

Journalists and Writers Foundation's

**ALTERNATIVE REPORT**

**TO THE 142<sup>ND</sup> SESSION OF**

**THE HUMAN RIGHTS COMMITTEE**

14 October – 4 November 2024

In View of the Examination of  
**the Second Periodic Report of**  
the Republic of Türkiye



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## **Preliminary Observations**

The present report is drafted and presented by the Journalists and Writers Foundation (hereafter: “JWF”) to the 142<sup>nd</sup> session of the Human Rights Committee (hereafter: “CCPR” or “the Committee”), as a parallel report in view of the examination of the second Periodic Report of the Republic of Türkiye (hereafter: “Türkiye” or “the State party”) for the implementation of the ICCPR.

The JWF is a New York based international civil society organization dedicated to globally advance peace, human rights and sustainable development. The JWF has extensive experience with the United Nations human rights system, *inter alia*, in interventions before United Nations treaty bodies and special procedures of the Human Rights Council.

As part of its global human rights advocacy, the Journalists and Writers Foundation monitors, *inter alia*, the implementation of the ICCPR by State parties to the Covenant. The present submission follows the contribution of the JWF for the LoIPR of Türkiye,<sup>1</sup> submitted on May 4, 2021, highlighting issues of relevance to the implementation of civil and political rights by Türkiye.

Since the consideration of the initial report in 2012, there has been insignificant progress, *if any*, as regards the human rights situation in Türkiye.

In particular since the July 15, 2016, attempted coup (hereafter: “attempted coup”) and the state of emergency (hereafter: “SOE”) declared in its aftermath, Türkiye has experienced a sharp declining trend in almost all human rights indicators, including the rights and freedoms protected by the ICCPR.

The attempted coup paved the way to an unprecedented crackdown on all dissent, real or not, which is ongoing and has only intensified. In addition to the oppression in Türkiye, using an expansive guilt by association approach, in its transnational repression efforts the Government of Türkiye continues to also aggressively pursue dissidents around the world.<sup>2</sup>

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<sup>2</sup> See also: <http://jwf.org/jwf/wp-content/uploads/2019/10/JWF-Report-2019-Erdogans-Policies-A-Threat-to-Global-Peace-and-Security.pdf>

### **A. General Information on the National Human Rights Situation - Human Rights Action Plan (HRAP), 2 March 2021. State Report, paras 8-13.**

On March 2, 2021, Turkish authorities announced the HRAP with “Free Individual, Strong Society: More Democratic Türkiye” vision. HRAP, according to the authorities defines 11 main principles and covers 9 aims, 50 goals and 393 activities.

Despite the announcement of the HRAP in March 2021, the absence of political will, in addition to the lack of accountability and any implementation mechanisms renders the initiative completely futile. As serious human rights violations continue unchecked, the initiative remains a symbolic gesture without any impact on the human rights situation in the country.

Less than three months following the announcement of HRAP, on May 31, 2021, Turkish intelligence services abducted and illegally transferred to Türkiye a perceived member of Hizmet Movement (Orhan İnandı) from Kyrgyzstan. Due to excessive use of force during his abduction, Orhan İnandı's upper right arm (bicep) and lower part were broken, and his arm was later put in a cast. Transnational repression efforts ever since have not ceased, and the Government of Türkiye has openly pledged to continue abductions and illegal transfers in the future.

The **2019 Judicial Reform Strategy (JRS)**, which according to the authorities was prepared with “*A trustworthy and accessible justice*” vision, contains 9 aims, 63 goals and 256 activities. State Report, paras 14-16. The JRS however failed to address key shortcomings as follow: (i) The political control over the Council of Judges and Prosecutors;<sup>3</sup> (ii) the increased executive’s influence over the judiciary following the attempted coup attempt of July 15, 2016; (iii) the dismissal of 4,362 judges and prosecutors, criminal investigations against approximately 4,370 judges and prosecutors, with 1,311 taken into custody and 2,431 arrested for alleged links to Hizmet Movement;<sup>4</sup> (iv) the failure to reinstate the Turkish Association of Judges and Prosecutors (YARSAV), which had more than 1.800 members; (v) more than 1.600 lawyers were reportedly prosecuted and 615 were placed in pretrial detention since the attempted coup, with another 474 lawyers sentenced to 2.966 years of imprisonment on the grounds of membership in a “terrorist organization;”<sup>5</sup> (vi) the 2020 Law on lawyers (No. 7249), introduced even the possibility to create competing bar associations in large cities; (vii) failure to address the problematic criminal judgements of peace introduced with the amendments of 2014.

Finally, most recently the Court of Cassation has repeatedly refused to implement the Constitutional Court decision, supported by a criminal complaint and endorsed by President

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<sup>3</sup> In particular, the composition and procedures of the Council do not comply with the Recommendation of the Council of Europe on judges: independence, efficiency and responsibility that “[n]ot less than half the members of [councils for the judiciary] should be judges chosen by their peers from all levels of the judiciary and with respect for pluralism inside the judiciary. See CoE Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para 27.

<sup>4</sup> See also AL TUR 10/2019, AL TUR 2/2019, OL TUR 5/2017 and AL TUR 3/2024.

<sup>5</sup> see AL TUR 18/2020 and AL TUR 5/2023

Erdoğan, as a crisis without precedent that might lead to the eradication of the last judiciary mechanism that could serve as a check and balance on the power of the executive.<sup>6</sup>

### **Rights of minorities (Art. 2 and 27)**

Members of minorities, including those belonging to ethnic, religious or linguistic minorities continue to suffer discrimination and undue restrictions.

#### Proposed Recommendation

- Withdraw the reservation with respect to Article 27 of the Covenant.

### **B. Specific information on the implementation of Articles 1-27 of ICCPR**

#### **Article 2 - State Report, paras 19-25**

The State party improperly claims that HREIT and the Ombudsman's Institution were established (and function) in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). HREIT and OI lack the independence required under the Paris Principles to monitor the human rights situation and protect and promote human rights.<sup>7</sup>

#### Proposed Recommendation

- Take immediate legal, administrative and practical measures to obtain the 'A' accreditation for the National Human Rights Institution.

#### **Hate Crime (State Report, paras 57-58)**

Particularly since the attempted coup of July 2016, deliberate and intentional actions by the Government of Türkiye, and at its behest or on its behalf hundreds of organizations and other entities across the globe funded by it, constitute incitement to discrimination, hostility or violence against individuals based on their religion or belief, hindering *inter alia* full enjoyment of fundamental rights and freedoms.

In its report published on March 10, 2017, the Office of the High Commissioner for Human Rights expresses deep concern that “apart from unlawful deaths and the excessive use of force (such as shelling densely populated areas with heavy artillery and tanks), OHCHR has also documented numerous cases of enforced disappearances; torture; destruction of housing and cultural heritage; incitement to hatred; prevention of access to emergency medical care, food, water and livelihoods;

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<sup>6</sup> See also AL TUR 3/2024.

<sup>7</sup> <https://ganhri.org/membership/>

violence against women; and severe curtailment of the rights to freedom of opinion and expression as well as interference with the right to participate in public life.<sup>8</sup>

Between December 21, 2013, and May 1, 2017, civil society organizations have identified 240 insults by President Erdoğan against the alleged members of the Hizmet Movement. His favorite set of insults includes: “*Ignoble, traitors, scoundrels, Hashashin, blood-sucking vampires, false preacher, tomb raiders, malignant tumor, impostors, mean.*”<sup>9</sup> Each derogatory phrase and instance of hate speech has been voiced by President Erdoğan dozens and even hundreds of times, repeatedly employing it in public speeches, and asking the public to use them.

These derogatory insults are aimed not only at “normalizing” torture and ill-treatment by law enforcement against perceived members of Hizmet Movement, but also to provide assurances for immunity to all law enforcement in case they are involved in acts of torture.

Following the attempted coup of July 15, 2016, across Türkiye, large banners displayed in public offices, other public facilities, restaurants and different shops state that “Parallels and sympathizers of parallels [Hizmet Movement] are not allowed inside.”<sup>10</sup> “Are you also pro-FETO?,” read two banners hung on a pole in Ankara’s Altındağ district.<sup>11</sup> “We will execute Gulen, his followers,” reads AK Party (ruling party) banner in Taksim.<sup>12</sup>

The examples provided above and scores of allegations following the attempted coup of July 2016, indicate that thousands of Turkish nationals have allegedly been victims of targeted atrocity crimes.<sup>13</sup>

### Proposed Recommendations

- Investigate all reports of violations of international humanitarian law and human rights law in Türkiye by state officials and other actors during the reporting period.
- Establish, as a matter of priority, credible mechanisms to ensure that those responsible for hate crimes are held accountable.

<sup>8</sup> OHCHR, Report on the human rights situation in South-East Turkey, July 2015 to December 2016

<sup>9</sup> See for more: [http://stockholmcf.org/wp-content/uploads/2017/06/Erdogans-Vile-Campaign-Of-Hate-Speech-Case-Study-Targeting-Of-The-Gulen-Movement\\_2017.pdf](http://stockholmcf.org/wp-content/uploads/2017/06/Erdogans-Vile-Campaign-Of-Hate-Speech-Case-Study-Targeting-Of-The-Gulen-Movement_2017.pdf)

<sup>10</sup> See for example: <https://turkeypurge.com/parallels-not-allowed-banner-hung-on-turkish-restaurants>.

<sup>11</sup> <https://turkeypurge.com/are-you-gulenist-banner-hung-on-street-asks-education-director>.

<sup>12</sup> Available at:

<https://turkeypurge.com/we-will-execute-gulen-his-followers-reads-ak-party-banner-in-taksim>

<sup>13</sup> “Atrocity crimes” refers to three legally defined international crimes: genocide, crimes against humanity and war crimes. Atrocity crimes are considered to be the most serious crimes against humankind. Their status as international crimes is based on the belief that the acts associated with them affect the core dignity of human beings, in particular the persons that should be most protected by States, both in times of peace and in times of war.

