, “*FETO*” seems to be at the root of all the ills and concerns in Türkiye and in view of the importance given to “*FETO*” by the Turkish government, IAHRAG considers it appropriate to bring a few clarifying elements to the Committee’s attention.

### *2.1 On the Turkish allegations that the Hizmet Movement fomented the July 15, 2016 Coup attempt and is a terrorist organization*

8. The 15 references to “*FETO*” in the Turkish report aim at defining the *Hizmet* Movement as a terrorist organization causing “grave threat to the security of the state” through infiltration of the State organs, responsible for the July 15, 2016 coup attempt.

9. Türkiye designated the *Hizmet* Movement as a terrorist organization back to spring 2015 and 2016 through decisions of the National Security Council, an advisory body of the executive. However, according to Turkish law, a judicial decision is required for a structure to gain legal recognition as a terrorist organization.

10. On April 24, 2017, the 16th Chamber of Court of Cassation retrospectively described, in its leading judgement E. 2015/3 K. 2017/3, that the goal of “*FETO*” was to seize the State institutions and to replace the constitutional order, and this, allegedly on the basis of intelligence reports issued by the *MİT* (*Milli İstihbarat Teşkilatı*, the Turkish National Service agency), although neither suspects nor judges were/are in a position to fully access the *MİT* information or reports.

11. Firstly, it should be noted that the object of the Court of Cassation's decision was the release of judges Metin Özçelik and Mustafa Başer, who had been tried for their decision to release police officers, who were arrested on the ground that they had conducted -or been involved in- the investigations into the notorious 17/25 December 2013 corruption incidents.<sup>3</sup> However, in reviewing the case, the 16<sup>th</sup> Penal Chamber of the Court of Cassation, which conducted the trial, and the General Assembly of Penal Chambers of the Court of Cassation opportunely changed the object of the decision to engage in a decision qualifying the *Hizmet* Movement as a terrorist group.

12. Interestingly, the Court of Cassation's decision fails to establish what kind of terrorist organization the *Hizmet* Movement was, how it resorted to or aimed to resort to violence and armed actions, and how the sympathizers of the Movement had - if ever - engaged in terrorist activities.

13. Indeed, for an organization to be declared terrorist, it must be formed with the aim of committing crimes or crimes of a political nature by force and violence, which would ultimately indicate a certain level of physical violence required by the relevant Turkish laws.

14. However, until today, all convictions against *Hizmet* Movement sympathizers rely only on perfectly legal activities protected by international human rights law and fail to establish proper criminal activities. Adhering to an ideology, simply sharing opinions, and having values in common with others or getting together to gain an ideological benefit is not, however, sufficient to qualify a structure as a criminal armed terrorist organization.

15. In reality, the Court of Cassation's decision heavily relied on the opinions taken at the meetings of the National Security Council on October 30, 2014, April 29, 2015, and May 26, 2016 in which the *Hizmet* Movement was arbitrarily designated as an outlawed organization for allegedly constituting a threat to the constitutional order.

16. In more than 60 years of history, the *Hizmet* Movement has never been associated with any violent acts, except for the government's arbitrary and unfounded accusation of the July 2016 coup attempt and the subsequent confirmation of this accusation by domestic courts without proper and independent investigation and prosecution. It is also worth noting that the Court of Cassation on June 24, 2008, acquitted Mr. Fethullah Gülen and found the activities carried out by the structure to be in accordance with the law.

17. Despite consistent international human rights decisions and judgments finding Türkiye in violation of its obligation for arbitrarily convicting *Hizmet* Movement sympathizers,<sup>4</sup> despite recognition of the political persecution of *Hizmet* Movement by almost every country and the Committee itself<sup>5</sup> (in relation

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<sup>3</sup> The corruption cases of December 2013 refer to notorious anti-corruption operations on 17-25 December 2013, in which some ministers of Mr. Erdoğan, including his own family members, were allegedly involved. After the cases, Mr. Erdoğan initiated a demonizing campaign against the *Hizmet* Movement –by blaming the Community for setting up a “parallel state” and plotting a “judicial coup” to bring down his elected Government. After the corruption cases, Mr. Erdoğan constantly blamed the *Hizmet* Movement sympathizers to seek to overthrow his government and branded them the enemy of the State and a proscribed schism in Muslim society that should be annihilated. Caught in credible corruption scandals, Mr. Erdoğan's strategy was to undermine the Movement in order to redirect public attention.

<sup>4</sup> The Working Group on Arbitrary Detentions adopted 24 opinion between 2016 and 2023 against Türkiye in relation to *Hizmet* Movement's sympathizers, finding that “*the Working Group has noted a significant increase in the number of cases brought before it concerning arbitrary detention in Turkey. The Working Group expresses grave concern about the pattern established by all these cases and recalls that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity*”, A/HRC/WGAD/2020/47, para. 101. See also *Alakus v. Türkiye* (CCPR 3736/2020) and *Yalçinkaya v. Türkiye*, (15669/209).

<sup>5</sup> CAT/C/AZE/CO/5: “The Committee particularly expresses its deep concern over extraditions and renditions of individuals with perceived or real affiliations to the *Hizmet*/Gülen movement to Türkiye (...) **The State party should (...) Immediately cease all extrajudicial extraditions and renditions, including of individuals with**

to asylum seeking), **the Turkish Government continues to mobilize the entire state apparatus, including the judiciary, to impose its performative narrative that the *Hizmet* Movement is a terrorist organization.** Repeating again and again, as in this 5<sup>th</sup> periodic report, that the *Hizmet* Movement is a terrorist organization will only undermine the Government international credibility: however, from a human rights perspective, *Hizmet* Movement sympathizers are still arbitrarily persecuted in Türkiye.

## *2.2 On the ongoing and continuous misuse of counter-terrorism legal frameworks against *Hizmet* Movement sympathizers: mass arrest and surveillance, ill-treatment and targeting of journalists and human rights defenders*

18. The Turkish government's policy to counter terrorism is mainly characterized by legislative measures, including prosecutions. Such measures, particularly Article 314 of the Penal Code, have been consistently denounced for their incompatibility with human rights frameworks, particularly for their lack of predictability enhancing infringement upon the freedom of opinion, expression, association, and the right to personal liberty and freedom from arbitrary arrest and detention (see [JOL TUR 13/2020](#)).

19. July 15, 2016, was the turning point in the weaponization of counter-terrorism legal frameworks. The Turkish government indeed immediately accused the *Hizmet* Movement of plotting the Coup attempt. This resulted into 1,576,566 terrorist investigations launched between 2016 and 2020 against people accused of links with the Movement (official data of the Ministry of Justice).<sup>6</sup> Türkiye is the country with the highest percentage of prisoners sentenced for terrorist activities: as of the 31<sup>st</sup> of January 2021, 13,3% of the carceral population were composed of prisoners sentenced on the ground of anti-terror legislation, precisely 30.555 prisoners (the Council of Europe, SPACE I – 2021, p. 51, [here](#)). The second country in terms of prisoners sentenced for terrorist activities in the same period was Russia, with 1.026 detainees, and the number of prisoners sentenced for terrorist activities in the same period over the remaining 45 Council of Europe members was 618 detainees (Türkiye and Russia excluded).

20. Both the Human Rights Committee and the European Court of Human Rights adopted landmark decisions condemning Türkiye for its practice of weaponizing counter-terrorism legal frameworks to target *Hizmet* Movement sympathizers (*Alakus v. Türkiye*, [3736/2020](#) and *Yüksel Yalçinkaya v. Türkiye*, [15669/20](#)).

21. At the heart of the European Court of Human Rights' landmark judgement *Yüksel Yalçinkaya v. Türkiye*, 15669/20 was antiterrorism and surveillance from the *MİT* (*Milli İstihbarat Teşkilatı*, the Turkish National Service agency). The case concerned a teacher at a state school in Kayseri, Türkiye, convicted on March 21, 2017, by the Kayseri Heavy Penal Court for membership in an armed terrorist organization "FETO", in reality for his connections with the *Hizmet* Movement. The conviction was notably based on the applicant's use of an encrypted messaging application called "ByLock".

22. The European Court found eventually that the mere use of ByLock is insufficient to support a conviction for membership in a terrorist organization, unless corroborated by additional objective evidence. According to the European Court, the domestic courts' failure to put in place appropriate safeguards vis-à-vis the key piece of evidence at issue to enable the applicant to challenge it effectively, to address the salient issues lying at the core of the case and to provide reasons justifying their decisions was incompatible with the very essence of the applicant's procedural rights under Article 6 § 1 (fair trial). **The Court noted that there were more than 8.000 similar pending cases and that this number was expected to significantly increase in the future (with a potential for up to 100.000 additional cases that may come before it).**

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perceived or real affiliations with the *Hizmet*/*Gülen* movement" (para. 14 and 15). See also the constant case law of the Committee (latest decision *X and Y vs. Switzerland*, 1081/2021).

<sup>6</sup> Between 2021-2023, 93,304 investigations were launched against people accused of links with the Movement; see official statistics [here](#).

23. Terrorism convictions against Hizmet Movement sympathizers are mainly based on the use of ByLock as *MİT* as the Turkish government indeed sustain that the app was being used exclusively by the members of that organization for internal communication.

24. In early 2016, the *MİT* accessed the main server of the encrypted messaging application ByLock, located in Lithuania, to gather information on the alleged illegal activities of the Hizmet Movement.

