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**Violations of Article 25 (a) and (c) of the United Nations Covenant on Civil and
Political Rights by Türkiye**

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Cross Border Jurists Association's Submission to the United Nations Committee on Civil and Political Rights on Turkey dated September 2024

This presentation highlights areas of concern that may contribute to the Committee's assessment of the Turkish government's compliance with the Covenant in advance of the United Nations Committee on Civil and Political Rights' review of Turkey's compliance with the Covenant and presents questions and recommendations that the Committee should ask the state party.

The people mentioned in the report are public figures because they are mentioned in open sources.

Introduction: Documentation of Incidents of Violations of Article 25 (a) and (c) of the United Nations Covenant on Civil and Political Rights by Turkey during the Reporting Period

Since the last review of Turkey in 2012, no report on violations of Article 25 of the UNCRC has been submitted to the Committee, nor has Turkey been asked any questions on this issue. With the following documentation, it is intended that the Committee will ask Turkey about violations of rights related to dismissals in the public and private sectors following the corruption investigations against the government on 17/25 December 2013 and the military coup attempt on 15 July 2016, and mention these violations in its reports.

SUBJECT TITLE: Dismissals of public officials

REFERENCE REPORT(S): 1-The List of Issues Prior to Reporting (LOIPR) adopted at the 132nd session of the Committee in Turkey held on June 28-July 23, 2021 ([CCPR/C/TUR/QPR/2](#))

2-Paragraphs (a) and (c) of Article 25 of the **United Nations Covenant on Civil and Political Rights (UNCRPD)**.

3-Access to justice, right to a fair trial, and independence of lawyers and the judiciary (arts. 2, 7, 9, 10 and 14)

SUMMARY: Article 25 (a) of the UNCRC recognizes the equal right of everyone to enter the public service of his or her country. No citizen may be prevented from entering the public service except on reasonable legal grounds. As stated in paragraph 23 of the Committee's General Comment on Article 25, *'Paragraph (c) of Article 25 concerns the right and opportunity of citizens to access public service positions on terms of general equality. To ensure access on terms of general equality, the criteria and processes for appointment, promotion, suspension and dismissal must be objective and reasonable. Positive measures may be taken where appropriate to ensure equal access to public services for all citizens. Basing access to public service on the principles of equality of opportunity and general merit and ensuring secure tenure ensures that persons holding public service positions are free from political interference or pressure. It is particularly important to ensure that persons are not*

discriminated against on any of the grounds set out in paragraph 1 of Article 2 in the exercise of their rights under Article 25 (c).'

In the document entitled **List of Issues Prior to Reporting (LOIPR) (CCPR/C/TUR/QPR/2)**, adopted at the 132nd session of the Committee held from 28 June to 23 July 2021, **the** Turkish government (Erdoğan and the AKP administration) was assessed as having participated in the coup attempt, No questions were addressed to the Government of Turkey regarding the situation of those dismissed from the public and private sectors without a judicial decision and the fact that nearly 200 thousand dismissed persons "will not be employed in the public/private sector as SSI (Social Security Institution) registered insured". However, as can be seen from the information detailed below, there are over 200 thousand people (military, police, civilian public personnel) who have been unlawfully dismissed from the public sector, and since they have no effective remedy in domestic law against their dismissal, the vast majority of them have not been able to return to their jobs and are trying to provide for their families with temporary jobs for which they have not received training in the face of the government's attitude towards condemning them to hunger. In the meantime, thousands of dismissed persons can apply to the ECtHR after a long period of time (5-7 years) of exhausting domestic remedies, which are not effective remedies. Considering that dismissals on the grounds of the July 15, 2016 coup attempt started to take place as of August 2016, and that judicial remedies for dismissals were used (5-7 years), it can be calculated how long it took for dismissed persons to be reunited through international jurisdiction (approximately 8-10 years).

In the following, information will be provided on the situation of those who were dismissed from the public/private sector on the grounds of the coup attempt of July 15, 2016, what the domestic remedies are in Turkey after the dismissals, whether they are allowed to be used effectively/fairly, and how all these facts constitute a violation of rights in the context of Article 25 (a) and (c) of the UNCRC, and this section will be requested to be included in the Committee's Concluding Observations.

A-EXPORTS FROM PUBLIC/PRIVATE SECTOR

1-Dismissals from Public Service

1. One of the most important practices of the persecution process in Turkey since July 15, 2016 is undoubtedly the mass dismissals from public office.
2. The dismissals from public office are the largest and most concrete mass elimination of the Hizmet Movement (hereinafter abbreviated as HH) volunteers. After December 17-25, 2013, Erdoğan and AKP rulers implemented a purge process against the Hizmet Movement. However, at that stage, since there was still a law/judiciary in Turkey operating under the ordinary system of governance, there could be no arbitrary dismissals of HH volunteers. However, on July 15, 2016, when the "coup attempt", which Erdoğan called "God's grace", took place on the night of July 15, 2016, "emergency rule" was declared on July 20, 2016. This paved the way for the dismissal of 2745 members of the judiciary on July 16 and the subsequent dismissal of tens of thousands of public and private sector personnel without effective investigative procedures. When independent judges and prosecutors were neutralized by arrest warrants at 01:00 on the

night of the coup attempt, the AKP and Erdoğan administration were left with no impartial and independent judiciary to review the dismissals from the public sector.

3. 41,873 from the Ministry of Interior, 34,393 from the Ministry of National Education, 13,682 from the Ministry of National Defense, 7,755 from the Ministry of Health, 7,508 from the Council of Higher Education and Universities, 7,220 from the Ministry of Justice, 4,735 from the Prime Ministry, 2,669 from the Ministry of Finance, 1,404 from the Ministry of Labor and Social Security, 1,177 from the Ministry of Transport, Maritime Affairs and Communications, 1,177 from the Ministry of Food, Agriculture and Livestock, 1,115 from the Ministry of Energy and Natural Resources, 985 from the Ministry of Energy and Natural Resources, 605 from the Ministry of Family and Social Policies, 594 from the Ministry of Forestry and Water Affairs, 537 from the Ministry of Science, Industry and Technology, 512 from the Ministry of Environment and Urbanization, 488 from the Ministry of Youth and Sports, 481 from the Ministry of Foreign Affairs, 431 from the Ministry of Customs and Trade and 1,247 from other institutions and organizations.(As of 2022)
4. Of those dismissed by State of Emergency decrees, 107,138 are men and 22,273 are women.
5. In addition, a total of 4,296 judges and prosecutors were dismissed from the profession by 10 different HSYK and HSK decisions issued based on the Decree Law No. 667. Of those dismissed, 3,392 were men and 904 were women.
6. The distribution of those dismissed by the decree law according to some professions is as follows: 2,992 judges, 1,304 prosecutors, 818 professors, 965 associate professors, 1,644 assistant professors, 720 lecturers, 188 instructors, 1,675 research assistants, 1,981 doctors, 1,907 nurses, 773 midwives, 157 dentists, 68 pharmacists, 34,063 teachers, 2,271 engineers, 95 architects, 1,705 imams, 346 muezzins, 190 preachers, 696 Quran instructors, 63 muftis, 1,708 data preparation and control operators, 632 computer operators, 481 diplomats (Ministry of Foreign Affairs personnel), 151 lawyers, 87 legal advisors.
7. Only the number of those dismissed from the public sector is mentioned above, and this number does not include those whose schools were closed, whose graduations were deemed invalid, students in military schools, and students in police schools. With the addition of these, the number of victims is much higher than stated¹ .
8. In their public speeches, AKP executives and some public officials have stated that they wanted to purge these people but the law did not allow them to do so, and that they achieved this in a short time with the Decree Laws issued after July 15.
9. AKP Executive and then Minister of Justice Bekir Bozdağ, in a television program he participated in, stated that these people were dismissed from their jobs not because they were criminals, but because of an administrative act² .

¹ 2nd Year of the State of Emergency's Social Costs Research Report January 2019, p 197

² <https://youtu.be/VWhpQSxHhrI>



10. AKP Executive and then Deputy Prime Minister Numan Kurtulmuş stated in a TV program that it would have taken years to dismiss these public officials from their jobs under ordinary law and that the State of Emergency was an opportunity for them. **As can be seen from this statement, nearly 130,000 public officials were dismissed not because they were criminals, but because they were not wanted by Erdoğan and AKP rulers³.**

2-Soldiers dismissed from the Turkish Armed Forces due to the Coup Attempt, Soldiers were profiled before July 15th

11. The Turkish Armed Forces (TSK) is a major military force with more than 664,000⁴ soldiers (active soldiers 664,049; reservists 465,563; quasi-military/civil servants 58,970; total number 1,188,582) and a member of NATO .⁵
12. As of July 2, 2016, there were 570,111 personnel serving in the TAF, 51,945 of whom were civil servants. The number of admirals and generals was 358, the number of officers was 39,287 and the number of non-commissioned officers was 96,391.⁶
13. On July 27, 2016, it was announced that 8,651 soldiers participated in the coup attempt. It was also stated that the number of those who participated/supported the coup attempt and the vehicles they used was 1.5 percent of the total number of soldiers in the TAF. It was also stated that 1676 of the 8,651 soldiers who participated in the coup attempt were non-commissioned officers and 1214 were military students⁷.
14. About two weeks after the July 15, 2016 coup attempt, 149 generals were dismissed from the Turkish Armed Forces with a State of Emergency Decree Law⁸.
15. Minister of Interior Efkan Ala announced on July 27, 2016 that 151 generals and admirals in the Turkish Armed Forces were arrested within the scope of coup investigations⁹.
16. Minister of National Defense Fikri Işık announced on December 10, 2016 that 16,409 military students were dismissed from the Turkish Armed Forces¹⁰.

³ <https://www.tr724.com/numan-kurtulmusun-khk-itirafi-hukuk-uygulansaydi-2030a-kadar-bu-insanlari-atamazdik/>

⁴ https://tr.wikipedia.org/wiki/Asker_say%C4%B1s%C4%B1na_g%C3%B6re_%C3%BClkeler_listesi#IISS2010

⁵ https://www.nato.int/nato-welcome/index_tr.html

⁶ <https://www.sabah.com.tr/gundem/2016/07/02/tsk-personel-sayisini-acikladi>

⁷ <https://www.bbc.com/turkce/haberler-turkiye-36904517>

⁸ <https://t24.com.tr/haber/iste-tskdan-ihrac-edilen-general-ve-amirallerin-listesi,352220>

⁹ <https://www.ntv.com.tr/turkiye/darbe-girisiminin-bilancosu-aciklandi,cCRUntXkmEeOqwExUjW2xA>

¹⁰ <http://www.gazetevatan.com/22-bin-85-kisinin-tsk-ile-ilisigi-kesildi--1016220-gundem/?f=mobil>

17. In his statement dated May 6, 2017, Minister of Justice Bekir Bozdağ stated that 166 generals and 6810 colonels and lower ranks are under arrest¹¹ .
18. In a statement released by the Turkish Armed Forces on November 19, 2020, it was stated that the number of military personnel dismissed was 20,566¹² . In other words, 3 times the number of officers allegedly involved in the July 15 coup attempt were later dismissed due to "FETÖ" allegations. **Another question mark is why so many of these dismissed soldiers did not take part in the (alleged) coup attempt.**
19. The number of soldiers allegedly involved in the coup corresponds to a very low rate of 1.5 percent of the total number of soldiers. However, as can be seen from the data above, many more than this percentage have been dismissed from their jobs and arrested. Military experts say that such a small participation cannot be explained by the military hierarchy, given that 168 generals are on trial for the coup. It is estimated that there are around 200,000 soldiers under the command of these generals and officers. The fact that the events took place only in Istanbul and a few other provinces and that almost no serious military activity was observed in other provinces confirms this finding. The same experts also state that there is no military logic in the deployment of unarmed cadets and the presence of civilians in military units¹³ .
20. **After the July 15, 2016 coup attempt, the dismissals and arrests from the Turkish Armed Forces (TAF) were based on the previous plugs issued against the soldiers rather than their actions. This is evident in many trials.**
21. **As an example, in the official document signed by Infantry Staff Colonel Alper Eser, which was created with the list handed over by Ankara Provincial Police Chief Mahmut Karaaslan on 26.07.2016, it is seen that a plugging document was created by collecting information about many soldiers, including those serving abroad, through their families.** However, it is understood that a collective plugging document was prepared and processed by including these people in the document.

Continuing with the examples of dismissals and arrests based on lists of plugs;

22. On the morning of July 16, 2016, at 4:30 a.m., five F-16 pilots who intervened in Akıncı Base, the center of the coup attempt, with F-16 planes and played a crucial role in the suppression of the coup attempt were later arrested on charges of being members of "FETÖ/PDY"¹⁴ .
23. Lieutenant General Yıldırım Güvenç, who suppressed the coup plotters and took over Akıncı Base, was arrested for coup attempt and alleged membership in "FETÖ"¹⁵ .
24. On the night of July 15, 2016, the pilot of the plane that brought the President to Istanbul¹⁶ (Annex 30) and the F-16 pilots who protected the President in the air¹⁷ were arrested and dismissed for allegedly being members of "FETÖ/PDY".

¹¹ https://www.sozcu.com.tr/2017/gundem/bekir-bozdag-son-rakami-acikladi-1834818/?utm_source=dahafazla_haber&utm_medium=free&utm_campaign=dahafazlahaber

¹² <https://www.yenicaggazetesi.com.tr/tskdan-ihrac-edilen-personel-sayisiaciklandi-316601h.htm>

¹³ 15 July Erdoğan's Coup, Stockholm Center for Freedom, https://stockholmcf.org/wp-content/uploads/2017/07/15-Temmuz-Erdogan%C4%B1n-darbesi_05.07.2017.pdf page 16

¹⁴ <https://www.karar.com/darbe-ussunu-bombalayan-pilotlar-da-fetocu-cikti-543718>

¹⁵ <http://www.hurriyet.com.tr/yazarlar/sedat-ergin/akinci-ihrac-edilen-geri-alan-komutana-bakin-ne-oldu-40621645>

¹⁶ <https://www.aydinlik.com.tr/turkiye/2017-temmuz/erdogan-i-tasiyan-pilot-thy-den-atildi>

¹⁷ <https://tr.sputniknews.com/turkiye/201808161034779167-erdogan-ucak-eskort-feto/>

25. On July 16, 2016, former black pilot Colonel Uğur Kapan, who took Chief of General Staff Hulusi Akar from Akıncı Base and helicoptered him safely to Çankaya Mansion, was arrested on charges of coup attempt and being a member of "FETÖ/PDY".¹⁸
26. Sina Doğan, who was part of the three-man crew of the helicopter carrying Erdoğan and his family from their hotel to Dalaman Airport on the night of the coup attempt, was dismissed and arrested for "FETÖ"¹⁹.
27. Some of the police officers who provided security for the President in Marmaris on the night of the coup were arrested for being members of "FETÖ/PDY"²⁰.
28. On the night of July 15, technician Fatih Taş was first dismissed and then arrested after an inspector's report confirmed that he had prevented the coup plotters from landing at Denizli Çardak Airport on the night of July 15 by turning off the power to the planes that were to carry soldiers²¹.
29. On July 5, 2016, Brigadier General Mustafa Doğru and Colonel Ünal Bayhan, who were injured in the helicopter that crashed in Giresun, were arrested on charges of attempted coup²² while being treated at the hospital.²³ Mustafa Doğru was acquitted of attempted coup at the end of the trial, but was sentenced to 7 years and 6 months in prison on charges of FETÖ membership.²⁴
30. Lawyer Kemal Uçar, who represents some of the defendants in the coup attempt trials, stated in a statement that his client was an Air Force Academy Major General who was one of the people who were taken to Ankara on the day of the coup attempt, and that while he was the victim and complainant of the coup attempt in Ankara due to his experiences, he was being tried as a defendant in another court in Istanbul for coup attempt with 92 life sentences²⁵.
31. CHP Istanbul MP Barış Yarkadaş announced **that Petty Officer Esat Kalkan, who was martyred in Afghanistan on August 14, 2016, was "dismissed" with the decree law published on November 22.**²⁶

All these examples show that soldiers were dismissed and arrested based on pre-prepared profiling lists, regardless of whether they participated in the (alleged) coup attempt of July 15, 2016.

3- Layoffs in the Private Sector

32. One of the biggest impacts of Erdoğan and AKP's eradication activities against HH has been in the private sector. Prior to July 15th, Erdoğan had started the process of seizing companies linked to the HH, appointing trustees close to him and purging former employees. After July 15, with the decree laws issued, all private companies, foundations, associations, trade unions, etc. that were connected or close to the HH were seized. Tens of thousands of people working in these sectors were laid off.

¹⁸ <https://www.hurriyet.com.tr/gundem/orgeneral-akari-akinci-ussunden-cankaya-koskune-goturen-pilot-albay-ugur-kapanin-ifadesi-40247211>

¹⁹ <https://www.gazeteduvar.com.tr/politika/2017/12/08/15-temmuz-gecesi-erdogani-tasiyan-helikopterdeki-personel-tutuklandi>

²⁰ <https://tr.sputniknews.com/turkiye/201709091030068350-15temmuz-erdogan-polisler-feto/>

²¹ <https://www.gazeteduvar.com.tr/gundem/2018/01/25/feto-tutuklusu-teknisyen-darbecilerin-inmesini-ben-engelledim>

²² <https://www.sozcu.com.tr/2016/gundem/son-dakika-haberi-giresunda-askeri-helikopter-dustu-1303898/>

²³ <https://twitter.com/ademyarlan/status/1279889452605849600?lang=en>

²⁴ <https://www.cumhuriyet.com.tr/haber/o-komutana-hapis-cezasi-1161427>,

²⁵ <https://twitter.com/HDemirtasTR/status/974036003529875462>

²⁶ <http://www.durusgazetesi.com/siyaset/baris-yarkadas-sehit-astsubayi-bile-ihrac-ettiler-h36691.html>

33. With the State of Emergency decrees, 35 health institutions, 934 schools, 109 student dormitories , 104 foundations, 1125 associations, 15 universities and 19 trade unions belonging to the HH were closed²⁷ . When it is considered that all of the people in these closed institutions are unemployed, it is seen that the number of people laid off in the private sector is much higher than those laid off from the public sector.
34. After July 15th, Erdoğan and AKP rulers called for the dismissal of other HH volunteers employed in the private sector who had nothing to do with HH. These calls were answered and thousands of people were dismissed.
35. **The number of dismissals in the public sector is well known, as they were made by State of Emergency decrees to neutralize the administrative investigation process. In the private sector, however, the situation is much more complex. There have been layoffs from small town restaurants to very large companies. The situation has become such that even a well-established football club like Fenerbahçe has terminated the membership of some of its members on the grounds of HH contact²⁸ .**
36. To give a few examples of dismissals in the private sector as reported in the media, 306 security guards at Antalya Airport²⁹ and 211 employees at Turkish Airlines were dismissed because of their links to HH

4- International Labor Organization (ILO) Resolution on Public and Private Sector Layoffs

37. **In the March 24, 2021 ILO decision³⁰** , the unlawfulness of the Erdoğan Administration's dismissal of HH volunteers for union reasons and other arbitrary criteria on the grounds of the State of Emergency was emphasized.³¹
38. The decision also **states that the State of Emergency Inquiry Commission**, which was established by the Erdoğan Administration as an appeal authority for those dismissed from public office on the grounds of the State of Emergency, is **not an effective remedy**.

B-REINSTATEMENT REGULATIONS FOR THOSE DISMISSED BY THE EMERGENCY DECREE

39. Article 4, paragraph 2 of the Decree Law No. 667 issued on July 21, 2016 reads as follows: *"Those who are dismissed from their duties pursuant to the first paragraph cannot be employed in public service again, nor can they be directly or indirectly assigned; all kinds of trustee boards, boards, commissions, boards of directors, supervisory boards, liquidation boards and other duties held by those who are dismissed from their duties are also deemed to have been terminated. The provisions of this paragraph shall also apply to those who do not hold the title of public officer while performing the duties listed in this paragraph."* **Pursuant to this paragraph, it is clear that those who are dismissed from public office will never be employed in public institutions.**

²⁷ <https://t24.com.tr/haber/ohal-kararnamesiyle-kapatilan-dernek-ve-okullarin-illere-gore-listesi,351578>

²⁸ <http://sampiy10.gazetevatan.com/dev-feto-temizligi--1137789-futbol-sampiy10-haber/>

²⁹ <https://www.hurriyet.com.tr/fetocu-diye-isten-cikarilan-guvenlik-gorevlile-40732845>

³⁰ https://www.ilo.org/gb/GBSessions/GB341/ins/WCMS_776590/lang--en/index.htm Access Date: 23.4.2021

³¹ <https://www.hukukihaber.net/uluslararasi-calisma-orgutu-nun-ilo-87-ve-158-nolu-sozlesmeler-baglaminda-turkiye-karari-makale,8945.html>

40. **In addition, with the coding made in the electronic data system of the Social Security Institution regarding those unlawfully dismissed from the private and public sectors, it has become impossible for these individuals to work in an insured job**³². The code number '36' has been used for employees whose workplaces were closed down by the Decree Law, and the code number '37' and the note "Dismissed from Public Service" has been used in SSI records for those dismissed from the public sector by the Decree Law. Therefore, it has become virtually impossible for those dismissed by the Decree Law to work in the private sector³³.
41. Dunja Mijatovic, Council of Europe Commissioner for Human Rights, in her report following her visit to Turkey on 01-05 July 2019, stated that HH volunteers were left to "civilian death" due to some regulations preventing them from finding a job again as a result of their dismissal with the State of Emergency Decree Laws. (Pa. 87)³⁴
42. Those who were dismissed from their jobs by the Emergency Decree were prevented from taking public office or working in a company or for someone else by various methods. Therefore, as a solution, those dismissed by the emergency decree have tried to hold on to life through trade and production, such as opening their own workplaces and farming. In Turkey, as in other countries, such businesses are subject to permits and licenses. In Turkey, such permits and licenses have been denied or subsequently revoked for those who were dismissed from their jobs by emergency decrees. Examples of these unlawful practices are given below.
43. Halime Demir's private education institution in Sakarya, where she was working as a teacher, was closed down by a state of emergency decree. Her employment was also canceled. As a result of the investigation initiated against her, the Sakarya Chief Public Prosecutor's Office issued a decision of non-prosecution on 15.01.2019 from the file numbered 2019/1340. Upon this decision, Halime Demir requested a new work permit from the Governorate of Sakarya. The Governorate rejected her request with its letter dated 12.09.2019. The letter stated that the request was deemed inappropriate by the "Commission on Membership or Liaison to Structures, Formations and Groups or Terrorist Organizations that are Determined to Pose a Threat to National Security." (ANNEX-38) As can be seen, Halime Demir, who was acquitted by a judicial authority, was deemed guilty by an administrative body without any justification. The denial of Demir's license and her inability to practice the profession she has acquired through years of hard work is clearly against the law and means that the person concerned is condemned to extinction.
44. Ramazan Tekin was dismissed from his job as a teacher by a state of emergency decree. Due to his dismissal by decree, he was not allowed to work as a teacher in state institutions and private educational institutions due to the records recorded in the population registration system and the social security system. Therefore, he chose to make a living by opening a café and running it. He made all the preparations for the opening of the café and applied for a license to operate it. Anamur Municipality rejected his application with a letter dated 31.07.2018³⁵. The rejection was based on the security investigation. Ramazan Tekin was subjected to discriminatory treatment compared to other persons in the same situation. This discrimination is clearly unlawful. This is because, like many others under the Emergency Decree, Tekin has always been prevented from working as a teacher, which is his own job, and from working in the private sector, and this practice has prevented him from opening and running his own workplace.

³²<https://te1.com.tr/ohal-sona-erse-bile-36-kod-numarasi-ile-fisleme-devam-ediyor-73217/>

³³ <https://www.dunya.com/ekonomi/is-sozlesmelerinin-fesih-halinde-hangi-sgk-cikis-kodlari-kullanilmalidir-haberi-603612>, <https://www.ozdogrular.com/v1/content/view/36381/255/>

³⁴ <https://rm.coe.int/report-on-the-visit-to-turkey-by-dunja-mijatovic-council-of-europe-com/168099823e>

³⁵<https://www.gazeteduvar.com.tr/turkiye/2019/11/26/khkli-oldugu-icin-is-yeri-ruhsati-alamadi-artik-korkmuyorum/>

45. In the report prepared by the Rights to Life Association based on interviews conducted between June 2020 and August 2020 with 52 people who were dismissed by the state of emergency decree on job search processes; some employers received threatening phone calls saying "*do you realize who you are hiring, are you sure you will hire this person*", some employers said "*if we employ you, the next day the civil police will come and threaten us, if we don't listen, they will send the financier, If we don't listen to them, they appoint a trustee*", that even a bead stringing job at home, which brings in 300 liras (approximately 35 euros) a month, is not given to the applicant because he/she is a member of the state of emergency decree regime, and that at least 150 job applicants are not hired because the records show that they are members of the state of emergency decree regime.³⁶

C-WORKERS KILLED IN WORK ACCIDENTS DUE TO BEING FORCED TO WORK IN JOBS FOR WHICH THEY WERE NOT TRAINED

46. Many people who were dismissed by emergency decree decrees and could not work in either the public or private sectors in their areas of expertise were forced to work in jobs in which they had no experience or knowledge in order to survive for themselves and their families. In the words of Dunja Mijatovic, the Council of Europe Commissioner for Human Rights, many people left to civilian death have become victims of occupational accidents while working in fields in which they have no experience in order to survive. A few examples of deaths due to accidents at work will be given here.
47. Aslan Duman was dismissed from his job with the Decree Law No. 668 after working as a teacher for years. As he could not find a job in private schools due to the reasons mentioned above, he tried to make a living by working in construction despite having no previous experience. On April 14, 2019, he died as a result of a construction accident.³⁷
48. Bünyamin Aydoğan was dismissed from his teaching job by a state of emergency decree. Since he could not work as a teacher again in public and private schools, he tried to support his family through construction work. On 11.12.2018, he died as a result of a work accident at the construction site where he was working.³⁸
49. Kazım Kurnaz was dismissed from his job with Decree Law No. 700 after 10 years as a geography teacher. He was not allowed to practice his profession in private schools either. He worked in construction to earn a living. On February 1, 2019, he died as a result of a work accident.³⁹

While conducting research in the field of bioengineering, Assoc. Prof. Dr. Mustafa Camaş was dismissed from Tunceli University Faculty of Engineering with the Decree Law No. 672 issued on September 1, 2016, and then started working as a construction worker to earn a living. However, he died as a result of a work accident on March 22, 2021.⁴⁰ Mustafa Camaş had 24 researches published in the international Science Citation Index and 232 citations to his articles.

D- REMEDIES AGAINST PUBLIC SECTOR DISMISSALS AND WHETHER THESE REMEDIES ARE EFFECTIVE/JUST

³⁶ <http://www.yahader.org/files/KHK.pdf>, pp. 25-27, Access Date: 16.04.2021

³⁷ <https://www.evrensel.net/haber/377532/insaatta-calisan-khkli-ogretmen-is-cinayetinde-yasamini-yitirdi>

³⁸ <https://www.cnnturk.com/turkiye/khk-ile-issiz-kalan-ogretmen-insaatta-oldu>

³⁹ <https://boldmedya.com/2019/04/30/insaatta-dusup-hayatini-kaybeden-khkli-kazim-ogretmen-beraat-etti/>

⁴⁰ <https://halktv.com.tr/khkli-akademisyen-mustafa-camas-is-cinayetinde-yasamini-yitirdi-451754h>, Access Date: 24.03.2021

1- OHAL COMMISSION PRACTICES

Again, the victims whose rights were usurped in the post-July 15 period were prevented from demanding their rights directly before the courts, and the "State of Emergency Inquiry Commission" (OHAL Commission), which is fully affiliated to the Government, was established and it was regulated that applications against the State of Emergency procedures should be made to this commission. Although the decree on the establishment of the State of Emergency Commission was published on 23.1.2017, it was not established until July 2017, and it started to issue decisions on 22.12.2017. The mandate of the SoE Commission expired on January 22, 2023. During its 5-year term of office, 127,292 applications were made to the State of Emergency Commission. The Commission, which is recognized by the Constitutional Court and the European Court of Human Rights as a "domestic remedy to be exhausted", accepted 17,960 of the files and rejected 109,332 files.

The SoE Commission has conducted a purely pseudo-commission, acting in line with the expectations and decisions of the Erdoğan Administration rather than taking universal principles as a basis. The Commission decided to reinstate hundreds of thousands of dismissals and unlawful practices at a rate of not even 10%, and rejected 90% of the applications without justification or on unlawful grounds⁴¹. The State of Emergency Commission did not even reinstate and rejected the applications of many victims of the State of Emergency who were dismissed from their professions during the State of Emergency on the grounds that they were affiliated with the HH but were acquitted or dismissed after a judicial investigation.⁴² As such, the Commission has become the approval authority for discriminatory and criminal against humanity acts of the Government aimed at stalling the international community and victims.

50. In the report prepared by Amnesty International on the dismissals in Turkey and their consequences, "Dismissals Without Return"⁴³, it is emphasized that hundreds of thousands of people who were directly dismissed by emergency decrees were systematically prevented from accessing effective appeal processes and that practices such as the State of Emergency Commission, which were introduced later, were purely intended to distract the international public opinion.

2-CONSTITUTIONAL COURT DECISIONS

51. On the other hand, the Constitutional Court has ceased to be an effective domestic remedy, finding inadmissible almost all individual applications alleging violations of fundamental rights during HR investigations or trials. For example, almost all individual applications to the

⁴¹ A total of **131,922 measures, 125,678 of which were dismissals from public office** (3,213 demotions, 270 dismissals from overseas students, 2,761 closures of institutions and organizations), were **taken** by the Decree Laws issued under the State of Emergency. As of **31/12/2020**, the number of decisions made by the Commission, which started the decision-making process as of December 22, 2017, is **112,310 (13,170 acceptances and 99,140 rejections)**. **61** of the acceptance decisions **are** related to the reopening of closed organizations (associations, foundations, student dormitories, television channels, newspapers). <https://ohalkomisyonu.tcgb.gov.tr/>

⁴²OHIK decision dated 30.01.2019.

⁴³ https://www.amnesty.org.tr/public/uploads/files/Dismissals%20report_TR%20version%281%29.pdf

Constitutional Court against unjust and arbitrary arrests have been rejected as inadmissible.⁴⁴ Furthermore, in its 4/6/2020 judgment on former judge Yıldırım Turan, the Constitutional Court explicitly declared that it would not comply with the ECtHR's 3.3.2020 case law on former judge Hakan Baş v. Turkey, which emphasized that the arrest of judges on terrorism charges on the grounds of the existence of a state of publicity in violation of legal guarantees is contrary to the Convention.⁴⁵

52. In addition, although the rights violation judgments issued by the Constitutional Court in favor of the applicants in individual applications against HH trials are binding, local courts did not comply with these judgments. For example, despite the violation of rights rulings issued by the Constitutional Court in favor of detained journalists Mehmet Altan and Şahin Alpay, local courts did not order their release.⁴⁶

3-THE POSITION OF THE COUNCIL OF STATE AS A HIGH COURT IN CASES AGAINST DISMISSAL DECISIONS AND OHAL COMMISSION DECISIONS

53. In its decision dated 06.12.2018 and numbered 2016/46807, the 5th Chamber of the Council of State reversed the decision on the grounds that "*the plaintiff was not provided with the information and documents in the investigation file and was not given the appropriate time to make a defense*".⁴⁷ On the other hand, in its decision dated 12.03.2020 and numbered 2016/53272, the same Chamber did not consider the dismissal of the plaintiff, a former judge, without taking his defense as unlawful and rejected his reinstatement despite his acquittal in the criminal case.⁴⁸
54. In its decision dated 06.02.2017 and numbered 2014/2390, the Administrative Case Chambers Board of the Council of State ruled that it is not possible to use data for intelligence purposes as evidence in⁴⁹. However, in its decision dated 17.06.2019 and numbered 2016/58016, the 5th Chamber of the Council of State accepted the allegation of ByLock use as evidence in the lawsuit filed by a former judge dismissed by the Decree Law and rejected the lawsuit.
55. The 12th Chamber of the Council of State ruled that the process of reappointment of a person who was dismissed from the civil service due to a 12-year and 6-month prison sentence for membership of a terrorist organization (other than the organization that the Government and the Judiciary call FETÖ (such as PKK or DHKPC)) was in compliance with the law. Even this decision regarding the terrorist organization is not applied to those who were dismissed from their jobs by the Decree Law Decree Decree Laws by claiming that they are members of the Hizmet Movement, as an indicator of discrimination and hatred. The source of this

⁴⁴ <https://www.tr724.com/bireysel-basvurular-da-tazminat-yolunun-da-tuketilmesi-zorunlu-mu-1/>

⁴⁵ <https://kronos34.news/tr/aym-yasalarimizi-biz-daha-iyi-yorumlariz-diyerek-aihm-ictihatina-uymadi/> , <https://anayasagundemi.com/2020/09/16/forum-av-benan-molu-aym-ihama-karsi-turan-basvurusu-vs-bas-v-turkiye-karari/>

⁴⁶ <https://www.cumhuriyet.com.tr/haber/yargi-sistemi-coktu-mahkeme-aymnin-resmi-gazetede-gerekcesini-de-tanimadi-908948>

⁴⁷ <https://www.memurlar.net/haber/878818/savunma-hakki-kullandirilmadan-meslekten-cikarma-karari-verildi-danistay-iptal-etti.html>, Accessed on 11.03.2021

⁴⁸ <https://forum.khkhaber.com/topic/20625-dan%C4%B1%C5%9Ftay-5-daire-201653272-e-20201930-k-667-say%C4%B1%C4%B1-khk-yle-kamu-g%C3%B6revinden-%C3%A7%C4%B1kar%C4%B1lan-hakim/>, Erişim Tarihi: 11.03.2021

⁴⁹ <https://forum.khkhaber.com/topic/5445-dan%C4%B1%C5%9Ftay-i%CC%87dari-dava-daireleri-kurulu-e-20142390-k-2017346-i%CC%87stihbari-bilgi-ile-i%CC%87Flem-yap%C4%B1lamaz-aile-ile-ilgili-k%C4%B1s%C4%B1m-var/>, Erişim Tarihi: 16.03.2021

discrimination is the emergency decrees issued during the State of Emergency declared on July 20, 2016, which are still in force.