#### **Article 4 – State of Emergency (State Report paras 59-66)**

On July 20, 2016, the Government declared a SOE for three months. “*The purpose of the SOE is [was] to take required measures in the most speedy and effective manner in the fight against FETÖ/PDY<sup>14</sup> terrorist organization.*”<sup>15</sup> On July 21, 2016 the SOE decision was communicated to the UN and the CoE, along with a notice of derogation from the ICCPR and ECHR.<sup>16</sup> The government notified the UNSG of its invocation of Article 4 of the ICCPR, and that the derogation involved obligations under thirteen articles.<sup>17</sup>

Under Article 4, a State party may proclaim a SOE and take relevant measures therein, if these measures are consistent with State’s domestic and international law obligations and they are not excessively broad; thus, used to restrict the exercise of basic rights in an unjustifiable manner. The declaration of the SOE and measures taken in its context in Türkiye between July 2016 and July 2018 were contrary to the Siracusa principles,<sup>18</sup> the principles of legality and proportionality.

First, the notification instrument of Türkiye submitted to the UNSG under Article 4 contained a list of provisions affected by the emergency measures, but not their description.

Second, from July 1 until October 1, 2016, the Turkish Grand Assembly was on summer recess and unlike the declaration of the SOE, it did not reconvene to approve the SOE decrees issued by the government in July-September 2016, which also constitute an urgent matter. Only after returning from recess on October 18, 2016, the Parliament discussed and accepted the first decree law enacted by the Government (No. 667) and began examining subsequent decree laws. Decree Laws 668, 669, and 671 were approved by the Parliament on November 8 and 9, 2016 respectively, more than 30 days after the end of the summer recess. Decree Law No. 674 was approved on November 10, 2016. These delays are materially important as in practice they allowed the government to legislate and rule through emergency decree laws without any parliamentary oversight for at least a period of over two months.

Third, the far-reaching, increasingly repressive, and almost unlimited discretionary powers exercised by the Turkish authorities during the state of emergency endangered the general principles of the rule of law and human rights safeguards, the ones the SOE is designed to protect. Measures taken under the SOE must be derogating from the ICCPR only to the extent strictly required by the situation, and therefore must be proportionate to the aim pursued. In the aftermath of the attempted coup, there may have been a need to take immediate action in respect of a *very limited number* of persons (according to the government around 8,000 individuals) who, due to

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<sup>14</sup> FETÖ (Fethullahçı Terör Örgütü) or Gülenist Terror Organization is a derogatory term used by President Recep Tayyip Erdoğan and his political associates to refer to the Hizmet Movement

<sup>15</sup> Committee against Torture, *Concluding observations on the fourth periodic report of Turkey, Addendum Information received from Turkey on follow-up to the concluding observations* (CAT/C/TUR/CO/4/Add.1), November 8, 2016, para 70

<sup>16</sup> Journalists and Writers Foundation, *Post-Coup Turkey: State of Emergency, Torture and Impunity*, Oct 2016, p. 7

<sup>17</sup> OHCHR, *UN experts urge Turkey to adhere to its human rights obligations even in time of declared emergency*, August 19, 2016

<sup>18</sup> <http://www.refworld.org/docid/4672bc122.html>

their functions (army, police, security personnel etc.), represented a potential security threat, followed by a fair legal process. By contrast, eight years following the attempted coup, the ongoing crackdown on Turkish dissent, both in Türkiye and around the world has only intensified. According to the Turkish authorities:

- 705,172 individuals have been investigated over alleged links to the Hizmet Movement.
- 13,251 individuals accused of Hizmet links are currently in pre-trial detention or convicted of terrorism.
- More than 130,000 public servants as well as 24,706 members of the armed forces were dismissed in the aftermath of the attempted coup for alleged membership in or relationships with “terrorist organizations”.
- 4,006 prosecutors and judges were dismissed due to alleged Hizmet Movement links.

According to the Turkish authorities,<sup>19</sup> only between June 1, 2023, and May 15, 2024, Turkish authorities carried out a total of 5,191 operations against individuals with alleged ties to Hizmet Movement, detaining 8,153 persons. Relevant Turkish courts thereafter ruled to arrest 1,518 and to impose judicial supervision measures over 1,751 other individuals.

Fourth, in the context of an emergency situation “*strict limits on the duration, circumstance and scope of such [emergency] powers [of the Government] is essential*”. Other threats to the public order and safety should be dealt with by means of ordinary legislation. During the SOE and its aftermath, the government has taken permanent measures, which go beyond a temporary SOE. Civil servants were dismissed, not merely suspended, organizations and bodies were dissolved, and their property instantly confiscated. In addition, the government has made several important structural changes to the legislation, which should have normally been done through ordinary legislative process outside of the emergency period.

New counterterrorism legislation adopted immediately after the end of the SOE (State report, para 66) contains many of the measures similar to the extraordinary powers vested upon the government during the SOE.<sup>20</sup>

### Proposed Recommendations

- Take legal, administrative and practical measures to reverse all measures of a permanent nature, and the changes made to the legal framework during the SOE.
- Ensure that the Criminal Code, Criminal Procedural Code, the Anti-Terror Law, and other laws used to restrict human rights and freedoms are revised to comply with international human rights standards.

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<sup>19</sup> <https://turkishminute.com/2024/05/24/turkey-detained-over-8000-people-on-gulen-link-in-past-11-months-minister/>

<sup>20</sup> These powers include broad powers of the executive to restrict freedoms of assembly and movement; three-year executive authority to dismiss public officials by administrative decisions; and expanded police powers including custody periods for up to 12 days.



## **Covid-19 Measures at Penitentiary Institutions**

Individuals charged or convicted on terror offenses since 2016 have been at a disproportionate high risk of being impacted by the COVID-19 outbreak, since they were denied medical treatment, and lacked adequate health care and food supplies, adequate access to potable water, heating, ventilation, and lighting.

Pre-existing structural problems, such as chronic overcrowding and unhygienic conditions, coupled with the lack of proper access to healthcare enabled the rapid spread of COVID-19 in the notorious Silivri Prison in Istanbul, where in November 2019 a Parliamentary Investigation Committee found that 22,781 inmates were deprived of their liberty, despite its official capacity of 11,000. Reports from the prison in April 2020 indicated that all inmates in wards B10 and B12 tested positive for COVID-19.

Amendments to the Law on the Execution of Sentences and Security Measures were approved by the Parliament on April 13, 2020, as the Minister of Justice announced that 17 prisoners in five prisons had contracted COVID-19 and three prisoners held in open prisons had died. The law enabled the release of up to 100,000 prisoners, however political prisoners convicted in unfair trials under Türkiye's overly broad anti-terrorism laws and imprisoned solely for expressing their peaceful views were not eligible for release.

Law No. 5275<sup>21</sup> also provides for the postponement of execution of sentences due to illness, in particular if the execution of the prison sentence even in this way presents an absolute danger for the life of the convict.<sup>22</sup> The provisions of the law however did not apply to those accused of Hizmet ties. Under the above circumstances, the exclusion of political prisoners from early release pursuant to Law No. 7242 constitutes a violation of the right to life, as provided for in ICCPR Article 6. According to official statistics,<sup>23</sup> this discriminatory practice has resulted in more than fifty (50) unwarranted deaths among political prisoners by May 2021, most of them perceived members of Hizmet Movement.<sup>24</sup>

On August 29, 2020, then 44-years-old former Deputy Police Chief Mustafa Kabakçioğlu first detained on July 26, 2016, was found dead sitting on a plastic chair in his cell at the Gümüşhane E Type Closed Prison, after nine days in quarantine.<sup>25</sup> Already an asthma patient, under custody Mustafa Kabakçioğlu lost 40 kg and developed diabetes, due to the poor conditions of the Gümüşhane E Type Closed Prison. His test results for COVID-19 came back negative on the day that he was found dead.

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<sup>21</sup> Law "On the execution of penalties and security measures". See Article 16 (1) and (2).

<sup>22</sup> The text of the law is available here: <http://www.lawsturkey.com/law/the-law-on-the-execution-of-penalties-and-security-measures-5275>

<sup>23</sup> <https://www.turkishminute.com/2021/05/28/50-havedied-of-covid19-in-turkeys-jails-since-start-of-pandemic-prison-authority/>

<sup>24</sup> See for example: <https://www.turkishminute.com/2021/05/22/report-revealed-criminal-neglect-in-case-of-academic-who-died-of-covid-19-in-prison/>

<sup>25</sup> See for more: <https://turkeypurge.com/purge-victim-deputy-police-chief-found-dead-in-a-quarantine-cell-in-turkish-prison>

### Proposed Recommendations

- Immediately release all political prisoners.
- Take all the measures necessary to prevent the spread of COVID-19 and other communicable diseases in places of deprivation from liberty in Türkiye.

### **Counter Terrorism Measures – Articles 2, 4, 6, 7, 9, 14 and 17**

Türkiye first adopted Law No. 6415<sup>26</sup> in February 2003 to address legal deficiencies and its practices in relation to money laundering and anti-terrorism financing, which were properly identified earlier in 2011 by the FATF.<sup>27</sup> Under the Law, individuals and organizations are accused on the existence of reasonable grounds that they have committed the offense of collecting or providing funds to finance terrorism. In December 2019, the FATF warned that unless it improved its “serious shortcomings,” Türkiye ran the risk of being added to the grey list again. In Türkiye’s mutual evaluation report in 2019, the FATF highlighted Türkiye’s “need to improve measures for freezing assets linked to terrorism and proliferation of weapons of mass destruction.”<sup>28</sup>

With the view of avoiding being included again in the Grey List, in January 2021 Türkiye amended its Law on the Prevention of the Financing of Terrorism. The need for amendments to Law no. 6415 however was used as a justification by the Government of Türkiye to add additional tools to its “inventory” of transnational repression. Amendments to Article 7 of Law no. 6415 are noteworthy, as they contain provisions which enable requests to freeze assets addressed to other countries and set out procedures for freezing of assets in Türkiye.