25. Indeed, *MİT*'s activities are initially regulated by the 1983 Law No. 2937 on State intelligence services and the national intelligence organization ([here](#)) amended in 2014 by Law No. 6532 ([here](#) in the official Gazette); the agency is **responsible for providing intelligence related to national security, counter-intelligence activities, and combatting terrorism activities, is in a limitless position towards access to information and surveillance, with no safeguards providing limits or preventing abuse.**

26. Among the concerning provisions, article 3 of Law No. 6532 notably allows the *MİT* to *“Receive information, documents, data and records from public institutions and organizations, professional organizations in the nature of public institutions, institutions and organizations within the scope of the Banking Law dated 19/10/2005 and numbered 5411, other legal entities and organizations without legal personality, make use of their archives, electronic data processing centers and communication infrastructure and establish contact with them. Those who are requested within this scope cannot refrain from fulfilling the request by citing the provisions of their own legislation as justification”* (unofficial translation<sup>7</sup>, Deepl).

In other words, the *MİT* is legally in a position to order, without any court decision, private data, records, documents, or information to any entity, public or private, with or without legal personality.

27. In addition, the Law No. 6532 *de facto* grants *MİT*'s agents full impunity with article 6 providing that (see developments below also on paragraphs 84 and f.)

*“Public prosecutors shall notify the Undersecretariat of MIT when they receive any denunciation or complaint regarding the duties and activities of MIT and its members or when they learn of such a situation. If the Undersecretariat of MIT states or certifies that the matter is related to the duties and activities of MIT, no further judicial action shall be taken and no protection measures shall be applied”* (unofficial translation<sup>8</sup>, Deepl).

#### *2.2.a. Continuous and ongoing mass arrests based on counter-terrorism legal frameworks, including ill-treatment*

28. Only a month ago, on May 7, 2024, the Istanbul Chief Public Prosecutor issued an arrest warrant for 50 people, mostly women, including 16 girls below 18 for being in charge of the “female pillar of the Hizmet Movement” aiming at reorganizing the Movement. The oldest arrested girl was 17 and the youngest 12. **The children were interrogated without a lawyer, deprived of food, subjected to psychological pressure, not allowed to communicate with each other and intimidated by the police.** Among the testimonies of the children:

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<sup>7</sup> Original: “b) Kamu kurum ve kuruluşları, kamu kurumu niteliğindeki meslek kuruluşları, 19/10/2005 tarihli ve 5411 sayılı Bankacılık Kanunu kapsamındaki kurum ve kuruluşlar ile diğer tüzel kişiler ve tüzel kişiliği bulunmayan kuruluşlardan bilgi, belge, veri ve kayıtları alabilir, bunlara ait arşivlerden, elektronik bilgi işlem merkezlerinden ve iletişim alt yapısından yararlanabilir ve bunlarla irtibat kurabilir. Bu kapsamda talepte bulunulanlar, kendi mevzuatlarındaki hükümleri gerekçe göstermek suretiyle talebin yerine getirilmesinden kaçınamazlar”.

<sup>8</sup> Original: “Cumhuriyet savcıları, MİT görev ve faaliyetleri ile mensuplarına ilişkin herhangi bir ihbar veya şikâyet aldıklarında veya böyle bir durumu öğrendiklerinde MİT Müsteşarlığına bildirirler. MİT Müsteşarlığının, konunun görev ve faaliyetlerine ilişkin olduğunu belirtmesi veya belgelendirmesi hâlinde adli yönden başkaca bir işlem yapılmaz ve herhangi bir koruma tedbiri uygulanmaz”.

*“Our families tried to bring us food, but they didn't give us the food they brought, and they themselves brought us food in the evening. They left us hungry and thirsty”;*

*“At the police station, there was a female police officer standing over you. We asked her 'why are we here'. She told us 'You will see inside, they will make you vomit blood'. A policeman was passing by, for example, and she pointed at him, saying, 'This one will make you vomit blood.' We didn't understand why we were there. What have we done that will make us vomit blood?”*

*“We cannot say alhamdulillah we survived. This has remained a trauma for all of us. Yesterday there was a knock on the door. I was scared. This will always happen. It will go on like this for a while and they put us through this. They had no right to do this in any way. We can't say alhamdulillah we got out. You shouldn't have taken us then. The treatment we received there for 16 hours was torture. This has remained a trauma for us at the age of 15. For 16 hours what we went through was torture. We don't want other children to go through this. These practices must stop as soon as possible”.*

29. Human Rights Association Co-Chair Eren Keskin also delivered the following statement:

*“The method applied to these children is completely illegal. Because they took their statements in the form of an interrogation memo. Most of the girls are already 12-13 years old and keeping them in detention for 16 hours, cutting off their communication with everyone, taking their statements without a lawyer, these are completely illegal methods. It is irrational. It is also against Turkey's own domestic law. They are also very scared”<sup>9</sup>*

30. After 16 hours of illegal interrogation, the children were released, while the detention of the individuals over the age of 18 continued, after which their statements were taken by the Terror and Organized Crime Investigation Bureau of the Istanbul Chief Public Prosecutor's Office. The adults were detained for 4 days and subjected to severe pressure, some of them were forced to confess effective remorse and all those who refused were arrested. Among the 50 people, 29 were arrested.

31. Only a month ago, on May 14, Operation ‘Kısaç-15’ deployed over 60 cities in Türkiye led to the arrest of 544 people, allegedly for facilitating recruitment exams organized by the Ministry of Justice in 2012-2013 and for using ByLock (a messaging application which the Government claims it has only been used by *Hizmet* Movement sympathizers).

32. Since July 2016 up to now, there have been, on average, 3 police operations per day targeting **real or alleged** *Hizmet* Movement sympathizers, and the average daily number of persons arrested is 74 on terrorism charges.<sup>10</sup>

**33. In a statement made in July 2022, former Minister of Interior Soylu announced that 332,884 people were detained between 15 July 2016 and 20 June 2022 because of their alleged *Hizmet* Movement links.<sup>11</sup>**

34. According to current Minister of Interior Ali Yerlikaya, between January 1, 2023, and December 31, 2023, there were 6,775 operations conducted against members of the *Hizmet* Movement. In these operations, 9,639 people were detained, **1,689 people were arrested**, and judicial control measures were applied to 1,677 people.<sup>12</sup> Still according to the public declarations of Minister of Interior Ali Yerlikaya **5,191 operations** were carried out against members of the *Hizmet* Movement in the 11-month period

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<sup>9</sup> See [here](#).

<sup>10</sup> See Solidarity with others, [here](#).

<sup>11</sup> See [here](#).

<sup>12</sup> Declaration on X, [here](#).



(June 1, 2023-May 15, 2024) since the day he took the office, and **8,153** people were detained in these operations.<sup>13</sup>

*2.2.b. Continuous and ongoing weaponization of counter-terrorism legal frameworks to target human rights defenders and journalists*

35. With regard to paragraph 19 of the List of Issues Prior to Reporting and paragraph 93-94 of the Turkish 5<sup>th</sup> periodic report, IAHRAG brings to the attention of the Committee that human rights defenders and journalists are still harassed and targeted on the ground of counter-terrorism legal frameworks for their alleged links with the *Hizmet* Movement. The Special Procedures Mandate holders of the Human Rights Council have repetitively expressed their

*“concern over the widespread arrest and detention of human rights defenders, human rights lawyers and civilians ... who due to their supposed links with the Gülen Movement, were prosecuted and labeled as terrorists. Once again it appears that counter-terrorism legislation law was used to criminalize social, political and cultural affiliations”* ([AL TUR 9/2021](#), in a letter including the case Of Mr. Osman Kavala).

36. The case of **Ahmet Altan**, whose name is mentioned in paragraph 19 of the LOIPR, is particularly revealing of the situation faced by Turkish journalists characterized by judicial harassment, facing conviction after conviction, trial after trial, cycle of arrest-release-rearrest. He was indeed: arrested on September 19, 2016 for alleged connections with the *Hizmet* Movement, released on September 21, rearrested on September 2016, sentenced to life prison on February 16, 2018 for plotting the Coup attempt, convicted on March 19, 2019 for insulting the President, provisionally released on November 4, 2019, under judicial control, rearrested on November 13, 2019, released on April 14, 2021 with the Court of Cassation overturning his guilty verdict as an answer to the European Court of Human Rights judgement finding violation of article 10 of the Convention (April 13, 2021, *Ahmet Hüsrev Altan v. Turkey*, [13252/17](#)). Ahmet Altan was then sentenced for new charges on March 4, 2022, for illegally acquiring State secrets, to 3 years and 4 months in prison, free as long as his appeal is under review.

37. IAHRAG also brings to the attention of the Committee the public case of **Mr. Ali Ünal**, sentenced to 19 years and 6 months of imprisonment, which at his age represents a death sentence. On May 3, 2023, the Working Group on Arbitrary Detention published an opinion ([A/HRC/WGAD/2023/3](#)) on the violations suffered by Ali Ünal, finding that “*no trial of Mr. Ünal should have taken place*” (para 79) and violations of the right to a fair trial, freedom of expression and association *inter alia*.

38. Situation of Turkish journalists in exile is also worrying as they are victims of transnational repression (see para. 90 and f. below on abuse of Interpol mechanisms). In December 2022, Türkiye expanded its “terror list” of wanted persons for alleged links with terrorist organizations, particularly targeting human rights defenders and journalists to have connections with the *Hizmet* Movement. As of February 2019, the list included the names and information of 345 people associated with the *Hizmet* Movement. With recent updates, the list now includes the names and information of 971 people allegedly from the *Hizmet* Movement.