56. In February 2024, the Presidency of the Council of State made the following statement in response to the storm in the Turkish government and press when it decided to reinstate **387** of the 4788 judges/prosecutors who had been dismissed up to that date "*In 4,246 of the 4,788 cases decided, the case was dismissed on the merits in 4,246 cases, in 11 cases the case was dismissed on the grounds that the case was out of time, in 51 cases the petition was dismissed, in 15 cases there was no need for a decision, in 123 cases the case was deemed not to have been filed*

<https://www.aa.com.tr/tr/gundem/danistaydan-meslekten-ihrac-edilen-hakim-ve-savcilarla-ilgili-kararlara-iliskin-aciklama/2721438>

This statement alone is enough to prove that the Council of State is far from being capable of independent judgment, that it is incapable of ruling within the framework of judicial independence and impartiality, that it is forced to rule under the pressure of the government and the circles fueling hatred against HH, and that there is no effective and fair judicial remedy for those dismissed from public service in Turkey.

57. **Regarding these 387 judges/prosecutors**, whom the Council of State, albeit exceptionally, decided to reinstate, the **Minister of Justice, who is a member of the Government, made a statement immediately after the decision (17.2.2024) stating that an investigation had been opened against them again**. Thus, as stated in the entirety of this topic, it is once again confirmed that there is a discriminatory and hate-oriented approach to ensure that a public official who has been subjected to an investigation on the allegation that he/she is a member of the Hizmet is not allowed to return to the profession, even if the judicial decision is in his/her favor.

<https://www.aa.com.tr/tr/gundem/adalet-bakani-tunc-mesleklerine-geri-donen-387-isimle-hakim-ve-savci-alakali-hsk-olarak-yeniden-inceleme-baslattik/3140278>

E-PROTECTION FOR ALL PUBLIC OFFICIALS WHO ARE FOUND TO HAVE COMMITTED UNLAWFUL ACTS IN TERMS OF E-DISMISSAL FROM THE PUBLIC AND OTHER MATTERS

58. First, Article 9 of the State of Emergency Decree Law No. 677 dated 22/7/2016 stipulates that public officials who take decisions and fulfill their duties within the scope of the State of Emergency shall not be held legally, administratively, financially and criminally liable for their duties.
59. Article 37 of Law No. 6755 dated 8/11/2016 strengthened this immunity and immunity from prosecution granted to public officials: "*Persons who take decisions, execute decisions or measures within the scope of the suppression of the coup attempt and terrorist acts committed on 15/7/2016 and acts of terrorism and their continuation, persons who take duties within the scope of all kinds of judicial and administrative measures, and persons who take decisions and fulfill duties within the scope of the decrees with the force of law issued during the state of emergency shall not be held legally, administratively, financially and criminally liable for these decisions, duties and acts.*"

With this regulation and the methods used in the dismissals, arbitrariness in dismissals from the profession has increased, and judges who would make just decisions by observing universal principles within the judiciary have been prevented from making decisions.

RECOMMENDATIONS:

On the issue examined under the heading of "Dismissals of public officials", the Committee stated that the actions and procedures concerning nearly 200 thousand people dismissed by the Turkish government from the public and private sectors on the grounds of the July 15, 2016 coup attempt were in clear violation of Article 25 (a) and (c) of the UNCRC. (a) and (c) of Article 25 of the UNCRC, that the actions and proceedings are "not objective and reasonable, contrary to the principle of equal opportunities for recruitment or reinstatement on merit and without discrimination, and that all dismissals from the private and public sectors are politically motivated" and recommends that the Government of Turkey take the following urgent measures

1- It should be recommended to establish an independent and impartial Council of Judges and Prosecutors and a judiciary in compliance with the decisions of the International Court of Human Rights in order to ensure that those who have been dismissed from the **public** and private sectors since 17/25 December 2013 for allegedly being a member of a terrorist organization are subjected to an effective and fair investigation and that objections/cases against dismissals are heard through a fair judicial mechanism.

2- Despite the Council of State's decision to reinstate 387 Judge-Prosecutors out of 4788 dismissed Judge-Prosecutors, the Minister of Justice's statement dated 17.2.2024, stating that these individuals, who have been investigated several times before, have been re-investigated and have not yet been allowed to start working, should be recommended to the Government to comply with the decisions of the Judiciary and to give up hate-oriented practices against a group of people because the Judiciary does not implement even these exceptional decisions despite being under political and arrest pressure.

3- It should be recommended that Articles 4, 5 and 7 of the Anti-Terrorism Law No. 3713, which includes the definition of terrorism, which has led to the dismissal of tens of thousands of people **from the public** and private sectors, be amended in accordance with the United Nations Covenant on Civil and Political Rights to state that "non-violent expressions of thought that do not have the characteristics of armed action will not be considered as terrorist crimes, and only acts involving violence and force will be considered as terrorist crimes." It should be emphasized that the state has a positive obligation to ensure freedom of expression.

4-a) Decree Laws No. 667-687, a total of 21 emergency decrees issued by the Government of Turkey on July 23, 2016 for the dismissal of persons in the public sector on the grounds of the attempted coup d'état of July 15, 2016, **including the provision that the aforementioned persons may not return to work,**

b) All dismissal decisions issued by the High Council of Judges and Prosecutors from the first dismissal decision dated 24.08.2016 until today,

c) All dismissal decisions issued by the Ministry of National Defense after 16 July 2016,

Legislation should be recommended for its annulment.

5-The government of **Turkey** should be recommended to end the practice of writing Code 36 and Code 37 on the Social Security Records of persons dismissed from the public/private sector on the grounds of the coup attempt of July 15, 2016, which means "this person was dismissed by the Decree Law for a reason related to terrorism". This is because even if the person concerned receives a verdict of non-prosecution or acquittal as a result of the investigation, since this "code" is not removed from the SSI records, when the employer sees this code when applying for another job, they prefer not to hire the applicant out of fear that "I will be arrested if I hire a person with a decree of emergency decree". Thus, it becomes impossible for the person with a state of emergency decree to find a job in another field after the profession from which he or she was dismissed. According to UNCRPD 25, "*citizens shall have the right and opportunity to access public service positions on conditions of general equality. To ensure access on terms of general equality, the criteria and processes for appointment, promotion, suspension and dismissal must be objective and reasonable.*" The Government of Turkey's implementation of the Code violates this right and should be recommended to be abolished.

Article 9 of the State of Emergency Decree Law dated **6-22/7/2016** and numbered 677 states that public officials who take decisions and fulfill their duties within the scope of the State of Emergency shall not be held legally, administratively, financially and criminally liable due to these duties. Since all dismissals in the Public and Private Sectors took place during the State of Emergency (State of Emergency Administration), this means that "Public Officials" who cause people to lose their jobs by Illegally Recording/Publishing/Publishing and Using Personal Data, which causes these people to be dismissed from their jobs, will not be investigated for these actions and transactions throughout their lives. Such an arrangement cannot be accepted in a state of law, and it should be recommended that a legal amendment be made to eliminate Article 9 of the Decree Law No. 677 in order to ensure that those who have been dismissed from public office have the right to file complaints and lawsuits against these officials who are responsible in an effective and fair manner.



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**TURKEY : SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE
142nd SESSION (14 October 2024 - 8 November 2024)**

**Türkiye
(Wednesday 16 Oct 2024 PM – Thursday 17 Oct 2024 AM)**

September 2024

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EXECUTIVE SUMMARY

This shadow report addresses the ongoing issue of judicial independence in Turkey, focusing particularly on the process of losing judicial independence and impartiality, which began after the 17/25 December Investigations and escalated following July 15, 2016. It emphasizes that Turkey is not complying with its international human rights obligations, especially those under the International Covenant on Civil and Political Rights (ICCPR) and other relevant international documents. Despite repeated calls by international bodies, including the United Nations Human Rights Committee (HRC) and the European Court of Human Rights (ECtHR), Judicial Independence in Turkey remains the most fundamental problem.

The report begins by presenting concrete examples of how the independence of the judiciary was lost in the period starting with the December 17/25 investigations until July 15, 2016 and beyond. The role of the organization that played the most important role in the process of bringing the judiciary under the control of the political power after the 17/25 December investigations, previously known as the Platform for Judicial Unity and later as the Association of Judicial Unity, is revealed with numerical data.

The United Nations Human Rights Committee (UNHRC) will hold its 142nd session in Geneva from October 14 to November 8, 2024 and will conduct its second periodic review of Turkey.

The report also critically analyzes Turkey's Second Periodic Report to the Human Rights Committee, drawing attention to significant inaccuracies and misrepresentations. Underlining Turkey's lack of genuine engagement with international monitoring mechanisms, the report points out that responses to questions from international bodies are often cursory and lacking in substance. The report also reveals that Turkey has taken no serious steps to realize the independence of the judiciary, despite repeated recommendations by international bodies.

In particular, the report provides examples of how the judiciary, having lost its independence, has been used to design politics and restrict freedom of expression, especially following the increasing number of European Court of Human Rights and UN rulings in recent years, which Türkiye has avoided implementing. By illustrating these points, the report offers concrete responses to the Turkish government's false statements in international presentations. It emphasizes the urgent need for Türkiye to lift the political pressure on the judiciary and carry out reforms to achieve judicial independence and impartiality.

The methodology adopted in this report includes a comprehensive review of both international and national legal frameworks. Within this framework, Turkey's obligations under the ICCPR and relevant European human rights instruments are analyzed. In addition, the report provides concrete examples of what exactly corresponds to Judicial Independence in Turkey.

The report concludes by emphasizing the need for stronger international scrutiny of Turkey's actions and calling on the Turkish government to take meaningful steps to bring its practices in line with international standards.

1. Section : Taking December 17/25, 2013 investigations as a milestone in the process of eliminating judicial independence and impartiality in Turkey

1- The Government officially denies the allegations of lack of independence and impartiality of the judiciary, stating that the structure of the High Council of Judges and Prosecutors (HSK) is organized in a way that aims to ensure the independence and impartiality of the judiciary, that judges and prosecutors who were dismissed from their jobs after 15 July 2016 had files related to complaints before 15 July 2016, so that investigations were not initiated against them overnight, and that suspensions were carried out quickly in this way.

2 - The steps that destroyed the independence of the judiciary in Turkey in the last 10 years can be listed as follows:

- The change in the members of the First Chamber of the HSYK and the new chamber's change of duty, authority and title for many judges and prosecutors.
- Establishment of criminal judgeships of peace, creating a closed-circuit and unregulated system in which objections are heard not by a higher court but by another criminal judge of peace.
- The establishment of the Association for the Unity of the Judiciary (YBD) for the elections of the new HSYK led to the natural consequence that the newly elected HSYK became politically dependent.
- Despite their constitutional guarantees, judges and prosecutors were dismissed and arrested without any evidence and without following any procedure or law, under the pretext of the State of Emergency.
- Redesigning the high judiciary, stripping them of their independence and giving control to the politically-oriented HSK and appointing new members without regard to merit in order to ensure majority.
- Changes in the exams for the recruitment of judges and prosecutors, reducing the effect of success scores in appointment, making the interview more effective and changing the structure of the Justice Academy, where the appointed judge and prosecutor candidates are trained.
- Complete abolition of HSYK elections and the appointment of members by the President and political parties.
- Changing the structure of the Constitutional Court¹.

3- During the 17/25 December investigations, the stance of the Minister of Justice, who also served as the President of the Council of Judges and Prosecutors (HSK), was significant in terms of its impact on judicial independence. On December 18, 2013, while the investigation was ongoing, the Minister of Justice, who held the title of President of the Council of Judges and Prosecutors, openly began to interfere in the judicial process. As part of this interference, the first step was to claim that the investigation was extensive and, as a result, add new prosecutors to the team, increasing the number of prosecutors involved in the investigation. This move led to the investigation being transferred from the prosecutors originally handling it to others who could be influenced and directed by the government. However, the prosecutor handling the case had not expressed any complaints about the scope of the investigation or any difficulties in managing it, nor had he reported such concerns to the chief prosecutor in the same judicial department.

¹ <https://www.crossborderjurists.org/turkish-judiciary-in-the-international-arena-reports-after-17-25-december-investigations-report-published/>

4- On December 25, 2013, upon the start of a second investigation, Minister of Justice Sadullah Ergin was dismissed and Bekir Bozdağ was appointed Minister of Justice at the request of the Prime Minister in order to control the prosecutors leading the investigation process. On December 26, 2013, upon the expansion of the corruption investigation, the investigating prosecutor was dismissed on the instructions of Bekir Bozdağ, who is also the Minister of Justice and the President of the High Council of Judges and Prosecutors (HSYK).

5- In order to prevent ongoing investigations, the High Council of Judges and Prosecutors, which has the sole authority to appoint, authorise and discipline judges and prosecutors and whose independence is guaranteed by the Constitution, has become an open target of the government. In this context, on 7 January 2014, the government amended the HSK Law with Law No. 6524², despite the opposition's absence from the commission work and significant criticism. Although it is clearly contrary to the Constitution, it was enacted into law.

6- With this amendment, all secretariat employees, except for the members, were dismissed and the Ministry was granted significant powers to make new appointments. The HSYK was intended to be turned into a subsidiary unit of the Ministry of Justice. While the General Assembly used to decide which departments the members of the HSK would work in, the amendment paves the way for the Minister of Justice to decide. The Secretary General of the HSK and approximately 600 judges, prosecutors and employees working at the HSK and the Justice Academy were dismissed. The HSK Inspection Board has been subordinated to the Minister of Justice and the Chairman and Deputy Chairman of the Inspection Board have been appointed by the Minister of Justice.

7- The main opposition Republican People's Party took these amendments to the Constitutional Court. There was a fundamental problem: even if the Constitutional Court decided to annul the law after it had been published and enacted, annulment decisions are not retroactive. For this reason, the CHP applied to the Constitutional Court for an injunction. Under pressure from the political power, the Constitutional Court rejected the request for an injunction. On 11 April 2014, the AYM annulled the amendment on the grounds that it was unconstitutional. As the political power had already made the changes it wanted in the meantime, the annulment did not prevent the country from ceasing to be a state of law, as the annulment decision did not apply retroactively.

8- Reactions from the European Union and the Council of Europe to the amendment, which deeply affected the independence and impartiality of the judiciary, were not delayed and they expressed serious concerns as follows³ :

9- "Nils Muiznieks, Commissioner for Human Rights at the Council of Europe, of which Turkey is a founding member, said the proposed law on the High Council of Judges and Prosecutors (HSK) is a serious obstacle to the independence of the judiciary in Turkey. Expressing his reaction on his official Twitter account, Muiznieks said, "The proposed law to curtail the powers of the High Council of Judges and Prosecutors is a serious obstacle to judicial independence in Turkey."

10- "EU Commissioner for Enlargement, Stefan Füle, stated: 'While making arrangements regarding the HSK, Türkiye must adhere to EU acquis... I told Çavuşoğlu that any new arrangement related to the HSK must be in line with the Copenhagen political criteria, and I asked him to convey this message to Ankara. I also emphasized that the investigation into

² <https://www.resmigazete.gov.tr/eskiler/2014/02/20140227M1-1.htm>

³ <https://www.hurriyet.com.tr/dunya/hsyk-yasa-degisikligine-avrupa-konseyninden-tepki-25526033>

corruption allegations must be conducted independently and impartially.' The Venice Commission, in its declaration dated June 20, 2015, noted: 'On February 15, 2014, the HSK Law was amended in a way that strengthened the powers of the Minister of Justice within the High Council. This step has reversed the positive achievements of the reform carried out following the 2010 referendum'⁴.

2. Section : The Role of the Association of Judicial Unity (YBD) in the process of eliminating judicial independence and impartiality in Turkey

11- The Association of Judicial Unity is a government-organized non-governmental organization (GONGO⁵), that is, it is not an organization independent from the state. It would be appropriate to explain this point with concrete data. The YBD emerged under the name of the Platform for Judicial Unity (YBP) under the coordination of the government prior to the HSK elections held in October 2014. The then Minister of Justice Bekir Bozdağ stated in front of cameras in public places that they had founded the YBD⁶. Birol Erdem, the former Undersecretary of the Ministry of Justice, stated clearly and unequivocally that the YBD was established on the initiative of the government. Birol Erdem's statements are included in detail in the court minutes. Birol Erdem clearly and explicitly explained how the decision to establish the YBP/YBD was taken, how the candidates were selected, when and where the meetings were held, which politicians were met and when and where⁷. President Erdoğan and the AKP mobilized all means for the YBP/YBD to win the election for the HSK. Fahri Kasirga, then Secretary General of the Presidency, and Kenan İpek, former Undersecretary to the Minister of Justice, personally visited courthouses and made election propaganda⁸. Among the candidates of the YBD are Deputy Undersecretaries of the Minister of Justice. The report published by Crossborder Jurists in December 2023 titled "Shadow over the Turkish Judiciary: Association of Judicial Unity" published by Crossborder Jurists in December 2023 provides detailed information on this issue. According to the report, as of December 2023, 18 out of 21 senior executives working in the Ministry of Justice are members of the YBD. 7 out of 8 members of the HSK, who come from the judiciary, are members of the YBD⁹. Due to its relationship with the government, the YBD has not been able to become a member of any international judicial organization¹⁰. All these data clearly demonstrate that YBD is not an NGO but a GONGO. Further information on YBD's relations with the government will be provided in the following sections.

12- To fully understand what the Platform for Judicial Unity (YBP) represented¹¹, it is important to look at the meeting with Ahmet Davutoğlu, who was the Prime Minister at the

⁴ <http://www.hurriyet.com.tr/dunya/25573679.asp>

⁵ https://en.wikipedia.org/wiki/Government-organized_non-governmental_organization

⁶ <https://www.crossborderjurists.org/tr/turiye-yargisinin-uzerindeki-golge-yargida-birlik-dernegi-raporu/>, <https://www.odatv4.com/guncel/bekir-bozdag-odatvye-konustu-benimle-calisan-insanlardan-bir-tanesi-bile-boyle-soylerse-170170> (A. D. 07.09.2024).

⁷ <https://www.crossborderjurists.org/tr/turiye-yargisinin-uzerindeki-golge-yargida-birlik-dernegi-raporu/> (ET: 07.09.2024)

⁸ <https://www.cagaskocaeli.com.tr/haber/4604763/kasirga-adliyeyi-ziyaret-etti> (A. D. 07.09.2024).

⁹ <https://www.crossborderjurists.org/tr/turiye-yargisinin-uzerindeki-golge-yargida-birlik-dernegi-raporu/> (ET: 07.09.2024)

¹⁰ <https://www.crossborderjurists.org/tr/turiye-yargisinin-uzerindeki-golge-yargida-birlik-dernegi-raporu/> (ET: 07.09.2024)

¹¹ The Union of Judges and Prosecutors (YARSAV) participated in the same election with its own list or independent candidates No meeting has been held between the Government/Ministry of Justice

time. In his statement, Ahmet Davutoğlu provided important details about which ideologies, political groups, and belief systems supported the YBP¹².

12- The YBP, which began its activities with secret meetings under the coordination of the Ministry of Justice, held its first large-scale meeting in Konya on April 19, 2014. The meeting, attended by nearly 300 judges and prosecutors, was covered in the press with the headline "*New alliance in the judiciary against the Gulen Movement*". Deputy Undersecretaries of the Ministry of Justice Selahaddin Menteş and Basri Bağcı and many bureaucrats from the General Secretariat of the HSK, which was reshaped after December 17-25 by the government's intervention, also attended the meeting¹³.

13- Mahir Ünal, then AKP Parliamentary Group Deputy Chairman Mahir Ünal, said in a statement (26.09.2014) prior to the HSK elections that if the government-backed Platform for Judicial Unity loses in the HSK elections, they will not recognize the result¹⁴.

14- Against all government pressure and intimidation, three groups of candidates entered the election, as in the 2010 election. These are the YBP list supported by Erdoğan and the AKP, the list of YARSAV and the individual participation of independent candidates. Erdoğan's tactics of "demonization", "witchification" and discriminatory style, which he has used in all elections, were also evident in this election. This election, like the previous one, was fought between the group supported by the Erdoğan government, "those who love their homeland, state and nation(!)" and the independent candidates and YARSAV candidates who were declared as "members of the parallel structure and traitors(!)".#

15- The pressure and intimidation policy of Erdoğan, AKP and YBP had the greatest impact on independent candidates and their supporters. Comparing the 2010 and 2014 HSK elections, the pressure on judges and prosecutors is clearly visible¹⁵.

16- As a result, in the HSK elections held on 12.10.2014, most of the candidates of the YBP supported by the government won the elections¹⁶.

17- It is interesting that the number of judges and prosecutors dismissed immediately after the July 15 coup attempt is approximately equal to the average number of votes received by independent candidates. Both during the election process and afterward, YBP members were heavily involved in preparing purge lists. In this context, these efforts were coordinated by a special team within the Ministry of Justice and the HSK, and the lists were finalized. The data from these lists were used as the basis for appointments, promotions, and assignments.

18- Erdoğan and his government's takeover of the judiciary has proceeded in two directions. One is the intimidation, pacification and liquidation of those who are undesirable, dissenting or disobedient; the other is the promotion of those who are obedient and obedient to important positions. The HSK, under the control of the YBD, has fulfilled both tasks in a reckless manner, disregarding the law and the applicable legislation¹⁷.

¹² <https://m.haberturk.com/gundem/haber/986597-paralel-yapi-da-degerlendirildi> (E.T.: 2.12.2023).

¹³ <https://www.crossborderjurists.org/tr/turiye-yargisinin-uzerindeki-golge-yargida-birlik-dernegi-raporu/> (ET: 07.09.2024)

¹⁴ <https://www.cumhuriyet.com.tr/haber/akp-demokrasisi-kazanirsak-mesru-kaybederse-gayrimesru-123637> (E.T.: 28.11.2023).

¹⁵ <https://www.ysk.gov.tr/doc/dosyalar/docs/2010HSK/KesinSecimSonuc/AdliKesinSonuc.pdf> (A. D. 07.09.2024)

¹⁶ <https://www.cumhuriyet.com.tr/haber/yargi-da-akpye-baglandi-129695> (A. D. 07.09.2024).

¹⁷ <https://humanriHHts-ev.com/wp-content/uploads/2019/08/Ceza-Mahkemeleri-Bagimsizlik-ve-Tarafsizlik-Report.pdf> (A. D. 07.09.2024).

19- As emphasized in many international reports, and in particular in the EU Commission's reports on Turkey, the YBD has fully subordinated the Turkish judiciary to the executive¹⁸.

20- As soon as it took office in October 2014, the HSK, under the leadership of the YBD, started to intimidate its opponents. His first act was to reassign members of the HSK who served in the previous term to inactive positions¹⁹.

21- The second practice of the HSK under the control of the YBD was to issue a decree on the candidates nominated from the YARSAV list and independent candidates in the HSK elections and to change the positions of these judges and prosecutors. However, this practice was extremely ruthless and untimely. In Turkey, until that day, decrees appointing judges and prosecutors were issued by the HSK in June. In September or October, those with excuses such as marriage or illness would be transferred upon their own request. The YBD changed this practice arbitrarily for the purpose of mobbing judges and prosecutors whom it considered to be its opponents.

22- Although it was not a normal decree period, a total of 1064 judges and prosecutors, who did not request to be reassigned and whose legal term of office had not expired, were reassigned by serial decrees published on 27.11.2014²⁰ , 28.11.2014²¹ , 18.12.2014²² , 15.01.2015²³ and 05.03.2015 .²⁴

23- 2401 judges and prosecutors were appointed by the Decree No. 2015/943 dated 12.06.2015²⁵ of the 1st Chamber of the HSK for the Civil and Criminal Judiciary and 265 administrative judges were appointed by the Decree No. 2015/944 of the same date for the Administrative Judiciary.

¹⁸ See Title "International Reactions to the YBD"

¹⁹ <https://www.hsk.gov.tr/h-kimler-ve-savcilar-kurulu-eski-uyelerinin-yargitay-uyeligine-secilmelerine-iliskin-announcement> (A. D. 07.09.2024).

²⁰ With the Decree No. 2710 dated 27.11.2014 and numbered 2710 of the Judicial Judiciary Decree of the 1st Chamber of the HSK the requests of 74 judges and prosecutors and 7 administrative judges by the Administrative Judiciary Decree No. 2711 of the same date outside of the country. With this decree, candidates who ran for the CJP elections on October 12, 2014 but did not win However, the candidates who received the highest number of votes were reassigned to other provinces without their request and before the end of their term of office.

https://www.hsk.gov.tr/Kararnameler/DuyuruOku/594_hakimler-ve-savcilar-yuksekkurulu-birinci-dairesinin-27112014-tarihli-kararnamesi.aspx (A. D. 07.09.2024).

²¹ With the Decree No. 2714 dated 28.11.2014 and numbered 2714 of the 1st Chamber of the HCJ for the Judicial Judiciary, the Ministry and the Constitutional Two judges from the Court were appointed.

https://www.hsk.gov.tr/Kararnameler/DuyuruOku/595_hakimler-ve-savcilar-yuksekkurulu-birinci-dairesinin-28112014-tarihli-kararnamesi.aspx (A. D. 07.09.2024).

²² With the Decree No. 2805 dated 18.12.2014 and numbered 2805 of the 1st Chamber of the HCJ Judicial Judiciary, 66 judges assigned to the Court of Cassation They were transferred against their will.

https://www.hsk.gov.tr/Kararnameler/DuyuruOku/603_hakimler-ve-savcilar-yuksekkurulu-birinci-dairesinin-18122014-tarih-ve-2805-sayili-kararnamesine-iliskin-duyuru.aspx (A. D. 07.09.2024).

²³ The Decree of the 1st Chamber of the HCJ dated 15.01.2015 and numbered 2015/24 on the Judicial Judiciary was issued for 784 judges and prosecutors, and on the same date With the Administrative Judiciary Decree No. 2015/25, 104 administrative judges were appointed.

https://www.hsk.gov.tr/Kararnameler/DuyuruOku/614_hakimler-ve-savcilar-yuksekkurulu-birinci-dairesinin-15012015-tarih-ve-20152425-sayili-adl%C3%AE-ve-idar%C3%AE-yargi-kararnamelerine-iliskin-duyuru-.aspx (A. D. 07.09.2024).

²⁴ With the Administrative Judiciary Decree No. 382 dated 05.03.2015 and numbered 382 of the 1st Chamber of the HSK, the Ministry of Justice and the Constitutional Court 2 administrative judges assigned to the Court were appointed against his request.

https://www.hsk.gov.tr/Kararnameler/DuyuruOku/632_hakimler-ve-savcilar-yuksekkurulu-birinci-dairesinin-05032015-tarihli-ve-382-sayili-idar%C3%AE-yargi-kararnamesi-.aspx (A. D. 07.09.2024).

²⁵ https://www.hsk.gov.tr/Kararnameler/DuyuruOku/668_2015-yili-adli-ve-idari-yargi-ana-kararnamesi.aspx (A. D. 07.09.2024).

24- It was explicitly stated in the Constitutional Court's decision dated 26.07.2017 with the individual application number 2016/49158 that arbitrary appointment decrees were made based on profiling lists²⁶. However, prior to July 15, 2016, there is no official statement that any judge and prosecutor was reassigned or reassigned due to their (alleged) FETÖ/PDY connection or affiliation. The Constitutional Court decision confirms that these decrees were made according to unlawfully created lists.

25- To date (December 2023), the HSK, under the direction of the YBD, has dismissed 4398 judges and prosecutors from their jobs on charges of "membership in a terrorist organization"²⁷.

26- As the Council of Europe and European Union officials have stated, not all of these individuals were named overnight. From the beginning of 2014 onwards, the YBP (YBD) carried out preparatory work in an intensive plan, systematically and in an organized manner, under the control of a central unit, and prepared "profiling" files on every judge and prosecutor in the judiciary. After 15 July, dismissals were carried out according to these pre-established lists.

3. Section : Plotting activities in the judiciary by the Association of Judicial Unity

27- Following the coup attempt on July 15, 2016, in the first hours of July 16, before even the perpetrators of the coup attempt had been arrested and interrogated, the Ankara Chief Public Prosecutor's Office issued detention warrants for 2 members of the Constitutional Court, 140 members of the Court of Cassation, 48 members of the Council of State and 2745 judicial and administrative judges and prosecutors²⁸. The HSK suspended the members of the judiciary on the same day.

28- Mehmet Yılmaz, Deputy President of the HSK and founding member of YBD, made a statement on September 21, 2016 regarding the detention and suspension orders issued against 2745 members of the judiciary, stating that the lists of judicial members subject to these orders were not prepared overnight and that they had been working on them for three years²⁹. The fact that the list includes Ahmet Biçer, a prosecutor who passed away two months ago, and

²⁶ <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2016/49158>, (A. D. 07.09.2024).

²⁷ The CJP and the Ministry of Justice have not publicly announced the number of dismissed members of the judiciary. The CJP did not share the number of the number of the CJP, and the questions posed in this regard were left unanswered. The number stated by the CJP are the figures obtained by compiling the dismissal decisions issued and published in the Official Gazette. Those dismissed whether there are any of them who have been reinstated and, if so, the number of those reinstated, which was also shared with the public there is no official information. The number of dismissed members of the judiciary, the grounds for their dismissal, and how many of them have been detained taken, arrested, tried, sentenced, put in solitary confinement, etc., are also deliberately. It is concealed by the Ministry and the HSK officials.

²⁸ <http://www.hurriyet.com.tr/2-bin-745-hâkim-ve-savci-icin-gozalti-karari-cikti-40149496>(A. D. 07.09.2024).
<http://t24.com.tr/haber/bazi-HSK-yargitay-ve-danistay-uyeleri-hakkinda-yakalama-karari-cikarildi,350225>
(E.T: 07.09.2024).

²⁹ These statements indicate that the studies have been conducted on the elements of genocide and crimes against humanity regulated under Articles 76 and 77 of the TCC.

"systematically in line with a plan against a certain group of people".

<https://t24.com.tr/haber/HSK-2-daire-baskani-elimizdeki-feto-listesi-bir-gecede-yapilmadi-3-yildir-360895> (A. D. 07.09.2024).

<http://www.memleketimbolu.com/haber/13335/yilmaz-feto-listesi-bir-gecede-yapilmadi-3-yildir-calisiyorduk> (A. D. 07.09.2024).

some retired judges, shows that the list was prepared well in advance. Similar comments were made by Metin Yandirmaz, a member of the CJP³⁰.

29- In a letter allegedly written to the President, Prime Minister, Minister of Justice and prosecutors conducting the investigation into former undersecretary Birol Erdem by Muharrem Özkaya, one of the founders of YBD and a member of the 2nd Chamber of the HSK at the time, *"Birol Erdem prepared the list of FETÖ members in the Court of Cassation, Council of State and high courts. Birol Erdem again carried out the identification of 456 FETÖ members in the administrative judiciary"*³¹. It is seen that these plots were confessed.

30- Birol Erdem, former undersecretary and member of the Council of Judges and Prosecutors, has confirmed these allegations in his statements in the investigation against him, stating that *"after the crisis that emerged on February 7, 2012 when the Undersecretary of National Intelligence Organization (MIT) was summoned to testify, he identified the people he believed to be members of this structure within the Ministry of Justice, the Supreme Court of Appeals and the Council of State, and reported the lists he had prepared to the Council of Judges and Prosecutors, the Minister of Justice, the Undersecretary of MIT and the Prime Minister"*.

31- Institutionally, the YBD, the HSK under its control and the Ministry of Justice as the representative of the government have launched a witch hunt against all judges and prosecutors who opposed them in the 2014 elections, who did not vote for the candidates they supported, who prioritized the law with their discourse and decisions, and who pushed the "best interests of the state" to the background. The targeted number was set at approximately 5,500. This number is equivalent to the number of judges and prosecutors who voted for independent candidates in the HSK elections held in October 2014.

32- Immediately after the members of the Supreme Judicial Council (HSK) under the control of the YBD took office, the process of purging judges and prosecutors targeted by the Erdoğan-AKP government began. The judges and prosecutors who took part in the December 17/25, 2013 investigation³² and the judges and prosecutors who stopped and searched the trucks carrying military ammunition to ISIS, known as the MIT Investigation, were dismissed as the primary targets³³. Subsequently, judges who took part in the December 17/25, 2013 investigation and then released the arrested police officers were dismissed from their jobs³⁴.

33- The demands of Birol Kırmaz, President of the Association of Judicial Unity (YBD), and YBD and HSK member Turgay Ateş for regulatory changes to facilitate the purge of opposition figures were realized with the suspicious coup attempt of July 15, 2016.

34- It is known that during this process, the HSK forced hundreds of judges and prosecutors who made statements or testified against themselves or others, or who were declared persona non grata due to their open opposition stance, to resign or retire by "allowing them to practice law (!)". Since there is no official document on this issue, and no report has been published on this issue to date, we have not been able to share any data on this issue in this study.

35- Erdoğan and the AKP Government amended the Supreme Court of Appeals and Council of State Laws with Law No. 6572 in order to obtain the majority of members in the Supreme

³⁰ <https://www.hurriyet.com.tr/gundem/5-bin-hakim-savci-tespit-ettik-40064585> (A. D. 07.09.2024).

³¹ <http://www.karar.com/yazarlar/elif-cakir/yargi-camiasinin-vicdanini-rahatsiz-eden-gozalti-4235> (A. D. 07.09.2024).

³² <https://www.aa.com.tr/tr/turkiye/HSK-zekeriya-ozu-meslekten-ihrac-etti/48232> (A. D. 07.09.2024).

³³ <https://www.aa.com.tr/tr/turkiye/mit-tirlarini-durduran-5-savci-meslekten-ihrac-edildi/504899> (A. D. 07.09.2024).

³⁴ <https://www.aa.com.tr/tr/turkiye/HSKdan-meslekten-ihrac-karari/508382> (A. D. 07.09.2024).

Court of Appeals and Council of State by electing members to the Supreme Court of Appeals and Council of State. Law No. 6572 was adopted by the Turkish Grand National Assembly on December 02, 2014 and entered into force after being published in the Official Gazette¹⁰⁸ on 12.12.2014. With this Law, the Court of Cassation and the Council of State were restructured. Accordingly, 8 new departments were established in the Court of Cassation and 129 members were appointed, including 8 heads of departments and 121 members. On 15.12.2014, 144 members were elected to the Court of Cassation by the HSK. Of these elected members, 121 are members of the YBD³⁵.