The European Commission in particular expressed concern that “the law - also based on FATF recommendations - imperiled civil society organizations, which now face penalties and undue monitoring of fundraising. Amnesty International stated that Türkiye's government will “almost certainly” use the law to target non-profit organizations. It is an “unintended consequence” of FATF policies “which are all too often misused by repressive governments” to restrict rights, Amnesty said, calling on the FATF to push Turkish authorities to adjust the law.

FATF seems to also be fully aware of concerns over Türkiye's treatment of non-profit organizations (NPOs), underlining that, “Türkiye needs to implement a true risk-based approach to NPOs and ensure authorities don't disrupt or discourage legitimate activity.”<sup>29</sup> In addition, the FATF press release of October 21, 2022, properly highlights the following: “Türkiye should continue to work on implementing its action plan to address its strategic deficiencies, including by: [...] (7) to fully implement a risk-based approach to supervision of non-profit organizations to prevent their abuse for terrorist financing, taking steps to ensure that audits conducted are risk-

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<sup>26</sup> Law On the Prevention of the Financing of Terrorism

<sup>27</sup> The FATF first put Türkiye on its grey list in 2011. See <https://iclg.com/briefing/17468-turkey-added-to-global-financial-watchdog-s-grey-list#:~:text=The%20FATF%20first%20put%20Turkey,to%20the%20grey%20list%20again.>

<sup>28</sup> <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-turkey-2019.html>

<sup>29</sup> <https://www.reuters.com/business/finance-watchdog-grey-lists-turkey-threat-investment-2021-10-21/>

based, that supervision does not disrupt or discourage legitimate NPO activity such as fundraising, and that sanctions applied are proportionate to any violations. The FATF continues to monitor Türkiye's oversight of the NPO sector. Türkiye is urged to demonstrate the implementation of the risk-based approach to supervision of NPOs in line with the FATF Standards.”

Pursuant to the provisions of the amendments introduced in January 2021, in April 2021 Türkiye adopted an asset-freezing decree concerning 377 individuals, 205 of them allegedly linked to Hizmet Movement. A second wave of “asset-freezing” materialized on December 24, 2021, as the Turkish Ministry of Treasury and Finance froze the assets of over 770 individuals and organizations<sup>30</sup> on grounds that they were providing terrorist financing.<sup>31</sup> Among the individuals sanctioned were 454 members of the Hizmet Movement, 108 members of the Kurdistan Workers' Party (PKK), 119 individuals accused of being part of terrorist organizations that exploit religion, and 89 people accused of being part of left-wing terrorist organizations. The list also included the US-based Hizmet Movement-affiliated Niagara Foundation, a non-profit organization. In principle those whose assets have been frozen can appeal the decision to the Ankara Heavy Penal Court; given the practical restrictions however, it is almost impossible for any dissident residing abroad to establish effective access to the Turkish legal system.

The recent crackdown on dissent and the detention of thousands of individuals believed to be affiliated with the Hizmet Movement have been characterized as efforts against a purportedly “reorganized” Hizmet network in Turkey. On May 7, 2024, for instance, police detained 15 children aged 13 to 17. This was followed by a detention order for 27 more individuals and an indictment against 41 people. The 529-page indictment includes 418 pages focused on alleged “terror actions” derived from phone taps and physical surveillance, which in many cases amount to routine conversations among female university students. The hearings for this case are scheduled to take place before the Istanbul 24<sup>th</sup> High Criminal Court on September 23, 24, 25, 26, and 27, 2024.

### Proposed Recommendations

- Act in compliance with its obligations under the international treaties into force to protect human rights, in line with the UN Guiding Principles for Business and Human Rights<sup>32</sup> and General Comment No. 24 of CESCR.<sup>33</sup>
- Closely work with FATF, providers of financial markets data and financial institutions, to ensure that anti-terror financing measures are not misused as a tool of transnational repression.

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<sup>30</sup> See for example: <https://www.jurist.org/news/2021/12/turkey-freezes-assets-of-individuals-and-organizations-accused-of-funding-terrorism/>

<sup>31</sup> The decision was published in Türkiye's official gazette and signed by Treasury and Finance Minister Nureddin Nebati and Interior Minister Suleyman Soylu. [https://www.resmigazete.gov.tr/eskiler/2021/12/20211224-16.pdf?\\_x\\_tr\\_sl=auto&\\_x\\_tr\\_tl=en&\\_x\\_tr\\_hl=en-US](https://www.resmigazete.gov.tr/eskiler/2021/12/20211224-16.pdf?_x_tr_sl=auto&_x_tr_tl=en&_x_tr_hl=en-US)

<sup>32</sup> [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf)

<sup>33</sup> <https://www.refworld.org/docid/5beacba4.html>

- Provide for appropriate means of redress to aggrieved individuals or groups and ensure corporate accountability,<sup>34</sup> including through relevant administrative and judicial bodies.

### **Violence Against Women – Articles 2, 3, 6, 7 and 26**

Under the Justice and Development Party (AKP) rule since 2002, Türkiye has experienced a sharp declining trend in almost all democratic indicators, including the rights of women. They continue to face unique challenges driven by government-promoted discrimination and stereotypes about their so-called “appropriate role”, including frequent demeaning statements about women who do not adhere to traditional roles. Islamist ruling AKP has also encouraged female subservience, with President Erdoğan even calling childless women “deficient”.

Kurdish women and women allegedly linked to the Hizmet Movement suffer disproportionate multi-faceted discrimination, particularly as regards equal access to political participation, health, education, employment, and justice, both in law and practice. In addition, women belonging to the above marginalized groups face economic hardship, exclusion, and violence, humiliating and degrading treatment in places where persons are deprived of liberty, including in health-care facilities, especially during pregnancy, childbirth, and the postpartum period.<sup>35</sup>

Tens of thousands of women, including housewives, journalists, teachers, academics, physicians, health care professionals and businesswomen, have been detained in the aftermath of the attempted coup, for allegedly having links to Hizmet. Many religious leaders and radical Islamic groups have even made public statements suggesting that, “*women and girls from Hizmet are subjects of the pro-Erdogan supporters.*”<sup>36</sup>

Based on numerous interviews and credible reports, by 2017 the OHCHR identified a particularly alarming pattern of detaining women just before or immediately after giving birth. OHCHR estimated in 2018 that “*approximately 600 women with young children were being held in detention in Türkiye as of December 2017. In almost all cases, they were arrested as ‘associates’ of their husbands – who were the Government’s primary suspects for connection to terrorist organizations - without separate evidence supporting charges against them.*”<sup>37</sup> The Ministry of Justice announced on March 9, 2021, that 317 mothers were held in prisons, along with 345 children from 0 to 6 years old.<sup>38</sup>

Despite seemingly meaningful domestic legal efforts, due to the lack of implementation, violence against women has increased. Fewer perpetrators are being punished for their crimes, leading

<sup>34</sup> See the Committee’s general comment No. 9 (1998) on the domestic application of the Covenant, para. 2

<sup>35</sup> A postpartum period or postnatal period is the period beginning immediately after the birth of a child and extending for about six weeks

<sup>36</sup> See also: <https://www.turkishminute.com/2018/06/18/opinion-erdogan-govt-turns-to-rape-as-a-political-weapon-in-turkey/>

<sup>37</sup> OHCHR, “*Report on the impact of the state of emergency on human rights in Türkiye, including an update on the South-East (January – December 2017), March 2018*, paras 12 and 78. The report is available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22853&LangID=E>.

<sup>38</sup> <https://cte.adalet.gov.tr/Home/SayfaDetay/basin-aciklamasi09032021045708>



largely to a culture of impunity across the country. The Turkish Family and Social Services Minister was widely criticized as she indicated that the increase of violence against women during the lockdown measures was “tolerable”.<sup>39</sup>

In March 2021, Türkiye also withdrew from the Istanbul Convention, a critical safeguard combatting violence against women, which has steadily increased in Türkiye. In 2016 - 328 women were killed by men; in 2017 - 409, with 387 children and 332 women sexually abused; in 2018 - 440 women murdered and 317 sexually assaulted; in 2019 - 474 women were murdered; and in 2020 – 300 women were killed by men and 171 women found dead in suspicious circumstances.

A 2018 report showed that a total of 482,908 girls under 18 were married since 2008 (during a period of 10 years) in Türkiye, despite the legal marriage age being 18. According to the data (for 2018) from Türkiye’s Statistical Institute (TURKSTAT), 167 minors younger than 15 years old gave birth in 2018. 11 636 minors giving birth in the same year were from 15-27 years old. In total, out of the 1,248,847 births in 2018, 11,803 babies were born to minor mothers. In the beginning of 2016, a fatwa issued by the Presidency of Religious Affairs, stated that, “*it is okay to lust girls in the family and abroad.*”<sup>40</sup> According to the data from TURKSTAT, in direct correlation to the fatwa and the preparations for the adoption of the law, the number of children victims of abuse increased from 74,064 in 2014 to 83,552 in 2016.

As part of the wider government's assault on women's rights, in July 2016 Türkiye's Constitutional Court rescinded part of the criminal code, which classified all sexual acts with children under 15-years-old as sexual abuse – a move clearly designed to clear the way for the government to put forward for adoption in the parliament its highly contested “marry-your-rapist bill”.

Following the fatwa and the Constitutional Court ruling, the AKP submitted its law proposal to the Parliament’s Assembly on November 17, 2016, which stipulates that “*those who commit sexual assault will not be punished if they marry the person they abused*”. UNICEF emphasized in a statement<sup>41</sup> that the bill would weaken Türkiye’s ability to combat sexual abuse and child marriage.<sup>42</sup>

The 2016 attempt by the government to reintroduce the law, would have allowed, according to the government, around 3,000 to 4,000 men accused of statutory rape to marry their victims. Because of public outcry both locally and internationally the proposal of 2016 was dropped at the last moment, in November 2016. The “marry-your-rapist bill” was reintroduced in the end of 2019 and debated for the first time in Parliament on January 16, 2020. The bill provided for suspended

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<sup>39</sup> <https://www.duvarenglish.com/turkish-minister-under-fire-for-saying-spike-in-violence-against-women-at-tolerable-levels-news-57584>

<sup>40</sup> The fatwa was included in the *Fatwa Line* under the Directorate of Religious Affairs on January 8, 2016.