39. Among the new additions, **the Turkish Interior Ministry arbitrarily added the names of 15 exiled journalists: Can Dündar; Bülent Kenes; Abdullah Bozkurt; Ahmet Dönmez; Cehveri Güven; Tarik Toros; Adem Yavuz Arslan; Said Sefa; Arzu Yıldız; Levent Kenez; Hasan Cücük; Sevgi Akarçesme; Erhan Basyurt; Bülent Korucu; Hamit Bilici. This move intensifies the persecution of exiled journalists.**

40. The establishment of such a list escapes judiciary supervision, amounts to violation of the right to privacy, and the principle of the presumption of innocence and enhances the risk of illegal abductions abroad (see para. 66 and f. below).

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<sup>13</sup> Declaration on X, [here](#).

41. The public case of **Bülent Kenes** is also quite edifying. Mr. Bülent Kenes, former founding editor-in-chief of *Today's Zaman*, prestigious and most circulated English daily published in Türkiye until it was illegally seized on March 4, 2016<sup>14</sup>, lives in Sweden as a refugee since August 5, 2016.

42. The attempts to silence Mr. Bülent Kenes date back to mid 2011 and as of 2015, **30 court cases had been opened against him**. He had been detained two times, arrested once and imprisoned for a few days. His passport had been canceled, placed under judicial control and he was banned from international travel. On April 17, 2016, he's been sentenced to 2 years 7 months and 15 days of prison for criticizing antidemocratic steps taken by the Turkish government as well as its support to jihadist organizations in Middle East (particularly in Syria), in other words for exercising his job.

43. An arrest warrant and Interpol red notice were issued against him for the offence of insulting President Erdoğan (in addition to other arrest warrant for alleged cases of defamation).

44. It is notorious that the Turkish government made an official request to Sweden for the extradition of Mr. Bülent Kenes and that Türkiye was deliberately imposing its authoritarian agenda to Sweden over the NATO process adhesion, President Erdoğan having stated at the occasion of a joint press briefing with Swedish Prime Minister Ulf Kristersson in Ankara (November 8, 2022): "*Extradition of this terrorist (Mr. Bülent Kenes) is of utmost importance for us*".

45. Türkiye's official position regarding journalism at the occasion of the 51<sup>st</sup> session of the Human Rights Council, stating that "*journalism cannot be used as a shield against criminal investigations*". This occurred as a right to reply (Item 2, 14 June 2022) to Ms. Irene Khan, Special Rapporteur on freedom of opinion and investigation, report stating that:

*"in Turkey, where 41 journalists remained in prison at the end of 2021, the Penal Code and anti-terrorism legislation criminalize broad categories of speech in ambiguous terms, including expressions that "denigrate the Turkish nation" or "insult the President"" (para. 56). Arrests and prosecutions of journalists leading to heavy fines and harsh prison sentences serve not only to intimidate and punish the individuals charged but also to create a climate of fear, chilling critical reporting by other journalists. In recent years the Special Rapporteur has expressed serious concern at draconian laws and tough sentencing in countries as diverse as (...) Turkey" (para. 53), [A/HRC/50/29](#).*

## **SUMMARY OF CONCERNS**

- While recognizing Türkiye's need and obligations to adopt measures to answer to terrorism in its territory, IAHRAG is concerned about: (a) the counter-terrorism legislation, policies and practices which provide an extensive definition of "terrorist organization", including for perfectly legal organizations, such as the *Hizmet* Movement, and excessive restrictions on the rights of persons suspected or accused of involvement in a "terrorist organization", including on the right to liberty and security; and (b) the large number of prisoners sentenced for terrorist activities in Türkiye, in particular among *Hizmet* Movement sympathizers;
- IAHRAG is also deeply concerned that persons accused of terrorism, particularly *Hizmet* Movement sympathizers, including minors, are often subject to arbitrary mass arrests, torture, and ill treatment, and that court proceedings in terrorism cases often lack due process and fair trial safeguards, leading to arbitrary convictions and detentions;
- IAHRAG is concerned about the legislation and practices of the intelligence services in relation to counterterrorism operations, in particular at the limited oversight role of the judiciary on the *MİT* and on lack of conformity of certain powers of the *MİT*, particularly on the *de facto* impunity of the agency,<sup>15</sup> with human rights law;

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<sup>14</sup> *Today's Zaman* was closed with the Decree No. 668 dated 27th July 2016 after the state of emergency declared immediately after the coup attempt, and all its assets were confiscated (see paragraph 51 below of the state of emergency).

<sup>15</sup> On that see also paragraphs 84 and f. below.

- IAHRAG is deeply concerned about the large number of journalists arbitrarily detained and convicted on bogus terrorism charges, in particular for association with the *Hizmet* Movement, including when international human rights mechanisms expressly recognized the arbitrary character of the detention as illustrated by the situation of Mr. Ali Ünal sentenced to 19 years and 6 months of prison ([A/HRC/WGAD/2023/3](#));
- IAHRAG is deeply concerned about the large number of Turkish journalists, including in exile, victims of harassment and judicial persecution, including arbitrary proceedings and charges for being member of a “terrorist organization”, politically motivated extradition requests and abuses of the Interpol mechanisms<sup>16</sup>, as illustrated by the situation of Mr. Bülent Kenes, an exiled journalist facing 30 court cases on terrorism and defamation charges whose name has been at the center of Sweden’s NATO adhesion process.

### 3. Türkiye’s state of emergency and derogation of its human rights obligations: impunity and permanent measures (article 2 paragraph 2 of the Convention)

46. On August 31<sup>st</sup> 2016, former Chair of the Committee, Mr. Jens Modvig, and former Rapporteur to follow-up to concluding observations, Mr. Abdelwahab Hani, issued a letter to the former Turkish Permanent Representative to the United Nations Office at Geneva recalling the Turkish Government that “*no exceptional circumstances whatsoever whether a state of war, internal, political instability or any other public emergency, may be invoked as a justification of torture*” and asking to provide comments on measures to ensure that “*the fundamental legal safeguards are afforded to all persons deprived of their liberty; all allegations of torture or ill-treatment are investigated in a prompt, impartial and thorough manner by an independent body; the principle of rule of law and the independence of the judiciary applies, also during the current state of emergency*”.

47. Former Chair of the Committee, Mr. Jens Modvig, and former Rapporteur to follow-up to concluding observations, Mr. Abdelwahab Hani also noted  
“*with concerns the declaration of (Türkiye) to the United Nations Secretary-General of 21 July 2016, expressing its intention to take measures which may involve derogation of its obligations under a number of articles of the International Covenant on Civil and Political Rights including article 10, which, inter alia, obliges States parties to ensure the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person*”.

48. Indeed, Türkiye did proclaim a State of emergency, as a result of the July 15, 2016 coup attempt, from July 21, 2016<sup>17</sup> until July 18, 2018.

49. One of the main changes brought by States of emergency in Türkiye is the fact that the Government can enact decrees, with force of law, without *ex-ante* approval by the Grand National Assembly of Türkiye.

50. During the emergency period, the Turkish government adopted 32 decree-laws, introducing thousands of amendments to regular laws, *de facto* durably affecting the legal and institutional Turkish mapping (the range of laws affected is extremely broad: from the law of State intelligence Service and National Intelligence Organization to the law on passports, from the law of judges and prosecutors, law on counterterrorism, law on Turkish republic retirement fund, to the law on public notaries and law on horse races...).

**51. It is worth knowing that the Constitutional Court decided that it would not review the constitutionality of these decree-laws, granting *de facto* full power to the government to modify as many laws as it wished and this without judiciary supervision, including the law on the foundations**

<sup>16</sup> On that see also paragraphs 90 and f below.

<sup>17</sup> Declaration made by the Government on July 20 but endorsed on July 21 by the Grand National Assembly of Türkiye.

and rules of procedure of the Constitutional Court, a measure far from qualifying as “*strictly required by the exigencies of the situation*” (see article 4 of the International Covenant on Civil and Political Rights) or necessitated by the emergency situation. **With the emergency decree-laws, the Government permanently dismiss 125,678 from public service, among them 4,362 judges and prosecutors, including members of the Constitutional Court Council of State and Court of Cassation, and permanently closed more than 4,000 legal persons (trade unions, schools, media outlets, associations, hospitals).** Türkiye did establish the Inquiry Commission for State of Emergency Measures (decree-law No. 685 published in the Official Gazette on 23 January 2017). All observers emitted serious doubts at the impartiality of the Commission, whose first President was former Justice Ministry deputy undersecretary Selahaddin Menteş, who had been openly supportive of President Erdoğan. The European Commission pointed out that

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

52. The first decree-law (No. 667, article 9 para. 1) provided that

*“legal, administrative, financial and criminal liabilities shall not arise in respect of the persons who have adopted decisions and who fulfill their duties within the scope of this Decree Law”.*

Completed with decree-law No. 668 (article 37), decree-law 696 (article 121), the measures have been expanded to judiciary and administrative measures but also to civilians acting to suppress the Coup attempt. **Those impunity measures have been transformed into regular laws (Nos. 6749, 6755 and 7079), by the Grand National Assembly of Türkiye.**

53. As noted in paragraph 10 of the LOIPR, these measures granted total impunity, including for perpetrators of acts of torture and ill-treatment. The Trabzon Prosecutor rendered a famous non-prosecution decision based on decree-law No. 667.