36- After the election of the members of the Court of Cassation, the First Presidency Board was reconstituted. The decision of the newly formed First Presidency Board on the division of labor of the chambers was published in the Official Gazette. The First Presidency Board re-determined the chambers in which the presidents, members and examining judges would serve. As can be seen, the Association of Judicial Unity (YBD) has completely taken control of the Court of Cassation (Yargıtay) after gaining influence over the HSK. In the division of labor, terrorism and organizational crimes were taken from the 9th Criminal Chamber, which had been specialized with its jurisprudence for years, and assigned to the newly established 16th Criminal Chamber. Seven of the 12 members appointed in the first establishment of this chamber were members of the YBD.

37- With Law No. 6572, the Council of State (Danıştay) was allocated 2 Department Chair positions, 37 member positions, 23 Prosecutor positions, and 50 Rapporteur Judge positions. On December 15, 2014, the HSK appointed 30 members to the Council of State. Of these members, 11 were members of the Association of Judicial Unity (YBD). Similar to the process in the Court of Cassation (Yargıtay), after the election of new members, the Presidency Board of the Council of State was reconstituted. However, members who were not officially members of YBD but actively participated in YBP activities were also elected. The division of labor between departments and the assignments of department chairs, members, and rapporteur judges to specific departments were also redefined.

38- The biggest staffing in the Supreme Courts was carried out during and after the implementation of Law No. 6723, which entered into force on 23.07.2016, immediately after the coup attempt on July 15, 2016. With this law, all members of the Court of Cassation and Council of State were dismissed. On 25.07.20216, the High Council of Judges and Prosecutors re-elected the members of the Court of Cassation and Council of State as members of the Court of Cassation and Council of State after weeding out the undesirables. This election took place under extraordinary circumstances after July 15th and the criteria for the selection of members were determined by the Erdoğan-AKP government. After this election, the Court of Cassation and the Council of State were completely harmonized to work with the political power³⁶. On that day, 150 of the 267 members of the Court of Cassation and 14 of the 96 members of the Council of State were members of the YBD. As we mentioned above, members of the Supreme Court of Appeals and Council of State were also elected from among judges and prosecutors who, although they were not members of the YBD, supported the Platform for Judicial Unity from its inception and actively participated in its activities.

39- Before Law No. 6723 entered into force, the July 15 coup attempt took place. On July 16, 2016, 140 members of the Court of Cassation and 48 members of the Council of State were

³⁵ <https://www.crossborderjurists.org/tr/turiye-yargisinin-uzerindeki-golge-yargida-birlik-dernegi-raporu/> (ET: 07.09.2024)

³⁶ <https://www.sozcu.com.tr/2016/gundem/yuksekk-yargiyi-saraya-baglama-yasasi-gecti-1299114/>, (E.T.: 07.09.2024).

detained by the Ankara Chief Public Prosecutor's Office³⁷. Of these high court members, those who made individual applications to the ECHR were found in violation of the right to liberty and security of person. As explained above, Erdoğan and the AKP have aimed at two things by increasing and decreasing the number of members in the high courts. The first one is to increase its influence in the executive boards of the Supreme Court of Appeals and the Council of State in order to easily intervene in the internal functioning of the high courts and in cases. Thus, by determining the members of the chambers in charge of handling critical cases, it is prevented from issuing a decision contrary to the wishes of Erdoğan or the AKP. The other is to appoint members from the high courts to very important positions such as the Constitutional Court, the High Council of Judges and Prosecutors (HSK) and the Supreme Electoral Council (YSK).

40- The list of the names of judges and prosecutors who are members of the YBD, which is used as the basis for the report and used in the statistics, was published on the YBD's own website in order to make an announcement to those who will attend the General Assembly meeting to be held on April 30, 2021, but this list was removed from the website after the list and the names of the judges and prosecutors mentioned in the lists started to be discussed in the public opinion. After April 30, 2021, there is no information on those who became members in open sources.

41- 47 of the 85 founding members of the YBD are active members of the Constitutional Court, the Court of Cassation, the Council of State, the Supreme Electoral Council or the HSK, or in the senior management of the Ministry of Justice. Considering the environment and purpose in which the YBD was founded and organized, its activities in the following period, and its relationship with the Erdoğan-AKP government, the criticisms and observations directed at the Turkish judicial system by nationally and internationally respected individuals and organizations will be better understood. The other 39 members hold very important positions within the judicial system, such as members of the Regional Administrative Court, President of the Regional Court of Justice, President of the High Criminal Court, President of the Administrative or Tax Court, Chief Public Prosecutor, Deputy Director General and Head of Department in the Ministry of Justice³⁸.

42- Most of the Chief Public Prosecutors, the Presidents of the Judicial, Criminal and Administrative Judicial Commissions, the Presidents of the Criminal Courts and the Justices of the Peace are members of the Association for the YBD. This shows the influence of the Association on the judicial system as a whole.

43- The official website of the Ministry of Justice lists a total of 21 people from the profession of judges and prosecutors who hold the highest positions in the hierarchy of the ministry, such as deputy minister, general director and head of independent department.³⁹ While 18 of these 21 people are members of the YBD, 3 of them are not members.

44- The HSK consists of 13 members. The President of the Council is the Minister of Justice, who is a natural member. In addition to the Minister, one of the Deputy Ministers is also a natural member of the Council. Of the remaining 11 members, 4 are elected by the President

³⁷ <https://bianet.org/bianet/toplum/176800-HSK-yargitay-ve-danistay-da-gozalti-ve-aciga-almalar-var> (A. D. 07.09.2024).

³⁸ For the list of YBD founding members, see <https://yargidabirlik.org.tr/ybd-hakkinda/kurucu-uyeler> (A. D. 07.09.2024).

³⁹ In the Ministry of Justice, the top managers of all departments, except the Forensic Medicine Institution, are judges or prosecutors.

About the relevant units and their managers, see <https://www.adalet.gov.tr/birimler> data creation and names comparison date is 05.12.2023.

of the Republic. The remaining 7 members are elected by the Grand National Assembly of Turkey. Since 8 of the 13 members of the Board are selected from among judges and prosecutors, only their membership status in the YBD has been determined. 7 of the 8 members are members of the YBD.

45- After the 16 April 2017 referendum on the constitutional amendments, the Constitutional Court has 15 members. Of these 15 members, 3 are elected from among the members of the Court of Cassation and 2 from among the members of the Council of State. The names of 5 members of the Constitutional Court from the judicial or administrative judiciary were compared with the list of the General Assembly of the YBD and it was determined that two of them were members of the YBD. Finally, it was observed that the member of the judiciary elected among senior public officials in the election for the membership of the Constitutional Court on 18.07.2024 was one of the founders of the YBD. However, the situation of the member who was elected as a member of the Court of Cassation while he was the Chief Public Prosecutor of Istanbul, who openly supported and participated in the activities of the YBP after 17-25 December 2013, although he was not a member, should also not be overlooked.

46- As of 15.12.2014, the comparison was made based on the names of the members of the Court of Cassation elected by the HSK and published in the Official Gazette. While the current number of members of the Court of Cassation is 380, after our study, we reached 454 judges and prosecutors who were elected as members. The reason for this is that after July 15, 2016, on July 25, 2016, all members of the Court of Cassation were dismissed and replaced by new members. Some of the names of those who were previously members of the Supreme Court of Appeals (YBD) and elected to the Supreme Court of Appeals were not re-elected to the Supreme Court of Appeals afterwards. On the other hand, current President of the Court of Cassation is a founder of the Association of Judicial Unity and current Chief Prosecutor of the Court of Cassation is a member of the Association of Judicial Unity.

47- It was determined that 281 of the 454 members of the Supreme Court of Appeals who were elected as members after December 2014 by the YBD-controlled HSK were members of the YBD. The names of members who are not members but have participated in the activities of the YBP since its establishment are not included in this number.

48- Of the 140 members of the Council of State elected as members of the Council of State after December 2014 by the YBD-controlled HSK, 39 were identified as members of the YBD. The names of members who are not members but have participated in the activities of the YBP since its establishment are not included in this number.

49- The Supreme Electoral Council is a body of high judges responsible for the general administration and supervision of elections in Turkey⁴⁰. The Board has 11 members. As of December 2023, 7 of the 11 members of the Supreme Electoral Board are YBD members.

50- Showing how many of the Chief Public Prosecutors of 81 Provinces are members of the YBD as of December 2023 will help to make sense of the effectiveness of the YBD in the judicial system. 70 out of 81 Provincial Chief Public Prosecutors are members of the YBD.

51- Among the 521 criminal judges of peace appointed between 2015 and 2020 by the HSK, which is under the control of YBD, 304 out of 521 criminal judges of peace were identified as YBD members.

⁴⁰ On the structure, duties and functioning of the SBE, see. <https://www.ysk.gov.tr/doc/dosyalar/Kurumumuz/YukseKSecimKuruluTanitimKitapcigi/YSK-TanitimKitabi.pdf> (A. D. 07.09.2024).

4. Section : Assessments in International Reports on the State of the Turkish Judiciary after the December 17/25 Investigations

52- At the request of the Chairmanship of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe (PACE), the Venice Commission prepared a 48-page report on the compliance of State of Emergency Decree Laws No. 667-676 with Council of Europe Standards. This report was published on December 12, 2016. In the said report; The Constitutional Court dismissed 2 of its own members on August 4, 2016 based on subjective opinion without any evidence, the HSK dismissed thousands of judges and prosecutors without any evidence to support the allegations against them, judges are special public servants, their independence is guaranteed by the Constitution and internationally, thus weakening the entire judicial system, that these dismissals have a "chilling effect" within the judicial system, forcing other judges to be reluctant to overturn measures announced under the State of Emergency Decree Laws for fear of being subjected to such measures themselves, that this situation affects the independence of the judiciary, and that if the dismissed persons seek their rights within the Turkish Judicial System, their chances of success are very slim⁴¹.

53- In the European Commission's Türkiye report dated 12.10.2022, significant findings were made regarding the independence and impartiality of the Turkish judiciary. The report stated that Türkiye is at a preliminary stage in applying the EU *acquis* and European standards in the areas of the rule of law and human rights, and that serious backsliding continued during the reporting period. It highlighted that the main issues identified in previous reports, particularly the systemic lack of judicial independence and the urgent need to improve the human rights situation, have still not been addressed. The improper pressure exerted on judges and prosecutors by authorities continues to have a negative impact on the independence and quality of the judiciary. The refusal to implement rulings of the European Court of Human Rights raises concerns about the judiciary's commitment to international and European standards. The lack of objective, merit-based, uniform, and predetermined criteria for the recruitment and promotion of judges and prosecutors remains a cause for concern. Appeals against such relocations are often unsuccessful. Judicial independence has been further undermined by public statements made by representatives of the executive and legislative branches, including the President, about ongoing cases⁴².

54- Dunja Mijatović, Council of Europe Commissioner for Human Rights, and his team visited Turkey from 1 to 5 July 2019. During her visit, the Commissioner met with the Turkish authorities, members of the judiciary, national human rights bodies and civil society. The Commissioner's report of 19 February 2020 contains worrying findings on the independence and impartiality of the judiciary. In this context, the report stated that the powers of the CJP to regulate and supervise judges and prosecutors are broader than in many European countries and that these powers have long been interpreted and used in a highly controversial and politicised manner, with an extraordinary influence on law enforcement and the core competencies of the judiciary, and that the new structure of the CJP allows all members of the CJP to be appointed by the President or the Parliament without a procedure guaranteeing the participation of all political parties and interests; This situation, which is in clear contradiction with European standards, and recent legislative changes regarding the independence of judges and prosecutors, have created a general atmosphere of anxiety and fear among members of the

⁴¹ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)037-tur](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)037-tur)

⁴² https://www.ab.gov.tr/siteimages/birimler/kpb/2022_turkiye_report_tr_27.11.2022_22.05.pdf

judiciary; The dismissals carried out by the HSK, especially during the state of emergency, do not meet with the standards that should be apply to the dismissal of judicial personnel; the inauguration ceremonies for judges and prosecutors and the opening of the judicial year are now held at the presidential complex, reinforcing the public perception that the judiciary is politicised and that the executive has control over the judiciary; judges are appointed arbitrarily after controversial rulings that protect the human rights of the accused; the assignment of politically sensitive cases to judges known to be biased, or the assignment of such cases to courts likely to issue certain types of rulings lends further credibility to allegations that the judiciary in Turkey and the CJP are biased, particularly in terms of political interests; that members of the executive and legislature continue to criticise the courts and the public in relation to ongoing trials, making comments that disregard the presumption of innocence and cast doubt on respect for the fair operation of the law; and that such statements have a negative impact on the way the judiciary handles cases.

55- In its February 2021 report "Judicial Independence and Access to Justice in Contemporary Turkey", the Turkey Tribunal summarized; 2013 was an irreversible turning point for the protection of human rights in the Turkish Judiciary, when in December 2013, some prosecutors began investigating the secrets of a Government corruption scandal, which the Executive had been trying to prevent, Within days, the Government decided to destroy the independence of the High Council of Judges and Prosecutors (HSYK) and reassert political control over the judiciary, and the coup attempt in July 2016 was an invaluable opportunity for the Government to launch a large-scale purge of the independent judiciary, the opposition and critical voices⁴³.

5. Section : Rights Violations

a) Status of the Turkish Judiciary with regard to the Right to a Fair Trial and Fundamental Human Rights (Art.9,10,11,14 ICCPR)

56-Since 2014, the Turkish judiciary has been frequently criticized in international reports on fair trial and fundamental human rights.

57- In the "Judiciary and fundamental rights" section of the "Rule of law and fundamental rights" chapter of the European Commission's 2022 Report on Turkey, assessments were made on "fair trial and respect for fundamental human rights", including "respect for fundamental rights in legislation and practice", "an effective (independent, high quality and efficient) judicial system", "the independence and quality of the judiciary", "the issue of alignment of the judiciary with international and European standards"⁴⁴.

58- The "Judiciary and Fundamental Rights" section of the "Rule of Law and Fundamental Rights" chapter of the report contains the following data on human rights violations "(Rule of law and respect for human rights): Turkey is at an initial level of implementation of the acquis and European standards in this area. Significant backsliding continued during the reporting period. Major issues identified in previous reports remain unaddressed, in particular the systemic lack of judicial independence and the urgent need to improve the human rights situation."

⁴³ <https://www.crossborderjurists.org/tr/yargi-bagimsizligi-ve-adalete-erisim/>

⁴⁴ https://www.ab.gov.tr/siteimages/birimler/kpb/2022_turkiye_report_tr_27.11.2022_22.05.pdf

as an MP in the parliamentary general elections, the 16th CC of the Court of Cassation declared the decision of the Constitutional Court null and void and Can Atalay's parliamentary seat was closed by reading the decision in the parliament⁵⁴.

64- "Turkey should in particular: bring the Turkish Penal Code and the Anti-Terror Law and the manner of their implementation into line with European standards, the ECHR, the case-law of the ECtHR and the recommendations of the Venice Commission; ensure that criminal allegations ensure that criminal allegations are examined in accordance with the law, by an independent and impartial judiciary, based on concrete evidence and conducted in fully transparent procedures, in full respect of the right to a fair trial and related procedural rights, in particular the presumption of innocence, individual criminal responsibility, legal certainty, the right to a defense, the principle of equality of arms and the right to effective appeal; and ensure that the State of Emergency Inquiry Commission is an effective domestic remedy." As a matter of fact, the ECtHR found a violation in the Yalçınkaya judgment⁵⁵.

65- "During the reporting period, the European Court of Human Rights (ECtHR) delivered 621 judgments and found violations of the European Convention on Human Rights (ECHR) in 70 cases, mostly concerning freedom of expression, the right to liberty and security, protection of property, the right to a fair trial, the right to free choice, respect for private and family life and the right to life. During the reporting period, the relevant chambers of the ECtHR received 9,856 new applications. In June 2022, the total number of applications concerning Turkey pending before the Court is 17,006. There are currently 188 cases against Turkey under the extended supervision of the Committee of Ministers."

66- "Human rights defenders faced severe repression through judicial investigations, lawsuits, threats, surveillance, prolonged arbitrary detention and ill-treatment, which had a general chilling effect on independent civil society. Defamation campaigns and targeting of human rights defenders⁵⁶ by pro-government media outlets, as well as aggressive rhetoric by elected and appointed officials, have further narrowed the space for critical views. Lawyers providing legal assistance to human rights defenders and civil and political activists faced obstacles in carrying out their work and faced arrest, detention and prosecution"⁵⁷.

67- "As regards procedural rights, the legislation is not in line with the European acquis or European standards. The ECtHR continued to issue judgments condemning Turkey for violating the right to a fair trial and the presumption of innocence by failing to respect procedural rules."

68- **In Simone Gaboriau's Article titled "There is no Justice Left in Turkey" dated 06/13/2017;** the following data on human rights violations are included; "The principle of the rule of law, the promotion and protection of human rights and fundamental freedoms can only be ensured on the basis of a strong and independent judiciary. In this respect, the history of justice in Turkey is certainly far from exemplary."

⁵⁴ <https://www.hurriyet.com.tr/gundem/son-dakika-can-atalayin-milletvekilligi-dusuruldu-42398666>

⁵⁵ <https://hudoc.echr.coe.int/#%7B%22fulltext%22:%5B%22CASE%20OF%20Y%20C3%209CKSEL%20YAL%20C3%2087%20C4%20B1NKAYA%20v.%20T%20C3%209CRK%20C4%20BOYE%20-%20%5B%20Turkish%20Translation%20summary%20by%20Kadir%20C3%2096zt%20C3%20BCrk%20%22%22%5D%22%22%7D>,%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%22%7D%7D%7D

⁵⁶ <https://tr.euronews.com/2021/04/02/milletvekilligi-dusurulen-omer-faruk-gergerlioglu-tutuklan-yor>

⁵⁷ MP Ömer Faruk Gergerlioğlu was targeted by the government for speaking out about human rights violations in the country as a human rights defender and a member of parliament, and was purged by the judiciary; he was arrested and stripped of his parliamentary seat, and after a period of imprisonment, he was released by the Constitutional Court and returned to parliament <https://tr.euronews.com/2021/07/01/aym-den-omer-faruk-gergerlioglu-icin-hak-ihlali-karar>

69- **The report dated February 19, 2020, by Council of Europe Commissioner for Human Rights Dunja Mijatović, following her visit to Türkiye from July 1-5, 2019,** includes the following data on human rights violations; "The Commissioner notes that the disregard by the Turkish judiciary of the most basic guarantees of a fair trial and the indiscriminate application of criminal laws to lawful acts, in particular in cases related to terrorism and organized crime, have reached a level of legal insecurity and arbitrariness that endangers the very essence of the rule of law. The Commissioner is fully aware of the extraordinary difficulties Turkey faces in fighting multiple terrorist organizations at the same time, but stresses that the failure to protect human rights in this process will only undermine this fight in the long term."

70- "The exercise of the right to an effective remedy is another problem... The Commissioner is concerned about recent developments that jeopardize the effectiveness of the individual application to the Constitutional Court as a domestic remedy for human rights violations. This is mainly due to the systematic resistance of prosecutors and lower courts to the spirit of the Constitutional Court's judgments and its consistent jurisprudence." The accuracy of the Commissioner's opinion has recently been demonstrated in the Can Atalay judgment and the ECtHR's Yalçınkaya judgment.

71- "The functioning of the justice system has been a major focus of the Commissioner's work in Turkey. The Turkish judiciary has long been at the heart of human rights violations in Turkey, either by failing to remedy violations committed by the Turkish authorities or by directly causing them. In particular, the Commissioner notes that as of the end of 2018, the ECtHR had handed down 3148 judgments involving Turkey in which there was at least one violation of the European Convention on Human Rights. Of these, 919 concerned in particular violations of the right to a fair trial, 755 concerned the right to liberty and security of the person, 603 concerned the length of proceedings and 279 concerned the right to an effective remedy."

72- "The Commissioner notes that the already worrying situation regarding the independence of judges and prosecutors deteriorated substantially during the state of emergency declared after the coup attempt in July 2016. Almost a third of the judiciary, around 4,000 judges and prosecutors, were dismissed during this period on the basis of the extraordinary powers granted to the HSYK and the higher courts. This was despite warnings by the Commissioner's predecessor that the HSYK's decisions did not comply with the standards that should apply to the dismissal of members of the judiciary. In particular, the Commissioner notes that the judgments of these decisions consisted of a generic, stereotypical, unspecialized reasoning, supplemented by lists of 2845 and 543 names."

73- In addition to the Commissioner's assessments, the report prepared by the OECD based on on-the-ground investigations similarly made the following assessments on the structure of the HSYK "One of the Government's key efforts in this regard has focused on the HSYK, given its dominant role in judicial discipline and dismissal. As mentioned earlier, the HSYK was replaced by the HSK through a constitutional amendment in 2017. The new body consists of 13 members, including the Minister of Justice, who is the President of the HSK. The other members are the Deputy Minister of Justice, 3 academics elected by the Parliament and 8 judges or prosecutors, 4 of whom are elected by the President and the rest by the Parliament. In other words, all members of the HSK come from or are selected by the executive and political branches. As the Working Group has observed in its assessments of other countries dealing with similar bodies, such an arrangement would leave the HSK "vulnerable to

potential political and executive influence. This reduces judicial independence overall, given the central role of the body in the functioning of the judiciary"⁵⁸.

74- "The Commissioner has repeatedly expressed particular concern about the decisions and functioning of criminal judgeships of peace, a judicial structure established in June 2014. While the criminal judgeships of peace were intended to improve the protection of human rights in criminal proceedings by intensifying knowledge and expertise on ECtHR standards, the Commissioner observes that the practical result has been the opposite. The decisions of these judges have been at the root of the most flagrant violations of human rights, in particular the right to liberty and security and freedom of expression."

75- After the Criminal Judgeships of Peace, defined by Erdoğan as project courts, fulfilled their duties in the areas defined by the political power, following the completion of the cadre of the political power in the judiciary⁵⁹, an appeal against the decisions of the Criminal Judgeships of Peace to the Criminal Courts of First Instance was introduced.⁶⁰

76- "The Commissioner considers that questions of access to justice in Turkey have become more urgent in recent years for a number of reasons. First, the emergency decrees issued by the Turkish government explicitly exclude the measures they introduce from any judicial review. Second, a number of recent developments have raised questions about the effectiveness of the Turkish Constitutional Court as a remedy for human rights violations."

77- "The Commissioner considers that there are currently four interlinked issues that cast doubt on the effectiveness of the individual application procedure to the Constitutional Court as a remedy for human rights violations in Turkey. The Constitutional Court's tardiness in redressing serious human rights violations, the highly problematic attitude of the lower courts towards the case-law of the Constitutional Court, the extraordinary burden on the Constitutional Court arising from the overall situation and, lastly, the recent decisions of the Constitutional Court in which it appears to be departing from its approach in accordance with the Convention."

78- "The ECtHR confirmed that the delay (16 months and 24 days) in the Constitutional Court's decision on Osman Kavala's detention was excessively long and could not be considered "expeditious", thus leading to a violation of Article 5(4) of the Convention. This finding is a first as it concerns the Turkish Constitutional Court. The Commissioner also expressed serious concerns about the non-implementation of the decisions of the Constitutional Court. For example, the Commissioner notes that Mehmet Altan was released more than five months after the Constitutional Court's judgment, as the lower courts refused to comply with its judgment in apparent defiance of its authority."

79- "The Commissioner considers that judicial proceedings targeting civil society and human rights defenders in Turkey are the most worrying element of a sustained and orchestrated crackdown on human rights defenders in a deliberate attempt to silence them and prevent them from reporting on ongoing human rights violations in Turkey. The chilling effect of these cases is palpable in Turkey."

80- "The Commissioner is concerned by numerous indications that the Turkish authorities and judiciary have adopted an increasingly suspicious and hostile attitude towards lawyers who

⁵⁸ https://www.oecd.org/en/publications/implementing-the-oecd-anti-bribery-convention-phase-4-report-turkiye_2db5c502-en.html p.38

⁵⁹ https://drupaltest.sol.org.tr/haber/hakim-savci-atamalarinda-akp-mhp-kontenjani-5546#google_vignette

⁶⁰ <https://www.mevzuat.gov.tr/mevzuatmetin/1.5.5271-20110808.pdf>

play an active role as human rights defenders, whether by bringing cases alleging human rights violations or defending the human rights of terrorism suspects. Combined with the many procedural and practical obstacles to the practice of the profession, this results in a situation that seriously undermines the ability of lawyers to fulfill their critical role as a pillar of the criminal justice system, which is fundamental to ensuring the right to a fair trial. The sheer number of cases specifically targeting lawyers and, more worryingly, their professional activities, has a clear chilling effect on the profession as a whole."

b) Prohibition of torture and ill-treatment and the right to life (ICCPR Art.2,5,6,7,8)

81-Teoman Gökçe served as a member of the High Council of Judges and Prosecutors between 2010 and 2014. He was elected as a member of the HSYK by the votes of judges and prosecutors serving at the first instance court. In 2014, he ran for re-election but did not win. After July 15, 2016, he was first dismissed from his job, then detained and arrested. He was arbitrarily detained according to the precedent-setting decisions of the European Court of Human Rights⁶¹ and the United Nations Working Group on Arbitrary Detention.⁶² He was kept in solitary confinement from the time of his arrest until the moment of his death. The cause of death was announced as a heart attack.⁶³ Gökçe had been held in solitary confinement in Sincan Penal Institution for 2 years when he died.

82-Hüsametdin Uğur, a member of the Court of Cassation, was arrested on political grounds after July 15, 2016 on charges of being a member of an armed terrorist organization. According to the precedent-setting decisions of the European Court of Human Rights and the United Nations Working Group on Arbitrary Detention, he was arbitrarily detained with a discriminatory approach. Hüsametdin Uğur shared his experiences in an open letter made public on 06.11.2021⁶⁴. In his letter, he stated that he was beaten and threatened while in Keskin Prison, that the prosecutor's office arbitrarily delayed his application for a long time and that the investigation was hastily closed with a decision not to prosecute after the incident became public, that he was kept in a small cell for 24 hours during his detention and was only allowed out for two hours a day until the date of the letter, that his psychological condition was not suitable for this solitary confinement and described in detail the violations of his rights he had suffered.

83- Nesibe Özer was a member of the HSYK between 2010 and 2014. In the 2014 elections, she ran for re-election despite all pressure from Erdoğan and the AKP. For this, she was targeted. After July 15, 2016, she was dismissed from her job, detained and arrested and kept in solitary confinement from the day of her arrest until her release.

84- Ayşe Neşe Gül was the Director of the Training Center at the Justice Academy. She was a very successful judge and administrator. Just like Nesibe Özer, she was a candidate in the

⁶¹ The decision of the European Court of Human Rights dated April 16, 2019 and numbered 12778/17 B. Alparslan Altan, and the decision of the European Court of Human Rights dated 03.03.2020 and numbered 66448/17 B. Hakan Baş are precedent-setting decisions showing the arbitrary detention of Teoman Gökçe.

⁶² UN Working Group on Arbitrary Detention Resolution A/HRC/WGAD/2018/78 on Hamza Yaman.

⁶³ Teoman Gokce - Finished Lives

⁶⁴ Nalan Dilara Uğur on Twitter: "This is the open letter of my father Hüsametdin Uğur, a former member of the Court of Cassation, who has been held "captive" in prison for 5.5 years and subjected to systematic torture, to all institutions and organizations concerned with human rights, to everyone who says "I am human" @adalet_bakanlik @TCYargitay <https://t.co/VQZ8WUNHOs>" / Twitter, <https://kronos35.news/tr/eski-yargitay-uyesi-husametdin-ugur-insanim-diyen-herkese-acik-mektup/>, Open letter to all institutions and organizations concerned with human rights, to everyone who says "I am human"pdf - Google Drive

2014 HSYK elections. Despite all the pressure, she did not withdraw her candidacy. On July 15, 2016, he was dismissed from his job, detained and arrested. He remained in solitary confinement from the day of his arrest until his release⁶⁵.

85- The number of judges and prosecutors who were subjected to torture and ill-treatment during the period is numerous. Examples known to the public are included here. There are still hundreds of judges and prosecutors in prisons who were dismissed from their jobs after July 15, 2016. Despite the ECHR⁶⁶ violation decision on these judges and prosecutors, their convictions are finalized and arrest and detention procedures are carried out in a way that damages their personal rights in the public opinion⁶⁷.

RECOMMENDATIONS

The findings of this shadow report reveal that people are threatened with judicial retribution for exercising their most fundamental rights, particularly in the aftermath of the investigations of December 17/25, 2013 and the attempted coup d'état of July 15, 2016, when the independence and impartiality of the judiciary was dismantled in Turkey. Despite Turkey's official claims that it abides by the democratic order and complies with international human rights standards, the evidence presented in this report reveals an entirely different reality.

It has become clear that Turkey's legal and institutional framework is not willing to realize the independence and impartiality of the judiciary in the new order that the current government wants to build. Due to government pressure on the judiciary, Turkish courts have been reluctant to comply with ECtHR judgments in cases where the ECtHR has found violations. In the aftermath of ECtHR and UN judgments, the government and its other partners in power strongly criticize these judgments in front of large public audiences, calling the victims of these cases terrorists.

In light of these findings, the Human Rights Committee is respectfully requested to recommend in its Concluding Observations on the Second Report of Turkey that the Turkish government take urgent and concrete steps to bring its practices in line with its international human rights obligations. These recommendations should include Turkey taking legislative and institutional steps to realize the independence and impartiality of the judiciary.

The Committee is also urged to recommend to the Turkish government to take legislative, institutional and political steps to build an independent and impartial and independent judiciary.

As stated in the relevant sections of the report, thousands of judges and prosecutors have been, and still are, deprived of their freedom by being dismissed from their jobs for political reasons in the process of designing politics and social life through the judiciary. This discrimination-based behavior is not only a problem of the judges and prosecutors who have been harmed by this action, but also a problem of judicial independence in general. Through these judges and prosecutors, the political power is very clearly threatening the judges and prosecutors who are still in office and who are trying to act impartially, even if only a little. Therefore, these discrimination-based practices should be abandoned.

⁶⁵ <https://www.crossborderjurists.org/torture-report-on-judges-and-prosecutors-in-turkey/>

⁶⁶ [https://hudoc.echr.coe.int/#{"%22fulltext%22:\["%22%22CASE%20OF%20TURAN%20AND%20OTHERS%20v.%20TURKEY%22"\],%22documentcollectionid%22:\["%22GRANDCHAMBER%22,%22CHAMBER%22"\],%22itemid%22:\["%22001-213369%22"\]}"](https://hudoc.echr.coe.int/#{"%22fulltext%22:["%22%22CASE%20OF%20TURAN%20AND%20OTHERS%20v.%20TURKEY%22"],%22documentcollectionid%22:["%22GRANDCHAMBER%22,%22CHAMBER%22"],%22itemid%22:["%22001-213369%22"]})

⁶⁷ https://boldmedya.com/2024/08/09/polis-gucu-yine-khklilara-yetti-eski-ardahan-bassavcisina-ters-kelepceyle-iskence/#google_vignette

The political power controls judges and prosecutors through the Association of Judicial Unity, which it led the establishment of. In return, it rewards them by appointing YBD member prosecutors and judges to all high judicial positions, including membership of the Constitutional Court, and to all important courts and prosecution offices in the first instance courts. For this reason, the YBD, which is not only an NGO but also has other functions, should be put on the agenda of every platform and its activities scrutinised.

While the ECtHR has found that the Turkish judiciary has departed from the most basic rules of law, the ministerial committee has not been sufficiently effective in enforcing these judgments. As a matter of fact, it is seen that the Turkish judicial authorities have not fulfilled the requirements of the judgments on Demirtaş, Kavala and most recently Yalçınkaya, which affect thousands of people. Similarly, it is seen that the Turkish judiciary has abstained from the execution of the resolutions issued by the UN committees, and it should be ensured that adequate mechanisms are put in place for the execution of these resolutions.

The one-man influence on the Council of Judges and Prosecutors should be reduced and the Council of Judges and Prosecutors should be redesigned by taking into account international reports and Venice criteria.

Turkey's problem of judicial independence and impartiality is not only a problem of today, but has never been so severe in any period. Never has the desire to build a new system of governance through the judiciary been so clear. The international community must increase its scrutiny of Turkey's judicial independence practices and hold the government accountable to its obligations under international law. Only through sustained pressure and concrete steps can the independence and impartiality of the judiciary be restored and the rule of law be restored in Turkey.



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REPORT ON THE UNLAWFUL DISMISSAL OF MEMBERS OF THE JUDICIARY IN TURKEY

Executive Summary

This report focuses on the gross unlawfulness of the dismissal decisions of at least 4386 members of the judiciary who were dismissed following the coup attempt of 15 July 2016.

In its response, Turkey argues that the dismissals of judges and prosecutors were carried out in accordance with the Constitution and relevant legal regulations. Turkey states that there is sufficient evidence concerning the dismissed members of the judiciary, that their right to a fair trial is protected and that they are entitled to an effective defence and right of appeal.

In its reply, Turkey implicitly admits that this is not the case. In its response, Turkey admits that thousands of judges and prosecutors from the judiciary were dismissed on the basis of a template decision and a general justification, without any personalisation on an individual basis. As a justification for this, it cites the extraordinary situation experienced during the coup d'état.

As set out in detail in the report below, 4386 judges and public prosecutors were dismissed on and immediately after 16 July 2016, on the basis of the previously prepared lists of judges and public prosecutors, without being given the right to defence, without concrete evidence and justification, and by listing their names.

In the dismissal decisions, not a single concrete piece of evidence was presented in relation to the dismissed judges and prosecutors; the decisions were made on the basis of general assessments and determinations that were not related to the accusations against the members of the judiciary.

The Council of Judges and Prosecutors evaluated the objections made by the dismissed members of the judiciary and similarly rejected all objections with a template decision, without addressing the issues objected to.