<sup>41</sup> The statement is available here: [https://www.unicef.org/media/media\\_93338.html](https://www.unicef.org/media/media_93338.html).

<sup>42</sup> According to the United Nations, the bill would create a perception of impunity in favor of perpetrators of such child rights violations. In addition, it would increase the risk for further victimization of the child if she marries the perpetrator of the sexual abuse. The international community was outraged over the ruling, which also led to diplomatic rows between Türkiye and several European Union member states.

sentences against men for child sex offences if the “two parties” get married and the age difference between the parties is less than 10 years. In essence, the bill encouraged the practice of taking child brides and legitimized statutory rape. If passed, it will seriously undermine the realization of children’s rights in Türkiye, ultimately weakening Türkiye’s ability to combat sexual abuse and child marriage.

### Proposed Recommendations

- Take immediate legislative, administrative and practical measures to combat gender-based killings and other forms of discriminatory practices based on gender, political opinion, and other discriminatory grounds.
- Take all necessary measures to rejoin the Istanbul Convention.<sup>43</sup>
- Allow non-custodial sentences for pregnant women and women with dependent children based on Türkiye’s domestic legislation and the “Bangkok Rules.”<sup>44</sup>

### **Anti-corruption Measures - Articles 2 and 25**

#### *Allegations of money laundering, bribery and collusion in the distribution of government tenders*

One of major “landmark” corruption scandals unfolded on December 17, 2013, when police officers raided several homes and confiscated around \$17.5 million in cash, money allegedly used for bribery. All of the 52 individuals detained on December 17 were connected in various ways with then-Prime Minister Erdoğan’s Justice and Development Party (AKP). Accusations and charges included bribery, corruption, fraud, money laundering, and gold smuggling. The whistleblowers who tipped off the police claimed that the son of then-Prime Minister Erdoğan was next in line.

Anti-corruption operations resulted in the arrest of 52 people who were affiliated with the Justice and Development Party (AKP) in connection with the evasion of international sanctions against Iran.<sup>45</sup> These mass arrests involved the closest allies of then-Prime Minister Erdoğan, who accused members of the Hizmet Movement holding influential positions in the judiciary of plotting a coup against his government. In the aftermath of the scandals, the cases were dropped, numerous prosecutors and police officers were arrested, and nonpartisan media coverage was curtailed. The crackdown paved the way to further strengthen the autocratic regime.

Following widespread public indignation, four cabinet ministers were forced to resign, while then-Prime Minister Erdoğan dismissed the whole graft investigation as a judicial coup attempt targeting his government. He then proceeded to dismiss thousands of police officers, prosecutors, and judges, tightening its grip on the media and the judiciary.

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<sup>43</sup> The Council of Europe Convention on preventing and combating violence against women and domestic violence.

<sup>44</sup> United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders.

<sup>45</sup> <https://www.bbc.com/news/world-europe-25437624>



All opposition media were practically silenced by being shut down, seized, or forced to change the managers and technical staff. Since 2013 most of them were gradually transformed into government mouthpieces that served government narrative and propaganda. Journalists and media members who did not serve this purpose have been arrested or forced to retire or/and to leave the country into exile. More than 300 journalists are currently behind bars<sup>46</sup>.

### *Entities whose assets were expropriated after the coup attempt and trustee appointments*

Since the attempted coup of July 2016, the Turkish government continues to confiscate private property of non-loyalist businessmen without due process on unsubstantiated charges of terrorist links. Their companies are alleged to be connected to the Hizmet Movement, with the government coining the term “FETÖ” to designate the movement as a terrorist organization. The assets of these companies have afterwards been “distributed” to individuals close to the government or those in some way connected to the Justice and Development Party (AKP).<sup>47</sup>

During the 2-year State of Emergency and in its aftermath, the Government of Türkiye has taken permanent measures, which go beyond a temporary state of emergency. Organizations and bodies for example were dissolved, and their property instantly confiscated. In addition, the Government has made a number of important structural changes to the legislation, which should have normally been done through ordinary legislative process outside of the emergency period.

Article 6 of Decree-Law 677, published in the Official Gazette No. 29896 of November 22, 2016, provides an absolute restriction with respect to claims for damages. It stipulates the following: *“Within the scope of the decree-laws enacted under the state of emergency declared upon the Decision of the Council of Ministers dated 7/20/2016 and No. 2016/9064, the institutions and organizations closed for having membership to, affiliation, or connection with terrorist organizations or structures, formations or groups determined by the National Security Council to carry out activities against the national security may under no circumstances claim compensation for being closed.”*

Pursuant to Article 121 § 2 of the Constitution, the scope of the Government’s emergency powers is defined in the Law on the State of Emergency of 1983 (the 1983 Law). Articles 9 and 11 of the 1983 Law describe measures to be taken when the state of emergency is declared in accordance with Article 3 (1) (b). These articles specifically cover situations similar to the July 15, 2016, attempted coup.

Articles 9 and 11 of the 1983 law contain a *catalogue*, a *closed* list of measures, which may be taken by the Government in situations such as the attempted coup of July 2016. In particular, the 1983 Law does not provide for *permanent dissolution* of legal entities; Article 11(o) only provides

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<sup>46</sup> Please see OHCHR, “Report on the impact of the state of emergency on human rights in Türkiye, including an update on the South-East (January – December 2017), March 2018, Para 11. The report is available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22853&LangID=E>

<sup>47</sup> See for example: <https://www.turkishminute.com/2022/04/05/ogan-forcing-tmsf-to-sell-hundreds-of-companies-seized-over-alleged-gulen-links-report/>

for the “*suspension* of the activities of associations for periods not exceeding three months, after considering each individual case.” Article 121 § 2 of the Constitution refers to the 1983 law, which defines the limits of the Government’s emergency powers and all the measures taken beyond the scope of the Constitution and the 1983 law - including on the permanent dissolution/closure of associations and foundations should be therefore considered constitutionally unlawful and invalid.

By the end of May 2017 Türkiye’s state-run Savings Deposit Insurance Fund (TMSF) declared that a total of 879 companies with a total value of 40.3 billion Turkish liras (more than 13 billion USD) were either transferred to Türkiye’s state-run Savings Deposit Insurance Fund (TMSF), or trustees had been appointed to their management by the government. A total of 3,520 entities were shut down with their considerable assets confiscated, which included 147 closed-down media organizations (38 TV stations, 39 radio stations and 70 newspapers), 1,284 schools, 800 dormitories, 54 hospitals and 1,125 foundations. These were only partial data, since many organizations affiliated with the Hizmet Movement were already seized by the TMSF until 2017. Boydak Holding and Koza Ipek Group alone were valued at \$5-7 billion and \$4 billion respectively.

At least 1,064 private education institutions, 360 study centers and 847 student dormitories were permanently closed through government decree. All their assets estimated at around 100 billion US dollars<sup>48</sup> were arbitrarily seized without compensation.

Unlawful seizure and confiscation of assets belonging to Turkish nationals is not confined to Türkiye. In June 2016, approximately one month before the attempted coup, the Maarif Foundation was specifically established and tasked by the Turkish government to incite foreign governments seize educational foundations operating in other countries, targeting enterprises run by individuals close to the Hizmet Movement. By March 2021, the Maarif Foundation stated it had already taken over (read: illegally seized) 216 Hizmet-affiliated schools in 44 countries. The Foundation’s chairman also claimed that it had signed 77 protocols to “take over” Hizmet-affiliated schools in 45 more countries.<sup>49</sup>

Credible evidence indicates that members of the ruling AKP party, including family members of the President, ministers and Turkish ruling elites have benefited greatly from the confiscated properties, valuable assets added to their existing companies in energy, technology, shipping and other sectors. They also take big chunks of available state contracts, in billions of dollars.

### **Enforced Disappearances and Abductions – Articles 6, 9 and 12**

In its report, the State party alleges that, “Some allegations of abduction are part of a widespread and malicious strategy of FETO,” in essence suggesting that the victims have themselves staged their enforced disappearances. Through these fictitious, unsubstantiated and speculative

<sup>48</sup> Hürriyet newspaper, July 26, 2016. Available at: <http://www.hurriyet.com.tr/kapatilan-kurumlarin-degeri-en-az-100-milyar-dolar-40170575>

<sup>49</sup> <https://stockholmcf.org/turkeys-maarif-foundation-took-over-216-gulen-linked-schools-in-44-countries-chairman-says/>





allegations to distort the truth, the State party provides a misleading and false narrative concerning serious human rights violations.

At least 33 individuals,<sup>50</sup> most with alleged links to Hizmet have been subject to enforced disappearance in broad daylight throughout Türkiye. Many remain unaccounted for, while those released have testified horrific torture in the hands of intelligence services.

Since the attempted coup of July 15, 2016, the Turkish government pursues a consistent policy of pursuing amongst others anyone allegedly related to the Hizmet Movement, relying on renditions, abuse of extradition proceedings, Interpol Red Notices, anti-terror financing measures, and co-opting other States to deport or transfer persons unlawfully.<sup>51</sup> Almost immediately following the attempted coup of July 2016, the Government of Türkiye also began a global purge that mirrors its domestic crackdown, targeting individuals with perceived ties to Hizmet Movement, mainly teachers, academics, doctors and businessmen living abroad for many years. The statistics vary depending on the source, but at least 37 individuals,<sup>52</sup> mostly with alleged links to Hizmet, have been subject to enforced disappearance in broad daylight throughout Türkiye. Many remain unaccounted for, while those released have consistently testified horrific torture in the hands of intelligence services. In addition, Türkiye's government has been able to abduct and illegally transfer to Türkiye at least 144 individuals from 33 countries.