54. The *OHCHR Report on the impact of the state of emergency on human rights in Turkey*<sup>19</sup> pointed out that

*“Thousands of uncensored images of torture of alleged coup suspects in degrading circumstances were circulated widely in Turkish media and social networks after the coup, along with statements inciting violence against opponents of the Government. OHCHR received reports of individuals detained and ill-treated without charge by anti-terrorism police units and security forces in unconventional places of detention such as sports centres and hospitals. The United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment visited Türkiye in November 2016 and found that torture was widespread following the failed coup, particularly at the time of arrest and subsequent detention”.*

In the aftermath of July 15, 2016, more than 35,000 people were detained and submitted to heavy torture.

55. The Ankara Police Anti-Terror department was one of the institutions deeply involved in heavy torture in the aftermath of July 15, 2016. Erhan Dogan, history teacher, had been taken to the Ankara Police Anti-Terror department a few hours after the coup and then to a gym, handcuffed and placed against the wall, full of blood stains. He heard people screaming, including women screaming “please don’t rape us”... Among the various torture methods he was exposed to, he was threatened that if he didn’t disclose information on other people, his wife and daughter would end up the same way as the women he had heard screaming. He made a public testimony before the *Turkey Tribunal*.<sup>20</sup>

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<sup>18</sup> Turkey 2020 Report, SWD(2020) 355, [here](#).

<sup>19</sup> March 2018, available [here](#).

<sup>20</sup> See [here](#).

56. Başkent Sports Hall was also turned into an unofficial detention site where most torture and abuse of detainees took place between July and August 2016. Testifying under oath at the Ankara 17th High Criminal Court, Lt. AB, a 27-year-old lieutenant, explained how in Başkent Sports Hall generals were stripped naked and forced to parade among some 700-800 detainees who were kept in inhuman, unsanitary conditions and denied food and water for a few days. *“They were trying to force everybody to watch [the naked generals], and those who didn’t want to look and bowed their heads were slapped. They also harassed a commander by forcing a baton between his legs at the same time.”* The lieutenant testified that a special torture chamber was set up in a shooting range at the Special Forces Command headquarters and that officers including women were tortured under orders of the then-commander of the Special Forces. Waterboarding, electrocution and being thrown down stairs while handcuffed were practiced on victims at this site. Calling on the judges, he said *“Did you know that one of the female officers was raped and had her baby aborted? I appeal to those women’s rights advocates who stand together against rape and harassment; Why have they remained silent about this unconscionable incident?”*

57. None of the notorious acts of torture that occurred during the state of emergency, in the aftermath of July 15, 2016 were properly investigated as a result of article 9 para. 1 of decree-law No. 667.

58. Article 6 para. 1 of Decree-law No. 667 also brought some considerable changes for measures related to criminal proceedings:

- an arrested person can be presented before a judge in a delay up to 30 days;
- oral consultations with lawyers may be recorded, documents exchanged with lawyers may be seized, lawyers may be replaced at the request of the Prosecutor;
- a maximum of 3 lawyers can represent a suspect during hearings;
- detainees may be visited with only closest relatives and telephone calls are limited to 10 minutes every 15 days.

Article 3 para. 1 of Decree-law No 668 provides that:

- prosecution may seize correspondence between defendants and lawyers or spouses;
- the right to see a lawyer may be restricted for 5 days (*de facto* incommunicado detention).

59. The Venice Commission noted back to December 2016 that

*“there is a risk of de facto “permanentisation” of certain extraordinary measures, which may be afterwards made permanent de jure through the Parliament’s approval of the emergency decree law introducing such measures. That represents, in the eyes of the Venice Commission, a danger for democracy, human rights and the rule of law. As stressed above, permanent changes of the legislation should not be enacted in the framework of an emergency regime: their permanent necessity should rather be debated in ordinary parliamentary procedures, without any time pressure and far from emotional reactions caused by the dramatic events which led to the state of emergency”* ([CDL-AD\(2016\)037](#), para. 155)

60. And indeed, through law No. 7145 adopted on July 31, 2018, measures of the State of emergency have been made permanent, leading the Mandates of Special Procedures of the Human Rights Council to express

*“serious concern with the process of normalizing emergency powers into ordinary law through Law No. 7145, given the restrictions and limitations placed by international human rights law on the exercise of exceptional legal powers that profoundly affect the enjoyment of fundamental rights”* ([OL TUR 13/2020](#)).

61. Notably article 13 of Law No. 7145:

- suspects of terrorism-related crimes can be held in police custody for up to 12 days without charge;
- detention periods can be extended by judges of the Criminal Peace and Judgeships whose impartiality and independence are at serious doubt;

- suspects can be repeatedly detained under the same charge;
- reduction of the frequency with which a judge may review pre-trial detention of the accused in person (review every 30 days but presence of the accused only every 90 days, which enhances risks of torture and ill-treatment).

62. In addition, article 26 of Law No. 7145 gives to the Government permanent authority to dismiss any public official, judge, prosecutor “*assessed to have been members of or active in union with or been in contact with terrorist organizations or structures, entities or groups that the National Security Council has decided are engaged in activities against the nation*”, in other word for links with the *Hizmet* Movement. Such a permanent measure seriously undermines the independence and impartiality of judges in charge of *Hizmet* Movement sympathizers’ cases.

### **SUMMARY OF CONCERNS**

- While acknowledging Türkiye’s need and obligations to answer to the July 15, 2016 coup attempt, IAHRAG is deeply concerned at the decree-laws (*Kanun Hükmünd Kararnameler*) adopted by the Government during the state of emergency, which was extended in Türkiye between July 21, 2016 to July 18, 2018, without judiciary supervision, which further restricted key safeguards against torture and ill-treatment and the enjoyment of rights under the Convention by introducing permanent measures in a range of areas not strictly required by the exigencies of the situation. IAHRAG particularly deplores: (a) the weaponization of the decree-laws to target and persecute *Hizmet* Movement sympathizers; (b) the permanent dismissal of 125,678 people from public service, among them 4,362 judges and prosecutors, including members of the Constitutional Court Council of State and Court of Cassation, though decree-laws for their alleged links with the *Hizmet* Movement; (c) the permanent closure of more than 4,000 legal persons for their alleged links with the *Hizmet* Movement; (d) the total impunity granted to perpetrators of torture during the state of emergency on the ground article 9.1 of decree-law No. 667, article 37 of decree-law No. 668 and article 121 of decree-law No. 696; and (e) the severe restrictions on key fundamental legal and procedural safeguards during the state of emergency. That is the case in particular with regard to extension of the deadline to appear before a judge up to 30 days, restriction to access to a lawyer for 5 days and severe restrictions to the confidentiality of exchanges between detainees and lawyers, and closed relatives;
- While noting that the state of emergency was lifted on July 18, 2018, IAHRAG is particularly concerned at the fact that extraordinary emergency powers have been made permanent through Law No. 7145 of July 31, 2018, notably granting the Government with permanent authority to dismiss public official, judge, prosecutor on vague grounds. IAHRAG deeply deplores that Law No. 7145 permanently restricts fundamental legal and procedural safeguards, in particular that: (a) suspects of terrorism-related crimes can be held in police custody for up to 12 days without charge; (b) detention periods can be extended by judges of the Criminal Peace and Judgeships whose impartiality and independence are at serious doubt; (c) suspects can be repeatedly detained under the same charge; and (d) reduction of the frequency with which a judge may review pre-trial detention of the accused in person, only every 90 days, which enhances risks of torture and ill-treatment;
- IAHRAG is deeply concerned at the high number of individuals, around 35,000, victims of mass detentions and related heavy torture and ill-treatment that occurred in the aftermath of July 15, 2016 and at the lack of formal investigations and prosecutions, resulting in full-impunity for perpetrators of torture.

#### 4. Illegal renditions and efforts to return Turkish citizens in the context of so-called “counter-terrorism” measures (Articles 2, 11 and 16 of the Convention)

63. IAHRAG submitted shadow reports on October 2021 to the Committee against Torture in relation to Kyrgyzstan’s third periodic report (72<sup>nd</sup> session, [here](#)), on March 2024 to the Committee against Torture in relation to Azerbaijan’s fifth periodic report (79<sup>th</sup> session, [here](#)), on September 2022 to the Human Rights Committee in relation to Kyrgyzstan’s third periodic report (136<sup>th</sup> session, [here](#)) and on January 2024 to the Committee on Enforced Disappearances in relation to Cambodia first periodic report (26<sup>th</sup> session, [here](#)).

64. All these reports aimed at bringing to the attention of treaty bodies, particularly the Committee, the many cases of abductions and illegal renditions to Türkiye of *Hizmet* Movement sympathizers, which have been perpetrated from all over the world.

65. This notably led the Committee to adopt the following concerns and recommendations on Azerbaijan:

*“The Committee particularly expresses its deep concern over extraditions and renditions of individuals with perceived or real affiliations to the Hizmet/Gülen movement to Türkiye, including in cases where such individuals have pending asylum claims or in cases where extradition proceedings had not been concluded or where the case was the subject of a request for interim measures by the Committee, despite the existence of substantial grounds for believing that they would be in danger of being subjected to torture, as evidenced by decisions of the European Court of Human Rights, the United Nations Working Group on Arbitrary Detention, and by the Committee itself, including its decision in communication No. 905/2018 (...) The State party should (...) **Immediately cease all extrajudicial extraditions and renditions, including of individuals with perceived or real affiliations with the Hizmet/Gülen movement**” (CAT/C/AZE/CO/5, paras. 14-15).*

##### 4.1 The pattern of abroad abductions perpetrated by the Turkish intelligence services

66. There is indeed a strong pattern of the *MİT* (*Milli İstihbarat Teşkilatı*, the Turkish Intelligence Service agency) practicing illegal extraterritorial abductions on Turkish citizens (**the Turkish government stated back to 2020 that it had abducted 116 people from 27 countries since 2016 – in reality the number is more important as of today**).