The Council of Judges and Prosecutors dismissed members of the judiciary without evidence and without justification, and after the dismissal, started to collect evidence against the dismissed judges and prosecutors. For this purpose, intelligence and security units fabricated false evidence, and Council inspectors obtained witness statements through pressure and unlawful promises.

After the dismissals, almost all of the dismissed members of the judiciary were detained and most of them were arrested. The dismissal decision of the Council of Judges and Prosecutors was accepted as the main evidence for arrest. Thousands of members of the judiciary were sentenced to heavy prison sentences ranging from 6 years and 3 months to 22 years. The dismissal decisions of the members of the judiciary are similar to each other, as well as the indictments prepared against them and the judgements of conviction are almost identical.

The government saw the coup attempt on 15 July 2016 as an opportunity and dismissed members of the judiciary, whom it considered as opponents, from the judicial system by taking advantage of this dark atmosphere. Afterwards, it took the Turkish judicial system under its control by recruiting thousands of judges and prosecutors in line with its own criteria.

REPORT ON THE UNLAWFUL DISMISSAL OF MEMBERS OF THE JUDICIARY IN TURKEY

As is the case in all states of law, the Constitution and laws in Turkey subject the recruitment and dismissal of judges and prosecutors to special procedures. This right has not been granted to judges and prosecutors in order to privilege them. The nature of the work of judges and prosecutors requires the judiciary to be independent and impartial. Society has an interest in ensuring the independence and impartiality of the judiciary.

However, after 15 July 2016, judges and prosecutors have become the most insecure professionals in Turkey. The most important reason for this is the member structure of the Council of Judges and Prosecutors, which works and makes decisions under the influence and control of the government.

On the night of 15 July 2016, a coup attempt took place. While the coup attempt was ongoing, the Council of Judges and Prosecutors (HSK) held an extraordinary meeting late at night. In the early morning hours of 16 July, the HSK announced the suspension of 2745 judges and prosecutors. Simultaneously, the Ankara Chief Public Prosecutor's Office announced that it had opened an investigation against the suspended and subsequently dismissed judges and prosecutors on charges of 'attempted coup' and 'membership of an armed terrorist organisation'. In the context of the investigation, detention orders were issued for the arrest of all dismissed judges and prosecutors. The assets of dismissed judges and prosecutors were seized, their passports were cancelled and their homes and workplaces were searched.

The Council of Judges and Prosecutors has decided to dismiss 4388 judges and prosecutors in total with 27 different decisions taken at different times since 16 July 2016. This number includes 140 members of the Court of Cassation, 48 members of the Council of State and 5 members of the Council of Judges and Prosecutors.

The duties of the members of the Court of Cassation and Council of State were terminated with the Law No. 6723, which entered into force on 23 July 2016, and they were given the status of 'judge'. Therefore, the dismissals of the members of the high courts were carried out by the High Council of Judges and Prosecutors on 24.8.2016, not as members of the Court of Cassation or Council of State, but as 'judges'.

The number of dismissals does not include the names of 2 members of the Constitutional Court dismissed by the Presidency of the Constitutional Court. When these are included, the number will be 4390.

In addition to these, 199 candidate judges and prosecutors were dismissed with the Decree Laws issued during the State of Emergency. Also 199 military judges and prosecutors working in the military judiciary were dismissed from their jobs during this period.

WERE THE DISMISSAL DECISIONS OF THE COUNCIL OF JUDGES AND PROSECUTORS JUSTIFIED?

The dismissal decisions of the Council of Judges and Prosecutors are completely unjustified. All of the decisions are templates. No individualization was made in the dismissal decisions for the dismissed members of the judiciary. The HSK created a common dismissal decision text and then simply stated that "the members of the judiciary listed in the attached list have been dismissed".

The dismissal decisions were published in the Official Gazette and on the website of the Council of Judges and Prosecutors. Even a person with no legal education will clearly see that these decisions are unjustified and that there is no individualization of the dismissals.

Until today, no concrete justification has been given by the HSK as to which judge or prosecutor participated in the coup or was a member of an armed terrorist organization.

The dismissal decisions made by the HSK were later turned into indictments by prosecutors' offices. All of the indictments prepared by the prosecutor's offices against judges and prosecutors are copies of each other. The only different part of the indictments is the personal identity information of the judges and prosecutors.

The indictments were then used as justification for the punishment of judges and prosecutors. In other words, the dismissal decision of the Council of Judges and Prosecutors first turned into an indictment and then into a conviction. This clearly shows that the dismissals and punishments were planned before July 15, 2016.

How the dismissal lists of judges and prosecutors were drawn up and on what concrete evidence they were based remains a mystery to this day.

DID THE COUNCIL OF JUDGES AND PROSECUTORS GIVE DISMISSED JUDICIAL MEMBERS THE RIGHT TO AN EFFECTIVE DEFENSE?

It is not true that judges and prosecutors were given the right to an effective and efficient defense and appeal by the CJP regarding their dismissal. This is because the CJP first dismissed the judges and prosecutors with a template decision without justification. The relevant judges and prosecutors were then told that they could appeal these dismissal decisions. It is not possible for members of the judiciary, who do not know on what grounds, on what evidence and documents they were dismissed, to appeal against the decision of the CJP and defend themselves. The objections made by members of the judiciary were rejected without justification with a template decision created by the CJP. Neither in the dismissal decision nor in the decision on the objections, the CJP did not make any individualization of judges and prosecutors. The dismissals were made in lists and the appeals were rejected with similar list decisions.

On the night of July 15, 2016, the decision of the CJP to dismiss 2745 members of the judiciary was made in approximately 3-4 hours. Even if it is considered that it takes at least 1 minute to identify and write down the identity information of each member of the judiciary, the CJP's dismissal decision should have taken at least 2745 minutes. Even for this, at least 45 hours were needed. This alone shows that the dismissal decisions are not based on a realistic examination and evaluation, and that members of the judiciary, who are predetermined and considered as opponents of the government, are wanted to be eliminated under the pretext of a coup d'état.

As a requirement of the principles of "independence of courts" and "guarantee of judgeship and prosecutor's office", which are protected by Articles 138, 139 and 140 of the Constitution, special authority and duty regulations have been determined for the investigation and prosecution of crimes committed by judges and prosecutors in the course and scope of their duties, as well as personal crimes. These regulations are stipulated in Articles 82 to 94 of the Law No. 2802 on Judges and Prosecutors. These special trial procedures for members of the judiciary have been introduced with the aim of ensuring that judges and prosecutors who exercise judicial authority fulfill their duties independently without being under constant

pressure of investigation and to prevent them from being worn down by malicious denunciations and complaints.

The judges and prosecutors were dismissed by the CJP, ignoring their constitutional and legal guarantees, and were subsequently detained and arrested by the Ankara Public Prosecutor's Office.

In its response, the Turkish state argues that the dismissal and detention of members of the judiciary was justified and proportionate due to the state of emergency. The coup was officially suppressed on July 21, 2016. So why were judges and prosecutors suspended and arrested in the first hours of July 16, when security had not yet been restored in the country and their actual participation in the coup was not proven, not alleged, and has not been demonstrated to date? This question alone is enough to demonstrate the illogicality of the Turkish state's justification.

In this case, the judges and prosecutors were dismissed under 138 of the Constitution. They were dismissed by violating the judicial guarantees set out in the article, were detained and arrested and even prosecuted without complying with the rules of the judicial procedure set out in the Constitution and the Law of Judges and prosecutors.

The dismissal decisions of the Council of Judges and Prosecutors were used as direct evidence in the arrest and prosecution processes. The European Court of Human Rights and the United Nations Working Group on Arbitrary Detention have indirectly examined the decisions of the CJP and concluded that they clearly violate fundamental rights and freedoms. During the process of these judgments, Turkey made defenses, but could not explain on what concrete grounds the dismissals were carried out. In fact, it did not hesitate to provide clearly misleading information in its defenses.

The findings on these issues have been repeated frequently in the decisions of the European Court of Human Rights, the international supervisory bodies, and the United Nations working Group on arbitrary arrests. The tables below provide information on the decisions of the institutions mentioned.

Decisions made by the European Court of Human Rights		
Year	Decision name	Infringement items
2019	Alparslan Altan & Türkiye ¹	AİHS md. 5/1
2020	Head & Turkey ²	See also Article 5/1, Article 5/4
2021	Tercan & Turkey ³	AİHS md 5/1, md. 8

¹ Alpaslan Altan v. Turkey, application No. 12778/17, K.T.: 16 April 2019, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-195054%22%7D>

² BAS v. Turkey, application no. 66448/17, K.T.: 3 March 2020, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-206632%22%7D>

³ Turkey v. Turkey, application No. 6158/18, K.T.: 29 June 2021, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-214477%22%7D>

2021	Turan et al Turkey and Turkey (427 people) ⁴	AİHS md 5/1
2022	Noah Uzun and Turkey ⁵	AİHS md. 8
2022	Acar et al Turkey and Turkey (50 people) ⁶	AİHS md. 5/1
2022	Ulusoy et al Turkey and Turkey (21 people) ⁷	AİHS md. 5/1
2022	Eli and others vs Turkey (108 people) ⁸	AİHS md. 5/1
2022	Ataman et al Turkey and Turkey (68 people) ⁹	AİHS md. 5/1
2022	Baser and Özçelik & Turkey (2 people) ¹⁰	AİHS md. 5/1
2022	Morale vs. Turkey and Turkey (32 people) ¹¹	AİHS md. 5/1
2022	Rejoice vs Turkey and Turkey (135 people) ¹²	AİHS md. 5/1
2022	Güngör et al & Türkiye (82 kişi) ¹³	AİHS md. 5/1
2023	Ayvaz vd. & Türkiye (121 kişi) ¹⁴	AİHS md. 5/1
2023	Canavci and Turkey ¹⁵	AİHS md. 8
2024	Eagle and Turkey	AİHS md. 6/1
2024	Gülçcu VD & Turkey (49 people)	AİHS md. 6/1
2024	Sözen & Turkey	AİHS md. 6/1
2024	Aydın Sefa Akay and Turkey	AİHS md. 5/1, md. 8

United Nations working Group decisions on arbitrary arrests

Year	Decision name	Infringement items
2018	Hamza Yaman and Turkey	(A) retention without legal basis – Category I;

⁴ Turan and Others v. Türkiye, Application no. 75805/16 and 426 other applications, K.T: 23 November 2021, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-215088%22%5D%7D>

⁵ [Nuh Uzun and othersleri/Türkiye Kararı](#), Application No. 49341/18 and others, K.T: March 29, 2022.

⁶ [Acar and othersleri/Türkiye Kararı](#), Application No. 64251/16 and others, K.T: 28 June 2022.

⁷ [Ulusoy and othersleri/Türkiye Kararı](#), Application No. 73062/16 and others, K.T: 6 September 2022.

⁸ [Bayram and othersleri/Türkiye Kararı](#), Application No. 20061/17 and others, K.T: 6 September 2022.

⁹ [Ataman and othersleri/Türkiye Kararı](#), Application No. 14676/17 and others, K.T: 6 September 2022.

¹⁰ [Başer ve Özçelik/Türkiye Kararı](#), Application No. 30694/15 ve 30803/15, K.T: 13 September 2022.

¹¹ [Moral and othersleri/Türkiye Kararı](#), Application No. 49867/17 and others, K.T: 18 October 2022.

¹² [Sevinç and othersleri/Türkiye Kararı](#), Application No. 63634/16 and others, K.T: 18 October 2022.

¹³ [Güngör and othersleri/Türkiye Kararı](#), Application No. 59639/17 and others, K.T: 13 December 2022.

¹⁴ [Abdullah Kılıç/Türkiye Kararı](#), Application No. 43979/17, K.T: 31 January 2023.

¹⁵ [Canavcı and othersleri/Türkiye Kararı](#), Application No. 24074/19 and others, K.T: 14 November 2023.

		(B) failure to comply with international guarantees of the right to a fair trial. Kategori; (C) retention on the basis of discrimination - Category V.
2019	Melike Göksan and Mehmet Fatih Göksan & Turkey	(A) retention without legal basis – Category I; (B) retention arising from the exercise of rights and freedoms – Category II; (C) failure to comply with international guarantees of the right to a fair trial. Kategori; (D) retention on a basis of discrimination - Category V

HAVE THE DISMISSED MEMBERS OF THE JUDICIARY BEEN REINSTATED?

Turkey does not share reliable information with the public about the dismissed members of the judiciary. MP Ömer Faruk Gergerlioğlu's requests for information on the issue are deliberately left unanswered by the Ministry of Justice. For this reason, it is still a mystery how many judges and prosecutors were dismissed after July 15th, how many were retired, how many were detained, arrested and arrested, and how many were tried and sentenced.

When the decisions of the Council of Judges and Prosecutors published in the Official Gazette were analysed by our association, it was found that 166 of them have been reinstated to their posts so far.

Pursuant to Article 3 of Law No. 6749, all decisions of the CJP on the recruitment and dismissal of judges and prosecutors must be published in the Official Gazette. Despite this clear provision, the CJP did not publish in the Official Gazette all the names of the judges and prosecutors who were reinstated after dismissal. Therefore, despite their reinstatement, there are a small number of judges and prosecutors for whom we do not have numerical information.

According to the data available to our association, the number of judicial personnel dismissed after their reinstatement is 4,222.

In its response, Turkey cites the fact that there are members of the judiciary who have been readmitted to the profession by the Council of Judges and Prosecutors as evidence of an effective appeal review. However, neither the dismissal decisions nor the readmission decisions are justified. Justified decisions are a sine qua non of the rule of law. The existence of unjustified decisions is the biggest proof of an arbitrary administration. The situations of all dismissed

members of the judiciary are almost identical. We do not know on what grounds the Council of Judges and Prosecutors made this decision about those who were readmitted to the profession. Our Association supports the elimination of an unlawful act. However, members of the judiciary who were unjustly dismissed have been able to regain their rights by contacting people who have close relations with the government. Our Association members have direct testimonies about this. If deemed necessary, we have members who will verbally testify before the United Nations.

NUMBER OF JUDGES AND PROSECUTORS DETAINED, ARRESTED AND GIVEN JUDICIAL CONTROL DECISIONS

Of the 4,388 dismissed members of the judiciary, 166 were reinstated. According to the figures announced, 4,222 members of the judiciary were definitively dismissed between 2016 and 2022.

There is no clarity in the data released by the official authorities as to how many of the dismissed members of the judiciary have been subjected to judicial control measures.

The clearest information on this issue is the Constitutional Court's decision dated 26.7.2017 in the context of the individual application Selçuk Özdemir (Application number: 2016/49158). Paragraphs 18 and 19 of the Court's decision are as follows

18. According to Ministry of Justice data, the number of judicial members under investigation as of 24/7/2017 within the scope of FETÖ/PDY investigations is 4,664. Of these, 1,311 were released with judicial control measures and 97 were released without any protection measure. No judicial action such as arrest or detention was taken against 251 members of the judiciary under investigation. Arrest measures were taken against 2,431 members of the judiciary, including members of the high courts. In addition to these, 297 members of the judiciary were released a certain amount of time after the arrest measure was applied against them; judicial control measures were applied to 274 of those released. On the other hand, there are 271 judicial members who are fugitives and for whom arrest warrants have been issued by the investigation/prosecution authorities, and the detention process is ongoing for 6 judicial members.

19. On the other hand, during the process, the CJP issued suspension and dismissal decisions against more than 4,500 members of the judiciary who are considered to be related to FETÖ/PDY. Within this framework, the General Assembly of the CJP decided to dismiss 2,847 judges and prosecutors on 24/8/2016, 543 on 31/8/2016, 66 on 4/10/2016, 203 on 15/11/2016, 227 on 13/2/2017, 202 on 17/3/2017, 45 on 3/4/2017 and 107 on 5/5/2017. Some of these judges and prosecutors were dismissed from the profession after their requests for reconsideration were accepted by the CJP General Assembly.

The numerical data given by the Constitutional Court in its judgement and reported to the Court by the Ministry of Justice are valid for the dismissals until 24.7.2017.

The number of judicial personnel dismissed until 24.7.2017, the date of the Constitutional Court's judgement, is 4,240. However, in its judgement, the Court determined the number of judges and prosecutors under investigation as 4,664. This difference is due to the following. The CJP makes a two-stage decision in the dismissal process. In the first stage, the CJP 'suspends' the relevant member of the judiciary and then makes a 'decision of dismissal'. Only the dismissal decisions of the CJP are published on its website and in the Official Gazette. The number in the Constitutional Court's table should not be the number of judicial

members suspended, but the number of judicial members for whom the CJP issued a decision of dismissal.

All members of the judiciary for whom the CJP has issued a decision of 'suspension' are subject to at least a criminal investigation for 'membership of an armed terrorist organisation' by the Chief Public Prosecutor's Office in the place where the relevant member of the judiciary works. Therefore, the phrase '4,664 members of the judiciary under investigation' in the Constitutional Court's judgement refers to judges and prosecutors who have been suspended by the CJP and against whom criminal investigations have been initiated (as of 24.7.2017).

Detention, arrest and judicial control requests were also made against judicial members who were reinstated by the CJP. Therefore, the information provided in the Constitutional Court's judgement should be evaluated without taking into account the reinstatement decisions. Therefore, the statistics given in the Decision should be interpreted within this framework. According to the Constitutional Court's Decision, it is understood that the following criminal security measures were imposed on all 4,240 judicial personnel who were dismissed and some 424 judicial personnel who were suspended but not dismissed:

Based on this information, it is certain that criminal investigations have been initiated against at least 4,270 members of the judiciary and at least one of the provisions of detention, arrest, arrest or judicial control has been applied to these persons.

Since the Constitutional Court's decision states that the total number of suspended and/or dismissed members of the judiciary is 4,664, the number of members of the judiciary against whom criminal investigations were not initiated or notifications were not made by the CJP is 294.

It was mentioned above that 166 members of the judiciary were reinstated by the CJP until 24.7.2017, the date of the Constitutional Court's decision.

Considering that as of 24.7.2017, the date of the Constitutional Court's decision, there were 4,240 members of the judiciary whose dismissal decisions were published in the Official Gazette and 166 of them were reinstated, it should be considered that at least one of the detention, arrest, arrest or judicial control measures was applied to all dismissed members of the judiciary. In the light of these data, it would not be wrong to say that at least 45 of the judicial personnel who were reinstated to their jobs were subjected to one of these measures.

In its study on the dismissed members of the judiciary, the CrossBorder Jurists Association found that at least 10 of the 131 members of the judiciary dismissed after 24.7.2017 were also detained and 3 of them were arrested. The Association is continuing its work on the subject and is trying to clarify the numerical data it has obtained.

In the light of the data obtained by the CBJ Association and the figures given in the Constitutional Court's decision, out of 4386 dismissed members of the judiciary.

- 2,434 of the 4386 dismissed members of the judiciary were given an arrest warrant
- 1,324 were subjected to detention/ judicial control decisions
- 271 members of the judiciary were issued arrest warrants

As such, it is possible to determine the number of judicial personnel subjected to at least one of the following measures: detention, judicial control, arrest or arrest as 4029.

RECOMMENDATIONS

The mass dismissals with decisions of High Council of Judges and Prosecutors, affecting 4388 judges and prosecutors, stems primarily from the suspension of the rule of law and judicial independence in Türkiye.

After these dismissals, the judiciary has largely come under the control of the government. A heavy psychological pressure has been put on the members of the judiciary who were not dismissed. With the new recruitments, the control of the government has become clearer within the judiciary.

After July 15, 2016, the judiciary became highly influenced by the government, making it impossible for the victims of witch-hunt process in state institutions to find justice through the current legal system. The judiciary must be restructured according to international standards, and the existing problematic terror legislation should be revised to prevent ideological misuse.

In the light of our findings above, we urge the Human Rights Committee to recommend that the State Party;

- 1.** The concrete actions of the dismissed members of the judiciary, for which they were accused of attempted coup d'état and membership of an armed terrorist organisation at the time of their dismissal, should be explained and justified by individualisation.
- 2.** The information and documents obtained after the date of dismissal should be explained against the dismissed members of the judiciary in accordance with the legal regulation and the case law of the Supreme Court.
- 3.** Turkey should be asked to explain how the names included in the dismissal decision of the Council of Judges and Prosecutors were identified on the night of 15 July 2016 and how their concrete relationship with the coup was established.
- 4.** Turkey should be asked to explain why the first investigations and detention orders were issued against 2745 members of the judiciary while the coup was still in progress.
- 5.** Turkey should be asked to make the necessary arrangements to ensure that judges and prosecutors who were dismissed without any concrete information at the time of the decision against them, in violation of their constitutional right to defence, can return to their professions.
- 6.** Turkey should be requested to explain the nature of the judgments of the European Court of Human Rights in favour of the dismissed members of the judiciary and the grounds for violation found against Turkey in these judgments. This is because the ECtHR has ruled that members of the judiciary who have been dismissed and arrested have had their freedoms restricted without justification and evidence in violation of their constitutional guarantees.



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**THE UN HUMAN RIGHTS COMMITTEE
142nd SESSION
(14 October 2024 - 07 November 2024)**

**Türkiye
(Wednesday 16 Oct 2024 PM – Thursday 17 Oct 2024 AM)**

September 2024

TORTURE AGAINST JUDGE AND PROSECUTOR IN TÜRKİYE

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Executive Summary

In this report, Crossborder Jurists focuses on the torture of judges and prosecutors. The report focuses on torture practices that began with the state of emergency between July 2016 and July 2018 and continue to this day. The report focuses on judges and prosecutors who were unlawfully dismissed and arrested during and after the state of emergency, and the torture practices to which they were subjected.

Since the coup attempt on 15 July 2016, 4,969 judges and prosecutors have been dismissed from their posts. These include members of the Constitutional Court, the Court of Cassation, the Council of State, judges and prosecutors of the judicial and administrative judiciary, judges and prosecutors of the military judiciary and judges of the Court of Accounts. All these judges and prosecutors were under investigation for "attempting to overthrow the government" and "belonging to an armed terrorist organisation".

In the days following the coup attempt, thousands of judges and prosecutors were arrested en masse. They were subjected to torture and ill-treatment during their detention. Torture practices continue to this day, albeit in different forms. The main purpose of torture practices is to make the person accept himself as an armed terrorist and to make him make statements against himself and others.

This report is based on court records, victim testimonies and reports. Although there are more judges and prosecutors who have been victims of torture, not all the information received could be reflected in this report, for reasons such as the fact that they are still living in Turkey and do not want to share their humiliating situation with the public.

One of the most important problems related to torture in Turkey is undoubtedly impunity. This is confirmed by the answers given by the Turkish government. During the two years of the state of emergency, the total number of investigations into allegations of torture was 20 in 2017 and 21 in 2018. Prosecutors and courts ignored allegations of torture. In prosecutor's offices, criminal courts of peace and serious criminal courts, people reported torture and filed criminal complaints. Most judges and prosecutors did not record these allegations. However, some torture victims managed to write detailed accounts of what had happened in the court records. However, no investigation was carried out into the allegations. This also applies to judges and prosecutors who are victims of torture.

This document reveals one of the most important events that led to the loss of the independence and impartiality of the judiciary in Turkey. Thousands of judges and prosecutors were dismissed and arrested overnight by their colleagues on the pretext of a coup attempt they had nothing to do with, and hundreds of them were tortured. This situation has created great fear and traumatised those still in office. In this respect, it is very important that the issues highlighted in our report are put on the agenda. The fears of judges and prosecutors in Turkey must somehow come to an end and their self-confidence must be boosted in order to regain their independence and impartiality.

Our contribution emphasises the need for greater international scrutiny of Turkey's actions in relation to torture practices. Our report concludes by calling on the Turkish government to take meaningful steps to bring its practices into line with international human rights standards.

Introduction

Crossborder Jurists submits the following information on the human rights situation in Turkey to the United Nations Human Rights Committee (UNHRC) ahead of the Committee's second periodic review of Turkey's obligations under the International Covenant on Civil and Political Rights (ICCPR) at its 142nd session.

In its submission, Crossborder Jurists focused on the practice of torture. The focus of the report is rather unusual and concerns judges and prosecutors who have been tortured. The report provides information on judges and prosecutors who have been tortured since the attempted coup of 15 July 2016.

The report is designed as a shadow report to be submitted to the UNHRC by civil society and non-governmental organisations. Its main purpose is to highlight the discrepancies between Turkey's official statements and the reality on the ground. In its official reports, the Turkish government has consistently presented a narrative of compliance with legal norms and human rights standards. In contrast to the government's defence, this shadow report bases allegations of torture by judges and prosecutors on official documents, court records and reports.

An important point revealed in the report is that although torture practices were described in full detail in the court minutes and although the judges were aware of these allegations and received a criminal complaint, they did not take ex officio action. The judges presiding over the hearings did not request the prosecutors' offices to investigate the allegations. The prosecutors present at the hearing did not initiate an investigation into the allegations despite their legal obligation to do so.

Torture has been a negative highlight in Turkey's human rights record for many years. Failure to investigate allegations of torture, prolonging the trial processes until the statute of limitations, and findings on the protection of torturers have resulted in findings of human rights violations against Turkey. Many reports have been written, information and documents have been shared in open sources that torture was intensively used in Turkey during the state of emergency period between July 2016 and July 2018. This report is one of the most important evidences supporting those allegations. It has revealed with documents that even judges and prosecutors have been and continue to be tortured.

In light of these findings, this shadow report emphasises the urgent need for the UNHRC to take a strong stand against Turkey's continued failure to fulfil its international obligations. It calls for further international scrutiny and pressure on the Turkish government to address these ongoing violations and to take concrete steps to prevent future violations.

I - Facts

Corruption operations were carried out in Turkey on December 17 and 25, 2013 against bureaucrats and civilians, including the names of ministers and their close relatives. Since then, as highlighted in the reports issued by many international institutions and organizations, especially the Council of Europe, the judiciary has gradually lost its independence and impartiality in Turkey¹.

On July 15, 2016, there was a coup attempt in Turkey, the perpetrators of which have not been identified until now and which had very important question marks. While the coup attempt was still ongoing, detention and arrest warrants were issued against judges and prosecutors before the soldiers allegedly involved in the coup. On the night of the coup attempt, the Supreme Council of Judges and prosecutors convened and decided to remove 2,745 judges and prosecutors from office in the first hours of July 16, 2016, decision No. 2016-345. These members of the judiciary started to be detained from the first day and were then arrested. Members of the Constitutional Court, the Court of Cassation and the Council of State, and members of the Supreme Council of Judges and prosecutors were among those detained and arrested. All of these judges and prosecutors were charged with attempted coup, establishing, directing and belonging to a terrorist organization. To date, 4969² judges and prosecutors have been dismissed from the profession and investigations and prosecutions have been made on all counts³.

The Supreme Council of Judges and prosecutors (HSK), which carried out this transaction, did not include any concrete information and documents that were personalized about the members of the judiciary who were expelled in its decision. Judges and prosecutors, who were previously considered to be opponents of power and whose names were listed for this reason, were quickly removed from the system by pretext of the coup that took place on July 16, 2016. These people have been declared as traitors by the HSK, Ministry of Justice and Presidency as members of a terrorist organization since the first day. The members of the judiciary, who were arrested without evidence and who were subject to verbal and actual torture for a long time, were held in prison in the form of single, double, triple and similar groups, subjected to severe threats, insults by the prison personnel in accordance with the oral and written instructions given and deprived of the rights granted to other prisoners. What was expected of the members of the judiciary who were expelled and arrested was to allow them to accept the charges levelled against them by the HSK and to make statements against their fellow judges.

¹For a detailed report on the subject, see:<https://www.crossborderjurists.org/turkish-judiciary-in-the-international-arena-reports-after-17-25-december-investigations-report-published/> E.T. 26.05.2024

²The number of dismissals by institution is as follows Constitutional Court: 7; Judicial and Administrative Judiciary 4384; Military Judiciary: 199; Court of Accounts : 180; Judicial and Administrative Judiciary Trainee Judges and Prosecutors : 199; <https://www.solidaritywithothers.com/dismissal-by-decree-laws-and-hsk>

³ <https://tr.solidaritywithothers.com/dismissal-by-decree-laws-and-hsk> (E.T.: 28.11.2024). It is thought that around 10% of those dismissed have been readmitted to the profession, but no official announcement has been made by the Government to date.

In this case, the judges and prosecutors, 138 of the Constitution. They were dismissed by violating the judicial guarantees set out in the article, were detained and arrested and even prosecuted without complying with the rules of the judicial procedure set out in the Constitution and the Law of Judges and prosecutors. The findings on these issues have been repeated frequently in the decisions of the European Court of Human Rights, the international supervisory bodies, and the United Nations working Group on arbitrary arrests. The tables below provide information on the decisions of the institutions mentioned.

Decisions made by the European Court of Human Rights		
Year	Decision name	Infringement items
2019	Alparslan Altan & Türkiye ⁴	AİHS md. 5/1
2020	Head & Turkey ⁵	See also Article 5/1, Article 5/4
2021	Tercan & Turkey ⁶	AİHS md 5/1, md. 8
2021	Turan et al Turkey and Turkey (427 people) ⁷	AİHS md 5/1
2022	Noah Uzun and Turkey ⁸	AİHS md. 8
2022	Acar et al Turkey and Turkey (50 people) ⁹	AİHS md. 5/1
2022	Ulusoy et al Turkey and Turkey (21 people) ¹⁰	AİHS md. 5/1
2022	Eli and others vs Turkey (108 people) ¹¹	AİHS md. 5/1
2022	Ataman et al Turkey and Turkey (68 people) ¹²	AİHS md. 5/1
2022	Baser and Özçelik & Turkey (2 people) ¹³	AİHS md. 5/1
2022	Morale vs. Turkey and Turkey (32 people) ¹⁴	AİHS md. 5/1
2022	Rejoice vs Turkey and Turkey (135 people) ¹⁵	AİHS md. 5/1

⁴ Alpaslan Altan v. Turkey, application No. 12778/17, K.T.: 16 April 2019, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-195054%22%5D%7D>

⁵ BAS v. Turkey, application no. 66448/17, K.T.: 3 March 2020, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-206632%22%5D%7D>

⁶ Turkey v. Turkey, application No. 6158/18, K.T.: 29 June 2021, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-214477%22%5D%7D>

⁷ Turan and Others v. Türkiye, Application no. 75805/16 and 426 other applications, K.T.: 23 November 2021, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-215088%22%5D%7D>

⁸ [Nuh Uzun and othersleri/Türkiye Kararı](#), Application No. 49341/18 and others, K.T.: March 29, 2022.

⁹ [Acar and othersleri/Türkiye Kararı](#), Application No. 64251/16 and others, K.T.: 28 June 2022.

¹⁰ [Ulusoy and othersleri/Türkiye Kararı](#), Application No. 73062/16 and others, K.T.: 6 September 2022.

¹¹ [Bayram and othersleri/Türkiye Kararı](#), Application No. 20061/17 and others, K.T.: 6 September 2022.

¹² [Ataman and othersleri/Türkiye Kararı](#), Application No. 14676/17 and others, K.T.: 6 September 2022.

¹³ [Başer ve Özçelik/Türkiye Kararı](#), Application No. 30694/15 ve 30803/15, K.T.: 13 September 2022.

¹⁴ [Moral and othersleri/Türkiye Kararı](#), Application No. 49867/17 and others, K.T.: 18 October 2022.

¹⁵ [Sevinç and othersleri/Türkiye Kararı](#), Application No. 63634/16 and others, K.T.: 18 October 2022.

2022	Güngör et al & Türkiye (82 kişi) ¹⁶	AİHS md. 5/1
2023	Ayvaz vd. & Türkiye (121 kişi) ¹⁷	AİHS md. 5/1
2023	Canavci and Turkey ¹⁸	AİHS md. 8
2024	Eagle and Turkey	AİHS md. 6/1
2024	Gülçcu VD & Turkey (49 people)	AİHS md. 6/1
2024	Sözen & Turkey	AİHS md. 6/1
2024	Aydın Sefa Akay and Turkey	AİHS md. 5/1, md. 8

United Nations working Group decisions on arbitrary arrests		
Year	Decision name	Infringement items
2018	Hamza Yaman and Turkey	(A) retention without legal basis – Category I; (B) failure to comply with international guarantees of the right to a fair trial. Kategori; (C) retention on the basis of discrimination - Category V.
2019	Melike Göksan and Mehmet Fatih Göksan & Turkey	(A) retention without legal basis – Category I; (B) retention arising from the exercise of rights and freedoms – Category II; (C) failure to comply with international guarantees of the right to a fair trial. Kategori; (D) retention on a basis of discrimination - Category V

Torture of judges and prosecutors

A. Torture after July 15, 2016

The “Report on torture for judges and prosecutors in Turkey”¹⁹ published by our association in May 2022 revealed concrete information and documents about torture practices.

¹⁶ [Güngör and othersleri/Türkiye Kararı](#), Application No. 59639/17 and others, K.T: 13 December 2022.

¹⁷ [Abdullah Kılıç/Türkiye Kararı](#), Application No. 43979/17, K.T: 31 January 2023.

¹⁸ [Canavcı and othersleri/Türkiye Kararı](#), Application No. 24074/19 and others, K.T: 14 November 2023.

¹⁹ <https://www.crossborderjurists.org/torture-report-on-judges-and-prosecutors-in-turkey/>

- Fatigue, bruising, fatigue
- Rude beating, physical violence
- Insult
- Threat
- Clamping release
- Not meeting hygiene needs
- Heavy hosting requirements
- Playing music out loud
- Lying, not cheating
- Long-term solitary confinement

C. information obtained from victim judges and prosecutors on torture practices

1nd Judge A.K.

Judge A.K. described in detail the torture practices he experienced in his testimony received in the 05.10.2017 hearing in the case No. 2017/164 E. of the 16 heavy Penal Court. He was arrested by the court for giving information about torture while on trial without arrest and for making statements contrary to what the court wanted.