The WGEID report to the HRC contained in document A/HRC/48/57, focuses in particular on the issue of enforced disappearances in the context of transnational transfers,<sup>53</sup> states among other that, "In response to the allegations, the [Turkish] authorities have either denied that the operations took place or maintained that they were necessary, legal and proportionate to the need to neutralize an imminent threat to national security. On July 5, 2021, for example, President Erdoğan delivered a public statement in which he commended the Turkish intelligence services for having ensured the forcible repatriation of more than 100 individuals from multiple States."<sup>54</sup> In addition, Türkiye's Vice President Fuat Oktay during a speech before the parliament in November 2022 (ahead of the upcoming presidential and parliamentary elections of 2023) that more than 100 people with alleged links to the faith-based Gülen movement, have been forcibly returned to Türkiye by the country's National Intelligence Organization (MİT) thanks to what he described as "intelligence diplomacy."<sup>55</sup>

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<sup>50</sup> See for more details: <https://stockholmcf.org/enforced-disappearances-in-turkey-2/>

<sup>51</sup> See also the report of the Parliamentary Assembly of the Council of Europe (PACE), *Transnational repression as a growing threat to the rule of law and human rights*, May 23, 2023, para 6.

<sup>52</sup> See for more details: <https://stockholmcf.org/enforced-disappearances-in-turkey-2/>. In addition to the enforced disappearances in the list, on February 18, 2021 – Uğurcan Baynal, Sena Bademli and Ali Berke Ayduğan went missing and were later released. On March 1, 2023, a Turkish businessman of Kurdish descent, Zeki Oğuz, was abducted in Istanbul.

<sup>53</sup> Chapter 6, page 14 of the report.

<sup>54</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35335> in response to AL TUR 5/2020. See [www.rferl.org/a/kyrgyzstan-turkey-inandi-disappearance/31347063.html](http://www.rferl.org/a/kyrgyzstan-turkey-inandi-disappearance/31347063.html) and [www.trthaber.com/haber/gundem/cumhurbaskani-erdogan-aciklama-yapiyor-593498.html?\\_n\\_pid=3147](http://www.trthaber.com/haber/gundem/cumhurbaskani-erdogan-aciklama-yapiyor-593498.html?_n_pid=3147) (in Turkish).

<sup>55</sup> <https://turkishminute.com/2022/11/25/ore-than-100-people-abducted-thanks-to-intelligence-diplomacy-turkeys-vice-president/>

In the aftermath of the attempted coup of July 2016, with very few exceptions (see examples below) victims of enforced disappearances, inside and outside Türkiye are overwhelmingly alleged members of Hizmet Movement.<sup>56</sup>

The stated intentions by the Turkish government for resorting to enforced disappearances appear to be the following: (i) use as a strategy for political gain; (ii) spread terror among dissidents and their close relatives, the communities, and the society as a whole; and (iii) extract forced confessions or coerce detainees to incriminate others, from individuals placed outside the protection of the law.

### Proposed Recommendations

- Cease justifying enforced disappearances on the grounds of protecting national security, combating terrorism and tackling extremism.
- Review and repeal laws and agreements that contravene international human rights obligations of States regarding involuntary transfers of individuals.
- Recognize, in law and in practice, that a failure by State agents to acknowledge deprivation of liberty and a refusal to acknowledge detention constitute an enforced disappearance, even if short in duration.
- Ensure that inter-State agreements or arrangements are in full compliance with human rights obligations, including the principle of non-refoulement.
- Fully implement procedural safeguards and guarantees upon arrest and during the first hours of deprivation of liberty with the aim of preventing enforced disappearance and other human rights violations.
- Strengthen and fully comply with oversight and procedural safeguards prior to extradition, deportation, expulsion and return processes.
- Consistently carry out comprehensive individual assessments to determine whether individuals may face risks to their rights upon return to their countries of origin and to ascertain what those risks may be.
- Conduct independent and effective investigations into enforced disappearances, hold perpetrators accountable, and provide victims and their families with the right to an effective remedy.

### **Prohibition of Torture and Cruel, Inhuman or Degrading Treatment or Punishment – Articles 2, 7, 9, 10, 12 and 14**

In its report (paras 146-159), the State party continues to claim it has adopted a “zero tolerance against torture” policy since 2003 and introduced a comprehensive set of legislation and other measures in order to prevent, investigate, prosecute and punish all acts of torture and ill-treatment.

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<sup>56</sup> Hizmet Movement is classified by the Turkish government as a terrorist organization under the assigned names Gülenist Terror Organization (Fethullahçı Terör Örgütü FETÖ) or Parallel State Organization (Paralel Devlet Yapılanması, PDY).

The State party however fails to provide any evidence or information how this so-called “zero tolerance against torture” policy has been observed in practice.

Many emergency decrees and ordinary laws enacted by the Turkish Government during the SOE, and their interpretation and implementation by law enforcement, judges and prosecutors, resulted in *de facto* departure from the prohibition of torture and ill-treatment. Despite the repeated “assurances”, individuals detained and arrested as part of the government crackdown on the Hizmet Movement in particular, continue to be systematically subjected to torture and ill-treatment, using methods firmly prohibited under international law,<sup>57</sup> bearing the brunt of Government’s crackdown on dissent.

As a direct result of legal administrative and practical measures since the attempted coup, widespread torture and ill-treatment incidents were reported across Türkiye, *inter alia*, by the OHCHR,<sup>58</sup> UN Special Rapporteur on Torture,<sup>59</sup> Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT),<sup>60</sup> Amnesty International,<sup>61</sup> Human Rights Watch,<sup>62</sup> as well as other governments and intergovernmental or nongovernmental organizations. Brutal interrogation techniques<sup>63</sup> were documented, inside and outside police stations and other facilities, aimed at mainly extracting forced confessions or coercing detainees to incriminate others, including:

- Blunt force trauma and severe beatings
- *Falaka*
- Sexual torture, including anal penetration with foreign objects, electrocution and pressure on sexual organs
- Starvation, denial of water and medical treatment
- Positional torture/suspension and stress positions for up to 48-hours
- Sleep deprivation
- Verbal abuses and threats, including mock execution

<sup>57</sup> [http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/TUR/INT\\_CAT\\_NGS\\_TUR\\_25838\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/TUR/INT_CAT_NGS_TUR_25838_E.pdf).

<sup>58</sup> OHCHR, “*Report on the impact of the state of emergency on human rights in Türkiye, including an update on the South-East (January – December 2017)*”, March 2018. The report is available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22853&LangID=E>.

<sup>59</sup> On February 27, 2018, UN special rapporteur on torture, Nils Melzer, expressed serious concerns about the rising allegations of torture and other mistreatment in Turkish police custody. Melzer said he was alarmed by allegations that large numbers of individuals suspected of links to the Gülen Movement or PKK were exposed to brutal interrogation techniques aimed at extracting forced confessions or coercing detainees to incriminate others. Reported abuse included severe beatings, electrical shocks, exposure to icy water, sleep deprivation, threats, insults, and sexual assault. The special rapporteur said authorities appeared not to have taken any serious measures to investigate these allegations or to hold perpetrators accountable.

<sup>60</sup> <https://stockholmcf.org/council-of-europes-cpt-confirms-continued-ill-treatment-and-torture-in-Türkiye/>

<sup>61</sup> Amnesty International, Türkiye: Independent monitors must be allowed to access detainees amid torture allegations, 24 July 2016.

<sup>62</sup> <https://www.hrw.org/report/2016/10/25/blank-check/Türkiyes-post-coup-suspension-safeguards-against-torture>

<sup>63</sup> More details and statistics are available at the report by the JWF report, “*Post-Coup Türkiye: State of Emergency, Torture and Impunity*,” October 2016. Available at <http://jwf.org/jwf/wp-content/uploads/2018/05/Torture-Report-in-Türkiye-2017.pdf>.

- Palestinian hanging
- Electric shock
- Nail extraction
- Cold/high pressure water hosing
- Asphyxiation / suffocation
- Air-conditioning torture (hot air conditioning during the day and cold at night)
- Exposure to icy water
- Dripping molten plastic on the extremities
- Sharp force trauma

Most of torture and ill-treatment currently occurs in extra-custodial cases, with State agents (NIA and the MİT) resorting to unnecessary, excessive or otherwise unlawful force mainly in the following circumstances: (i) abductions and enforced disappearances in Türkiye and abroad and (ii) arrest, stop and search or crowd control operations.

### *National preventive mechanisms and international supervision in the fight against torture*

The National Human Rights and Equality Institution (NHREI) is Türkiye's NHRI established in 2012, additionally designated as the national preventive mechanism to perform tasks under OP-CAT. NHREI is fully controlled by the government on the executive level and cannot carry out its mandate because it lacks the independence required under the Paris Principles.<sup>64 65</sup>

In the face of widespread and systematic instances of torture and ill-treatment in Türkiye, both in custodial and extra-custodial circumstances, the Ombudsman has remained totally silent, siding every single time with the government to ensure immunity from prosecution for perpetrators of serious human rights violations.

### Proposed Recommendations

- Take all legal, administrative and practical measures towards reversing all actions resulting in *de facto* departure from the prohibition of torture and ill-treatment.
- Amend the Criminal Code to provide for sanctions against acts of torture carried out to intimidate, coerce or obtain information or a confession from a person other than the person tortured.
- Amend Law No. 2937,<sup>66</sup> to lift immunity of agents acting on behalf of the Government in Türkiye and across the world and provide for accountability and prosecution for acts of torture and ill-treatment.
- Undertake prompt and impartial investigations in order to ensure full accountability for torture and ill-treatment, including, administrative, civil and criminal accountability, and ensure that victims receive adequate redress and rehabilitation.