67. Freedom House produced a report, *Turkey: Transnational Repression Origin Country Case Study* (2021, [here](#)) in which the organization mentioned that

*“The Turkish state’s current campaign of transnational repression is remarkable for its intensity, its geographic reach, and the suddenness with which it escalated. Since the coup attempt against President Recep Tayyip Erdoğan in July 2016, the regime has pursued its perceived enemies in at least 31 different host countries spread across the Americas, Europe, the Middle East, Africa, and Asia. The campaign is also notable for its heavy reliance on renditions, in which the government and its intelligence agency persuade the targeted states to hand over individuals without due process, or with a slight fig leaf of legality. Freedom House catalogued 58 of these renditions since 2014. No other perpetrator state was found to have conducted such a large number of renditions, from so many host countries, during the coverage period—and the documented total is almost certainly an undercount. Ankara’s campaign has primarily targeted people affiliated with the movement of religious leader Fethullah Gülen, which the government blames for the coup attempt”.*

68. Türkiye’s high level officials do not deny their involvement and on contrary praise the work of the *MİT*. In the case of Orhan İnanđı, **President Recep Tayyip Erdoğan, himself acknowledged that Orhan İnanđı had actually been abducted by the *MİT***, declaring after a cabinet meeting on July 5 that:

*“We continue our efforts to eradicate FETÖ, which is responsible for many betrayals against our country, especially the July 15 coup attempt. We uncovered all the intimate structures and archives of the organization in strategic institutions one by one. Orhan İnandı, one of FETÖ's top figures, was captured and brought to Türkiye”.*<sup>21</sup>

69. In July 2019, the UN Working Group on Enforced and Involuntary Disappearances (hereafter WGEID) expressed concerns on the situation:

*“One such development is the increasing use of extraterritorial abductions, as the Working Group observed before the General Assembly in 2018. (...) China and Turkey continue to seek the cooperation of other States to arrest, often in undercover operations, Uighurs and alleged supporters of the Hizmet/Gülen movement, respectively, living outside the country. The allegations received by the Working Group indicate that individuals often disappear during these operations or once they arrive in the country of destination” (A/HRC/42/40, para. 56).*<sup>22</sup>

70. Similarly, in a letter written to Türkiye by the WGEID and 3 other Special Procedures mandates, it was stated:

*“Turkish authorities have not only acknowledged direct responsibility in perpetrating or abetting abductions and illegal transfers, but have also vowed to run more covert operations in the future” (AL/TUR 5/2020, May 2020).*

71. The WGEID qualified the situation as *“systematic practice of State-sponsored extraterritorial abductions and forced returns of Turkish nationals from numerous States to Türkiye” (AL/TUR 5/2020, May 2020).*

72. In its 2022 report to the Human Rights Council the WGEID kept expressing its concerns that

*“during the reporting cycle, the Government of Türkiye has continued to resort to the use of enforced disappearance in the context of transnational transfers, using such transfers as a pretext for an effective means to combat terrorism” (A/HRC/51/31, para. 78).*

73. There are 3 *scenarii* under which the MİT works to perform illegal renditions:

**Scenario 1:** Abroad abductions with no indication of collusion with the host State (see for instance the public case of Selahadin Gülen abducted in Kenya);

**Scenario 2:** Abroad abduction with the collusion/consent of the host State (see for instance the case of *Orhan İnandı* abducted from Kyrgyzstan, see our report for the 72<sup>nd</sup> session of the Committee; see also ECtHR, *Ozdil and Others v. the Republic of Moldova*, 11 June 2019, Application [No. 42305/18](#), or the Kosovo cases leading to the dismissals of Interior Minister and Chief of Secret services);

**Scenario 3:** Abroad abduction with the collusion of local mafia/criminal groups.

*4.2 Heavy torture in secret detention places operated by the MİT: an illustration with the case of Mr. Orhan İnandı, abducted and kept 37 days in incommunicado detention*

**74. All the cases of abductions and illegal renditions involve heavy torture and incommunicado detention which amount to enforced disappearance. All cases of abroad abductions, or domestic enforced disappearances of the MİT involve a clandestine facility in Ankara's natural and**

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<sup>21</sup> See [here](#).

<sup>22</sup> The Working Group also specified: *“To date, at least 100 individuals suspected of involvement with the Gülen/Hizmet movement are reported to have been subjected to arbitrary arrests and detention, enforced disappearance and torture, as part of covert operations reportedly organized or abetted by the Government of Türkiye in coordination with authorities of several States” (AL/TUR 5/2020, May 2020).*



**historical conservation area, situated at the heart of Türkiye's capital, approximately two kilometers from the Presidential Palace.**

75. IAHRAG for instance followed the case of **Mr. Orhan İnandı**, a dual national from Kyrgyzstan and Türkiye, who **disappeared on May 31, 2021, in Bishkek and reappeared on July 5, 2023, in Türkiye.**<sup>23</sup>

76. Orhan İnandı had been abducted in Bishkek on May 31, 2021, around 11 p.m., by three people in plain clothes who forced him into a car, claiming they were police officers and that they were going to the police station. They forcibly twisted his right arm by laying him on the back seat of the vehicle. One grabbed his feet while the other grabbed his head. They sat on his arm that was already broken due to the violent abduction and punched him every time he was trying to resist. After driving about 15 minutes, Orhan İnandı had been transferred to another car waiting on a side road. In the transfer process, Orhan İnandı received an injection in his arm. He had been placed in the new car while the men tied his eye with a band and his hands with plastic handcuff. He then had fallen asleep. The second car stopped possibly around 8-9 AM. They stopped for about 2 hours and a third car came. The third car drove all in all for approximately 4 hours, with stops, and possibly passed a border. The car arrived directly to an airport.

77. Orhan İnandı had been then taken in the plane. When inside, a man said “*Welcome to the Republic of Türkiye*”, then slapped him in the back of the neck saying “*get over*” and “*kneel on the ground*”. During the flight, he was ordered to knee, stand or lie in the ground.

78. After landing, Orhan İnandı felt that he could not lift his arm at all. He had been immediately taken into a vehicle where he's been completely stripped. The car drove for around 20 minutes. The car stopped in a place that could be a basement. Orhan İnandı has been taken out of the vehicle and put in a cell similar to a coffin, 2.5 X 3 m, covered with leather sponge, with a light, speaker and camera at the top. He received underwear and pajama that he wore for 37 days (with only one shower during this period).

79. Orhan İnandı received order to follow only the instructions: “*When we knock on the door, you will put the velvet sack we gave you on your head and you will turn your back on the door and kneel and wait, you will call us as ‘elder brother’ or ‘sir’*”. Loud sizzling music was constantly played in the speakers, with order to “*sit*”, “*kneel*” and “*stand*”; any interaction was occurring with many insults and curses. Every movement was controlled by the camera. Orhan İnandı was prohibited from praying and even crying (sanctions were beatings). Orhan İnandı, who suffers of prostate disease, was prevented to go to the bathroom when it was necessary. He was insulted, including while receiving food; food that might have been somehow mixed with chemicals/medication in view of the bitter taste.

80. During the 37 days of incommunicado detention, Orhan İnandı has been forced to give statements: he was taken in a place with a sack on his head, while men were holding it from behind and squeezing it, provoking a lack of breath. While he was entering, he was constantly insulted and threatened. His statement has been taken by 2 people for many days. The dishes were served differently to confuse the concept of time. There were threats and curses in all communications. Expressions such as ‘*you are a bug*’, ‘*you are a leech*’, ‘*you cannot be a man*’, threats as “*we can electrify, put a towel and suffocate, castrate, soap the police baton and stick it all the way in,*” were constantly used. Orhan İnandı's legs have been hit by three wires on a stick. Orhan İnandı has seen a chain for tying feet under the table where the statement was taken, and handcuffs on the table when his eyes were open to show pictures. People interrogating him were shouting asking if he could see under his eyes, if he could see their faces. He reported that the persons interrogating him used such expressions: “*There is nothing you confessed*”, “*strip and sit on the stick!*”, “*we will show you how to torture*”, “*we will give you chemicals*”, “*this is a place that doesn't exist, if we throw you in the pit, no one will find you. But your death will not*

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<sup>23</sup> The case is currently pending before the Human Rights Committee, ready for review.

*help us, we just heard that they are looking for you in the garbage in Kyrgyzstan, your life has no value. But if we kill you, our enemies may use it”.*

81. For 3 days, the names and ages of people who lost their lives on July 15, 2016, were shouted one by one while he was asked for his accountability and standing during the all-time. While he was about to faint, he was said “*Never! I can beat you, I can hit your arm*”. His feet were blistering.