Judge A.K. said in court about the torture practices he was subjected to:

“On August 9, 2016, I was detained by the police of the KOM Department. During my time in custody, I was left on the open carpet inside the KOM Department in the heat of August and under the burning sun, and most of my detention was passed under those conditions. during the 21-day detention period, i was held handcuffed for 17-18 days, while eating and sleeping with about 150 people. On August 18, 2016, the circuit and my roommate, XXXX, were taken to the relevant building next to the location of the open carpet; however, as he later told me, under the name of the interview, he was interrogated, beaten and forced to accept or express certain things. Of course, the lawyer was not ready when this was done. On August 19, 2016, the day after XXXX was taken to obtain his supposed testimony, I was taken to the relevant building next to the carpet where we were detained, and again I was interrogated under the name of an interview on August 19, August 20 and August 22. On August 19, I was taken to take my so-called testimony... I was kicked many times that day by sitting on concrete while handcuffed. I was hit with punch-style slaps. Many times I was caught in my ears. I was held in challenging positions for many hours until I could not feel my feet, legs. I was subjected to insults and swearing for 4 days, and I experienced this and the like all day long on August 20 and almost evening on August 22. I was questioned under the name of interview from the beginning of the morning hours until midnight. At night I was kept in a dark room with no windows on the ground floor of the building... I was subjected to psychological torture and threats on many occasions. On August 22th, they repeatedly stated that they would hand me over to the Anti-Terror Branch in Ankara if I did not accept what they wanted, that I would be

devastated and introduced to the Palestinian hanger and that I could not even imagine what I would use and live there until the end of my detention period. “the police officer...” we know that your brother and wife are public servants. Our managers and the prosecutors conducting the investigation are very good, it would be enough to call our brother and wife FETÖ members. We will immediately issue a detention warrant for both of them and bring them here and keep them as long as we can, and we will give them 10 times what you have experienced here.” they threatened me and pressed me. I told me, as far as I remember, the names, surnames and offices of many police officers who mistreated, tortured, oppressed and threatened me for days. I am not complaining about these people at the moment. Because I know that my possible complaint will be concluded with disobedience.”

2nd Hüsametttin Uğur

Hüsametttin Uğur²⁰, a member of the Supreme Court of Appeals, was arrested after 15 July 2016 on political grounds on charges of being a member of an armed terrorist organization.

After his arrest, Hüsametttin Uğur Keskin was put in a single-person cell in prison. As long as he is in this prison, he is kept in the cell for the entire duration of his imprisonment.

On February 17, 2020, he was physically assaulted and beaten by guards. The guards threatened him, saying, “your body will come out of here.” His daughter, who is a lawyer, Nalan Dilara Uğur, is given disciplinary punishment by using the words in the phone call as an excuse. His daughter Nalan Dilara Uğur shares on social media about the torture and ill-treatment practices that Hüsametttin Uğur has been subjected to. Upon these shares, the prison administration and the guards threaten Hüsametttin Uğur by saying “Let the girl take care of herself”²¹. Hüsametttin Uğur demands that the prison be changed because of the torture and ill-treatment he has suffered. Her daughter Nalan Dilara Uğur also runs a campaign on social media in this direction. However, one year later, Hüsametttin Uğur was transferred to Afyon closed Penal Institution on February 4, 2021. In this prison, he is put in a single-person cell. Avoid contact with other people. Most of the rights violations continue here. Hüsametttin Uğur shared his experiences in an open letter that was reflected to the public in 06.11.2021²². There have also been reactions from international associations of judges and prosecutors such as

²⁰ Hüsametttin Uğur has been widely reported and shared on the internet and social media. That is why his name is clearly stated.

²¹

https://twitter.com/nalandilora/status/1282352336283762688?s=20&t=45_SYY5gkDnmulfGFjvRBg

²² [Nalan Dilara Uğur on Twitter: "This is the open letter of my father Hüsametttin Uğur, a former member of the Court of Cassation, who has been held "captive" in prison for 5.5 years and subjected to systematic torture, to all institutions and organizations concerned with human rights and to everyone who says "I am human" @adalet_bakanlik @TCYargitay https://t.co/VQZ8WUNHOs" / Twitter, https://kronos35.news/tr/eski-yargitay-uyesi-husamettin-ugur-insanim-diyen-herkese-acik-mektup/ , IOpen letter to all institutions and organizations interested in human rights, to everyone who says "I am human"....pdf - Google Drive](#)

MEDEL to the torture and ill-treatment practices that Hüsamettin Uğur²³ is dealing with, and to the deprivation of rights.

3rd female Judge S.P.

Female judge S.P. is one of the female judges who were detained and tortured after July 15, 2016. She was kept in the prison alone for days. Even though he was in the cell, his handcuffs were not untied. No food and water support was provided. Hygiene needs are not met. He was openly told that he was detained to ensure his wife's surrender and then arrested. The judge who made the arrest stated that he would remain in prison until his wife arrived. Her husband is missing and she is a prisoner. The children remained. Judge S.P. suffered a severe trauma due to their experience. His psychology deteriorated further due to the drugs he was given while in prison. Unable to stand the unjust and unlawful practices, material and moral torture he was subjected to, he attempted suicide and was even admitted to a mental hospital. When he was ill, he was given several statements.

4nd Judge A.K.

Judge A.K. was detained after July 15, 2016 and tortured at the Ankara Anti-Terror Branch.

In his testimony in Ankara's 5th Criminal Magistrate on 29.08.2016, he described the torture practices he was subjected to as follows:

“During the approximately 20 days of detention, I and other detainees were tortured. So we had to sleep on hard ground for 20 days, the lights were left on until the morning. Music was played out loud at night. No shower was allowed. I was also slapped during the security statement. Rather, he was slapped in the interview held under the name of “interview” before the testimony was taken in front of his defender.”

5nd Judge A.B.

Judge A.B. was detained on July 21, 2016 and tortured at the Ankara Anti-Terror Branch.

He described some of the torture he suffered in the 04.10.2017 hearing in the case No. 2017/164 E. of the Ankara 16th High Criminal Court as follows:

²³ [MEDEL Twitter'da: "In times where peace and justice are celebrated, our solidarity to the Turkish magistrates who face injustice. A letter by Hüsamettin UĞUR, Court of Cassation judge, in jail for 5.5 years: "this petition \(open letter\) has been written in order to ensure injustice is registered". https://t.co/MZrROcX48H" / Twitter](https://t.co/MZrROcX48H)

“As long as I was in custody, handcuffs were not removed even when I was going to the bathroom at night. No bedding material was provided. the lights were not turned off for 24 hours. On July 22 and 23, 2 people were given 1 rolls of bread in the morning and evening²⁴ .

6nd Judge A.S.Y.

Judge A.S. Y. described some of the torture he saw in the 04.10.2017 hearing in the case file No. 2017/164 E. of Ankara heavy Penal Court 16 as follows:

“After our detention, I was not given shower facilities for 21 days at the Ankara KOM Department’s campus in Anittepe and was held in custody with handcuffs for 24 hours.”

7th Judge A.A.

Judge A. A. A. described some of the torture he saw in the 04.10.2017 hearing in the case No. 2017/164 E. of the Ankara 16th High Criminal Court as follows:

“after i was arrested, i was handcuffed in reverse and subjected to unusual treatment. I was beaten up by the police. I have been subjected to insults and I am sure we have faced many negative situations that I cannot count yet, and I am aware that this has been done on many judge prosecutors. In this sense, I felt the need to express it; because the unlawful and degrading treatment and criminal acts in the process of taking statements were not only with these, but also by making unlawful promises, people were forced to be slanderous under the name of confession.”

8nd Judge A.

Judge A.Ç., in his testimony received in the 05.10.2017 hearing in the case file No. 2017/164 E. of 16 heavy Penal Court, said, “I was subjected to torture in custody. I was threatened with death.” he said.

9nd Attorney R.A.

Prosecutor R. A. described the torture practices he had been subjected to in his testimony on 10.10.2017 in the 16 heavy Penal Court case No. 2017/164 E. as follows:

²⁴ Small bread, also known as "Brötchen" in German https://en.wikipedia.org/wiki/Bread_roll

“I was detained on August 9, 2016, and I was detained until August 24, 2016. I was arrested on August 24, 2016. During the detention, I was exposed to extreme heat during the day and cold at night for 15 days on the carpet field. I went through this process by constantly being deprived of sleep with handcuffs and eating very, very limited foods. “I was threatened with torture and pressure.”

10ND Judge M.S.

Judge M.S.O., in his testimony given on 10.10.2017 in the case file No. 2017/164 E. of 16 heavy Penal Court, described the torture practices he was subjected to as follows:

“Gazi University has an indoor sports hall, belongs to the volleyball federation, we stayed there under surveillance, then we were brought to the tent in Xinjiang. We were in the wrong handcuffs. We were subjected to torture and ill-treatment. I and 39 other military judges were treated the same way. I just want to point this out here. I will not go into details. When I am in custody, in a reverse handcuffed torture position, I report the name of a police chief as Tahir. I don’t know if he was even calling himself Azrael. He asked me if I was stealing the questions. I said there was no such thing. He kicked me, kicked me very violently. He asked me the same question again. I told him I didn’t play again. He repeated it and repeated it several times. I mean, I didn’t make sense of that moment. Because at that moment I was detained just because my name was on the strict management assignment list about me. There was no information in the file regarding the exam questions. However, despite this, I was confronted with such a question by the police chief with such a question and then I was beaten. I filed a criminal complaint with the public prosecutor’s office regarding torture and ill-treatment. The public prosecutor gave a dismissal. I have seen dozens of witnesses. I explained things in detail. But he gave indifference. I later objected. My decision was rejected without any reason. I applied individually to the Constitutional Court. I still don’t know what happened, but I think that on the day my testimony was taken and my interrogation was made, this was witnessed by the lawyer lady. I had not eaten a single bite in the last 24 hours, so my feet were shaking with hunger and I was interrogated in this way, exhausted and miserable. I was later arrested. we have 21-22 people in the ward of 8 people. So some of us are lying on the ground and our most basic human needs are significantly restricted.”

11th Judge T.Ö.

Judge T.Ö., in his statement received on 06.10.2017 days in the case file No. 2017/164 E. of Ankara 16 heavy Penal Court, described the torture practices he was subjected to as follows:

"On July 21, 2016, I was dismissed from office, and I was detained while married for 25 days. i was held in handcuffs on the carpet in conditions that would be called systematic torture for 16 days."

12th Judge S.Ö

Judge S.O. in case no. 2017/164 of the Ankara 16 heavy Penal Court, described the torture practices he was subjected to in the 6.10.2017 hearing as follows:

"I was arrested on August 9, 2016, and I was arrested on August 23. During this 14-day detention period, I was kept in handcuffs, including while eating and sleeping, and even during my police testimony, my handcuffs were not untied. My CMK lawyer is also a witness. If he remembers, his objection was not even taken into account. Part of my testimony was taken in an environment where there was no lawyer called an interview. At this stage, I was exposed to the physical intervention of the police. In addition, I was taken to TEM's basement and threatened to be subjected to torture, such as giving electricity to my body, and my family members were detained, and I was subjected to various insults. Although my statement was taken on the seventh day after I was detained, I was kept in unfavorable conditions for seven more days, and then I was referred to the courthouse and arrested. Afterwards, I was taken to Sincan Type L Prison No. 1. 45 people stayed in a ward for 14 people for 9 months. At the end of 9 months, I was transferred to Keskin Type T Prison without any justification, and for about 5 months we have been staying with 24 people in wards for 7 people."

13th Judge Candidate: M.F.Ö.

M.F.Ö., in his statement taken on 18.12.2017 in Ankara 16th High Criminal Court case file no. 2017/164 E., described the torture practices he was subjected to as follows

"I was detained on July 21 at the end of my working day and was subjected to various forms of torture and ill-treatment in custody.... Between July 21/24, 2016, I was subjected to ill-treatment amounting to torture in detention, during which time I may have lost my entire future."

14th Judge M.A.

M.A. described the torture practices he was subjected to during the hearing on 17.10.2017 in the case file No. 2017/164 E. of Ankara 16 Assize Court as follows

"First of all, I would like to tell what I went through in detention. I was handcuffed for 24 hours, I was kept under the sun on the astroturf, they didn't let me sleep by not turning off some of the lights in the gym. I couldn't take a shower, I took medicine almost every day because of a headache. When I was called to testify, I was interviewed, as they call it. My testimony was taken without a lawyer for about three, three and a half hours. When I entered the room, there were two policemen. They told me to sit down. I sat on the chair and he said 'Mr. M. welcome' and then the first thing he said was 'my elders have taught me so many types of torture that I will use them all on you without leaving any trace'. He left his gun on the table. I continued to

be interrogated with a headache and sleeplessness. They threatened me with my brother because he is a contracted soldier. They said we would take him and bring him here. At one point, the person who took my statement was tempted to hit me, but when the doctor told me that I had been hospitalized for five days in Ankara GATA due to a colonoscopy, he told me to stay away from any kind of beating or force. I had a colonoscopy appointment in September 2016. The doctor said we would see if there was the beginning of cancer. I have been living for thirteen months without knowing what was in my colon. I did not see any beating or force during my testimony, but I was subjected to mental exhaustion, pressure, threats and insults. Later, my lawyer came. Even with the lawyer, they did not remove the handcuffs during my statement. At one point I wanted to go to the restroom but they didn't let me. My testimony lasted about six to six and a half hours. After my statement was over, I was taken to the gymnasium with about 100-120 people, including other professional groups. In the gymnasium, they prevented us from sleeping by playing music with all the lights on. Eleven days later, when we were referred to the prosecutor's office, I sat on the concrete floor in the corridor of the prosecutor's office for about nine hours. There were the families of other friends in the prosecutor's office and when I looked in that direction, one of the police officers asked me 'what are you looking at, who are you signaling with' and we had an argument and I said 'I have no one in that direction, no one from my family is there'. Then the argument ended. Later, when I looked in the direction of the lawyers of the families again because my lawyer didn't come, we had another argument with the police officer and he said to me, with all due respect, 'I'm going to fuck you up, I'm going to job you', and as if that wasn't enough, I was subjected to such ill-treatment in the carpet field, in the sports hall, during the statement at the police station and in the corridor of the prosecutor's office."

15th Judge A.P.

A.P., in her testimony given at the hearing on 17.10.2017 in the case file No. 2017/164 E. of Ankara 16 Assize Court, described the torture practices she and her husband were subjected to as follows

"We were handed over to the police team, who were not authorized to take any judicial action against us, at around 21:30 on July 20, 2016. I was subjected to material and moral torture throughout the detention period and no judicial action was taken against me. I will not describe what I went through in detention here, but the psychological effects of what I went through are still continuing even though 15 months have passed. On July 25, 2016, I was unlawfully arrested and locked up in prison, where I stay in a ten-person ward with about three times as many people as the capacity. I have been in detention for about 15 months. During the four-day detention period, I was not allowed to contact my family, my family was not allowed to receive news from me and I was not allowed to receive news from my family. During this period, my wife became ill due to the lack of news from me and the media coverage of photographs and video recordings showing that detainees were severely tortured. She had a panic attack and was treated several times in the emergency room of the hospital. As a result of the fear and trauma she experienced, her body resistance decreased and her sleep patterns deteriorated. Therefore,

she started to receive psychiatric treatment. He started taking antidepressants, sleep and vitamin medication. During the critical phase of her illness, she was unlawfully detained by Ankara TEM branch teams. He was detained for three days without any judicial proceedings. During his detention he was subjected to insults and threats that amounted to torture. Although he was released by the prosecutor's office after the detention process, his illness became increasingly severe due to the traumas he experienced one after another. He lost weight suddenly and excessively, dropping to 33 kilograms, but he was able to sleep and stand up with medication and came back from the brink of death. After a while, while there was an investigation being carried out against him by the Ankara Chief Public Prosecutor's Office, an investigation for the same offense was initiated by the Tokat Chief Public Prosecutor's Office, even though it was unauthorized, and in this context, he was detained by the TEM branch teams and detained here for two days. He was subjected to the same treatment here and his ailments are still continuing."

c. Current and Ongoing Torture Practices

1- Long-term Solitary Confinement

One of the most severe forms of torture against detainees is undoubtedly prolonged solitary confinement. Many scientific reports have been published on the effect of solitary confinement on brain activity, which is equivalent to torture²⁵. Since July 15, 2016, dozens of judges and prosecutors have been kept in solitary confinement. Dozens of them are still being held in solitary confinement.

Teoman Gökçe, who was a member of the High Council of Judges and Prosecutors between 2010 and 2014, passed away on April 2, 2018. Mr. Gökçe had been in solitary confinement for 2 years when he passed away²⁶. During the time he was in solitary confinement, no effective treatment was provided for Mr. Gökçe's health problems. There are important testimonies and documents indicating that Mr. Gökçe was subjected to psychological pressure during his detention and imprisonment due to his previous position.

There are also women judges who have been detained during the entire trial and execution of their sentences. Nesibe Özer, a member of the HSYK between 2010 and 2014, and Ayşe Neşe Gül, a candidate in the 2014 HSYK elections, are just two of these women. They were released on parole after a long prison sentence. These judges have been widely reported and shared on the internet and social media. For this reason, their names are clearly mentioned in this document.

²⁵ https://en.wikipedia.org/wiki/Solitary_confinement#cite_note-Grassian2006-33 ,
https://openscholarship.wustl.edu/cgi/viewcontent.cgi?referer=https://en.wikipedia.org/&httpsredir=1&article=1362&context=law_journal_law_policyE.T.26.05.2024

²⁶ <https://medelnet.eu/23rd-of-may-alert-day-for-the-independence-of-justice-2021/> E.T. 26.05.2024

2- Use of Good Conduct Decisions as a Tool of Torture

In Turkey, convicts with good behavior benefit from parole and probation. People who have nothing to prevent them from being considered good behavior are arbitrarily kept in prisons. These practices have turned into torture in Turkey. The definition belongs to Dr. Şebnem Korur Fincancı, President of the Turkish Medical Association²⁷.

According to the parole calculation method, the mandatory period of imprisonment for judicial crimes is $\frac{1}{2}$, while for political crimes it is $\frac{3}{4}$. In other words, a person convicted of political crimes is released on parole after serving at least $\frac{3}{4}$ of his/her sentence in prison.

According to the penal execution system, convicts can be released 1 year before their parole date by benefiting from probation. Thus, execution is continued outside the prison.

The reason why not benefiting from probation and parole is defined as torture is the method applied. As is known, the simplest definition of torture is "the systematic persecution of a person by public officials in order to force them to say something or to admit a crime". Prison Administrative and Monitoring Boards have introduced a new condition of good behavior for those convicted of political crimes. This condition is that the person identifies himself/herself as a "terrorist" and makes accusations against himself/herself or others in the capacity of a "confessor", even though he/she has never admitted this during the trial. Those who do not fulfill these conditions are neither eligible for probation nor for conditional release.

One of these judges and prosecutors is Murat Arslan²⁸ who has been in prison since October 2016. Murat Arslan has been held in solitary confinement for a long time. Mr. Arslan was the last president of the Association of Judges and Prosecutors (YARSAV), which was shut down during the State of Emergency. Mr. Arslan is the recipient of the 2017 Vaclav Havel Prize for Human Rights awarded by the Parliamentary Assembly of the Council of Europe and the International Association of Judges (IAJ) Award for Judicial Independence in 2022.

Mr. Arslan was the last president of the Association of Judges and Prosecutors, which was shut down after July 15, 2016. He was targeted for his efforts to ensure the independence and impartiality of the judiciary during his presidency²⁹. Mr. Arslan did not receive a fair trial. He has spent the entire trial in pre-trial detention despite the absence of any concrete charges or evidence against him. International judicial organizations such as the Association of European Administrative Judges (AEAJ), the European Association of Judges (EAJ), Judges for Judges, Magistrats Européens pour la Démocratie et les Libertés (MEDEL) have issued

²⁷ <https://x.com/SKorurFincanci/status/1780416946996977716E.T>:25.05.2024

²⁸ Murat Arslan's name is explicitly mentioned here as there have been many posts about him in the international community, online media and social media.

²⁹ <https://www.yargiclarsendikasi.org/post/murat-arслан-hakkında-basin-aciklamasi>

dozens of press releases and calls for Mr. Arslan's arbitrary arrest, trial and arbitrary denial of his probation and parole rights³⁰ .

The arbitrariness in the execution system was clearly expressed in the statement made by MEDEL on its X (Twitter) account on 30.04.2024 and signed by the presidents of the above-mentioned international judicial organizations³¹ .

Probation and not benefiting from good behavior has become such that the situation has reached such dimensions that it threatens people's lives. Judge Mustafa Başer³² , although he has cancer, has been operated on several times and is awaiting reoperation, has not benefited from probation and has not been granted parole³³ .

Judge Metin Özçelik³⁴ is a member of the judiciary who was kept in solitary confinement for a long time, subjected to various forms of torture, and whose trial process was particularly monitored by the government. He was subjected to discriminatory practices during the execution of his unlawfully imposed sentence. Like Mustafa Başer, Metin Özçelik has been denied conditional release in violation of the law.

Judges Mustafa Başer and Metin Özçelik applied to the Constitutional Court claiming that the criminal proceedings against them and the measures taken against them were unlawful. Their application was unlawfully rejected. The European Court of Human Rights found that Başer and Özçelik were unlawfully detained and issued a violation decision against Turkey³⁵ .

The reason why Murat Arslan, Metin Özçelik, Mustafa Başer Başer and similarly situated judges and prosecutors have been kept in solitary confinement for long periods of time, and why they have not been released in violation of the execution law, is that they did not make statements during and after the trial as demanded by the government. The government wants these members of the judiciary to become "confessors".

D- Protection of Torturers

(NOTE: Mr. Dr. Hasan Dursun has given permission to use his name in the context of the following due diligence)

³⁰ <https://medelnet.eu/medel-in-support-of-murat/> E.T. 25.05.2024

³¹ <https://x.com/MedelEurope/status/1785216955428790675E.T>, 25.05.2024

³² Since there have been many posts about Mustafa Başer in the internet media and social media, his name is clearly written here.

³³ <https://boldmedya.com/2023/02/02/cezaevinde-3ncu-kez-ameliyat-olan-kanser-hastasi-eski-hakim-mustafa-baserin-esi-21-aydir-hukuksuz-yere-tutuyorlar/#:~:text=Tutuldu%C4%9Fu%20Sincan%20Cezaevi'nde%20Mustafa%20de%20tirmi%20kinci%20kezeti m%20 ameliyat%20ge%20C3%A7irdi>. E.T. 25.05.2024

³⁴ Since there have been many posts about Metin Özçelik on the internet and social media, his name is clearly written here.

³⁵

[https://hudoc.echr.coe.int/fre#{%22languageisocode%22:\[%22ENG%22\],%22appno%22:\[%2230694/15%22,%2230803/15%22\],%22documentcollectionid%22:\[%22CHAMBER%22\],%22itemid%22:\[%22001-219095%22\]}](https://hudoc.echr.coe.int/fre#{%22languageisocode%22:[%22ENG%22],%22appno%22:[%2230694/15%22,%2230803/15%22],%22documentcollectionid%22:[%22CHAMBER%22],%22itemid%22:[%22001-219095%22]})

On 16 July 2016, dismissed prosecutor Dr. Hasan Dursun was detained and arrested on the same day. After spending 3 months in Sivas Closed Prison, he was transferred to Silivri Closed Prison where he will stay for 27 months. Dursun, who has long hair, was verbally and physically pressured by the prison administration to cut his hair, and in this context he was reprimanded by Silivri Prison No. 6 on 17.7.2017. During this period, the prison administration verbally stated that the Ministry of Justice had verbally instructed them to cut his hair. Upon Dursun's objection, the disciplinary penalty was lifted by Silivri Heavy Penal Court on 13.2.2018.

Mr. Dursun was transferred to Ankara Sincan Prison No. 1 on 15 May 2018 in order to attend his trial at Ankara Heavy Penal Court No. 25. On May 21, 2018, Mr. Dursun was verbally ordered to cut his hair by the wardens on duty and the deputy director of the prison. Dursun stated that this issue had come up before and that the Silivri Heavy Penal Court had ruled in his favor that the length of his hair was in accordance with the legislation. Despite this information, on May 24, 2018, in front of other prisoners, prosecutor Hasan Dursun was held by around 8 correctional officers on the instruction of the deputy director of the prison and his hair was forcibly cut. During this process Mr. Dursun was injured in many places. During the forced haircut, Mr. Dursun shouted at the officers that what they were doing was against the law, that he was being subjected to torture and ill-treatment, that their actions were criminal, that they would be tried when the law was restored, and this was heard by those around.

On May 25, 2018, Dursun was examined by the doctor on duty at the Sincan Prison campus and had his injuries identified.

Mr. Hasan Dursun filed a petition dated 28.5.2018 to Ankara West Chief Public Prosecutor's Office for the crimes of injury, ill-treatment, torture, threat and abuse of office against the relevant prison officials. The said denunciation file was carried out through file number 2018/22023.

The prosecutor decided not to prosecute Dursun's complaints on 28.11.2018 without hearing the witnesses, without examining the video footage, without collecting and securing the evidence immediately after the incident, and without evaluating the doctor's report. The decision was based on the statements of the prison staff that Dursun had complained about.

Ankara West Chief Public Prosecutor's Office filed a lawsuit against Dursun on 2.12.2019 on the charge of "resisting to prevent the execution of his duty". This case is still pending at Ankara West 6th Criminal Court of First Instance, file number 2019/1030.

While Mr. Dursun was a victim of torture and ill-treatment, he is on trial for not facilitating torture and ill-treatment defendants during their crimes.

Dursun objected to the non-prosecution decision of the prosecutor's office on 8.1.2020, and this objection was rejected by Ankara West 1st Criminal Court of Peace on 4.2.2020 without justification.

Mr. Dursun has filed an individual application to the Constitutional Court against this action. No decision has yet been made on his application.

II. Recommendations

In light of our findings above, we urge the Human Rights Committee to recommend that the State Party

- End the arbitrary use of the "Determination of Good Behavior" criteria in Article 89 of the Execution Law for torture purposes. Amend the law and introduce objective criteria to prevent the arbitrariness of Prison Administration and Observation Boards.
- Immediately end the systematic torture of judges and prosecutors.
- Since July 15, 2016, immediately investigate allegations of torture against judges and prosecutors under different names.
- Immediately suspend and prosecute anyone found to have participated in torture.
- Invalidate statements taken under torture.



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**THE UN HUMAN RIGHTS COMMITTEE
142nd SESSION
(14 October 2024 - 07 November 2024)**

**Türkiye
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September 2024

THE VIOLATIONS OF CHILDREN'S RIGHTS

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Executive Summary

The report prepared by Crossborder Jurists focuses on the topic of Children's Rights. It highlights the violations of children's rights that have been ongoing since the state of emergency between July 2016 and July 2018. The report specifically looks at the children of parents who were dismissed from their jobs and arrested on political grounds by emergency decrees.

The analysis in the report considers the rights of children in line with the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child.

One of the most serious issues highlighted in the report is discrimination against children. This discrimination has resulted in numerous violations of their rights. The children have been affected by the same political upheavals as their parents, leading to violations of almost all rights outlined in the Convention on the Rights of the Child, including the right to freedom of movement, the right to life, and the right to liberty and security of person.

The report is based on concrete data and documents, and it provides two recent examples to illustrate the ongoing rights violations. The first example is the "Finland Immigration Service: Turkey Individuals Associated with the Gülen Movement" report, which demonstrates the ongoing rights violations. The second example is an investigation conducted by the Istanbul Chief Public Prosecutor's Office in May 2024, resulting in the indictment of children under the age of 18 without any criminal act or suspicion of a crime. The report highlights that the law's limits have been exceeded, and children have been subjected to detention and interrogation without access to legal representation.

This report emphasizes the need for stronger international scrutiny of Turkey's actions in relation to children's rights. It calls on the Turkish government to take meaningful steps to align its practices with international child and human rights standards. The report urges the international community to press Turkey to ensure that the fundamental rights and freedoms of children are protected under the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, and other relevant international treaties.

I- CONCEPTS

1. Child

1. As stated in Article 1 of the Convention on the Rights of the Child, every individual is unequivocally deemed a child until reaching the age of 18. Consequently, our study unequivocally centers on the victimization of individuals under the age of 18.

2. State of Emergency Decree Law

2. The term "State of Emergency Decree Law" in the Report refers to the decrees issued during the State of Emergency. Hereinafter in the Report, the term "Decree Law" will be used as a single word.
3. Turkey was under a state of emergency between July 21, 2016 and July 18, 2018. During this period, 37 decrees were issued. Hundreds of laws, from the Law on Procurement to the Village Law, were amended. With these decrees, mechanisms protecting fundamental rights and freedoms became dysfunctional.
4. Despite the end of the state of emergency, the vast majority of amendments to the law remain in place.

3. Victim of the State of Emergency Decree Law

5. Victims of emergency decrees refers to people whose rights have been arbitrarily violated by decrees issued during the state of emergency. Hereinafter, the shorter and more concise term "Victim of Decree" will be used. The term "decree victims" refers to two groups in the narrow and broad sense. In the narrow sense, decree victims refer to people whose names were included in the published lists and who were thus dismissed from public office and banned from practicing their professions ever again. The number of people in this scope is 134,258¹.
6. In a broad sense, victims of the decrees correspond to a group of people based on the criteria introduced by the decrees. These criteria were used in administrative decisions, official documents, prosecution and court decisions as follows²:
 - His/her workplace was closed down by decree,
 - Having an account in Bank Asya, which was closed by decree,
 - Their children were educated in schools that were closed by decree,
 - The fact that they themselves were educated in courses, dershanes, dormitories, schools and universities that were closed down by decree years ago,
 - Reading and keeping books by publishing houses closed down by decrees in their homes,
 - Reading and subscribing to newspapers and magazines closed down by decrees,
 - Being a member of associations closed down by decrees, participating in the activities of these associations, providing financial aid to them in the past,
 - Membership of trade unions closed down by decrees,
 - The spouse, child, mother or father of someone who has been dismissed by decree,

¹ <https://www.solidaritywithothers.com/dismissal-by-decree-laws-and-hsk>

² FIS, Finnish Immigration Service : Turkey Individuals Associated with the Gülen Movement, [FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+\(2\).pdf \(migri.fi\)](https://www.fis.fi/en/individuals-associated-with-the-gulen-movement-june-2024-2) .

<https://www.crossborderjurists.org/turkey-womens-rights-report-women-victims-of-the-state-of-emergency/>

It is possible to increase the number of these criteria.

7. People have been detained, tortured and arrested on the basis of these criteria. Many of them have been sentenced to long prison terms. What is striking here is that the expression "decree" constitutes the core of the accusations. In other words, when this expression is removed from the accusations, there is neither a crime nor a basis. Because the same people were living in the same country in the same way before the decrees. Their ordinary activities in their daily lives were not considered crimes. This is why "victims of the Decree" refers to a very large group of people.
8. Broadly speaking, the victims of the decree are largely composed of volunteers of the Hizmet Movement³ and members or supporters of the Peoples' Democracy Party. Service Movement volunteers were accused of having links or affiliations with the organization defined by the political will as "FETÖ", while members and supporters of the Peoples' Democracy Party were accused of having links or affiliations with the PKK. The criteria used in these accusations are fabricated and hypothetical arguments produced by decrees. People have been accused of membership, leadership or aiding a terrorist organization based on these manufactured criteria.
9. In a broad sense, the victims of the decree also include dissidents. For example, academics who signed the "Academics for Peace Declaration". They were dismissed from their jobs and subjected to investigations, detentions and arrests. Again, those who supported the Özgür Gündem newspaper, which was shut down by the decrees, were arrested. Among them is the writer Aslı Erdoğan. In this context, tens of thousands of people who are seen as opponents of the government have been victimized by charges brought by decrees with retroactive effect⁴.
10. Important findings on the victims of the decree in a broader sense were also included in the European Commission's Turkey Reports (also known as the European Union Progress Reports). For example, in the 2018 report, "Trials involving suspected members of the Gülen movement and coup plotters have raised serious questions about compliance with international standards. Of particular concern is the fact that relatives of suspects have been directly or indirectly targeted by a range of measures, including dismissal from public institutions and organizations and confiscation or revocation of passports. The determination of alleged links to the Gülen movement has been based on a number of informal criteria, including the education of their children in schools linked to the organization, the deposit of money into a bank account linked to the organization or the use of the ByLock mobile messaging application."⁵. These criticisms later found their way into ECtHR judgments as violations.
11. The number of victims of the decrees in broad terms is not known exactly, but exceeds 1 million. The decrees closed down 3,942 institutions⁶. 985 were transferred to the Savings Deposit Insurance Fund and placed under state control⁷. These include institutions such as joint stock companies, holdings, schools, universities, universities, classrooms, newspapers, televisions, radios, associations, foundations, trade unions with hundreds of thousands of employees and members. This group also includes thousands of people who have been dismissed by their bosses on the basis of the criteria listed above for fear of state repression.
12. The data that most clearly shows the number of decree victims in a broad sense is the data on judicial investigations and prosecutions. According to the report prepared by MP Mustafa Yeneroğlu, the number of people accused of armed terrorist organizations based on criteria

³ According to the statements made by Minister of Justice Bekir Bozdağ, the number of people subjected to investigations on the grounds of being in contact with the Hizmet Movement is 559,322 in the files completed as of June 14, 2022. <https://www.trthaber.com/haber/gundem/bakan-bozdag-6nci-yargi-paketiyle-stokculara-hapis-cezalari-artacak-687718.html>

⁴ [FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+\(2\).pdf \(migri.fi\)](#) .

⁵ European Commission 2018 Turkey Report, p.8.

⁶ <https://tr.solidaritywithothers.com/closed-institutions>

⁷ Human Rights Joint Platform, State of Emergency Practices: Updated Status Report - 2018 p. 45. [ihop_OHAL_raporu_17042018.pdf \(reports.org\)](#) ,

produced after July 15, 2016 on the basis of the State of Emergency Decree Laws is 1,056,000 as of 2018⁸. According to calculations made by lawyer Levent Mazılıgüney based on (TÜİK) data, 1,768,530 people have been charged with terrorism from 2016 until the end of December 2021⁹.