<sup>64</sup> Eight members of the board are chosen by the government, and three by the president.

<sup>65</sup> Principles relating to the status of national institutions for the promotion and protection of human rights.

<sup>66</sup> "On State Intelligence Services (NIA) and the National Intelligence Organization (MİT)".

- Prosecute all cases of torture, regardless of the perpetrator and time they were committed.
- Guarantee that criminal investigations into torture and ill-treatment are carried out by highly professional and independent teams of prosecutors, investigators and forensic experts.
- Take measures to tackle intimidation and harassment of relatives, human rights defenders and lawyers working on alleged cases of torture and ill-treatment.
- Ensure the protection of vulnerable persons and groups from abuse.
- Ensure the independence and impartiality of the national human rights institution, in conformity with the Paris Principles.

### **Right to Liberty and Security of Person – Articles 6 and 9**

Over the years, since the abolishment of death penalty in 2002, the debate for reintroducing death penalty remained theoretical. The government stance however changed on the night of attempted coup, with President Erdoğan vowing to bring back death penalty if parliament passed it.<sup>67</sup> Calls and the debate to reinstate the death penalty were renewed in the first half of 2018, ahead of a referendum for a constitutional package.<sup>68</sup> Since the attempted coup, the Government has gone to the extreme many times by declaring that Hizmet members do not have a right to life. A possible reinstatement of the capital punishment is expected to further exacerbate discrimination based on political or other opinion, ethnicity, or other basis.

In addition to the attempts to reinstate death penalty, since July 2016, there has been a dramatic increase of suspicious deaths in custody of “high-profile” detainees, with at least 205 suspicious deaths and suicides.<sup>69</sup>

#### ***Maximum Legal Detention Period***

According to emergency Decree-Law 668 of July 23, 2016, the public prosecutor can deny a detainee, including women, the right to see a lawyer for up to five days. In addition, Decree-Law 667, increased the maximum period of police detention from 4 days for terrorism and organized crime to 30 days, increasing the risk of torture and ill-treatment.

The period of detention is currently 24 hours, with up to 12 hours more in case of a transfer to the nearest court. In case of serious crimes, the maximum period of detention is in principle 48 hours, while in cases of mass crimes and terrorism a person can be held up to 4 days. Pursuant to the Counter Terrorism Law concerning all political detainees, the maximum detention period can be extended further.

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<sup>67</sup> Interview with CNN International on July 18, 2016. See also <https://uk.reuters.com/article/uk-turkey-security-anniversary/defiant-erdogan-attacks-eu-backs-restoring-death-penalty-idUKKBN1A10EM>

<sup>68</sup> The Referendum aimed at vesting extraordinary powers with the Turkish President

<sup>69</sup> Stockholm Center for Freedom, “Suspicious Deaths and Suicides in Türkiye”, February 2021. See for more: <https://stockholmcf.org/suspicious-deaths-and-suicides-in-turkey-updated-list/>

### *Capacity of Penitentiary Institutions*

In July 2020, the Turkish Ministry of Justice reported that since 2016 it had carried out nearly 100,000 operations targeting Hizmet sympathizers. On average, at least three mass-arrest operations were carried out every single day, with approximately 70 individuals detained daily on bogus terrorism-related charges.<sup>70</sup>

In August 2016, acting under powers granted by the state of emergency authorities implemented plans to release up to 38,000 prisoners (roughly one in five in Turkish prisons) of convicted felons to make room for the wave of journalists, teachers, lawyers, civil servants and judges detained after the coup attempt. Prison overcrowding however remained a significant problem.

By the end of 2018 the total prison inmate population was estimated at approximately 260,144, housed in facilities with a capacity of only 211,766 inmates. Statistics from the Turkish Statistical Institute (TURKSTAT) indicate that since 2014 prison population increased by approximately 126,000 - to a total population of 270,000 inmates and detainees by mid-2019.

Prison overcrowding remains a significant problem and prison conditions are very poor. In the notorious Silivri Prison in Istanbul for example, in November 2019 a Parliamentary Investigation Committee found that 22,781 inmates were deprived of their liberty, despite its official capacity of 11,000. Reports from the prison in April 2020 indicated that all inmates in wards B10 and B12 tested positive for COVID-19. Those deprived of their liberty lack adequate access to potable water, heating, ventilation, and lighting. An estimated 3,000 individuals deprived of liberty because of links to Hizmet Movement are arbitrarily subjected to solitary confinement for extended periods of time, turning it into a second punishment.<sup>71</sup> They also face severe limitations on outdoor exercise and out-of-cell activity, inability to engage in productive work, denial of access to books and media, and denial of medical treatment.

Arbitrarily deprived of their liberty for long periods of time, the *health of persons with disabilities in particular is also under imminent threat* and ongoing damage of a very grave nature, which can easily turn in several cases into a life-threatening situation. This is exacerbated by the fact that prison conditions in Türkiye do not accommodate some disabilities and there is no independent reporting system to ensure that all detainees can report ill-treatment without fear of reprisals.

### Proposed Recommendations

- Ensure the right to life of persons within its jurisdiction and conduct prompt and independent investigations whenever a person dies in custody.
- Ensure adequate conditions of detention for all those in deprived of their liberty, including adequate medical care.

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<sup>70</sup> See for more: <https://tr.solidaritywithothers.com/mass-detentions>.

<sup>71</sup> See also <https://www.dw.com/en/turkey-holds-thousands-in-solitary-in-erdogans-prisons/a-48640213>

- Release tens of thousands of victims arbitrarily deprived of their liberty because of perceived links to the Hizmet Movement and abolish all legal or other restrictions for the release of sick or terminally sick inmates.
- Release prisoners of conscience including the judges, prosecutors and lawyers detained in the aftermath of the attempted coup and take meaningful steps to ensure independence and impartiality of the judiciary.
- End the practice of extraordinary renditions of Turkish dissidents from abroad, prosecute and punish all the perpetrators.
- Fully implement all relevant decisions by organs of the UN human rights system, including the Human Rights Committee, WGAD, WGEID and ECtHR.

### **Abolishment of Slavery, Captivity and Human Trafficking – Articles 2, 7, 8 and 26**

Credible investigation reports in 2015 pointed out to ISIL slave trade of Yazidi women, believed to have flourished particularly in Türkiye's south bordering territory formerly controlled by ISIL in Syria. The government however not only ensured immunity from prosecution for the perpetrators but protected them vigorously by making sure to drop charges and release suspects.

The use of ISIL liaison offices for Yazidi slave trade in Gaziantep was brought to public attention by Germany's regional public service broadcaster ARD in a major investigative piece. The reporting documented how ISIL fund managers received cash in exchange for selling Yazidi women and children to an intermediary.

The Gaziantep Bar Association and the Progressive Women's Association filed a criminal complaint with the Prosecutor's Office, asking the authorities to investigate the claims, however on January 15, 2016, the new prosecutor surprisingly asked the court to acquit all the suspects, citing lack of evidence. The Treasury, which is required by law to be notified of any cash seized in a police raid, was not informed by the prosecutor or the court. The authorities even did not file a complaint against the alleged exchange office, which was undisputedly operating illegally.<sup>72</sup>

#### Proposed Recommendations

- Carry out, as a matter of priority, independent and credible investigations on allegations of slave trade during the reporting period, including cases affecting Yazidi women and children.
- Identify and provide victims with the right to an effective remedy.

### **Freedom of Movement – Article 12**

Article 23 of the Constitution (Freedom of Residence and Movement) provides for the right of everyone to freedom of residence and movement. As for the restrictions on the freedom of

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<sup>72</sup> Please see <https://www.turkishminute.com/2017/01/24/erdogans-hatred-yazidis-takes-toll-turkey/>

movement it provides as follows: “*A citizen’s freedom to leave the country may only be restricted on account of criminal investigation or prosecution depending on judicial decision*”.

Article 22 of the Turkish Passport Law 5682 of July 15, 1950, enumerates a closed list of conditions, in which cases passports shall not be issued. In this context, “*No passport or travel document shall be issued to those persons travelling abroad who are banned by the courts and to the persons whose departure from the country is ascertained as prejudicial in terms of general security by the Ministry of Internal Affairs.*” Relevant provisions in domestic law concerning the restriction of the freedom of movement do not intend and do not provide for any restriction or cancellation of passports for individuals residing abroad, covered by other cooperation mechanism, including INTERPOL notices and diffusions, which must in any case comply with INTERPOL’s Constitution and the Rules on the Processing of Data.<sup>73</sup>

Decree law No. 667 of July 23, 2016,<sup>74</sup> provided for the cancellation of passports of all those subjected to administrative acts, criminal investigation, and prosecution, without any court order and in clear violation of international law and Article 23 of the Constitution. On September 1, 2016, an amendment to the decree extended this power, enabling the authorities to cancel or confiscate passports of spouses and partners of those under investigation.<sup>75</sup> No legal grounds however, including Constitutional provisions or the 1950 Passport Law justify the cancellation of passports of family members.

In addition, since the 2016 coup attempt, Türkiye had uploaded tens of thousands of requests in Interpol databases, concerning individuals that the government designated as affiliated with the Hizmet Movement. There are also frequent credible reports since 2016 that individuals face complications related to erroneous lost or stolen passport annotations the government has filed against suspected Hizmet Movement members in the years directly following the attempted coup. Reports to Interpol’s stolen or lost passport database<sup>76</sup> often lead to individuals’ detention or prevent them from traveling.

From July 23, 2016, to December 2017 Turkish authorities cancelled 234,419 passports,<sup>77</sup> in absence of any individual review and without providing any explanation on why that was necessary or proportionate. By the end of September 2021, the number of cancelled passports was estimated to be around 650,000.

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<sup>73</sup> See for example Decision No. 2013/314 of the Council of State relative to case No. 2008/921, Plenary Session of Administrative Chambers, February 31, 2013

<sup>74</sup> Article 5.