82. One of the persons interrogating Orhan İnandı declared: “*Agree with us, we can prepare opportunities in Türkiye and abroad, give you a guard, just go to the social media, talk, say, ‘I came with my own will’. We’ll bring your children, you can live comfortably, all you have to do is to make a public statement. We are the State, if we want, we can say that you killed Eşref Bitlis<sup>24</sup> and you will be in prison for life. You can stay in prison for at least 20 years, the choice is yours. By the way, what will happen to your children, will they fall into the street or become a prostitute? In fact, we brought your daughter, she is standing behind the screen.*”

83. Orhan İnandı had reached a point when he could have confessed anything. When these persons decided the statement was over, Orhan İnandı’s beard has been shaved and filmed for about 40 minutes. He had then been taken in a car with a sack on his head, was violently taken out of it, and brought to the Anti-Terrorism Branch Directorate in Ankara where he had to kneel for about 1 hour. He was taken to the Gazi University Hospital for X-rays where the doctors explained that he could have a surgery after his testimony. Back to the Anti-Terrorism Branch Directorate in Ankara, Orhan İnandı gave the same statement and answers to the questions he was asked before as he was afraid to go through the same process again. He stayed there for 3 days without consulting his lawyer or being presented to a judge.

#### *4.3 MİT’s total impunity for abductions, enforced disappearances and torture*

84. The case of Orhan İnandı also demonstrates the full impunity under which MİT acts upon. Indeed, on October 5, 2021, Orhan İnandı made an act of denunciation addressed to the Ankara Office of the Prosecutor for his abduction and torture. On November 2, 2012, the Office of the Prosecutor of Ankara decided not to prosecute the act of denunciation made by Orhan İnandı on October 5, 2021.

85. The act of denunciation mentions (our translation from Turkish) that

*“Orhan İnandı, was forcibly abducted from the city of Bishkek in the country of Kyrgyzstan on the evening of May 31, 2021 and was brought to Türkiye as described above. It has been on the agenda since the day he was abducted and it was clearly stated that he was abducted by Turkey. No positive response was received to the applications made either to the Kyrgyzstan authorities or to the international arena. (...) For 37 days, Orhan İnandı’s relatives and friends created a serious public opinion about the abduction and kept it on the agenda. Finally, on July 5, 2021, President Recep Tayyip Erdoğan announced in his press statement that Orhan İnandı was brought to Türkiye by the operation of the National Intelligence Organization. (...) He was held in a place without a detention center for 37 days and his will was crippled by insults, threats, torture. At the end of this process, as if his whereabouts for 37 days were an insignificant detail, he was not evaluated in any way and was not investigated by the judicial authorities. All of this process took place in line with the instructions of the competent authorities of the State of the Republic of Türkiye. As of 31 May 2021, the date of the crime, all the officials involved in this process and their immediate superiors should be tried for the other crimes that we mentioned above and to be determined ex officio”.*

86. The Office of the Prosecutor of Ankara’s decision not to pursue on the act of denunciation is consistent with limitless powers of the MİT. **The MİT, whose previous director, Mr. Hakan Fidan, was promoted in June 2023 to the Ministry of Foreign Affairs’ function, responsible for providing**

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<sup>24</sup> A former general in the Turkish Gendarmerie, who died in in 1993 in a controversial plane crash.

**intelligence related to national security, counter-intelligence activities, and combatting terrorism activities, is indeed in a total impunity situation.**

87. The *MİT*'s activities are initially regulated by the 1983 Law No. 2937 on State intelligence services and the national intelligence organization ([here](#)) amended in 2014 by Law No. 6532 ([here](#) in the official Gazette).

88. Article 6 of the Law No. 6532 gives *de facto* grants *MİT*' agents full impunity providing that

***“Public prosecutors shall notify the Undersecretariat of MIT when they receive any denunciation or complaint regarding the duties and activities of MIT and its members or when they learn of such a situation. If the Undersecretariat of MIT states or certifies that the matter is related to the duties and activities of MİT, no further judicial action shall be taken and no protection measures shall be applied”*** (unofficial translation<sup>25</sup>, Deepl).

89. In summary, it is sufficient for the *MİT* to claim that activities of abductions, enforced disappearances, incommunicado detentions, torture, and ill-treatment were performed in the frame of duties and activities of the *MİT* to escape all judicial proceedings.

***4.4 Turkish attempts to return Hizmet Movement sympathizers through extradition proceedings and Interpol notices***

90. Since 2016, Turkish authorities have made an extensive use of extradition requests to bring back *Hizmet* Movement sympathizers that would then be subjected to torture, ill-treatment and unfair trial. The Ministry of Justice publicly stated

*“So far (July 13, 2023), we have requested the extradition of 1,271 FETÖ members from 112 countries. 2 extradition requests were accepted from Romania and 1 extradition request was accepted from Algeria. 123 extradition requests were accepted by extraditing them to our country. A total of 126 FETÖ members have been extradited to our country”*.<sup>26</sup>

91. Türkiye is also one of the champion States instrumentalizing the procedures of Interpol (notably the red notices system), which main objective is to “ensure and promote the widest possible mutual assistance between all criminal police authorities within the limit of the laws existing in the different countries and in the spirit of the Universal Declaration of Human Rights,” in order to repress dissident voices, including journalists in exile, and in particular *Hizmet* Movement sympathizers and to ensure their return to Türkiye.

92. It has been reported that Türkiye attempted to upload the names of **60,000** people to the Interpol database for red-notice purposes. To provide a perspective on that number, in 2020, all in all (all Interpol countries taken together), 11,094 red notices were issued and 66,370 were valid at the end of the year. This led to the detention of German-Turkish writer Doğan Akhanli and Swedish-Turkish journalist Hamza Yalçın in August, 2017, on the basis of red notices (see paragraphs above on journalists and human rights defenders). In June 2021, Interpol rejected 773 red notice requests from Türkiye against *Hizmet* Movement sympathizers.<sup>27</sup>

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<sup>25</sup> Original: “Cumhuriyet savcıları, MİT görev ve faaliyetleri ile mensuplarına ilişkin herhangi bir ihbar veya şikâyet aldıklarında veya böyle bir durumu öğrendiklerinde MİT Müsteşarlığına bildirirler. MİT Müsteşarlığının, konunun görev ve faaliyetlerine ilişkin olduğunu belirtmesi veya belgelendirmesi hâlinde adli yönden başkaca bir işlem yapılmaz ve herhangi bir koruma tedbiri uygulanmaz”.

<sup>26</sup> See [here](#).

<sup>27</sup> Interpol officially announced to Euronews that it had rejected an earlier request from Turkey for a red notice for **Can Dündar (a journalist exiled in Germany)**, arguing that this request did not comply with its founding principles. See paragraphs 35 and f. above on journalists and human rights defenders.

93. Türkiye, facing a lack of cooperation from Interpol due to abuse of the “red notice” system, now abuses the Interpol procedures through the “Stolen and Lost Travel Document” system, which is subject to less scrutiny and checks from the organization. Through this process, Türkiye expects to secure *Hizmet* Movement sympathizers’ deportation when they travel.

94. In 2017, renowned athlete and human rights defender, Enes Kanter got arrested following both an Interpol red notice and “stolen and lost travel document” notice at the Bucharest airport. If it was not for the support of the U.S. Homeland Security, Senators and for his *green card*, he would have been deported to Türkiye and would still be in jail.

95. Interpol notices also allow swift identification by the *MİT* to organize illegal renditions (see for instance the case of *Mr. Taci Senturk v. Azerbaijan*, ECtHR, 10 March 2022, Application [No. 41326/17](#)).

**96. This led the Committee on the Elimination of Discrimination against Women to note with concerns**

***“reports of Turkish citizens, including women, being placed on the Interpol Red Notice list and having their passports cancelled while travelling abroad, in order to have them deported back to Türkiye” (CEDAW/C/TUR/CO/8, para. 41)***

**SUMMARY OF CONCERNS**

- IAHRAG is deeply concerned that the Turkish Intelligence services, *MİT (Milli İstihbarat Teşkilatı)*, are publicly engaged in secret renditions of *Hizmet* Movement sympathizers from abroad, praised by high level authorities, and that many of the persons abducted or forcibly returned have been subjected to incommunicado detentions amounting to enforced disappearances, including in clandestine and undisclosed facilities, and have been heavily tortured and ill-treated in order to obtain confessions to crimes or to incriminate others;
- IAHRAG is deeply concerned that Türkiye has secured the return of at least 126 individuals labelled as *Hizmet* Movement sympathizers since July 15, 2016, through extradition proceedings, and that it continues to engage in abusing Interpol notices’ system, in particular red notices and “stolen and lost travel document” notices, in order to have *Hizmet* Movement sympathizers deported;
- IAHRAG is deeply concerned that the Turkish Intelligence services, *MİT (Milli İstihbarat Teşkilatı)*, use secret detention and torture facilities and that *MİT* agents are *de facto* benefiting of total impunity from prosecution in application of article 6 of Law No. 2937 on State intelligence services and the national intelligence organization.

**5. Incarcerated mothers for so-called “terrorism” and children in detention with them (articles 2, 11 and 16 of the Convention)**

97. The Committee on the Rights of the Child in its latest concluding observations on Türkiye dedicated a full paragraph to ***children of incarcerated parents***:

*“Concerned about children whose parents have been deprived of liberty on terrorism-related charges, the numbers of whom have drastically risen following the attempted coup in 2016, the Committee recommends that the State party: (a) Seek alternatives to custodial sentences for pregnant women and parents with young children; (b) Ensure that, when the incarceration of caregivers is unavoidable, children have access to adequate early childhood education, nutrition and health services, enjoy the right to play and are visited regularly by social workers to guarantee their physical, mental and social development; (c) Address the denial of transfers to the closest facilities in line with the amended regulation on visits to convicts and prisoners” (CRC/C/TUR/CO/4-5, para. 33).*

98. Indeed, according to the official data from the Ministry of Justice, there were 552 children under the age of six accompanying their mothers in prisons in 2023. Data for 2022 indicated that there were 2,076

children in prison with detained or sentenced women. The rate of women incarcerated in Türkiye had tripled since July 2016.