13. In view of the fact that the victims of the decree are subjected to terrorism charges, it is necessary to consider the reality of terrorism in Turkey. As of 12.12.2015, according to Ministry of Justice data, the number of detainees and convicts from all terror groups (PKK, ISIS, DHKP-C, TKML, etc.) is 7,469¹⁰. The number of PKK members in Turkey, which is internationally recognized as a terrorist organization, was around 2,475 - 2,780 in 2016, 1,835-1,995 in 2017, 1,100 - 1,200 in 2018, according to official data from the Ministry of Interior¹¹. This official data also sheds light on the situation of around 2 million people who were subjected to terrorism investigations in the same period according to the criteria introduced by decrees. Accordingly, while these people are not terrorists, they have been declared criminals according to the criminal criteria introduced by the decrees and arbitrarily abandoned to civil and social death. These 1,768,530 people should therefore be broadly recognized as victims of the decrees.
14. Individual applications have been made to the ECHR¹², the United Nations Human Rights Committee¹³, the United Nations Committee for the Prevention of Torture¹⁴ and the ILO and the United Nations Working Group on Arbitrary Detention¹⁵ regarding the dismissals, detentions and arrests of victims of the Decree. All of these applications have resulted in decisions of violation. To date, there has not been a single decision upholding the Turkish State's practices regarding the emergency decree holders.
15. The ECtHR's judgment in *Yalçınkaya v. Turkey* ruled that the criteria established by the decrees listed under this heading and the charges that have retroactive effect were violated. The decision emphasized that the principle of no crime and punishment without law was violated.

4. Children of Decree Victims

16. The subject of this study is children whose parents are victims of the decree.
17. In September 2017, a workshop entitled "New Generation Terror: Analyzing FETÖ" was held at the Police Academy. Prosecutors who took part in FETÖ/PDY trials and even the presidents of heavy criminal courts were present at the workshop. Following the workshop, a report was published¹⁶. On page 14 of the report, it is stated: "*We should never forget that we are in a war with FETÖ that will last for several generations, that we have won a part of the war as a*

⁸ <https://www.gazeteduvar.com.tr/yazarlar/2020/02/13/yeneroglundan-silahli-terror-orgutu-uyeligi-raporu>

⁹ <https://twitter.com/AvLeventism/status/1602245633238237184?s=20&t=arFMGc1b6bsZmbiEgfBHUg>. Internet access date :06.02.2023

¹⁰ <https://www.rudaw.net/turkish/middleeast/turkey/121220151>, <https://www.milliyet.com.tr/gundem/ipek-271-isis-li-cezaevinde-2135220>. This number includes people who have been in prison for years.

¹¹ <https://www.icisleri.gov.tr/kurumlar/icisleri.gov.tr/IcSite/strateji/%C5%9EEREf/Stratejik-Yonetim/Butce-Sunumu.pdf>. Here, the highest numbers from the data provided by the Ministry of Interior are taken. The estimated figures shared by the Ministry are as follows. 2016: 2.475 - 2.780, 2017: 1.835-1.995, 2018: 1.100 - 1.200

¹² Some Precedent Judgments of the ECtHR: <https://www.solidaritywithothers.com/ecthr-judgments>, [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-207680%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-207680%22]}), [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-214483%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-214483%22]}), [https://hudoc.echr.coe.int/fre?i=001-194102#{%22itemid%22:\[%22001-194102%22\]}](https://hudoc.echr.coe.int/fre?i=001-194102#{%22itemid%22:[%22001-194102%22]}),

¹³ UN Human Rights Committee Resolution: [UN documents | OTHERS \(solidaritywithothers.com\)](https://www.solidaritywithothers.com/un-documents)

¹⁴ UN Committee for the Prevention of Torture Resolutions: [UN documents | OTHERS \(solidaritywithothers.com\)](https://www.solidaritywithothers.com/un-documents)

¹⁵ UN Working Group on Arbitrary Detention Sample Resolutions : <https://www.solidaritywithothers.com/un-documents>

¹⁶ [https://www.pa.edu.tr/Upload/editor/files/Yeni%20Nesil%20Ter%C3%B6r_FETO_014_07_2019\(1\).pdf](https://www.pa.edu.tr/Upload/editor/files/Yeni%20Nesil%20Ter%C3%B6r_FETO_014_07_2019(1).pdf)

state and nation, and that the war will continue." The group meant by the word "FETÖ" here is actually the victims of the decree. The group victimized by the decrees were defined as terrorists in the "dehumanization" stage, which is one of the stages of genocide, and were "witchified and demonized" by being defined with the word "FETÖ". The part of these statements that is relevant to this report, that is, to the children of the victims of the decree, is the phrase "a war that will last for several generations". The "generation" in this statement refers to the children of the victims of the decree. The children of the victims of the decree are the targets of the "war" described in the report prepared as a result of this workshop. Unfortunately, what has happened and what is happening shows that children are indeed being targeted.

18. The number of children subject to the document is not clearly revealed in any official data. The "Social Costs of the State of Emergency in its 3rd Year Report"¹⁷ prepared by the Justice for Victims Platform and the "Violations under the Force of Law: Violations of the Right to Work and Discrimination Research Report on Decree Victims" prepared by the Right to Life Association addressed different working groups. According to both reports, the average number of children of decree victims is two¹⁸. In order to determine the number of children, it is necessary to consider the number of decree victims in the narrow and broad sense together. The data that gives this number as a whole is the number of investigations. The number of people subjected to investigations, detentions and arrests based on the decrees is 1,768,530 as of 2021. Accordingly, it can be easily stated that the number of children constitutes a mass of more than 3 million. This number is higher than the population of 50 countries in the world¹⁹.
19. These children have been subjected to severe discrimination and deprivation of rights by both public bodies and society on the grounds of their parents' status. In the following sections of the report, detailed explanations will be provided on the rights violations these children have been subjected to.

II- RIGHT VIOLATIONS

1. Non-discrimination (ICCPR Art. 2, 3, 6, 25 and 26, UNCRC Art. 2)

20. Bayram Erzurumluoğlu, one of the academics who prepared the Social Costs of the State of Emergency Reports in 2017, 2018 and 2019, said "As a result of the witch hunt they are conducting, they are implementing the policy of 'the child of a witch is also a witch'"²⁰. This is an expression that summarizes discriminatory practices.
21. Despite the prohibition in the conventions, children of victims of the decree have been subjected to discrimination in many areas²¹. Examples are listed below.
 - It has been reported that the children of the victims of the decree have been 'blacklisted' by the state and prevented from entering some schools such as military and police academies²².

¹⁷ Justice for Victims Platform, Social Costs of the State of Emergency in its 3rd Year Report, https://www.academia.edu/44609212/3_Y%C4%B1%C4%B1nda_OHALin_Toplumsal_Maliyetleri_Raporu_Updated

¹⁸ Life Rights Association, Violations Under the Force of Law: Rights Violations and Discrimination Research Report on Decree Law Victims, [KHK Raporu - Çalışma Hakkı İhlalleri.pdf \(bianet.org\)](https://www.bianet.org/khk-raporu-calisma-hakki-ihlalleri.pdf)

¹⁹ https://tr.wikipedia.org/wiki/N%C3%BCfuslar%C4%B1na_g%C3%B6re_%C3%BCkeler_listesi

²⁰ <https://www.gazeteduvar.com.tr/engelli-yakinina-khk-gerekcesiyle-yardim-verilmedi-haber-1507972>

²¹ [FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+\(2\).pdf \(migri.fi\)](https://www.migri.fi/fis-turkey-individuals-associated-with-the-gulen-movement-june-2024-2.pdf)

²² [FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+\(2\).pdf \(migri.fi\)](https://www.migri.fi/fis-turkey-individuals-associated-with-the-gulen-movement-june-2024-2.pdf).

- R veyda Tekg z²³ , a girl with autism, was denied social benefits on the grounds that her father's name was included in the decree²⁴ .
- Nurefşan Ketenci²⁵ , who was born with Cat Meow Syndrome (Cri du Chat), which is seen in one in 50 thousand people in the world, was expelled from the rehabilitation center where she was educated because her father's name was included in the decrees²⁶ .
- Many students were denied state scholarships on the grounds that their parents' names were included in the decrees²⁷ .
- Some of the children of decree victims were discriminated against in schools and given low grades by teachers. It was even reported that a teacher said to a primary school-age child to whom she gave an unfairly low grade, "I am not giving this grade to you, but to your mother."²⁸ .
- Students of the closed schools were subjected to discrimination and bullying by teachers and students in the new schools they attended²⁹ .
- The recognition request of the daughters of the Kaçmaz family³⁰ , who were abducted from Pakistan and forcibly brought to Turkey, was not accepted and they were prevented from continuing their education³¹ . However, for years, the diplomas of thousands of Turkish and foreign children who graduated from these schools have always been recognized.
- Harun Atay n, son of former Police Chief Anadolu Atay n³² was not admitted to public schools because his father and mother were arrested and imprisoned on the basis of criteria produced by decrees³³ .
- With the decrees, the students of the closed schools were prevented from traveling abroad and passport bans were imposed on them³⁴ .
- Bursa Municipality did not allocate vehicles for the transportation of the bodies of children who drowned in the sea while leaving the country. The reason given was that the names of their parents were included in the decrees. However, these vehicles are provided free of charge to anyone who requests them³⁵ .

²³ Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

²⁴ <https://boldapp.de/2021/11/12/babasi-khkli-olan-otizmli-ruveydanin-engelli-ayligi-mucadelesi/>

²⁵ Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

²⁶ <https://boldmedya.com/2021/07/25/babasi-khk-ile-kapatilan-kurumda-calisti-diye-egitim-hakki-engellenen-nurefsan-vefat-etti/>

²⁷ <http://m.haberdar.com/genel/ysk-da-ilk-100-e-giren-ogrenciyi-vakif-universitesi-babasi-khk-li-diye-burslu-kaydetmedi-h211132.html>

²⁸ 3rd Report on the Social Costs of the State of Emergency, p. 164.

²⁹ 3rd Year of the State of Emergency's Social Costs Report, June 2020, pp.59, 76, 283.

³⁰ Information about these individuals was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

³¹ <https://kronos35.news/tr/pakistanli-yetkililer-sucunuz-yok-biliyoruz-ama-erdogan-cok-baski-yapiyor-dedi/>

³² Information about these individuals was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

³³ <https://kronos35.news/tr/birsen-atayun-anadolu-beyin-gelmeyecegine-inansam-ben-de-yasamak-istemem-tabiki-gelecek/>

³⁴ 3rd Year of the State of Emergency's Social Costs Report, June 2020, p.283.

³⁵ <https://kronos35.news/tr/bursada-baskan-skandali-egede-olen-bebeklere-cenaze-arabasi-vermedi/>

2. Right to liberty and security of person (Article 9 ICCPR, Article 37 UNCRC)

22. Among the children subject to the report are children whose right to liberty and security of person has been violated.
23. On 7 May 2024, upon the instruction of the Istanbul Chief Public Prosecutor's Office, the Istanbul Police Smuggling Department organized a police operation and detained nearly 40 people, mostly young university students. The gross violations of rights, especially against children, during this investigation process are quite striking.
24. The public was informed about this issue by MP Ömer Faruk Gergerlioğlu³⁶ and statements were made about the violations of rights. It was addressed in the report published by Solidarity With Others in July 2024 titled "The Deadly Threat to Human Rights: Turkey's Definition of Terror"³⁷ published by Solidarity With Others in July 2024. The trial process started, the confidentiality of the investigation file was lifted and the indictment of the investigation was obtained by our Association Crossborder Jurists³⁸. The indictment is numbered 2023/276683 Investigation, 2024/32583 Esas of Istanbul Chief Public Prosecutor's Office.
25. In the light of the official information and documents mentioned below, explanations will be made about the violations of rights.
26. First of all, it should be noted that the target of this investigation is children whose parents are affiliated with the Hizmet Movement. In the entire indictment, no terrorist offense, terrorist act or any other criminal offense is presented. Physical surveillance has been conducted on children whose parents are in prison, their social relations have been defined as a crime, and almost everyone with social connections has been named as a suspect and made the subject of the indictment. This situation is very worrying.
27. In this operation, 14 children aged between 13 and 17 were actually detained by the Children's Branch Directorate. *Although the police documents describe the operation as 'information gathering', this obscures the reality. The issues that reveal that the operation was a de facto detention are listed as follows.*
 - a. The compulsory summoning of witnesses is regulated in Articles 45 and 60 of the Code of Criminal Procedure. As can be understood from these regulations, the person to be heard as a witness must first be called by invitation. If he/she fails to appear, the "court" may issue a compulsion order against the witness. According to the Code of Criminal Procedure, the Prosecutor has no power to compel a person to appear as a witness. The authority to force a child to be brought in by the police and have his/her testimony taken by the police is clearly an arbitrary overstepping of legal boundaries.
 - b. *At around 05:00 in the morning, the police raided the homes of the children who were to be interviewed. The children were forcibly taken from their homes.*
 - c. *The two brothers were taken from the same house and transported to the police station in different vehicles under high security.*
 - d. *As part of the detention procedure, a medical report was obtained from the hospital under police control.*
 - e. *Actions were taken against the children, such as a report on taking them under custody, a report on notifying their relatives, and an order not to allow them to see a lawyer. None of these procedures can be applied to witnesses.*

³⁶ <https://x.com/gergerliogluof/status/1790443087728128276> E.T. 27.08.2024

³⁷ https://tr.solidaritywithothers.com/files/ugd/b886b2_63952de2d3b041df8925ebd4105be909.pdf E.T.: 27.08.2024

³⁸ You can access this document in UYAP Information System from <http://vatandas.uyap.gov.tr> with ZT0PaLJ - Himax+v - UBE9lms - WXhfKc=.

- f. The children who were detained at 05:00 in the morning were released at 21:45 in the evening and handed over to their relatives. In other words, the detention process lasted 16 hours.
 - g. The children were not allowed to see a lawyer, and the police also kept a police report.
28. As can be seen, the procedure is not the forcible bringing of a witness. The children were subjected to the procedure for the arrest and detention of suspects in the Code of Criminal Procedure. The investigative powers in the Code of Criminal Procedure have been arbitrarily violated against human/child rights. This is clearly an arbitrary violation of personal liberty.
29. In addition to the incidents listed above, there were violations of the right to liberty and security of person against children during the reporting period.
- The UN Working Group on Arbitrary Detention found that the children of the Kaçmaz family were arbitrarily deprived of their liberty. Like them, dozens of children abducted from other countries have been detained and imprisoned together with their parents³⁹.
 - 62 military students in grades 9, 10, 11 and 12 at Kuleli Military High School were arrested as part of the coup attempt investigation⁴⁰. Many other minors studying at military high schools and military academies were also arrested.

3. Prohibition of Torture and Cruel, Inhuman or Degrading Treatment or Punishment - (ICCPR arts. 2, 7, 9, 10, 12 and 14)

30. Among the children subject to the report are those who have been subjected to torture.
31. The children detained on May 7, 2024 were also subjected to torture.
32. One of the children who was tortured explained his situation as follows: "10-15 police officers came. My sister and I were taken in different vehicles. They started interrogating me in the car about the operation and my mother. I said, "Am I being interrogated?" When we got there, there were many young women. We were subjected to psychological violence. They didn't give us food until the evening. Our families tried to bring food in. During the interrogation they shouted a lot, they wrote down things we didn't say. While we were waiting to be interrogated, a female officer stood over us as the police passed by: "They will make you vomit blood inside." She said, "We didn't understand why we were there until we were interrogated, we were not informed."
33. As can be seen, girls under the age of 18 were forcibly taken from their homes, detained for 16 hours and subjected to threats, intimidation and pressure in order to make statements against themselves or others.
34. An investigation file was later separated against one of the children who was arbitrarily detained and forced by the police to make a statement against himself or someone else through torture. This child is being investigated separately for the same incident as a "child dragged into crime".
35. Examples of other practices related to torture are given below.
- On July 15, 2016, military school students who had nothing to do with the events that took place during the shady coup attempt were tortured while in custody⁴¹.
 - The children of the Kaçmaz family abducted from Pakistan, who were under 18 years of age at the time of the incident, were tortured. The United Nations Working Group

³⁹ <https://tr.solidaritywithothers.com/illegal-deportations-extraditions>

⁴⁰ <https://www.odatv4.com/guncel/62-kuleli-askeri-lisesi-ogrencisine-tutuklama-2007161200-97710>

⁴¹ First-hand information was given in the "Blue Bus" Documentary on the subject: <https://youtu.be/7KXe48msKiw>

on Arbitrary Detention has issued a decision of violation regarding this torture practice⁴².

- Elif İstif was detained by the police on the grounds that she was over 18 years old, even though she was under 18 and had stated her condition. She was detained for 9 days. During this time, she was interrogated under the name of interview, without the presence of a lawyer, and subjected to pressure and torture. The lawyer assigned by the Bar Association refused to attend his defense. When there was a break during the interrogation in court, the police officers came to him and said "You will be punished, are you ready to be arrested?" and continued their pressure there as well. After he was released from the court, a police officer uncuffed him and threatened him by saying "Don't worry, you will be taken again when you turn 18"⁴³.
- When Erdem Can was 17 years old, his father was detained in Turkey on the grounds that he had links to the Hizmet Movement, based on criteria introduced by the emergency decrees. In other words, he is the child of a decree law. While in detention, he was tortured. He describes the torture he was subjected to as follows: "I was detained for 14 hours. They made me lie on the ground, insulted and swore at me, and handcuffed me."⁴⁴.

4. Enforced disappearances and abductions (ICCPR Articles 6, 9 and 12)

36. Children have also been victims of abductions and disappearances since July 15, 2016, the date of the periodic review.

37. Below is a case study of these actions.

38. On September 17, 2017, the entire Kaçmaz family was abducted from Pakistan and disappeared. The family disappeared for 17 days in an unknown place. The family was secretly abducted and brought to Turkey even though the Pakistani state courts had banned the Kaçmaz family from leaving the country. Although there is an extradition treaty between Turkey and Pakistan, this procedure was not followed. The family was prevented from seeking other legal remedies. During the abduction, disappearance, transfer to Turkey and subsequent detention in Turkey, the family members were subjected to torture and ill-treatment. The children of the Kaçmaz family, who were under the age of 18 at the time of the incident, were also subjected to torture and ill-treatment. The United Nations Working Group on Arbitrary Detention issued a decision of violation regarding this torture practice⁴⁵.

5. Right to a Fair Trial (Article 14 ICCPR, Article 40 UNCRC)

39. Another area where violations of children's rights are experienced is the right to a fair trial.

40. On May 7, 2024, the children, who were subjected to arbitrary treatment by the police, supposedly as "witnesses" but in reality as "suspects", were not allowed to meet with the lawyers sent by their families. A record of this was also kept. One of these children was separated from the case file and a new investigation was initiated due to his underage status.

⁴² <https://www.crossborderjurists.org/turkey-child-rights-report-the-khk-children-the-little-victims-of-turkeys-state-of-emergency-laws/>, https://tr.solidaritywithothers.com/files/ugd/b886b2_7e541d3e9ddd4ab18cf6fef13b52f5bc.pdf

⁴³ <https://www.crossborderjurists.org/turkey-child-rights-report-the-khk-children-the-little-victims-of-turkeys-state-of-emergency-laws/>

⁴⁴ <https://www.crossborderjurists.org/turkey-child-rights-report-the-khk-children-the-little-victims-of-turkeys-state-of-emergency-laws/>

⁴⁵ <https://www.crossborderjurists.org/turkey-child-rights-report-the-khk-children-the-little-victims-of-turkeys-state-of-emergency-laws/>, https://tr.solidaritywithothers.com/files/ugd/b886b2_7e541d3e9ddd4ab18cf6fef13b52f5bc.pdf

41. As of July 15, 2016, hundreds of military high school and military academy students between the ages of 14-18 were detained, tortured and arrested⁴⁶ .
42. Hundreds of children were detained and arrested after the age of 18 on charges of membership of an armed terrorist organization on the grounds that they had been in contact with people connected to the Hizmet Movement when they were 12-13 years old, that they had received education in schools and dershanes connected to the Hizmet Movement. At that time, as of the date of the report, the ministers who governed the country and members of all parties with groups in the parliament were in closer contact with the Hizmet Movement than these children. The Hizmet Movement was given awards by politicians and public officials who ruled the state at the time. In other words, the Hizmet Movement was completely legal and legitimate. Like hundreds of thousands of other people, these children were arrested on the basis of retrospectively created criminal assumptions.
43. These children were accused of having been called from a payphone years ago. The prosecutors did not put forward anything that should have been put forward as an element of crime, such as who called, what was said, what was said, and the children were asked to prove that they were innocent. In other words, both a retrospective crime was created and the burden of proof was shifted⁴⁷ .
44. The right of detained children to meet with their lawyers in detention and in prison has been restricted.
45. Children were deprived of rights such as visits, letters, access to libraries and social activities during their imprisonment⁴⁸ .
46. Many principles of the juvenile justice system, such as detention being a last resort, alternative methods to detention, ensuring and increasing contact with family and relatives, have not been implemented.

6. Freedom of Movement (Art. 12 ICCPR)

47. One of the violated rights of children subject to this document is the freedom of movement.
48. During the reporting period, children of families affected by the decree were also banned from freedom of movement. This ban even led to the deaths of children.
49. Ahmet Burhan Ataç (9) and Furkan Dizdar (12)⁴⁹ are two children with cancer. Ahmet Burhan Ataç can be treated in Germany and Furkan Dizdar in Cuba. However, both children are denied passports. They are prevented from traveling abroad. Ahmet Burhan Ataç can go to Germany after his disease progresses too far, but he cannot overcome his disease due to the delay. Furkan Dizdar, on the other hand, cannot go abroad in any way and dies⁵⁰ .
50. Families of victims of the decree cannot obtain passports as they are banned from leaving the country. They have to leave the country illegally to escape torture and arbitrary arrest. During this process, 17 children drowned in the Evros River and the Aegean Sea. In these deaths, some families lost their entire members⁵¹ .

⁴⁶ <https://www.crossborderjurists.org/turkey-child-rights-report-the-khk-children-the-little-victims-of-turkeys-state-of-emergency-laws/>

⁴⁷ <https://www.crossborderjurists.org/turkey-child-rights-report-the-khk-children-the-little-victims-of-turkeys-state-of-emergency-laws/>

⁴⁸ https://tr.solidaritywithothers.com/_files/ugd/b886b2_d1428ddeaa3b4832b95dfae421cdce9b.pdf,
https://tr.solidaritywithothers.com/_files/ugd/b886b2_f17fdcf178da4ebe908d57d6cec6bea3.pdf

⁴⁹ Information about these individuals was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁵⁰ <https://www.crossborderjurists.org/turkey-child-rights-report-the-khk-children-the-little-victims-of-turkeys-state-of-emergency-laws/>

⁵¹ <https://www.crossborderjurists.org/turkey-child-rights-report-the-khk-children-the-little-victims-of-turkeys-state-of-emergency-laws/>

7. The Best Interest of the Child (UNCRC Art. 3)

51. One of the most important principles violated is the principle of the Best Interest of the Child.

52. The parents of the children subject to this report were *arbitrarily*⁵² detained and arrested. Many children were deprived of both their mother and father at the same time. The highest level reaction on this issue came from the UN High Commissioner for Human Rights. High Commissioner Zeid Ra'ad Al Hussein published a report in March 2018 on Turkey's situation under the state of emergency. "One of the most worrying findings of the report," he described in his introductory remarks, "are reports of how the Turkish authorities were able to detain 100 women who were pregnant or had just given birth, often on the grounds of "associations" with their husbands suspected of links to terrorist organizations. Some were detained with their children, some violently separated from their children. This is not only disproportionate, it is utterly cruel and certainly not about making the country safer," said⁵³ .

53. Below are a few examples of rights violations.

- Many children between the ages of 0-6 had to enter prison with their mothers⁵⁴ . The number of these children reached 780 in 2019⁵⁵ . Many basic and compulsory needs of children in prison with their mothers, such as nutrition, shelter, access to open air, access to playgrounds and swimming pools, toys, contact with soil, kindergarten, access to a pediatrician, and contact with pets, have not been and still are not met.
- Ahmet Burhan Ataç, 8 years old, who was ill and needed treatment abroad,⁵⁶ was not allowed to travel abroad with his mother⁵⁷ . These delays led to the progression of the disease and his death.
- The children's parents were held in prisons hundreds of kilometers away from them. Their requests for transfer to a closer prison were rejected. Children's ties with their parents have been damaged⁵⁸ .
- Some children who had to visit their parents far away from where they lived in difficult conditions died due to traffic accidents⁵⁹ .
- Children who are terminally ill and being treated in hospital are not allowed to meet their parents, who are victims of the decree, even in their last moments⁶⁰ . With social media campaigns and public pressure, some of them get the chance to meet. Selman Çalışkan, Kübra Kazan are just two examples⁶¹ . But Ömer Faruk Turan, who has autism and heart disease, died before he could see his father in his last moments⁶² .

⁵² There are many precedent decisions of the United Nations Working Group on Arbitrary Detention and the European Court of Human Rights, examples of which are given above, that these detentions and arrests are arbitrary.

⁵³ https://www.ohchr.org/sites/default/files/Documents/Countries/TR/2018-03-19_Second_OHCHR_Turkey_Report_Turkish.docx

⁵⁴ https://tr.solidaritywithothers.com/_files/ugd/b886b2_f17fdcf178da4e908d57d6cec6bea3.pdf

⁵⁵ https://www.solidaritywithothers.com/_files/ugd/b886b2_d1428ddea3b4832b95dfae421cdce9b.pdf

⁵⁶ Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁵⁷ <https://www.tr724.com/pasaportu-verilmeyen-zekiye-atac-ne-olur-bu-cocugu-olme-mahkum-etmeyin/#:~:text=Babas%C4%B1%20cezaevinde%20olan%20ve%20kanser,verilmedi%C4%9Fi%20i%C3%A7in%20yurt%20d%C4%B1%C5%9F%C4%B1na%20C3%A7%C4%B1kam%C4%B1yor.>

⁵⁸ <https://boldmedya.com/2022/01/11/hak-ihlali-khkli-ali-osman-kayan-iki-yildir-cocuklarini-goremiyor/>

⁵⁹ <https://boldmedya.com/2019/01/02/surgun-tutuklularin-aileleri-gorus-yolu-olum-yolu/>

⁶⁰ <https://gazetedavul.com/gundem/6-yasindaki-selman-hayatini-kaybetti-4784.html> , <https://www.tr724.com/kubracennet-kusu-oldu/>

⁶¹ Information about these individuals was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁶² <https://boldmedya.com/2021/12/01/babasi-tutuklu-olan-kalp-hastasi-otizmli-omer-faruk-hayatini-kaybetti/>

8. Right to Life (Article 6 of the ICCPR, Article 6 of the UNCRC)

54. The right to life is undoubtedly the most serious violation of rights that the children subject to the report have been subjected to. According to the information reflected in open sources, 63 children in the target group of the report died in this process⁶³.
55. One of the leading causes of death is suicide. The 3rd Anniversary of the State of Emergency Social Costs Report provides some data on this issue. The report makes striking assessments on suicide rates among families of victims of the decree. The report states, *"The crude death and suicide rates among victims and their families are much higher than Turkey's average, and this situation seems to have emerged as a result of the social genocide policies to which they were subjected, rather than being coincidental. Because according to TurkStat data, Turkey's "crude suicide rate" is around ~4 per 100,000, while the rate of relatives of SoE victims who are reported to have died by suicide is around ~1%. This rate means that, according to the most tolerant calculations, the suicide rate among the families of decree victims is 30-35 times higher than the suicide rate in the general population. On the other hand, according to TURKSTAT mortality statistics, while the "crude mortality rate" in Turkey is around ~5.5% per thousand, the families of victims of the state of emergency stated that the rate among themselves is 9.3%, which means that, according to the most tolerant calculations, the mortality rate among the families of decree victims is at least 2 times higher than the crude mortality rate in Turkey."* These data mean that the victims of the decree were abandoned, dragged and directed to biological death in parallel to civil and social death.
56. The report also reveals that a significant number of children of decree victims have increased suicidal tendencies. Many interviewees stated that they had seriously considered suicide⁶⁴, that they had given up suicide because of the victimization of their children left behind⁶⁵, that children aged 12, 13, 14 had attempted suicide⁶⁶.
57. The Finnish Immigration Service reported that 22 children committed suicide⁶⁷.
58. Below are two examples of open source cases of children who died by suicide.
- 16-year-old Bahadır Odabaşı⁶⁸, whose father had been imprisoned for 4 years, died by suicide⁶⁹.
 - High school student Büşra Nur Meşeci's⁷⁰ Father is dismissed from his job and arrested. She could not bear the stress and ended her life by committing suicide⁷¹.
59. Another cause of death is death due to unmet or delayed treatment needs. Ahmet Burhan Ataç and Furkan Dizdar, about whom information was provided earlier in the report, are two of these⁷².

⁶³ [Violations of the right to life | OTHERS \(solidaritywithothers.com\)](#)

⁶⁴ 3. Yılında OHAL nın Toplumsal Maliyetleri Raporu p. 58, 76, 78, 79, 84, 87, 92, 164, 187, 201, 204, 231, 243, 282, 288 etc.

⁶⁵ 3rd Year of the State of Emergency's Social Costs Report p. 47, 74, etc... .

⁶⁶ <https://ahvalnews.com/tr/khk/khkler-yuzunden-intihar-eden-10-12-yasinda-cocuklar>, 3. Yılında OHAL nın Toplumsal Maliyetleri Raporu p. 162, 165, 167, 173, 175, 178, 178, 234 etc.... .

⁶⁷ FIS_Turkey_Individuals+associated+with+the+Gülen+movement_June_2024+(2).pdf (migri.fi) Access Date : 07.09.2024

⁶⁸ Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁶⁹ <https://boldmedya.com/2022/01/14/psikolojisi-bozulan-tutuklu-khkli-ogretmenin-16-yasindaki-oglu-intihar-etti/>

⁷⁰ Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁷¹ <https://bitenhayatlar.com/busra-nur-meseci/>

⁷² Information about these individuals was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

60. Another cause of death of children subject to the report is deaths on the way to visitation. The parents of these children who are victims of the decree are detained in prisons hundreds of kilometers away from them. They have to travel every week for open visits and once a month for closed visits. Unfortunately, many children die in traffic accidents during these journeys.
61. Some of the children of the families of the victims of the decrees also lost their lives on the escape routes. People were forced to flee the country due to the decrees denying them the right to live in Turkey, the threat of torture, and the threat of arrest. In the vast majority of these escapes, all family members left the country together. This is because the passports of all family members have been canceled by decrees and there is no hope that they will ever be reissued. That is why no one wants to leave their children behind on that dangerous journey. On the way from Turkey to Greece, one must cross either the Evros River or the Aegean Sea. Both routes carry serious life-threatening dangers. Unfortunately, sometimes the risks have materialized and deaths have occurred on the crossing routes. According to open sources, 17 children have lost their lives in this way.
62. Another cause of death of children of victims of the Decree is suicide with the parent. Eyüp Öztürk (17) is 99% disabled. He has cerebral palsy. During the process, his father, a decree victim, was dismissed from his job and arrested. His parents are divorced. Unable to cope with the stress of the process, the mother Seher Baş first killed her son Eyüp Öztürk with a shotgun and then committed suicide with the same shotgun⁷³.
63. One of the most common causes of infant mortality that most severely traumatizes the families of the victims of the Decree is miscarriages of children due to the traumas caused by torture, the severity of detention and prison conditions and the psychological pressures⁷⁴.

9. The Right to Privacy (Article 16 of the UNCRC)

64. The right to privacy encompasses respect for family life, the inviolability of housing and the protection of all forms of communication. This protection applies to individuals and the state.
65. There are serious violations in this area for children, who are the subject of this report.
66. On May 7, 2024, there was an investigation into the operation carried out on May 7, 2024, which also involved serious violations of rights. Information on the investigation can be found in the section on torture and right to privacy.
- The children, who were not identified as suspects during the investigation, were forcibly detained by the police at 05:00 in the morning.
 - The telephone conversations of the children with their parents were listened to.
 - Although there was no evidence of any crime, a physical surveillance warrant was issued against the children and they were followed by the police day and night.

10. Rights of Adopted Children (UNCRC Art.21)

67. The Convention also sets out basic principles on adoption. This issue has been specifically regulated as it is of great importance for children. Article 21 of the Convention regulates this issue.
68. During the state of emergency, a new group of victimized children was created, which is the subject of this report. While these children were in foster care, they were victimized when these families were suddenly deemed terrorists on arbitrary grounds. Children were forcibly separated from people who were declared criminals based on arguments produced by state of emergency decrees.

⁷³ <https://www.sozcu.com.tr/2018/gundem/anne-engelli-oglunu-oldurup-intihar-etti-2224153/>

⁷⁴ <https://www.crossborderjurists.org/turkey-child-rights-report-the-khk-children-the-little-victims-of-turkeys-state-of-emergency-laws/>. Information about these individuals was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

69. With a letter dated August 23, 2016, the Ministry of Family and Social Policies sent a circular to 81 provinces with an urgent code and ordered to conduct research on families providing foster care and adoption services⁷⁵. The Ministry circular is dated 19/08/2016 and is on "Measures to be taken within the scope of Fethullah Terrorist Organization (FETÖ/PDY)". The circular ordered the investigation of foster families and to take back children from those who are deemed to have links with the Hizmet Movement. Accordingly, only children were forcibly taken from families who had been prosecuted for being members of the Hizmet Movement⁷⁶.
70. This process was carried out by the state itself in violation of the obligations imposed by the convention. The Minister of Family at the time even had the indiscretion to share with journalists the fact that 9 children were taken from families under the state of emergency decrees as a great success.⁷⁷

11. Rights of Children with Disabilities (UNCRC Art.23)

71. Children with disabilities mentioned in the report have also faced significant violations of their rights in this regard.
72. Many parents of disabled and handicapped children have been dismissed by decree and have had their financial assistance cut off by the state on the grounds of arrest. They have been expelled from educational and rehabilitation institutions.
73. Examples reflected in open sources are listed below.
- R veyda Tekg z⁷⁸ is a child with "very severe special needs" according to medical reports. Like all other disabled children in the country, R veyda was receiving social assistance from the state. During the state of emergency, this aid was cut. Mother Nazire Tekg z's applications were always rejected. After a while, the disability pension, which was required by law, was also canceled. The written response to Ms. Tekg z's application to the Prime Ministry Communication Center (BIMER) in 2017 stated that "the Social Assistance and Solidarity Foundation cannot provide assistance to citizens who have been prosecuted, dismissed, suspended or arrested within the scope of FET /PDY terrorist organization activities". As can be seen, legal aid to a severely disabled child was canceled on the grounds that a parent was dismissed from his job by decree.
 - Burcu Aktař⁷⁹ is a girl with 70% Down syndrome. Her care allowance was cut off because her father was dismissed by decree⁸⁰.
 - Yakup Ali  etin⁸¹ 94% disabled. When he was 15 years old his father was arrested. His father Ey p  etin takes care of all his care. He also received special training in caring for his child. Ey p  etin was dismissed from his job by decree and arrested. He has no one to take care of the child, especially in times of crisis. The child is thus left to die⁸².