<sup>75</sup> Human Rights Watch, Türkiye, *State of emergency provisions violate human rights and should be revoked*, - Joint NGO Letter, October 20, 2016

<sup>76</sup> <https://www.interpol.int/en/How-we-work/Databases/SLTD-database-travel-and-identity-documents>

<sup>77</sup> Turkish interior minister: 55,665 jailed, 234,419 passports revoked since coup attempt, available at: <https://turkeypurge.com/turkish-interior-minister-55665-jailed-234419-passports-revoked-since-coup-attempt>



### Proposed Recommendations

- Comply with international human rights obligations and ensure that citizens and foreigners enjoy the right to leave.
- Reverse the cancellation of passports and immediately end travel bans.
- End the practice of arbitrary deprivation of nationality.
- Take steps necessary to end statelessness of children born to Turkish parents.

### **Access to Justice, the Right to a Fair Trial and the Independence of Lawyers and Judiciary – Articles 2, 7, 9, 10 and 14**

Following years of relentless assault on the rule of law, Turkish judicial system has turned into merely an extension of political authority that thwarts an effective defense and employs partisan and loyalist prosecutors and judges. The judiciary has embarked on an extremely dangerous path of ignoring the most basic principles of law necessary to ensure, at a minimum, a system of rule of law in the country, such as presumption of innocence, non-retroactivity of offences, *res judicata*, as well as legal certainty and foreseeability of criminal acts.

This worrying practice has reached such a level that it has now become virtually impossible to assess objectively and in good faith whether a normal activity; such as participating in a legally operating civil society organization, depositing money in a legally operating bank, donating to the largest humanitarian organization affiliated with the UN, residing in legally established dormitories, or attending duly licensed schools, or even acts of dissent or criticism of political authority - will be re-interpreted as criminal activity by Turkish prosecutors and courts several years after. This approach is extremely worrying for the principles of legal certainty, foreseeability of criminal offences and the rule of law in Türkiye in general, as anyone can retroactively be considered a member of a criminal organization long after the events in question.

Under the amended Constitution approved in the referendum of April 16, 2017, the High Council for Judges and Prosecutors was reduced from twenty-two to thirteen regular members and the President directly appoints four of them.<sup>78</sup> The government has consistently exerted strong influence over the Board of Judges and Prosecutors, now with the intention to influence recruitment processes replacing the dismissed judges and prosecutors.

In its June 21, 2024, communication to the Government of Türkiye,<sup>79</sup> the United Nations Special Rapporteur on the independence of judges and lawyers (Ref.: AL TUR 3/2024), expressed “[...] deepest concern about the current situation of judges, prosecutors, lawyers, and the judiciary itself,

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<sup>78</sup> The Minister of Justice and his/her Undersecretary, who are members of the High Council for Judges and Prosecutors, are also appointed by the President. The remaining seven members of the Council are appointed by the Grand National Assembly. Prior to the amendments, the President was responsible for appointing 3 out of 22 regular members of the High Council for Judges and Prosecutors, but the majority of the members of the Council were appointed by their peers.

<sup>79</sup> The Communication is available here: <https://arrestedlawyers.org/wp-content/uploads/2024/08/DownloadPublicCommunicationFile.pdf>

that appears to be subject to increasing interference in Türkiye. Specifically, *I am concerned about the series of actions undertaken that, separately and in combination, appear to be aimed at undermining the independent functioning of the judiciary in the country.* If these reports are confirmed, this course of action would constitute a violation of international human rights standards regarding the right to a fair trial and the independence of the judiciary. In this regard, I would like to recall that the right to a fair and public hearing by an independent and impartial court is provided for in international human rights standards, and that a competent and independent court is one of the guarantees of a fair trial. The requirement of independence concerns, in particular, the procedure and qualifications for the appointment of judges, the guarantees relating to their security in office and the guarantees of respect for their independent decisions. International standards on the independence of the judiciary make clear that judges may be suspended or removed only for reasons of proven incapacity or behavior that renders them unfit to exercise their duties. Such suspensions may only be imposed by an independent body following appropriate procedures.”

### Proposed Recommendations

- Take all measures necessary to ensure the rule of law, including by revisiting all actions that undermine the independent functioning of the judiciary.
- Reinstate all judges and lawyers unlawfully dismissed since 2016.
- Halt all acts of intimidation and harassment targeting lawyers.
- Respect the independence of the legal profession, in accordance with international law, including the U.N. Basic Principles on the Role of Lawyers.

### **Article 19 – Freedom of Opinion and Expression**

Since the July 2016 attempted coup, the State party has stepped-up efforts to suppress dissent and restrict human rights and fundamental freedoms, including freedom of opinion and expression, both in law and in practice. In 2020 for example, the ECtHR found a violation of Article 10 in member states of CoE in 80 cases. In 31 of those cases the respondent state was Türkiye.<sup>80</sup>

The government and its supporters use a variety of means to intimidate journalists, including lawsuits, threats, and increasingly verbal and physical attacks.<sup>81</sup> Under immense pressure and threats, journalists and media professionals have increasingly resorted to self-censorship, in addition to government's increased direct censorship of news media, online media, and books.

With hundreds of journalists deprived of their liberty at any given time and at least 167 journalists at large, Türkiye remains since 2016 the biggest jailer of journalists in the world.<sup>82</sup> 149 media and broadcasting organizations were closed down since July 2016, including 72 newspapers and magazines, 5 news agencies, 33 television and 39 radio stations. In 2020 Turkish courts handed

<sup>80</sup> See for more: <http://www.sanyoluhaber.com/aihm-kara-listesini-acikladi-ifade-ozgurlugu-ihlalinde-turkiye-birinci-sirada-haberi/1362569/>

<sup>81</sup> <https://pen-international.org/news/turkey-international-groups-condemn-attacks-against-journalists>.

<sup>82</sup> See for more details: <https://stockholmf.org/updated-list/>

down sentences of a total of 103 years to 23 journalists, sentenced on various bogus charges including “insult”, “espionage” and “membership in a terrorist organization.”<sup>83</sup> Forty-eight members of the press were detained in 2020, adding to 430 journalists taken into custody since 2016, with 201 detentions only during 2016. In the last 5 years there were 139 documented attacks against journalists. A total of 3,436 journalists also lost their jobs between 2016 and 2021.

Internet publications and access in Türkiye are governed by Law No. 5651.<sup>84</sup> A new law adopted by the Parliament on July 29, 2020,<sup>85</sup> introduced sweeping new powers to the government to further censor speech online.

Türkiye has also a long and “consistent” history of Internet censorship. The government regularly blocks tens of thousands of websites, blogs, news websites, civil society organizations and websites of opposition parties. On April 29, 2017, Türkiye blocked access to Wikipedia.<sup>86</sup> Türkiye's Information and Communication Technologies Authority was quoted as saying that “*After technical analysis and legal consideration based on the Law Nr. 5651 [governing the internet], an administrative measure has been taken for this website,*” without giving any further details.

By the end of 2018 the Interior Ministry reported launching investigations on 631,233 digital materials, 110,000 social media publications, which resulted in 7,000 individuals detained for social media posts. Around 42,000 social media accounts were under surveillance in 2018 over broad terrorism accusations, resulting in at least 2,000 people detained, of which 1,000 placed in pretrial detention.<sup>87</sup> By the end of 2019 Türkiye had blocked access to 408,494 websites, 130,000 URLs, 10,000 YouTube videos and 6,200 pieces of Facebook content.<sup>88</sup>

Between 2012 to 2020,<sup>89</sup> Türkiye has also consistently led unchallenged Twitter censorship in the world, submitting the largest number of takedown requests and court orders. Twitter received 6,513 court orders and 39,263 non-court order requests from Türkiye, which was at the top of the list in both categories. The country also sent 347 information requests to Twitter, which did not comply with any of them. The government specified 99,840 accounts for closure/action under court orders and other legal demands, leading the world in the number of accounts identified for legal action. In terms of accounts withheld by Twitter, Türkiye again had the highest number globally with 2,501 withheld accounts, followed by Russia with 340 and India with 238. Upon Türkiye's request, Twitter withheld 12,135 tweets, nearly half the total number of tweets withheld by the company.

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<sup>83</sup> BIA Media Monitoring Report 2020

<sup>84</sup> Law No 5651 “On Regulation of Publications on the Internet and Suppression of Crimes Committed by means of Such Publication” was published on the Turkish Official Gazette on 23.05.2007, No. 26030

<sup>85</sup> The law entered into force on October 1, 2020

<sup>86</sup> <http://www.theglobepost.com/2017/05/05/wikipedia-is-latest-victim-of-turkeys-frenzy-over-isis-reporting/>.

<sup>87</sup> See also: <https://www.aa.com.tr/sanal-dunyanin-gercek-tehditleri/klavye-teroristleri-siber-polislerden-kacamadi/1421296>

<sup>88</sup> According to research carried out by the Freedom of Expression Association's (İFÖD) EngelliWeb initiative

<sup>89</sup> According to Twitter Transparency Report Data. See also: <https://transparency.twitter.com/en/reports.html>

### Proposed Recommendations

- Reinstatement and provision of restitution to media and broadcast outlets unlawfully shut down since 2016.
- Undertake all measures necessary to ensure that all restrictions on the freedom of opinion and expression are rescinded.
- Release hundreds of jailed journalists and end attacks on journalists in Türkiye and in exile.
- End the use of arbitrary and abusive detention and prosecution against journalists and other individuals for exercising their right to freedom of expression.

### **Human Rights Defenders – Articles 6, 17, 19, 20, 21, 22 and 26**

Instead of providing information on the dire situation facing human rights defenders, in paras 235-239 of its report the State party provides justification for its wholesale crackdown on dissent, including persecution and prosecution of human rights defenders.