99. A report (in Turkish) from CİSST<sup>28</sup>, Civil Society in the penal system, witnesses the many difficulties faced by children in prison, deprived of crayons, toys or carpets for crawling babies, deprived of their own bed, sharing their mother's food. Consistent statements from civil society organizations also report that many children do not have access to proper healthcare and women who had just given birth are not provided with follow-up care. Children are also regularly placed into solitary confinement with their mothers.

100. The situation was even more alarming in the aftermath of July 15, 2016. The *OHCHR Report on the impact of the state of emergency on human rights in Turkey*<sup>29</sup> pointed out that

*“OHCHR documented at least 50 cases of women who had given birth just prior to or just after being detained or arrested. (...) NGOs brought to the attention of OHCHR at least six cases of women who were detained while they were visiting their spouses in prison. They were either detained together with their children or violently separated from them. OHCHR has received reports of medical doctors and nurses fighting to prevent the police from handcuffing women in hospitals during or immediately after giving birth. It received a report concerning the detention of a woman who was shackled by her legs immediately after her miscarriage. OHCHR also collected evidence of a woman who gave birth by caesarean section and was arrested hours later at high risk to her and baby's health. OHCHR received credible reports that babies were held in inadequate conditions with their mothers, a situation which may constitute ill-treatment. A relative of a woman imprisoned in South-East Turkey told OHCHR: “My daughter has been jailed for a year on a made-up charge of support to terrorism. With her is her 13 month-old infant who has anaemia and a lung disease that requires him to spend a lot of time in fresh air, which is impossible in prison.” In another case, the mother of a prematurely born baby was removed from hospital after giving birth and taken to a prison 660 kilometers away, despite medical reports that the health of her baby, who could not be moved from the hospital incubator, was at risk unless breastfed by the mother. Mothers and children exposed to such practices face serious risks of health complications, stunting and even death. Their situation may amount to torture, cruel, inhuman or degrading treatment. Due to stress, many women report being mentally unwell and unable to breastfeed or to look after their children who are imprisoned with them. OHCHR recalls that, according to the Bangkok Rules, the State should ensure that children held with their imprisoned mothers are never treated as prisoners, and that the environment in which children are detained is as close as possible to conditions outside prisons. A comprehensive individual assessment for each child should be made considering the best interests of the child, and non-custodial measures should be preferred for pregnant women and those with dependent children”.*

101. Saide İnanç, a Kurdish singer (also a German citizen), who is known by the stage name of Hozan Canê, was detained on June 21, 2018 and arrested by a court six days later on charges that included membership in the outlawed Kurdistan Workers' Party (PKK) and insulting Turkish President Recep Tayyip Erdoğan and Atatürk. She was detained in Edirne prison and sent to a ward with 20 women from the Hizmet Movement. The singer explained that what affected her the most psychologically in prison was seeing the poor condition of a 15-day-old baby who was being taken care of without baby formula, diapers or cream to treat rashes. She described her experience:

*“Then I heard a child's voice. I looked around, I said, “Is there a child here?”; “Yes”, they said, “There is a child here”. I said, “How old is it?” They said, “It hasn't finished its 15 days yet.” I*

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<sup>28</sup> See report [here](#).

<sup>29</sup> March 2018, available [here](#).

was like, "Is the child here too?" They said, "This woman here has just given birth. Come and look at the child." A teacher inmate said, "No, don't let her see the child now." I didn't know the child was in that state. "Don't let him see it tonight, she's exhausted. Lay her on the bed, give her bread if there is any, otherwise there is nothing we can do." The next day the baby cried. I said, "Can I see the baby?" They said, "Are you sure, do you want to see it?" I said, "Let me see it, it's crying, my heart aches." **I saw the baby, oh my God, what is this... It was like the flesh of the baby was cooked. I said, "Who is the terrorist, who is the oppressor, just see this baby." After seeing that child, I started vomiting. The baby had a thin cloth on him, I really said, "Is this really the baby now?" They said, "Unfortunately, the child was born here." The mother's body was still black, they showed me. I was tortured so many times, but no bullet in the world pierced my body as much as that child's torture. All the flesh under the child's legs had been removed. They didn't give him milk, diapers, cream, or water to wash him. Come on, you torture adults, that baby was neither born a PKK member nor a FETÖ member, he was an angel. That child still comes to my dreams, my psychology is disturbed, I am still receiving treatment. When I see a child, I see that child.**<sup>30</sup>

102. Below is a collection of other testimonies:

18-month-old Saime, who has been in Ankara Sincan Prison with her mother since 21 January, has not been given diapers for 10 days. Mother YM, who told her family about the situation during a phone call on 19 October, said, "*Saime hasn't been given diapers for 10 days, I'm having troubles because of that.*" Her husband KM is also in prison. OC, aunt of baby Saime, who was arrested when her daughter was seven months old and spent 9 months in Konya Ereğli Prison, said that she also experienced the same situation.<sup>31</sup>

AG was sentenced to 10 days in solitary confinement with her 2-year-old baby in Tekirdağ Closed Prison.<sup>32</sup>

BA went in prison when she was 3.5 months old. She had been in solitary confinement with her mum. Mardin Execution Judicature rejected the application of her mother, who applied for probation to prevent her asthmatic baby from staying in the dire conditions of prison, on the grounds of 'solitary confinement'. She has severe asthma and bronchitis... She chokes even when she sucks his mother's milk and drinks water from a bottle. Her mother holds her in her arms all night because she cannot breathe at night. When she went to the hospital infirmary with congested lungs and a fever of 39.5, she was sent back with the words "It's hot, that's why", she fainted because the prescribed medicines did not help her asthma and bronchitis, and the ventilation device that his father had borrowed money to buy for the prison was no longer enough for her to breathe because it was too small. Her body is covered in sores due to the heat, thirst and the poor conditions of the prison. Her father could not even bring rash cream inside.<sup>33</sup>

On 12 May 2017, MK was arrested based on witness statements and the allegation of using Bylock, and spent 5 months in Denizli T Type Prison with her daughter, who was 2.5 years old at the time. She said: "*I thought she would be treated differently because she was a child, but she got her share of what was done to me. They never gave her a toy, a colouring book, a pencil, a story book. I wrote petitions every day to the inner canteen, outer canteen, prison directorate, sociologist, psychologist, wherever I knew where I could write. I asked for my child's needs, but I could not reach anyone in any way. My daughter was sick. They didn't take her to the doctor at first. The child was having a hard time breathing. I said will you take responsibility if something happens, then they took her out. When the doctor found out that her medication was not given, he said it was urgent, why didn't you give it to her? Then he*

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<sup>30</sup> Testimony available [here](#). For the video see [here](#).

<sup>31</sup> Available [here](#).

<sup>32</sup> Available [here](#).

<sup>33</sup> Available [here](#).

*gave me a syringe to make salt water and spray it into his nose. I said they don't give salt, the canteen didn't have any. They gave me a pinch of salt because the doctor said to give it. Hot water was not given for a few months. We had 5-litre water bottles lined up in the sun. We warmed them up a little and took a shower. We washed the child with it. **We were trying to produce toys for the child to play with, but they were collected during searches. We wanted to make a doll for my daughter.** A friend of ours had a prayer rug. One of these thin ones. We were slowly pulling a thread from there. One of our sisters had a needle. There was one needle for 20 people. Our sister nurse had taken fibre out of her own pillow. She found white socks from a friend. She sewed a doll for my daughter with these. My daughter loved that doll very much, she never left it behind. **We were making beds and swings out of rubbish bags. During a search, they took the child's doll away again because it was forbidden to produce. No matter how much we begged, they didn't listen. I mean, she was tiny, but they would search her badly too.** I can't say this for all of them, but one guard in particular used to shout a lot during searches. They didn't think that she was a child. They didn't fulfil her needs either. I feel very sorry for her. **When she sees some officers, she cowers against the wall and walks in fear, I see that a lot**".<sup>34</sup>*

103. The third edition of the report on *Social costs of the State of emergency*,<sup>35</sup> also provides an important number of testimonies. Here is only a selection:

*"A 4-year-old boy woke up after his mum went down for roll call and died after falling down the stairs from the 3rd floor."*

*"Some friends who had just given birth didn't want to keep their babies with them, so they had to express their milk in the sink".*

*"We were having trouble getting the baby supplies."*

*"I was pregnant and there was a risk of miscarriage, I was sent from one city to another city, I had a bleeding due to travelling. It happened again another time. A woman who was 8 months pregnant came to the next ward, she had diabetes, she couldn't eat the food. There were three children in my ward. Their mothers had spread the blankets they bought from the canteen on the floor to create a homely atmosphere. They could only walk around in that area without shoes. It was already small."*

*"I heard that a former woman judge was brought back to the cell the day after her miscarriage."*

*"There are cases I witnessed not in prison but in detention. I saw a woman who had just given birth being kept separated from her child, and I saw her crying all the time because she could not breastfeed her baby."*

*"During our stay in prison, we stayed with a 4.5-month-old baby for 6.5 months, a 22-month-old baby for 6 months, a 4.5-year-old child for 2 months and a 3-year-old child for 1 month. Due to the crowded and unhygienic conditions, the children were not allowed access to antipyretic syrups and medicines, especially at night. **There were many times when babies were taken to the emergency room at night without their mothers, despite our objections. Mothers were handcuffed in front of children taken to the doctor with their mothers.**"*

*"My wife and I were imprisoned in the same prison. In fact, my wife was detained and arrested on the day she came to the prison to see me and to tell me that she was pregnant. My wife was not given the medication she used due to her constant illness. Since she was pregnant and had a miscarriage before, I stated that I was worried about loss of life due to risky pregnancy, but the petition was not taken by the prison administration. The loss of life that my wife and I stated*

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<sup>34</sup> Available [here](#).