⁷⁵<https://www.trthaber.com/haber/turkiye/bakan-betul-sayan-kayadan-feto-genelgesi-267695.html>

⁷⁶<https://tr.euronews.com/2019/04/19/khk-koruyucu-ailenin-hayatini-degistirdi-ihrac-edilince-evlat-edindikleri-cocuk-ellerinden>

⁷⁷<https://www.milliyet.com.tr/gundem/feto-cu-ailelerden-9-cocuk-geri-alindi-2386248>,

⁷⁸ Information about this child was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁷⁹ Information about this child was shared in open sources. It became a hot topic on social media. This is why it was included in our report.

⁸⁰ [Burcu, 70 percent disabled, denied care salary because her father is a member of a state of emergency decree - Tr724](#)

⁸¹ Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁸² <https://www.boldmedya.com/2021/12/21/agir-zihinsel-engelli-ve-otizmli-yakup-alinin-babasini-tutukladilar/>

- Nalan Dilber is 7 years old and has Down syndrome. Her mother, Nuran Dilber, was dismissed from her job by decree and is in prison⁸³. Nalan Dilber cannot bear the longing for her mother, so she packs a bag and tries to escape from home to go to the prison where her mother is⁸⁴.

12. Right to Health and Health Care (UNCRC Art.24) , Right to Social Security (UNCRC Art.26)

74. The children subject to the report have been deprived of their rights in these areas, as in other areas highlighted in this report.
75. In the 3rd Year Social Costs of the State of Emergency Report, 71% of the children of families who were dismissed from their jobs by decrees were found to be in need of medical and psychological support. On the other hand, 16% of these children do not have health insurance and therefore cannot receive medical/psychological support⁸⁵. Some of these children have been afflicted with chronic diseases that will affect the rest of their lives⁸⁶.
76. Violations of rights that children are exposed to
- The green cards of the families subject to the report, including children, are canceled. The green card is an opportunity for poor families to receive free treatment at state health institutions. Families and their children who are victims of the Decree are forced to pay significant amounts of money for all kinds of medical needs, from the mildest ailments to the most severe⁸⁷.
 - Nurefşan Ketenci⁸⁸ suffers from Cat Meow Syndrome (Cri du Chat), a disease that affects one in 50 thousand people. Because her father was dismissed from his job by decree, Nurefşan was expelled from the rehabilitation center where she was studying⁸⁹.
 - MP Ömer Faruk Gergerlioğlu shared that a person who was dismissed from his job by decree told him the following: "The day before the coup, a disabled baby was born. When my husband was suspended in September, we moved in with his family. While I was in the hospital with my baby, I received an order that all our health rights were taken away. I asked for help from the district governor's office, but I was repeatedly dismissed. All I wanted was for them to provide general health insurance for my baby, but they did not. My baby did not receive the necessary treatment and died in June 2017."⁹⁰
77. Another issue that constitutes a violation of Article 24 of the Convention on the Rights of the Child is the practices faced by pregnant women and infant mortality. In the 3rd Report on the Social Costs of the State of Emergency in its 3rd Year, this issue has also been identified. "According to TurkStat infant mortality statistics, the crude 'infant mortality rate', which refers to the number of infant deaths per thousand live births, is around ~10 per thousand in Turkey. However, among the families of victims of the state of emergency, the rate of 'miscarriage / death of infants due to stress during pregnancy' was reported to be 5.4%. Again, according to the most tolerant calculations, this rate means that the "infant mortality rate" among the

⁸³ Information about these individuals was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁸⁴ <http://sevincozarlan.blogspot.com/2020/02/down-sendromlu-nalan-evden-kacp.html>

⁸⁵ 3rd Year of the State of Emergency's Social Costs Report p. xxxvi

⁸⁶ 3rd Year of the State of Emergency's Social Costs Report p. 163.

⁸⁷ [Green card of the name with a state of emergency decree also canceled | Güncel \(haber3.com\)](https://www.haber3.com/guncel/green-card-of-the-name-with-a-state-of-emergency-decree-also-canceled)

⁸⁸ Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁸⁹ <https://boldmedya.com/2021/07/25/babasi-khk-ile-kapatilan-kurumda-calisti-diye-egitim-hakki-engellenen-nurefsan-vefat-etti/>

⁹⁰ [People with emergency decrees in Turkey: They treat us like plague - DW - 20.09.2019](https://www.dw.com/en/people-with-emergency-decrees-in-turkey-they-treat-us-like-plague/a-5584847)

families of victims of the state of emergency is at least 2 times higher than the Turkey average⁹¹ ."

78. A few examples of the incidents are given below.

- Nurhayat Yıldız⁹² , pregnant with twins, is arbitrarily arrested and put in prison. She was not given a bed in prison. She had to sleep on the floor in front of the toilet. She experiences extreme stress. She is not provided with the necessary nutrition and medical support. She is not followed up. That is why she miscarries⁹³ .
- Gülden Aşık⁹⁴ , is arrested even though she is pregnant. While in prison, her 7-week-old baby dies in the womb. The baby is surgically removed⁹⁵ .
- Hanife Çiftçi⁹⁶ is detained while pregnant. Due to the severe conditions of detention, she started to bleed. Although she insisted on reporting her condition, no medical intervention was given. She was arrested in this state. She was not given the necessary intervention in prison either. When her condition worsened, the baby died in the womb⁹⁷ .
- Büşra Atalay, who became pregnant through in vitro fertilization (IVF) and is in a sensitive period,⁹⁸ is detained by the police at the hospital and her statement is wanted to be taken. The stress of the situation triggered premature labor. In this state, she was taken from hospital to hospital and their baby died⁹⁹ .
- Detained unlawfully and arbitrarily, 8-week pregnant E.U. miscarries and loses her baby due to stress¹⁰⁰ .
- Yasemin Atik¹⁰¹ is an educator. When she learns that she is being investigated on the grounds of criteria introduced by the state of emergency decrees, she hides in a house. However, she is pregnant. She does not want to give birth in prison and give birth to her child in prison. She has to give birth at home without being able to go to a hospital, which is risky for her and the baby's life¹⁰² .

13. Right to Education (Article 13 ICCPR, Article 28 UNCRC)

79. The right to education is one of the most fundamental human rights enshrined in all texts on human rights. Undoubtedly, the importance of this right increases even more when children are concerned.

80. The children subject to the report have also experienced serious victimization in this regard. Their right to education was taken away from them and they were subjected to discrimination and pressure during education. Some children could not bear the situation, and left formal education and had to continue distance education. Some teachers at schools discriminated

⁹¹ 3rd Anniversary of the State of Emergency's Social Costs Report p. 162.

⁹² Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁹³ <https://boldmedya.com/2019/09/12/irfan-buna-dokunma-doktor-ikisi-de-olmus-dedi-sok-oldum/> ,

⁹⁴ Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁹⁵ <http://sevincozarlan.blogspot.com/2019/06/bebegini-kaybeden-tutuklu-anne-benim.html>

⁹⁶ Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁹⁷ <https://biten hayatlar.com/isimsiz-melek-hanife-ciftcinin-bebegi/>

⁹⁸ Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁹⁹ <https://biten hayatlar.com/isimsiz-melek-anne-busra-atalayin-bebegi/>

¹⁰⁰ <https://www.milliyet.com.tr/gundem/bylock-suphesi-hayatini-karartti-2697755>

¹⁰¹ Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

¹⁰² <http://sevincozarlan.blogspot.com/2019/06/musambann-uzerinde-yaptg-dogumu-anlatt.html>

against these children. They lowered their grades and accused their parents when asked. Children from closed military and private schools were bullied by other students in the schools they attended.

81. A few examples of violative practices in this regard are given below.

- Harun Atayün, son of former Police Chief Anadolu Atayün¹⁰³ was not admitted to public schools because his father and mother were arrested and imprisoned on the basis of criteria produced by decrees¹⁰⁴.
- A student who won a place at the National Defense University was denied admission because his relatives were dismissed by decree¹⁰⁵.
- Nurefşan Ketenci¹⁰⁶, who was born with Cat Meow Syndrome (Cri du Chat), which is seen in one in 50 thousand people in the world, was expelled from the rehabilitation center on the grounds that his father was dismissed from his job by decree¹⁰⁷.
- Many students were denied state scholarships because their parents were dismissed by decree¹⁰⁸.
- Some children were discriminated against in schools on the grounds of their parents and given low grades by teachers. It was even reported that a teacher said to a primary school child, to whom she had given an unfairly low grade, "I am not giving this grade to you, I am giving it to your mother"¹⁰⁹.
- Students of closed military high schools are banned from entering good science and social sciences high schools¹¹⁰.
- Students of the closed schools were subjected to discrimination and bullying by teachers and students in the new schools they attended¹¹¹.
- Students from closed schools have faced obstacles in having their education from their old schools recognized in the new school¹¹².
- The daughters of the Kaçmaz family¹¹³ who were abducted from Pakistan and forcibly brought to Turkey were denied recognition and prevented from continuing their education¹¹⁴. However, the diplomas of thousands of people who have graduated from those schools over the years have always been recognized.
- Students of closed private schools were not accepted by public schools in some cities. Therefore, students living in those cities had to enroll in very expensive private schools¹¹⁵.

¹⁰³ Information about these individuals has been shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

¹⁰⁴ <https://kronos35.news/tr/birsan-atayun-anadolu-beyin-gelmeyecegine-inansam-ben-de-yasamak-istemem-tabi-ki-gelecek/>

¹⁰⁵ <https://www.gazeteduvar.com.tr/gundem/2020/02/20/akrabasi-khkli-diye-universiteye-alinmayan-ogrenci-davayi-kazandi>

¹⁰⁶ Information about this child was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

¹⁰⁷ <https://boldmedya.com/2021/07/25/babasi-khk-ile-kapatilan-kurumda-calisti-diye-egitim-hakki-engellenen-nurefsan-vefat-etti/>

¹⁰⁸ <http://m.haberdar.com/genel/ysk-da-ilk-100-e-giren-ogrenciyi-vakif-universitesi-babasi-khk-li-diye-burslu-kaydetmedi-h211132.html>

¹⁰⁹ 3rd Year of the State of Emergency's Social Costs Report, June 2020, 164.

¹¹⁰ 3rd Year of the State of Emergency's Social Costs Report, June 2020, p.283.

¹¹¹ 3rd Year of the State of Emergency's Social Costs Report, June 2020, pp.59, 76, 283.

¹¹² 3rd Year of the State of Emergency's Social Costs Report, June 2020, p.283.

¹¹³ Information about these individuals has been shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

¹¹⁴ <https://kronos35.news/tr/pakistanli-yetkililer-sucunuz-yok-biliyoruz-ama-erdogan-cok-baski-yapiyor-dedi/>

¹¹⁵ 3rd Year of the State of Emergency's Social Costs Report, June 2020, p.283.

The Human Rights Committee Should Recommend That The Turkish Government

The findings of this shadow report shed light on human rights violations against a group of up to 3 million children in Turkey, especially since the 2016 coup attempt.

A discriminatory approach toward these children, particularly from public institutions and organizations, has been identified and must come to an end.

The principle of the best interests of the child is applicable and binding for the children discussed in this report, as it is for every child. It has been determined that both administrative and judicial authorities do not prioritize the best interests of these children in their decisions and procedures. Documented evidence shows that this neglect has resulted in the death of some children, their development of psychiatric illnesses, and the breakup of their families. Administrative and judicial authorities should prioritize the best interests of the children discussed in the report in their decisions and procedures, and necessary measures should be taken in this regard.

There is clear evidence that almost all the rights of the children discussed in the report under the ICCPR and the Convention on the Rights of the Child have been violated. This situation must come to an end. Measures ensuring the fundamental rights and freedoms of these children must be strengthened.

These children are being presumed to be "potential criminals" based on their parents' political status and the charges against them. Investigations are initiated against them without any suspicion of a crime, and legal guarantees are arbitrarily violated. These practices must be stopped. Torture and ill-treatment practices have been alleged in the investigations conducted against the children discussed in this report (most recently in May 2024).

Concrete facts supporting these allegations are included in our report. Torture and ill-treatment of children are unacceptable. It must not be repeated. Those responsible for this torture and ill-treatment must be prosecuted.



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**The UN Human Rights Committee
142nd Session
(14 October 2024 - 07 November 2024)**

**Türkiye
(Wednesday 16 Oct 2024 PM – Thursday 17 Oct 2024 AM)**

September 2024

WOMEN'S RIGHTS VIOLATIONS IN TURKEY

Executive Summary

In this report, Crossborder Jurists focus on Women's Rights. The report focuses on the violations of women's rights that started with the state of emergency between July 2016 and July 2018 and are still ongoing. The focus of the report is on women whose husbands or wives have been dismissed from their professions or arrested on political grounds by emergency decrees.

As can be seen from the findings in our report, women's rights in Turkey were already far below international standards in general, and on top of this, there was a coup attempt on 15 July 2016. This was followed by a state of emergency that lasted until July 2018. The situation became much more dire in terms of women's rights. Even though the state of emergency lasted for 2 years, the legal changes introduced by decrees still exist. Therefore, the state of emergency has officially ended, but de facto continues.

Our report consists of national and international reports, official documents such as court minutes, indictments, and testimonies of victims. The most recent text in this context is the report 'Turkey Individuals Associated with the Gülen Movement' published by the Finnish Immigration Service. This report was published in June 2024. The report frequently emphasises that rights violations against women victims of the decree still continue.

During the reporting period, 134,258 people, including 23,202 women, were dismissed from their public sector jobs. The dismissals are still continuing. In the private sector, thousands of companies and NGOs were seized by the state. Tens of thousands of people working in these organisations became unemployed. 'Terrorism' investigations were opened against approximately 350,000 women based on political criteria introduced by decrees. As of 2021, 97,721 women were charged with 'terrorism' in the heavy criminal courts. These accused women included people from all walks of life, such as judges, prosecutors, doctors, nurses, teachers and housewives. In the same period, the total number of detainees on terrorism charges in ten European countries was 1,414.

During the reporting period, rights violations occurred in all areas covered by the Constitution and international conventions. Women victims of the decree experienced systematic violations of rights in many areas such as discrimination, torture, arbitrary arrest, deprivation of social rights and the right to a fair trial. For the first time in its history, the State of the Republic of Turkey was accused of 'crimes against humanity' in the resolutions issued by UN bodies¹. This period of lawlessness has deeply shaken women's rights. Even the Law on the Protection of Women became inoperable. Turkey withdrew from the Istanbul Protocol.

This contribution emphasises the need for stronger international scrutiny of Turkey's actions in the context of women's rights. It concludes by calling on the Turkish government to take meaningful steps to bring its practices in line with international standards. With this report, our association calls on the international community to urge Turkey to ensure that women's fundamental rights and freedoms are protected under the ICCPR and other relevant international treaties.

¹ The United Nations Working Group on Arbitrary Detention in its resolutions 51/2020 dated 18 September 2020 (Pa. 102) and 47/2020 dated 25 September 2020 (Pa. 101) clearly emphasised that the systematic mass detention and arrest practices against the Gülen Movement in Turkey may constitute crimes against humanity.

I- CONCEPTS

1. State of Emergency Decree Law

1. The term ‘State of Emergency Decree Law’ in the Report refers to the decrees issued during the State of Emergency. Hereinafter in the Report, the term ‘Decree Law’ will be used as a single word.
2. Turkey experienced a state of emergency between 21 July 2016 and 18 July 2018. During this period, 37 decrees were issued. Hundreds of laws were amended, ranging from the Tender Law to the Village Law. With these decrees, mechanisms protecting fundamental rights and freedoms became dysfunctional.
3. Despite the end of the state of emergency, the vast majority of the amendments made to the laws are still in force.

2. Victims of State of Emergency Decree

4. In Turkey, there is a group defined as ‘OHAL Mağduru’ (victims of the state of emergency) or ‘KHK Mağduru’ (victims of the decree law). These terms define the same group and are used interchangeably. These concepts have become part of the literature and the subject of academic studies. Dozens of reports have been written with these terms. They are concepts that can be encountered at any time in daily politics and social media. In this study, we will use the term ‘Decree Victims’ for ease of translation.
5. Victims of decrees refer to people whose rights have been arbitrarily violated by decrees issued during the state of emergency. The term ‘decree victims’ refers to two groups in a narrow and broad sense. In the narrow sense, victims of the decrees refer to people whose names are included in the published lists and who have been dismissed from public office and banned from practising their profession again. The number of people within this scope is 134.258².
6. The second group, which is wider, corresponds to a group formed on the basis of political criteria introduced by emergency decrees. These criteria were used in administrative decisions, official documents, prosecution and court decisions as follows³:
 - The closure of the workplace by decree,
 - Having an account in Bank Asya, which was closed down by decree,
 - Their children were educated in schools closed down by the decree,
 - The fact that they themselves had been educated in courses, dershanes, dormitories, schools and universities that were closed down by decree years ago,
 - Reading books by publishing houses closed down by the decree and keeping them in their homes,
 - Reading and subscribing to newspapers and magazines closed down by decree,
 - Being a member of associations closed down by the decree, participating in the activities of these associations, providing financial assistance to them in the past,

² <https://www.solidaritywithothers.com/dismissal-by-decree-laws-and-hsk> Internet access date :07.09.2024

³ FIS, Finnish Immigration Service : Turkey Individuals Associated with the Gülen Movement, [FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+\(2\).pdf \(migri.fi\)](#) . Internet access date :07.09.2024

- Membership of trade unions closed down by decree,
 - The spouse, child, mother or father of someone who has been dismissed by decree, It is possible to increase the number of these criteria.
7. People have been detained, tortured in detention, arrested and even convicted to long prison sentences on the grounds of these criteria. It is noteworthy here that the expression ‘decree’ constitutes the core of the accusations. In other words, when this expression is removed from the accusations, there is neither an offence nor a basis. Because the same people were living in the same country in the same way before the decrees. Their ordinary activities in their daily lives were not considered as offences. Therefore, the victims of this process represent a very large group of people.
 8. The victims of the decrees are largely composed of volunteers of the Gülen Movement⁴ and members or supporters of the Peoples' Democracy Party (HDP). Gülen Movement volunteers were accused of having links or affiliations with the organisation defined by the political will as ‘FETÖ’, while members and supporters of the Peoples' Democracy Party were accused of having links or affiliations with “PKK” or “PYD”. The criteria used in these accusations are fabricated and hypothetical arguments produced by decrees, examples of which are given above. People have been accused of membership, leadership or aiding a terrorist organisation on the basis of these manufactured criteria.
 9. The victims of the decree refer to a group that includes all dissidents in the country. For example, academics who signed the ‘Academics for Peace Declaration’. They were dismissed from their jobs by decrees and subjected to investigations, detentions and arrests. Again, those who supported Özgür Gündem newspaper, which was closed down by a state of emergency decree, were arrested. Among them is the woman writer Aslı Erdoğan.
 10. In order to determine the number of victims, it would be useful to refer to a data from the Turkish Statistical Institute (TUIK). According to a statement made by MP Mustafa Yeneroğlu, 1,056,000 people were investigated by prosecutors' offices on terrorism charges between 2016 and 2018⁵. According to calculations made by lawyer Levent Mazılıgüney based on (TÜİK) data, 1,768,530 people have been charged with terrorism from 2016 to the end of December 2021⁶.
 11. The magnitude of this number raises the question of what the reality of terrorism in Turkey is. According to an official statement by the Ministry of Justice, as of December 2015, the number of people in Turkish prisons on terrorism charges was 7,469⁷. This number includes members of organisations such as the PKK, ISIS and al-Qaeda, which are internationally recognised as terrorist organisations. This number also includes people such as PKK leader Abdullah Öcalan, who has been imprisoned for decades. According to the official statements of the Ministry of Interior, the number of terrorists presumed to be inside the country is around 2,475-2,780 in 2016, 1,835-1,995 in 2017, and 1,100-1,200 in 2018⁸. When the official statements of the two ministries and TUIK data are compared, a grave picture emerges. According to

⁴ According to the statements made by the Minister of Justice Bekir Bozdağ, the number of individuals subject to investigations on the grounds of their links with the Gülen Movement in the files completed as of 14 June 2022 is 559,322. This number is only related to the completed files. It does not include ongoing investigations. <https://www.trthaber.com/haber/gundem/bakan-bozdag-6nci-yargi-paketiyle-stokculara-hapis-cezalari-artacak-687718.html>. Internet access date :07.09.2024

⁵ <https://www.gazeteduvar.com.tr/yazarlar/2020/02/13/yeneroglundan-silahli-teror-orgutu-uyeligi-raporu>. Internet access date :07.09.2024

⁶ <https://twitter.com/AvLeventism/status/1602245633238237184?s=20&t=arFMGc1b6bsZmbiEgfBHUG>. Internet access date :07.09.2024

⁷ <https://www.rudaw.net/turkish/middleeast/turkey/121220151>, <https://www.milliyet.com.tr/gundem/ipek-271-isis-li-cezaevinde-2135220>. Internet access date : 07.09.2024

⁸ <https://www.icisleri.gov.tr/kurumlar/icisleri.gov.tr/IcSite/strateji/%C5%9EEREF/Stratejik-Yonetim/Butce-Sunumu.pdf>. Internet access date :07.09.2024

these data, at least 1,750,000 people have been accused of being terrorists in a 5-year period on the basis of state of emergency decrees and politically motivated grounds. These 1,750,000 people are victims of the state of emergency. According to Solidarity With Others' calculations based on TUIK data, between 2015 and 2021, 561,388 indictments were issued against different numbers of people on terrorism charges⁹. In the same period, the number of people who were tried in courts on 'terrorism' charges and whose trials ended was 599,524 and the number of women was 97,721¹⁰.

12. The data in the report of the International Centre for the Study of Radicalization dated 22 July 2020 is also important in order to reveal the arbitrariness in declaring people as terrorists in Turkey¹¹. In the report, a study was conducted on 10 European countries, namely Belgium, Denmark, the United Kingdom, France, Germany, Greece, the Netherlands, Norway, Spain and Sweden. According to the data obtained as a result of this study, it was determined that approximately 1,414 people were imprisoned in connection with terrorist offences in all of these 10 countries. In the face of this data, when it is considered that the number of women being tried on 'terrorist' charges in Turkey alone is 97,721, it can be seen more clearly how far Turkey is from reality.
13. Individual applications have been made to the European Court of Human Rights¹², the United Nations Human Rights Committee¹³, the United Nations Committee for the Prevention of Torture¹⁴, the International Labour Organization (ILO) and the United Nations Working Group on Arbitrary Detention¹⁵ regarding the dismissals, detentions and arrests of victims of the Decree. All of these applications have resulted in judgements of violation. To date, not a single judgement has upheld the practices of the Turkish State subject to the application.

3. Women Victims of the State of Emergency

14. Although officially over, in reality a state of emergency continues in full force in Turkey. This state of emergency has undoubtedly crushed women's rights. Tens of thousands of women from tens of thousands of different professions, including judges, prosecutors, officers, nurses, teachers and doctors, have been targeted for destruction and their names have been published in emergency decrees. These women were declared 'terrorists' and 'traitors' overnight with unjust, unlawful, arbitrary lies and slander. These women were dismissed from their jobs simply because their names appeared in a decree. Some of them were detained, arrested, tortured and even killed in prisons. Some were raped in detention centres. Tens of thousands of them were mercilessly separated from their husbands and children. Hundreds of them had to go to prison with their children and raise their children there under very harsh conditions.

⁹ <https://lookerstudio.google.com/embed/u/0/reporting/2287c7a9-3035-458f-9fb1-92ffa013eb50/page/IPVhC>. Internet access date :07.09.2024

¹⁰ https://lookerstudio.google.com/embed/u/0/reporting/2287c7a9-3035-458f-9fb1-92ffa013eb50/page/p_5kda2105pc. Internet access date :07.09.2024

¹¹ https://icsr.info/wp-content/uploads/2020/07/ICSR-Report-Prisons-and-Terrorism-Extremist-Offender-Management-in-10-European-Countries_V2.pdf. Internet access date :07.09.2024

¹² Some Precedent Judgements of the ECtHR: <https://www.solidaritywithothers.com/ecthr-judgments>, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-207680%22%5D> . Internet access date :07.09.2024, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-214483%22%5D>, <https://hudoc.echr.coe.int/fre?i=001-194102#%7B%22itemid%22:%5B%22001-194102%22%5D> , . Internet access date :07.09.2024

¹³ UN Human Rights Committee Resolution: [UN documents | OTHERS \(solidaritywithothers.com\)](https://www.solidaritywithothers.com/OTHERS). Internet access date :07.09.2024

¹⁴ UN Committee for the Prevention of Torture Resolutions: [UN documents | OTHERS \(solidaritywithothers.com\)](https://www.solidaritywithothers.com/OTHERS). Internet access date :07.09.2024

¹⁵ UN Working Group on Arbitrary Detention Sample Decisions : <https://www.solidaritywithothers.com/un-documents> . Internet access date :07.09.2024

The country became unliveable for them. Some of them had to leave. Some died on their escape routes.

15. When asked the question ‘What is the number of women victims of the decree?’ it will not be possible to give a clear answer to this question. However, the most basic data on the number of those who were dismissed while working in public office and the statistics of the Turkish Statistical Institute will be partially instructive. According to the data obtained by Solidarity With Others from the statistics of the Turkish Statistical Institute, as of the end of 2021 :
- The number of women who were dismissed from their jobs under the state of emergency decrees is 23,202, which corresponds to 17.3%¹⁶. The number of those dismissed from their jobs in the private sector is unknown.
 - The number of women who were tried in criminal courts on terrorism charges during the state of emergency, whose cases were finalised and judgements were issued against them is 97,721¹⁷.
 - Considering the determinations made by lawyer Levent Mazılıgüney and the above-mentioned rates, it can be evaluated that 20% of 1,768,530 people, i.e. approximately 350,000 women, are victims of the decree¹⁸.

II- VIOLATIONS OF RIGHTS

16. This section will focus on the grave violations of rights experienced by women victims of the decree. Turkey has experienced and is experiencing a storm of rights violations in general. Here, the focus will be on rights violations against women.

4. Prohibition of Discrimination (Articles 2, 3, 6, 25 and 26)

17. The Turkish Constitution and fundamental conventions on human rights prohibit all forms of discrimination between people. In this context, no one shall be subjected to negative discrimination or deprivation of rights on the grounds of any difference such as gender, religion, race, colour, social status. However, during the state of emergency, tens of thousands of women were victimised on political grounds and experienced discrimination in all areas of life. In this section, only some of the discrimination-based practices can be mentioned with examples.
18. In Turkey, all those who have been dismissed from their jobs by decrees and subjected to investigations by prosecutors' offices have been labelled in the state's database. This labelling is not in the form of a criminal record. In other words, the situation is completely different from a finalised conviction being entered in the judicial register. All the people who have been dismissed by the decrees, who have been subjected to investigations by prosecutors' offices based on denunciations or complaints, have been labelled as “risky person”, “in contact with or affiliated with a terrorist organisation” on their records in all state systems such as population, notary, social security, land registry. One of these annotations is ‘36 / State of Emergency / Emergency Decree’¹⁹, which is written on the records of the Social Security

¹⁶ <https://tr.solidaritywithothers.com/dismissal-by-decree-laws-and-hsk>. Internet access date :07.09.2024

¹⁷ https://lookerstudio.google.com/embed/u/0/reporting/2287c7a9-3035-458f-9fb1-92ffa013eb50/page/p_5kda2105pc. Internet access date :07.09.2024

¹⁸ <https://twitter.com/AvLeventism/status/1602245633238237184?s=20&t=arFMGc1b6bsZmbiEgfBHUg>. Internet access date :07.09.2024

¹⁹ [FIS_Turkey_Individuals associated with the Gulen movement_June_2024 2.pdf](#), Access Date : 07.09.2024

Institution. Due to these annotations, they were subjected to discrimination in all public procedures. Examples of practices within this scope will be given below²⁰.

a. Denial of Social Assistance

19. State support is provided to people who have economic difficulties and do not have sufficient income. Women whose husbands or wives were dismissed by decree were deprived of this right²¹.

b. Denial of Green Card

20. Green Card is a compulsory health insurance provided by the state to people who do not have sufficient economic income in Turkey. If the person proves that his/her income is insufficient, he/she can obtain this card and benefit from health services free of charge. Women victims of the Decree were subjected to serious discrimination²².

c. Non-utilisation of Earthquake Aid

21. Another issue of victimisation of women who are victims of the Decree is not benefiting from earthquake aids. In the Elazığ earthquake on 24 January 2020 and the Kahramanmaraş earthquake on 06 February 2023, tens of thousands of people died, houses were destroyed and many of the remaining houses became unusable. The state provided economic aid to the earthquake victims both with its own resources and with the revenues obtained from the aid campaign. However, the victims of the decree were deprived of these aids and supports²³. After the 2023 earthquake, Vakıfbank, a state-owned subsidiary, did not allow a woman victim of the decree to benefit from the low-interest loans it provided to the victims of the earthquake²⁴.

d. Criminalisation of Assistance to Relatives in Prison

22. The discriminatory criminalisation of providing assistance to women and their children whose husbands are in prison has led to severe victimisation. There are associations established to help judicial prisoners and their families and even public institutions support these associations. When it comes to political prisoners and their families, the state not only does not provide assistance, but also criminalises such assistance. Investigations in this context are

²⁰ [FIS Turkey Individuals associated with the Gulen movement June 2024 2.pdf](#) Access Date : 07.09.2024

²¹ <https://www.tr724.com/isidliye-maas-khkliya-agac-koku/>, [FIS Turkey Individuals associated with the Gulen movement June 2024 2.pdf](#) Internet access date :07.09.2024

²² <https://www.dw.com/tr/t%C3%BCrkiyede-khkli%C4%B1lar-bize-vebal%C4%B1-muamelesi-yap%C4%B1yorlar/a-50521070>, [FIS Turkey Individuals associated with the Gulen movement June 2024 2.pdf](#) Internet access date :07.09.2024

²³ <https://haber.sol.org.tr/turkiye/evi-hasarli-depremedeye-yardim-yapilmadi-gerekce-Olağanüstü-hal-oldu-279715>, Internet access date :07.09.2024

²⁴ <https://artigercek.com/emek/kendisi-khkli-oldugu-icin-esine-deprem-kredisi-verilmedi-240869h>, [FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+\(2\).pdf \(migri.fi\)](#) Access Date : 07.09.2024

promoted as ‘operations against restructuring’²⁵. To date, hundreds of women have been arrested on the grounds of such aid²⁶.

e. Discriminatory Detention and Arrest of Pregnant and Infant Women

23. One of the most severe discriminatory practices against women is the detention and arrest of pregnant women and women with babies²⁷. According to Article 16/4 of the Law on the Execution of Sentences and Security Measures, the execution of the sentences of pregnant women and women who have not given birth within 1 year and 6 months of their birth will be postponed. As stated in the law, women in this group are those whose trial processes have been completed and whose guilt and sentences have been finalised. Article 109/4 of the Code of Criminal Procedure (CPC) stipulates that pregnant women, women who have recently given birth and women who have not given birth within 6 months may not be arrested. This provision in the Code of Criminal Procedure covers women who are under investigation by prosecutors' offices on suspicion of a criminal offence or who are on trial in courts. In both cases, it is almost impossible for pregnant women and women with babies to be sent to prison. Arrest rules also cover detention according to the CCP. The conditions for both are very close to each other. In other words, detaining a person who cannot be arrested and keeping him/her in detention for days means violating the spirit of the law. Nevertheless, during the state of emergency and still today, women accused on political grounds are arbitrarily and massively detained and arrested as if these legal regulations do not exist²⁸.

f. Retrieval of Adopted Children, Termination of Foster Family Status

24. One of the most destructive practices of the reporting period is the discrimination in foster care and adoption practices.