Even before the attempted coup of July 15, 2016, ill-defined or vague legislation adopted in Türkiye aimed at arbitrary banning organizations and curbing otherwise legitimate activities and target journalists, human rights defenders, members of minority groups, members of the political opposition or other individuals. Government measures have retroactively equated what have otherwise been legitimate and normal activities<sup>90</sup> with terrorism, thereby effectively criminalizing freedom of expression, association and other important rights. This has increased the risk and the practice that individuals are prosecuted for legitimate, non-violent exercise of rights, as enshrined in both, domestic and international law.

Grass-root associations, human rights NGOs, students, journalists, academics and human rights lawyers have often become subject to attacks, reprisals, surveillance, arbitrary restrictions on movement, online defamation campaigns, confiscation of equipment, illegal detentions and interrogations, suspensions and forced resignations from positions. Investigating, gathering information, reporting or speaking out against human rights violations - in particular criticizing the government's actions or violations, carries with it certainly, the risk of being labeled "terrorist", "traitor" or a "pro-coup" individual or organization.

Leading human rights and other NGOs and foundations<sup>91</sup> were among 1,125 registered associations/NGOs and 560 (five hundred sixty) foundations permanently closed through a series of (unlawful) government decrees since July 2016. In the post-coup crackdown 19 trade unions have also been closed, while Turkish or foreign human rights defenders, including representatives and activists of Amnesty International, have been detained or jailed.

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<sup>90</sup> Activities include for example sending children to legally established and operating preparatory schools, donating to legally operating humanitarian organizations or depositing money in legally operating banks.

<sup>91</sup> An illustrative list of NGOs focused on advocacy for the rights of the child and providing services to children is attached herewith.

In addition to significant limitations on the right to Freedom of Association, on December 24, 2020, the Parliament adopted a new law, significantly increasing the powers of the Ministry of Interior to limit CSOs activities and seriously threatening this freedom. The law<sup>92</sup> arbitrarily curtails legitimate activities by CSOs and its implementation is expected to seriously impair this right. 475 nongovernmental organizations signed a statement<sup>93</sup> calling on the government to withdraw provisions of the law relating to the associations, foundations, and fundraising.

Out of its forty-three articles amending seven existing laws, only six aim at combating financing of terrorism. The remaining (37) articles of the law give the Interior Ministry and the President wide authority to restrict the activities of CSOs and diminish their role. The bill for example introduces annual inspections of nongovernmental groups; severe fines for online fundraising activities; suspension of organization's entire board or activities; suspend a member of the CSOs; absolute lifetime exclusion of anyone convicted of crimes relating to drug trafficking or financing terrorism from being elected to executive positions in nongovernmental groups; inspection of groups that collaborate with or have links with a group under inspection; the authority to compel lawyers representing individuals or organizations to disclose any document or information relating to illegal income; and criminal prosecutions against individuals for peacefully exercising their right to freedom of association.

Another disturbing aspect of the crackdown on civil society organizations is the hate speech government officials constantly use against many civil society organizations, based on political needs of a particular time; including at one time or another civil society groups, such as Amnesty International, Human Rights Watch and others. Those organizations perceived by the president/government as being critical of him or his policies have had their share of insults, including increasingly being labeled as 'terrorist organizations'.

In suppressing human rights and liberties the government has not hesitated to crack down on any form of dissent, including from INGOs. In June-July 2017 human rights activists from Amnesty International and other INGOs were arrested and investigated on charges for membership of an 'armed terrorist organization'. Among human rights defenders detained and arrested are: Ömer Faruk Gergerlioğlu, a human rights advocate and an MP from the opposition parties; Hüda Kaya, a Turkish journalist, writer, activist and MP from the Peoples' Democratic Party (HDP); Selahattin Demirtaş and Figen Yüksekdağ, HDP co-chairs; Şebnem Korur Fincancı, a doctor of forensic medicine and head of the Human Rights Foundation of Turkey (TİHV); Osman Kavala, a prominent and respected leading civil society figure in Turkey; Şerafettin Can Atalay a Turkish lawyer, activist, and politician; the Chair and Director of Amnesty International in Türkiye (Idil Esler and Taner Kılıç). It was the first time in the history of Amnesty International had a director and chair from a single country both behind bars.<sup>94</sup>

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<sup>92</sup> Law "On Preventing Financing of Proliferation of Weapons of Mass Destruction"

<sup>93</sup> See <https://siviltoplumsusturulamaz.org/>

<sup>94</sup> <https://www.amnesty.org/en/latest/news/2017/07/absurd-terrorism-investigation-launched-into-amnesty-internationals-turkey-director-and-nine-others/>.



Exploiting procedural flaws in the rules and misusing its membership of relevant UN bodies, the Turkish government extended its massive crackdown on civil society organizations accredited to the United Nations, namely JWF, the Confederation of Businessmen and Industrialists of Turkey and Kimse Yok Mu, all of them pursuing important programs and platforms for the empowerment of women, including at the United Nations.

### Proposed Recommendations

- Immediately release all human rights defenders deprived of their liberty.
- Take steps to ensure implementation of international obligations on freedom of expression and freedom of assembly, including adequate access to internet.
- Rescind the permanent dissolution of civil society organizations and return their confiscated assets.

### **Right to Enter Public Service – Articles 2, 3, 19, 21, 25 and 26**

The Turkish Constitution guarantees the right to enter public service in its Article 70, as follows: “every Turk has the right to enter the public service” (§ 1), and that “no criteria other than the qualifications for the office concerned shall be taken into consideration for recruitment into the public service” (§ 2). This right, arguably, implicitly includes the right to remain in this service. In times of emergency this right becomes a *particularly weak* one, but it does not disappear completely.

Article 4 (1) of Decree Law no. 667<sup>95</sup> orders the dismissal of public servants “who are considered to be a member of, or have relation, connection or contact with terrorist organizations or structure/entities, organizations or groups, established by the National Security Council as engaging in activities against the national security of the State”. They are dismissed by decision of the relevant administrative entities and officials. Judges are dismissed on the same grounds by virtue of Article 3 (1) by decisions of the relevant judicial bodies (top courts and the High Council for Judges and Prosecutors).

The scale of Türkiye's purge that has taken place in the aftermath of the July 15, 2016, has been nearly unprecedented. In July 2024, ahead of the eighth anniversary of the attempted coup, the Turkish Minister of Justice provided an overview of the ongoing crackdown on Turkish dissent, both in Türkiye and around the world. Among other he provided information on the crackdown on dissent since July 2016 attempted coup, including the following:

- More than 130,000 public servants as well as 24,706 members of the armed forces were dismissed for alleged membership in or relationships with “terrorist organizations”.
- 4,006 prosecutors and judges were dismissed due to alleged Hizmet Movement links.

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<sup>95</sup> Adopted under the state of emergency on July 23, 2016.



In a report<sup>96</sup> published on May 22, 2017, Amnesty International echoes the question - Were dismissed public officials left to civil death? “Dismissals based on political affiliation, union membership or actions such as participation in demonstrations violate the rights to freedom of expression, association or assembly, in addition to the right to non-discrimination.”

It is not just the stigma of being branded “terrorists” under the decrees that results in many not been able to find any work at all. The Government of Türkiye has taken legal, administrative and other discriminatory measures excluding those unlawfully dismissed from public service in the post-coup period,<sup>97</sup> resulting, *inter alia*, in serious discriminatory practices prohibited under the Covenant. The dismissed civil servants are among other:

- Blacklisted in databases of the Employment and the Social Security Agencies with the code “36/OHAL/KHK”.
- Cannot serve as foster families.
- Cannot serve as mayors, eldersmen or mukhtars (local elected administrator for villages).
- Cannot practice law.
- Cannot work as accountants.
- Cannot work as architects, engineers, laboratory workers, or as technicians in building inspection companies.
- Cannot attend vocational courses.
- Cannot work in private educational institutions.
- Cannot work as sailors.
- Cannot work as on-site (workplace) doctors, or as occupational safety specialists.
- Denied licenses needed to run businesses.
- Cannot have an artificial insemination certificate as a veterinarian and cannot perform their professional duties in agricultural support programs.
- Blacklisted in the database of the General Directorate of the Land Registry (TAKBIS), which includes a list of suspicious individuals dismissed under emergency decrees. Those included on this list cannot participate in real estate transactions, either as a party (vendee or vendor) or as a witness.
- Included on the list of the Ministry of Justice, the Union of Turkish Public Notaries cannot carry out any procedures as notaries, other than giving a power of attorney.
- Disabled individuals whose first caregivers (e.g. parents, sons, daughters, sons-in-law and daughters-in-law) are dismissed under emergency decrees, cannot benefit from social care funds.
- Those dismissed under emergency decrees, and their spouses and children, cannot benefit from the General Health Insurance for people with a low income and from the social rights that are offered to disabled people.
- Not issued passports and travel documents.
- Cannot open bank accounts and are discriminated as regards financial transactions and procedures.

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<sup>96</sup> Released with the title “No end in sight: Purged public sector workers denied a future in Turkey”.

<sup>97</sup> See here: <https://arrestedlawyers.org/wp-content/uploads/2022/01/36-ohal-khk-no-country-for-purge-victims.pdf>



- Discriminated regarding insurance services.
- Discriminated in relation to business development and incentive credits.
- Discriminated in relation to mandatory military service.
- Discriminated in academic publishing.
- Cannot enter the exams for associate professorships.
- Cannot receive science scholarships.
- Cannot be school bus drivers.
- Discriminated against in taxation.
- Dismissed physicians (M.D.) are not admitted to programs leading to specializations in medicine.
- Discriminated in relation to COVID-19 economic relief.
- Discriminated regarding natural disaster aid.

### Proposed Recommendations

- Reinstate civil servants arbitrarily dismissed from their positions in relation to the attempted coup, following prompt, impartial and thorough individualized reviews.
- Immediately end the arbitrary detention and conviction of all civil servants in the aftermath of the attempted coup.
- Rescind all legal, administrative and other discriminatory measures against dismissed civil servants.
- Ensure that all civil servants targeted through discriminatory measures receive adequate redress and rehabilitation.

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