<sup>35</sup> A 1,713 pages academic report, in Turkish, based on research conducted between 20 July 2019 and 9 September 2019, on victims and relatives of the State of emergency measures in Türkiye prepared by Dr. Bayram Erzurumluoglu, launched at the Turkish Grand National Assembly with the support of HDP Deputy Mr. Omer Faruk Gergerlioglu. The report can be accessed [here](#).

*in our petition was realised and we lost our baby in prison under the ill-treatment and torture of those responsible for the ill-treatment and torture that would not even be inflicted on an animal, after being tortured in handcuffs in the hospital. Later, my wife was released after submitting her health reports to the court.”*

*“I was in the same ward with Ömer, who was in prison when he was only 4 months old. No toys were allowed inside, even 1 lira wet wipes were not given. A **6-month-old baby was given food for 1-2 year old children and the child could not consume it. He was eating the same black lentils we ate.** He was extremely afraid of the guards and was not allowed to go to the hospital with his mother when he was sick.”*

*“In the ward where I was staying, there was a 6-month-old baby who was arrested with his mother when he was 3 months old. He was told that his mother would not be allowed to buy nappies and that he had to use sheets. He was not given wet wipes to clean his diaper for a long time. He had nowhere to crawl around. He was staying with 16-17 people in a ward for 4 people.”*

103. IAHRAG also brings to the attention of the Committee the large number of mothers incarcerated with severely sick children. After the tragic and viral case of 6-year-old Yusuf Kerim Sayın with critically advanced stage of cancer, whose mother Gülten Sayın was arbitrary detained for bogus terrorism charges, a new provision to the Law No. 5275 on the Execution of Criminal and Security Measures had been added with the title “*article on the suspension of the execution of the sentence of the female convict due to the illness of her child*”. It aims at suspending the execution of the sentences of female convicts sentenced to less than 10 years imprisonment and who have children under the age of 18 who are in need of care due to disability or who are suffering from a serious illness (the law allows for a delay of up to 1 year under certain obligations, and the delay can be extended for another 2 years in 6-month periods). However, the implementation of the provision remain deeply arbitrary for women incarcerated for their link with the *Hizmet* Movement.

## **SUMMARY OF CONCERNS**

- IAHRAG is deeply concerned at the consistent reports, including from the Office of the High Commissioner for Human Rights, of pregnant detained women handcuffed while giving birth or immediately after giving birth, separated from their babies after giving birth, immediately shackled by legs right after miscarriage, among harsh practices amounting to torture and ill-treatment;
- IAHRAG is deeply concerned at the high number of babies and children detained with their mothers deprived of liberty on terrorism-related charges, in particular for links with the *Hizmet* Movement, the numbers of whom have drastically risen following the attempted coup in 2016, and at the unsuitable material and harsh conditions of detentions for babies and children amounting to torture and ill-treatment;
- Recalling the Bangkok rules according to which children detained with their mother should never be treated as prisoners, IAHRAG is deeply concerned at testimonies that babies and children are placed with their mothers in solitary confinement;
- IAHRAG is deeply concerned that in spite of Article 23 of the Turkish Law No. 7445, which was added to the Law No. 5275 on the Execution of Criminal and Security Measures with the article titled Postponement of the execution of the sentence of the female convict due to the illness of her child, mothers with severely sick children are still barred from release.



## 6. Recommendations

- Recalling the absolute prohibition of torture contained in article 2 para. 2 of the Convention, which states that “*no exceptional circumstances whatsoever, whether ... internal political instability or any other public emergency may be invoked as a justification of torture*”, Türkiye should immediately put an end to the ongoing persecution of *Hizmet* movement sympathizers, following the coup attempt of July 15, 2016, resulting into a massive number of cases of heavy torture and ill-treatment, mass arrests and detentions, enforced disappearances, illegal renditions including abductions, unfair mass dismissals, in particular of judges, and judicial harassment of human rights defenders and journalists for their links, real or alleged, with the *Hizmet* Movement. Türkiye should in particular: (a) immediately repeal provisions of Law Nos. 6749, 6755 and 7079, which approved emergency decree laws Nos. 667, 668 and 696, exempting public servants but also civilians from “*legal, administrative, financial and criminal liabilities*” for actions and measures aiming at suppressing the coup attempt or terror incidents; (b) ensure that all complaints of torture and ill-treatment from *Hizmet* Movement sympathizers are investigated promptly and impartially and ensure that the alleged perpetrators are duly prosecuted and, if found guilty, given a sentence commensurate with the gravity of their acts, guaranteeing appropriate redress for the victims; (c) ensure that the processes of purge of public servants, including judges and prosecutors, are transparent and impartial and provide effective redress to persons and institutions dismissed or closed for their links, real or alleged, with the *Hizmet* Movement; and (d) ensure that adequate and effective legal safeguards and fair trial guarantees are in place in practice and that no arbitrary arrest, unlawful detention or enforced disappearance is carried out against *Hizmet* Movement sympathizers under the guise of countering terrorism. Türkiye should implement decisions of international jurisdictions regarding *Hizmet* Movement sympathizers, in particular the European Court of Human Rights’ judgment, *Yüksel Yalçinkaya v. Türkiye* (15669/20), in which the Court found a systemic issue on court proceedings in terrorism cases with currently 8,000 similar pending cases, a number expected to significantly increase in the future;
- Türkiye should review its definition of terrorism in its legislation to ensure that it is in line with the Convention and international standards and ensure that anti-terrorism legislation and practices are not used to unduly restrict the rights enshrined in the Convention. Türkiye should in particular: (a) reduce the length of time that a person suspected of terrorism can be held into police custody without formal charges; (b) ensure that all allegations of torture, ill-treatment and other violations committed by public officials against persons accused of involvement in terrorist acts are promptly, impartially and effectively investigated, that those responsible are prosecuted and duly punished, and that victims obtain redress; and (c) ensure that adequate and effective legal safeguards and fair trial guarantees are in place in practice and that no arbitrary arrest, unlawful detention or enforced disappearance is carried out under the guise of countering terrorism. Türkiye should immediately put an end to the weaponization of anti-terrorism legislation against human rights defenders and journalists and in particular: (a) investigate thoroughly, impartially and without delay all allegations of unlawful or arbitrary arrest and detention, prosecution, torture or ill-treatment of, or violence against, journalists; and (b) release all persons who remain in detention for having expressed their opinions, in particular when international bodies have rendered release decision, such as the United Nations Working Group on Arbitrary Detention’s opinion on the case of Mr. Ali Ünal;
- Türkiye should ensure the full independence, impartiality and effectiveness of the judiciary and the public prosecution in practice and guarantee that they are free to operate without undue pressure or interference. In that regard, Türkiye should immediately repeal article 26 of Law No. 7145 of July 31, 2018 granting the Government extraordinary powers to dismiss public officials, including judges and prosecutors “*assessed to have been members of or active in union with or been in contact with terrorist organizations or structures, entities or groups that the National Security Council has decided are engaged in activities against the nation*”;

- Türkiye should put an end to its campaign of abductions and illegal renditions perpetrated by Turkish Intelligence services, *MİT* (*Milli İstihbarat Teşkilatı*), performed under the guise of countering terrorism, in particular against *Hizmet* Movement sympathizers. It should in addition: (a) ensure that independent monitors can conduct confidential visits with all persons who have been the subject of forced or illegal rendition and transfer to Türkiye, and that such persons have access to effective complaints; (b) investigate allegations of secret detention facilities in which persons who have been the subject of forced or illegal rendition and transfer to Türkiye are incommunicado kept and heavily tortured; (c) conduct immediate, thorough and impartial investigations on allegations of torture and ill-treatment and that those responsible are prosecuted and duly punished, and that victims obtain redress; and (d) repeal article 6 of Law No. 2937 on State intelligence services and the national intelligence organization granting *de facto* impunity from prosecution to *MİT* agents. Türkiye should guarantee that the trials of all persons who have been forcibly returned to Türkiye respect international standards and that they enjoy, from the very outset of their deprivation of liberty all fundamental legal safeguards;
- Echoing the Committee on the Rights of the Child recommendations, Türkiye should: (a) seek alternatives to custodial sentences for pregnant women or mothers of young children; (b) ensure that incarcerated pregnant women have access to adequate health facilities; (c) strictly abide by the Bangkok rules and provide children with adequate conditions when incarcerated with their mother; and (d) consistently and without discrimination apply provision of Law No. 7445 which allow the postponement of execution of sentences for female convicts due to illness of their child;
- Türkiye should immediately investigate credible allegations, supported by the 2018 OHCHR' report, of harsh practices and treatments on pregnant women or delivering women in detention amounting to torture and ill-treatment in the aftermath of July 15, 2016.