25. In Turkey, as in other countries, a person can adopt a child. Apart from the institution of adoption, there is also the institution of ‘foster family’, which is the first stage of adoption. In the foster family institution, the responsibility for the care, upbringing and education of some children is shared with the state. This institution is considered as a preliminary step to adoption. The conditions for becoming a foster family are also determined by the regulations. With a letter dated 23 August 2016, the Ministry of Family and Social Policies sent a circular to 81 provinces with an urgent code and ordered to conduct research on families providing foster care and adoption services. The Ministry's circular is dated 19/08/2016 and is on ‘Measures to be taken within the scope of Fethullahist Terrorist Organisation (FETO/PDY)’. With the circular, it was requested to conduct research on foster families and to take back children from those who are thought to have links with the Gülen Movement. Upon this, children were forcibly taken from families who were only prosecuted on the allegation that they were volunteers of the Gülen Movement²⁹. On 28.01.2017, Fatma Betül Sayan Kaya, the

²⁵ FIS Turkey Individuals associated with the Gulen movement June 2024 2.pdf Access Date : 07.09.2024

²⁶ <https://www.milliyet.com.tr/gundem/fetonun-guncel-yapilanmasi-sorusturmasinda-28-supheli-hakkinda-hapis-istemi-6230851>, <https://serbestiyet.com/haberler/704-kisi-gozaltinda-gerekce-khklilara-ve-cezaevindekilere-yardim-parasi-toplamak-avukat-maziliguney-insani-mulahazalarla-yapilan-yardimlar-suc-olamaz-107470/>. Internet access date :07.09.2024

²⁷ FIS Turkey Individuals associated with the Gulen movement June 2024 2.pdf Access Date : 07.09.2024

²⁸ https://tr.solidaritywithothers.com/files/ugd/b886b2_f17fdcf178da4ebe908d57d6cec6bea3.pdf. Internet access date :07.09.2024

²⁹ FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+(2).pdf (migri.fi) Access Date : 07.09.2024

Minister of Family and Social Policies, announced that children were taken from 9 foster families whose links with the Gülen Movement were detected³⁰.

g. Denial of Merited Academic Titles

26. 1128 academics signed a declaration entitled ‘We will not be a party to this crime’ on 11 January 2016. They shared it with the public. The declaration is mainly related to the conflicts that started in the summer of 2015 until the middle of 2016, turning the cities, especially in the Southeastern Anatolia region, into a war zone. The fact that the clashes took place in city centres and that many innocent people, including women and children, were killed caused great public debate. These 1128 academics declared their demand for peace and that they would not be a party to the conflicts with the declaration they published. After the declaration, the number of signatory academics reached 2212. Erdoğan and the AKP, on the other hand, targeted these academics who did not support or even criticised the policies of the government and launched investigations against them. With the state of emergency decrees, all academics who signed this declaration were dismissed from their positions at universities.
27. In a report published in December 2021, the Right to Life Association also shared information about the rights violations these Peace Academics were subjected to. A female academic who signed the declaration of ‘Peace Academics’ explained how her right to associate professorship was usurped as follows ‘I lost the court I applied for my right to associate professorship, I lost the higher court, I went to the Constitutional Court and lost. Then they put temporary article 4 into effect. If you have a situation that is affected by the dismissal, file a complaint to that institution. So I wrote to the Interuniversity Board. I applied to the Interuniversity Board, saying OK, we were dismissed, but associate professorship does not depend on this. The decision has just come. It was written in front of the Decree Law, it put all these phrases such as terrorist organisation, liaison, etc. and said, ‘Even if you have been sentenced, postponed or acquitted (it put them all in the same category), you have been dismissed from public office and we will not start your associate professorship period until you return to work.’³¹.

h. Discrimination Based Practices in Prisons

28. Prisons are, in essence, places where deprivation of rights is fundamental and the rights that can be exercised are defined. Despite this, both the Law on the Execution of Sentences and Security Measures and international texts regulating the situation of prisoners prohibit discrimination in execution practices.
29. Women prisoners arrested on political grounds have been discriminated against in dozens of different areas³². This situation has particularly and severely victimised women prisoners. To give a few examples of these discriminatory practices;

³⁰ <https://tr.euronews.com/2019/04/19/khk-koruyucu-ailenin-hayatini-degistirdi-ihrac-edilince-evlat-edindikleri-cocuk-ellerinden>. Internet access date :07.09.2024

³¹ ‘Exhausted Domestic Legal Remedies : Obstacles to Access to Justice for People with Emergency Decree Laws’ Right to Life Association December 2021 link:https://etkiniz.eu/wp-content/uploads/2022/02/DES_AB_539.pdf. Internet access date :07.09.2024

³² For more detailed information : https://tr.solidaritywithothers.com/files/ugd/b886b2_f17fdcf178da4ebe908d57d6cec6bea3.pdf. Internet access date :07.09.2024

- Pregnant, infant, sick and elderly prisoners were not allowed to benefit from the rights of other prisoners such as postponement of execution, early release or release under named control.
- Although many women prisoners have completed their execution period and are in good behaviour, they were not allowed to benefit from probation, thus prolonging their stay in prison.
- During the state of emergency, political prisoners were prohibited from writing letters to their relatives or receiving letters from outside.
- They were banned from participating in social activities within the prison.
- Open visits, which were supposed to be held once a month, were made once every two months.
- The degree of kinship and the number of people who can come to visit were limited.
- During the state of emergency, lawyer meetings were held under the supervision of at least one correctional officer and the meetings were audio and video recorded.
- While the right to telephone was once a week for normal prisoners, it was once every two weeks for political prisoners.
- Prisons started to use video surveillance, but political prisoners were not allowed to benefit from this right.

5. Violations of the Right to Life

30. During the reporting period, practices that disregard even the right to life have become common in Turkey. Women are undoubtedly the heaviest victims of these practices. Murders of women in Turkey have been increasing in a visible manner. Public institutions have also been complicit in these murders.
31. One of the most important United Nations documents on women's rights is the Istanbul Protocol. Contrary to reason and logic, members of the government and politicians of the ruling party have blamed the Istanbul Protocol for the increasing number of murders of women in Turkey. Despite the reaction of all women's associations and international public opinion, Turkey has withdrawn from the Istanbul Protocol. This is the approach of the rulers of the state towards femicides and women's rights. This situation also affects the attitude of police officers and correctional officers towards women in detention centres and prisons. Detention centres and prisons have turned into centres of cruelty. Police and correctional officers have knowingly and intentionally caused the deaths of women in custody or in pre-trial detention, especially for political offences.
32. Violations of the right to life suffered by women victims of the Decree have manifested themselves in different ways. These include deliberate killings, suicides triggered by the trauma of civilian and social death, and deaths on escape routes due to being forced to flee the country.

a. Intentional Killings

33. According to the Turkish Penal Code, the offence of intentional killing can be committed in two ways. One is the offence of killing a human being by active behaviour. The offence of active killing is regulated in Article 81 of the TPC. The other is when a person causes the death of a person by not doing what he/she should have done, foreseeing the consequences. This offence is regulated in Article 83 of the TPC and is defined as 'intentional killing committed with negligent behaviour'.

34. During the reporting period, acts of killing against women victims of the decree were more likely to be committed by negligent intentional killing.
35. Halime Gülsu was a teacher as of 15 July 2016. Mrs. Gülsu was detained on 20.02.2018 on charges of being a member of the Gülen Movement and was arrested after 12 days of detention. On 28.04.2018, she died while in detention in Tarsus Prison³³.
36. Nesrin Gençosman was detained and then arrested on the grounds of having contacts with the Gülen Movement. Mrs. Gençosman, who contracted pneumonia in prison, was not taken to hospital despite the progression of her illness. Mrs. Gençosman was taken to the prison infirmary and given medication for her treatment. After a while, Mrs. Gençosman, who went to the infirmary to get a new one when her medication ran out, was not given her medication this time on the grounds that it was the weekend. Therefore, 30-year-old Mrs. Gençosman fell into a coma. She is hospitalised but it is too late due to negligence. Mrs. Gençosman could not be saved despite all interventions³⁴.

b. Suicides due to social and civil abandonment to death

37. 38. Approximately two million people, hundreds of thousands of them women, have been accused of being ‘terrorists’, ‘traitors’, ‘PKK members’, ‘FETÖ members’, etc. for purely political reasons. Due to these accusations, they have been abandoned by state institutions as well as the society³⁵. This situation has been described as ‘civilian death’ in reports and academic texts³⁶. Even their close relatives distanced themselves from them. Their landlords evicted them from their homes, and if they were working in the private sector, they were dismissed from their jobs. Their children had problems in schools. If their spouses were also in prison, the burden of providing for the family fell entirely on their shoulders³⁷. All these conditions isolated them, made them desperate and drove them to suicide. According to the data of Solidarity With Others, 14 women victims of the decree ended their lives by suicide during the reporting period³⁸.

c. Deaths on Escape Routes

38. The women who are the subject of this report and who have been stigmatised, marginalised and subjected to extermination under the state of emergency have also been deprived of their passports and banned from leaving the country. Continuing to live in Turkey has become a life-threatening risk for them. Because if they stayed in the country, they faced the risk of being subjected to torture, arbitrary detention and arrest. For this reason, they had to reach safe countries by illegal means and seek asylum. These escape routes ended in disaster for many

³³ <https://tr.euronews.com/2018/04/29/tarsus-cezaevindeki-hasta-tutuklu-halime-gulsu-yasam-n-yitirdi>. Internet access date :07.09.2024

³⁴ <https://www.tr724.com/cezaevleri-olum-evi-oldu-zaturre-ilaclari-verilmeyen-nesrin-gencosman-cezaevinde-vefat-etti/>. Internet access date :07.09.2024

³⁵ [FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+\(2\).pdf \(migri.fi\)](#) Access Date : 07.09.2024

³⁶ [FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+\(2\).pdf \(migri.fi\)](#) Access Date : 07.09.2024

³⁷ [FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+\(2\).pdf \(migri.fi\)](#) Access Date : 07.09.2024

³⁸ <https://tr.solidaritywithothers.com/deaths>.

[FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+\(2\).pdf \(migri.fi\)](#) Date of access : 07.09.2024 Date of internet access :07.09.2024

people. Some families have lost all their members on the escape routes. According to the data compiled by Solidarity With Others from open sources, 9 women died during the reporting period³⁹.

6. Enforced disappearances and abductions (Articles 6, 9 and 12)

39. According to international law, it is prohibited to abduct and disappear a person by public officials outside administrative and judicial control.
40. During the reporting period, 128 persons, including women, from 35 different countries were illegally brought to Turkey⁴⁰. These procedures are illegal because the practices to which the persons brought are subjected are contrary to the rules of Turkish law, the country of abduction and international law. Turkey does not operate the extradition procedure for these people because extradition requests are always rejected when the issue is brought to a legal ground. The reasons for refusal have all included the groundlessness of the charges, insufficiency of evidence, lack of possibility of a fair trial, and the possibility of torture and ill-treatment.
41. Women have also been subjected to abduction and disappearance practices. Women, as well as men, have been subjected to inhumane practices, torture and ill-treatment during abductions and disappearances.

Abduction, disappearance and torture of Ayten Öztürk

42. Ayten Öztürk⁴¹ was stopped by Lebanese police at the airport in March 2018 while trying to cross from Lebanon to European countries. She was not given any reason. She was detained for 6 days at the immigration office. During this period, he applied for asylum but was not processed. She went on hunger strike to protest this situation.
43. On 13 March he was handed over to Turkish intelligence officers with a sack over his head. He was brought to Turkey by plane. He was forcibly taken to a secret location. He was thrown into a cell completely naked. He stayed like that for a while. Then he put on the clothes given to him. He was interrogated many times. When he said that he had legal rights, the officials there said, 'This place is not like any other place you know, there is no time limit here, we have been given infinite authority over you. We have the state behind us, if you don't talk, there is no way out of here'. He was kept for a month with a sack over his head and his hands tied behind his back. A tape was also applied to his eyes. The eyelids stick together due to the effect of the tape and can only be separated by medical intervention. On the 25th day of the hunger strike he collapsed. In order to reduce the effect of the hunger strike, the officers forcefully give him an IV drip. In order to do this, they fixed her whole body to the chair with ropes and duct tape.
44. During the torture, Mrs Öztürk was electrocuted, stripped naked, abused with hands and truncheons. She was suspended. She was exposed to light for a long time. They tried to insert a truncheon into her anus. She was subjected to water cannons in a place where there was a toilet and a bathroom. A sack over his head is filled with water and he is tortured with the sensation of drowning. They are beaten on their feet with a whip. His tongue is pulled out with pliers. He was beaten with kicks and slaps. After he entered prison, his friends counted the number of burn marks on his body caused by electric shocks and found 898 burn marks.

³⁹ <https://tr.solidaritywithothers.com/deaths>. Internet access date :07.09.2024

⁴⁰ [Unlawful deportation and return | OTHERS \(solidaritywithothers.com\)](https://www.birgun.net/haber/brezilya-dan-turkiye-nin-iade-talebine-ret-adil-yargilama-garantis) Access Date : 07.09.2024

<https://www.birgun.net/haber/brezilya-dan-turkiye-nin-iade-talebine-ret-adil-yargilama-garantis>. Internet access date :07.09.2024

⁴¹ Information about this person was shared in open sources. It became an agenda in social media. Therefore, it was included in our report.

45. Öztürk was disappeared for 6 months and then left by his torturers in an empty field.

Abduction, disappearance and torture of Meral Kaçmaz and her family

46. Meral Kaçmaz and her husband Mesut Kaçmaz⁴² have been working in different countries since 1999, teaching biology, mathematics, English and science in different countries, most recently in Pakistan between 2007 and 2016 in institutions belonging to the Gülen Movement.
47. Four members of the Kaçmaz family, including two girls under the age of 18, were abducted on 27 September 2017 during a raid on their home at night (between 00:45 and 02:00) by Pakistani intelligence officials. During the abduction process, all family members were subjected to physical violence and a sack was placed over their heads. The whole family was arbitrarily kept in an unknown place for 17 days without any record. As a result of 17 days of unjustified detention, the Kaçmaz family was handed over to Turkish intelligence and security units on 13 October 2017, in violation of the applicable law and contractual provisions, and the family was sent to Turkey in this way⁴³.
48. As of the date of the abduction, there was no investigation against Mrs Kaçmaz in Turkey. On 13 October 2017, an investigation was initiated by the Ankara Chief Public Prosecutor's Office to formalise the abduction at the request of intelligence units (possibly on official assignment or at the request of the Pakistani authorities). An arrest warrant was issued on the same day⁴⁴. On the same day, the Kaçmaz family was brought back from Pakistan.
49. Mrs Kaçmaz was detained in Ankara for 11 days. She had to endure very difficult conditions for days in a cold cell with open windows at night, without a blanket and in thin clothing. He was repeatedly subjected to illegal interrogation. He was pressurised and lied to. The investigation file was opened in a hurry and there is no accusation or allegation of a crime. Therefore, she is asked to incriminate herself. The most ironic part of the matter is that the Ankara Chief Public Prosecutor's Office, which had initiated an investigation and issued an arrest warrant for Mrs Kaçmaz's abduction from abroad, stated that it lacked jurisdiction in the investigation and sent the file to Istanbul. The case of the Kaçmaz family was consolidated in Istanbul and the case was finalised there.
50. The abduction of the Kaçmaz family was unlawful and unlawful in many respects. There is an extradition treaty between Turkey and Pakistan. The provisions of this agreement were not complied with regard to the Kaçmaz family. The Kaçmaz Family applied to the judicial authorities because they were worried about being abducted. Pakistani courts gave the Kaçmaz family a trial date and banned the family from travelling abroad until that date. The Pakistani authorities clearly violated the judgement of their own courts.
51. The UN Working Group on Arbitrary Detention issued an opinion on the issue. The opinion is dated 25 May 2018 and numbered A/HRC/WGAD/2018/11, and in the opinion, many violations of rights were identified in many issues regarding the abduction of the Kaçmaz family and their subsequent experiences⁴⁵. Violation of the prohibition of discrimination, violation of the right to liberty and security of person, violation of the right to a fair trial, violation of the prohibition of torture, violation of rights specific to children can be counted among these.

⁴² Information about these people was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁴³ <https://kronos36.news/tr/pakistanli-yetkililer-sucunuz-yok-biliyoruz-ama-erdogan-cok-baski-yapiyor-dedi/>. Internet access date :07.09.2024

⁴⁴ <https://kronos36.news/tr/mitin-yargiya-mudahalesinin-belgesi-kacmaz-alesini-once-kacirmislar-sonra-arama-karar-cikartmislar/>. Internet access date :07.09.2024

⁴⁵

https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session81/A_HRC_WGAD_2018_11.pdf

7. Prohibition of torture and cruel, inhuman or degrading treatment or punishment - Articles 2, 7, 9, 10, 12 and 14

52. Torture is clearly and unequivocally prohibited under international law. Torture is not authorised under any circumstances, even in times of war and martial law.
53. During the reporting period in Turkey, women and children⁴⁶ as well as men were tortured and unfortunately still are⁴⁷.
54. Torture practices include rape, beatings, beheading, sacks over the head, swearing, insults, threats, stripping naked, strip searches. There are common offences and acts in the examples given before and in the examples below, but the prominent acts under different headings are written separately in order to define the acts.

a. Rape

55. Rape is undoubtedly one of the most despicable crimes committed against any human being. In fact, this crime could have been dealt with under a separate heading, but since rape practices against women and men were considered as a method of torture during the reporting period, it is included here.
56. In its reports for 2016-2017, 2017-2018 and 2019, Amnesty International included information on allegations of torture and ill-treatment during detentions and arrests involving tens of thousands of people in Turkey after 15 July and the impunity armour brought by decrees for the perpetrators of these crimes. It listed violations of freedom of expression, freedom of assembly and many other fundamental human rights. For example, in its 2016 report, it stated that *"Turkey, which has made remarkable progress in eliminating torture in detention centres over the last decade, experienced a worrying increase in the number of reported cases after the failed coup attempt. Thousands of people held in police custody, both officially and unofficially, as well as reported cases of severe beatings, 19 sexual assaults, rape threats and rape have been consistently, but implausibly, denied by the Turkish authorities."*⁴⁸ .
57. The Finnish Immigration Service's report mentions 12 women who became pregnant after being raped. It was also emphasised that some of these women gave birth to children⁴⁹.
58. In the section on abduction and disappearance, the case of attempted rape by inserting a job into the anus during the torture of Ayten Öztürk was mentioned⁵⁰. Other examples will be given here.

Rape of a Female Officer

59. In the hearing held on 27/06/2018 of the Ankara 17th High Criminal Court case file No. 2017/109, a lieutenant named Abdulvahap Berke⁵¹ gave information about the torture

⁴⁶ Regarding torture practices to which children are subjected, see: <https://www.crossborderjurists.org/tr/turkiye-cocuk-haklari-raporu-khkli-cocuklar-khkli-larin-cocuklari/> The website contains Turkish, English and German versions of the report. . Internet access date :07.09.2024

⁴⁷ For the torture of children in May 2024: [b886b2_63952de2d3b041df8925ebd4105be909.pdf \(solidaritywithothers.com\)](https://www.solidaritywithothers.com/) Internet access date :07.09.2024

⁴⁸ <https://www.amnesty.org/download/Documents/POL1048002017TURKISH.PDF>. Internet access date :07.09.2024

⁴⁹ [FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+\(2\).pdf \(migri.fi\)](https://www.fis.fi/files/2024/06/FIS_Turkey_Individuals+associated+with+the+Gülen+movement_June_2024+(2).pdf). Access Date : 07.09.2024

⁵⁰ Information about this person was shared in open sources. It became an agenda in social media. Therefore, it was included in our report.

⁵¹ Information about this person was shared in open sources. It became an agenda in social media. Therefore, it was included in our report.

practices he was subjected to and stated that a female officer who was detained after 15 July was raped, that she became pregnant as a result of this rape and later had to abort the baby⁵².

Examples of Rape Cases According to a Female Psychologist

60. A Purple Room was opened on Twitter on 28.09.2022 to promote the Social Costs of the State of Emergency in its 4th, 5th and 6th Years Report prepared by the Justice for Victims Platform. In this Purple Room, information about the report was given and people related to the subject took the floor and spoke.

b. Physical Violence

61. During the reporting period, one of the most common torture practices that women were subjected to was physical violence 53.

Statement of the Forensic Examination Doctor

62. A doctor who was assigned to the Ankara Anti-Terrorism Directorate Sports Hall in his official capacity as a 'Forensic Examination Doctor' in the week following 15 July explained what he witnessed as follows⁵⁴: 'That night they brought a woman. Two tall women police officers were on her arm. They said, 'She was a nurse in a military hospital'. She was very thin, with short hair. She was wearing trousers and a white t-shirt. There was no bra or undershirt underneath. The woman was shaking like a leaf. I asked her if she had been beaten, she said 'no'. There were no marks on her body, there was redness on her cheek, maybe she was punched. But she was very scared.'

Torture practices to which Esra Yurt was subjected

63. Esra Yurt⁵⁵, who was detained in February 2017, was subjected to torture for 5 days in Ankara TEM: "A tall blonde female police officer first sprinkled acid on a fabric. She made the detained women watch as the fabric shrivelled and scorched. When I refused to confess, she tortured me by rubbing the acid under my left foot. The effect of this chemical on my body lasted 1.5 years. I was beaten in the face with a bundle of keys, large and small, and the judge who saw my blue face only said 'Ouch'. The female doctor I told about the torture only said 'Let me give Voltaren' and did not record the torture in the report. Later (abroad) I received a report documenting the situation."⁵⁶.

c. Torture with Electricity

⁵² https://www.nordicmonitor.com/wp-content/uploads/2020/08/Abdulvahap_berke.pdf. Internet access date :07.09.2024

⁵³ <https://www.crossborderjurists.org/turkey-womens-rights-report-women-victims-of-the-state-of-emergency/>

⁵⁴ <https://iskenceraporu.com/15-temmuz-toplama-kampindan-ilk-kez-bir-resmi-gorevli-konustu-2/>. Internet access date :07.09.2024

⁵⁵ Information about this person was shared in open sources. It became an agenda in social media. Therefore, it was included in our report.

⁵⁶ <https://boldmedya.com/2020/05/22/kadin-polis-gozaltindaki-kadinlara-asitle-iskence-yapti/>, <https://youtu.be/J5Ezs6WdKbw>. Internet access date :07.09.2024

64. Another method of torture is electrocution. As mentioned above in the section on the abduction and disappearance of Ayten Öztürk, some female victims were tortured by electrocution.
65. One of the victims of torture by electrocution is Kübra Yavuz⁵⁷. In her testimony before the Ankara 18th High Criminal Court, Ms Yavuz stated that she was tortured by Major General Zekai Aksakallı, Commander of the Special Forces⁵⁸ and Major General İrfan Özsert⁵⁹ from the Land Forces Command, that she was beaten and threatened with death in the General Staff polygon, that she was electrocuted with her hands and eyes tied, that she was not given any food for 2 days, that she was taken to the toilet by male personnel and the toilet door was left open, that she was interrogated every 2 hours by interrogators whose clothes were stained with the blood of torture, and that she did not think she would get out of there alive. Kübra Yavuz, who was tortured in detention in this way and was labelled a coup plotter by the media controlled by the ruling party during the trial, was acquitted of all charges⁶⁰.

d. Naked strip search

66. One of the most severe forms of torture against human dignity is stripping naked. During the reporting period, especially after 15 July 2016, people were either completely naked or kept in their underwear in front of other people's eyes.

Women stripped naked in Ankara Sports Hall

67. At the hearing held on 27.06.2018 of the case file no. 2017/109 of Ankara Heavy Penal Court No. 17, a lieutenant named Abdulvahap Berke testified. In his statement, Mr Berke gave information about the incidents he witnessed regarding torture practices. After 15 July, he made the following statement about the women who were detained 'A group of 3-4 women were stripped naked, wearing only their underwear. They threw them into an environment where men were present. They were subjected to constant harassment and swearing by the officers on duty there'⁶¹.

e. Exhaustion, harassment, boredom

68. With the Decrees, the detention period was increased from 4 days to 30 days⁶². Almost all women detained on political grounds were kept in detention for 30 days. This detention process itself is a torture practice. This situation can be explained as follows;
- First of all, there are no legal obligations such as evidence of a crime or suspicion of a crime that require people to be detained. The decisions of the UN Working Group on Arbitrary Detention and the European Court of Human Rights on the violation of the right to liberty and security of person by arbitrarily detaining and arresting people on political grounds are proof of illegal and unlawful detention practices.

⁵⁷ Information about this person was shared in open sources. It became an agenda in social media. Therefore, it was included in our report.

⁵⁸ Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁵⁹ Information about this person was shared in open sources. It became a hot topic on social media. Therefore, it was included in our report.

⁶⁰ <https://www.odatv4.com/makale/mahkeme-genelkurmaydan-iskencecilerin-adresini-istedi-22061818-141335>.

Internet access date :07.09.2024

⁶¹ https://www.nordicmonitor.com/wp-content/uploads/2020/08/Abdulvahap_berke.pdf. Internet access date :07.09.2024

⁶² <https://www.resmigazete.gov.tr/eskiler/2016/07/20160723-8.htm> Internet access date :07.09.2024

- Secondly, even if the detention period is up to 30 days or less, for example 10 days, people were asked questions in the form of a questionnaire, the kind of questions that can be asked in a job application. Questions such as depositing money in Bank Asya, having a child in a school affiliated with the Gülen Movement, etc. were asked as accusations. People do not need to be detained even for 1 day in order to ask these questions. Nevertheless, people were arbitrarily detained for up to 30 days.
- Another indication that the detention period is aimed at exhaustion, harassment and boredom is the severity of the detention conditions. 5-6 people were kept in a place for 1 person and 8-10 women were kept in a place for 3 people. Nutrition, bathroom, toilet and hygiene needs were not met.

Ill-treatment Practices against Women in Mustafakemalpaşa Security Directorate

69. On page 263 of the reasoned judgement of Bursa 2nd Assize Court case file no. 201/167 E, the statements of a woman named M.S. are given. M.S. was detained on the grounds that she had links with the Gülen Movement. The relevant part of her experiences in detention is as follows ‘When I was detained for the second time, we had to stay 6 people in a holding cell for 1 person. At the end of the 6th day, the female police officer S.K. (I do not know her position, but the other police officers addressed her as ‘commissar’) came to the holding cell and took me to a separate room. She interrogated me for an hour without any record without my lawyer present. Then he interrogated my cell mate in the same way. During this interrogation, he made the same threats. He told me that if I gave my name I would be saved, otherwise I would stay here and that the prosecutor had sent a message. The prosecutor said, ‘We are in a state of emergency. If they don't give their names, I can keep them in those conditions of detention for a month.’⁶³.

f. Swearing, Insults and Threats

70. The most common practices of torture and ill-treatment in Turkey during the state of emergency and still today are swearing, insults and threats. Swearing refers to sexually explicit, abusive words, insulting words such as ‘terrorist’, ‘traitor’, ‘idiot’, ‘stupid’, ‘idiot’ and threatening words such as ‘death’, ‘torture’, ‘prolonged detention’.

Sample Ill-treatment Practices in Mustafakemalpaşa Security Directorate

71. The statement of the woman M.S., who was subjected to torture and ill-treatment by being arbitrarily detained for long periods of time under harsh conditions, regarding the insulting and threatening remarks of the Chief of Police against her, is as follows ‘ ... a few hours later, Police Chief E.T. came to the detention centre and took me to another room again. I don't know if there are security camera records or not. He interrogated me for an hour and a half. He had a mobile phone in his hand, he made me read something, watch something, swear and insult and interrogated me unofficially under pressure, and during this time there were no female police officers with us.’⁶⁴

⁶³ [TURKEY WOMEN'S RIGHTS REPORT \(WOMEN VICTIMS OF THE STATE OF EMERGENCY\) - CrossBordersJurist \(crossborderjurists.org\)](https://www.crossborderjurists.org/turkey-women-s-rights-report-women-victims-of-the-state-of-emergency/) Internet access date :07.09.2024

⁶⁴ [TURKEY WOMEN'S RIGHTS REPORT \(WOMEN VICTIMS OF THE STATE OF EMERGENCY\) - CrossBordersJurist \(crossborderjurists.org\)](https://www.crossborderjurists.org/turkey-women-s-rights-report-women-victims-of-the-state-of-emergency/) Internet access date :07.09.2024

Torture and Ill-Treatment Practices in the Statements in the File No. 2016/181 of Ankara 2nd Assize Court

72. M.Y. is a woman who was detained, tortured and arrested on the grounds of her links with the Gülen Movement. On page 611 of the reasoned judgement of the Court, M.Y.'s petition to the Court is mentioned and it is stated that she was subjected to psychological torture and insulted⁶⁵.
73. H.K. is another woman who was detained, tortured and arrested on the grounds of her links with the Gülen Movement. On page 627 of the reasoned judgement, she made the following statement regarding the torture and ill-treatment she was subjected to 'When my husband was under custody, they called me to the police station. My husband had been tortured and they said they would torture me too. I am a mother of 4 children, they told me that they would also bring my children and take them into custody. As I stated in my written defence, I was worried about this, so I made the statement in the indictment, which I fictionalised myself in line with what the police wanted. However, as I said, this is not true. It is only to ensure that my children are not brought to the police station.'⁶⁶.

g. Naked search

74. Another degrading ill-treatment method that has come to the public agenda in Turkey in recent years is the strip search practices against women⁶⁷.
75. According to the legislation regulating the rules of detention centres and prisons, law enforcement officers or prison officers may conduct strip searches. However, there are strict conditions for this. The general rule is to conduct a normal search. Under certain conditions and only when necessary, strip searches may be carried out as a measure specific to the individual. It is not possible to systematically and widely apply this practice to everyone or a certain group.
76. In September 2020, the Uşak Police Department detained 30 young women university students on allegations of links to the Gülen Movement. All detained women were subjected to strip searches in a degrading and humiliating manner⁶⁸.

h. Long Term Solitary Confinement

77. Another method of torture is prolonged solitary confinement. In this practice, the person is forced to live an isolated life in solitary confinement.
78. During the reporting period, some women arrested on political grounds were held in solitary confinement permanently. Solitary confinement is normally part of the execution of an aggravated life sentence and a disciplinary punishment. Nevertheless, people have been placed in solitary confinement since their first arrest or shortly afterwards and are still in solitary confinement many years later.

⁶⁵ [TURKEY WOMEN'S RIGHTS REPORT \(WOMEN VICTIMS OF THE STATE OF EMERGENCY\) - CrossBordersJurist \(crossborderjurists.org\)](#) Internet access date :07.09.2024

⁶⁶ [TURKEY WOMEN'S RIGHTS REPORT \(WOMEN VICTIMS OF THE STATE OF EMERGENCY\) - CrossBordersJurist \(crossborderjurists.org\)](#) Internet access date :07.09.2024

⁶⁷ [FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+\(2\).pdf \(migri.fi\)](#). Internet access date :07.09.2024

⁶⁸ <https://t24.com.tr/video/gergerlioglu-bu-kez-meclis-kursusunden-hatirlatti-usak-ta-gozaltina-alinan-30-kadin-ciplak-aramaya-maruz-tutuldu,34672>. Internet access date :07.09.2024

79. In particular, many members of the judiciary who were arrested while they were members of the Constitutional Court, the Court of Cassation, the Council of State or the HS(Y)K, who had previously served as Presidents of the High Criminal Court or Chief Public Prosecutors, spent their entire detention in solitary confinement. Among them are also women.
80. In its report on its 2017 visit to Turkey, the Committee for the Prevention of Torture (CPT) stated: 'However, the CPT considers that the maximum solitary confinement period of 20 days for adult prisoners is excessive. Given the potentially very harmful effects of solitary confinement on the mental and/or physical health of the prisoners in question, this period should not exceed 14 days for a given offence and should preferably be shorter (Prg. 138)'. Hundreds of people in Turkey have been subjected to solitary confinement for years, which the CPT states should not exceed 14 days.
81. There are many scientific studies that recognise that permanent solitary confinement has a torture effect on the person⁶⁹. In the light of these scientific facts, it is necessary to recognise that this method is a torture practice.

8. Right to liberty and security of person - Articles 6 and 9

82. During the reporting period, the right to liberty and security of person was the most intensively violated right of women victims of the decree. In July 2024, the Finnish Immigration Service's report emphasised that 'arrests are still intensive'. The European Court of Human Rights, the United Nations Human Rights Committee and the United Nations Working Group on Arbitrary Detention have so far all found violations in these applications.
83. The European Court of Human Rights and UN bodies have issued judgements concerning women in similar situations to the victims of the Decree. The points emphasised in these judgements are listed below.
84. The most important and high-profile assessment on this issue came from Zeid Raad Al Husein, former United Nations High Commissioner for Human Rights. While promoting a report on the unlawful behaviour in Turkey during the State of Emergency, Mr Al Husein stated the following: 'One of the most worrying findings are reports of how the Turkish authorities were able to detain 100 women who were pregnant or had recently given birth, mostly on the grounds of 'associations' with their husbands suspected of links to terrorist organisations. Some were detained with their children, some violently separated from their children. This is not only disproportionate, it is downright cruel and certainly not in the interests of making the country safer.'
85. The following are the criteria for rights violations in the judgments of the ECtHR and UN supervisory bodies⁷⁰.
 - Unjustified detentions
 - Detentions and arrests without suspicion of a criminal offence
 - Arrests made by accepting non-evidence as evidence
 - Arrests made even though there is no possibility of tampering with the evidence
 - Arrests made despite the absence of suspicion of flight

⁶⁹ https://en.wikipedia.org/wiki/Solitary_confinement#cite_note-Grassian2006-33.

https://openscholarship.wustl.edu/cgi/viewcontent.cgi?referer=https://en.wikipedia.org/&httpsredir=1&article=1362&context=law_journal_law_policy . Internet access date :07.09.2024

⁷⁰ For ECtHR Judgements : For ECtHR Judgements: <https://justicesquare.org/after-15-july-violation-judgements-against-turkey-by-the-ecthr/> ; For the decisions of the UN's supervisory bodies: <https://justicesquare.org/15-temmuz-baglaminda-birlesmis-milletler-tarafindan-verilen-kararlar/> and UN documents | OTHERS (solidaritywithothers.com) Internet access date :07.09.2024

- The existence of concrete evidence that alternative measures to detention would be inadequate.
- Unreasonable and disproportionate arrests

9. Right to Privacy - Article 17

86. During the reporting period and still today, all guarantees regarding the private lives of people subjected to political investigations have been ignored. Phone call records of people from years ago were placed in court files and passed from hand to hand. Investigations were arbitrary and irregular, sometimes dozens of people who did not know each other were made suspects in the same case. These dozens of people and their lawyers have been able to easily access each other's data. Files were copied onto CDs and sent to detainees in prison, and people's private information was made accessible to unrelated people. Telephone companies were able to extract people's phone records going back 10 years and give them to prosecutors' offices and the police, while they can keep phone call records going back a maximum of 2 years according to the legislation in force⁷¹.
87. The conditions required by law for the search of people's homes and workplaces were not complied with and arbitrary search warrants were issued. Searches were carried out carelessly and without following the procedures stipulated in the law, and computers, telephones and hard discs were taken away without being copied.

⁷¹ [FIS Turkey Individuals+associated+with+the+Gülen+movement June 2024+\(2\).pdf \(migri.fi\)](#). Internet access date :07.09.2024

The Human Rights Committee Should Recommend That The Turkish Government

The findings of this shadow report highlight violations of the rights of a group of 350,000 women in Turkey, particularly since the 2016 coup attempt.

A discrimination-based approach towards these women, particularly by public institutions and organisations, has been identified and must be ended.

There are concrete findings that almost all rights of the women subject to the report are violated. This situation must end. The guarantees securing the fundamental rights and freedoms of these women must be increased.

Torture and ill-treatment practices against women and all people in Turkey must end. Those responsible for torture and ill-treatment must be prosecuted.

The vast majority of the rights violations listed in this report stem from politically motivated investigations. These investigations directed against women victims of the Decree initiate a chain reaction in the entire state mechanism. This chain reaction leads to violations of women's rights in every field. The solution to the problem is not difficult. The government and the Turkish judicial system must comply with the Yalçınkaya judgement of the European Court of Human Rights. The criteria in the judgement render almost all of the investigations, trials and new investigations carried out to date groundless.