



TURKEY: DEEPENING BACKSLIDE IN HUMAN RIGHTS

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC
REVIEW, 35TH SESSION OF THE UPR WORKING GROUP, JANUARY 2020

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INTRODUCTION

This submission was prepared for the Universal Periodic Review (UPR) of Turkey in January 2020. In it, Amnesty International evaluates the implementation of recommendations made to Turkey in its previous UPR, including in relation to independence of the judiciary, freedom of expression and peaceful assembly, and the implementation of the rulings of the European Court of Human Rights.

With regard to the human rights situation on the ground, Amnesty International raises concern about the independence of the judiciary, arbitrary detentions and abusive prosecutions; summary dismissals from public service and lack of an effective remedy for public sector workers dismissed by executive decrees during the state of emergency; the rights to freedom of expression, association and peaceful assembly; and allegations of torture and other ill-treatment.

FOLLOW UP TO THE PREVIOUS REVIEW

With rapid deterioration of the human rights situation during the two-year state of emergency that finally ended on 18 July 2018, Turkey has failed to progress with the implementation of many of the recommendations it accepted during its previous Universal Periodic Review.¹

During and since the end of the state of emergency, authorities have continued to crack down on peaceful dissent and maintain a climate of fear through lengthy and punitive pre-trial detention, abusive prosecutions, blanket bans on peaceful assemblies, arbitrary dismissals of public sector workers and closure of civil society organizations and media outlets.

INDEPENDENCE OF THE JUDICIARY

Turkey accepted five recommendations in relation to the independence of the judiciary, including to undertake comprehensive reform of legislation to guarantee and strengthen the rule of law and to foster an independent judiciary.² Turkey also considered seven recommendations concerning the independence and impartiality of the judiciary to be already implemented or in the process of being implemented.³ Yet, recent years have seen an extension of executive control over the judiciary and the justice system lacks any meaningful independence or impartiality, in particular in terrorism-related cases and other politically charged cases.

FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY

Turkey accepted 12 recommendations, including to take measures to guarantee full enjoyment of the rights to freedom of expression, specifically of the press, and peaceful assembly, and ensure the Penal Code and the Anti-Terrorism Law are

¹ Report of the Working Group on the Universal Periodic Review – Turkey, A/HRC/29/15, 13 April 2015 and its Addendum A/HRC/29/15/Add.1.

² A/HRC/29/15 and A/HRC/29/15/Add.1, recommendations 148.36 (Italy), 148.104 (Chile), 148.105 (Slovakia), 148.106 (United States of America), and 148.107 (Singapore).

³ A/HRC/29/15 and A/HRC/29/15/Add.1, recommendations 149.22 (Luxembourg), 149.23 (Denmark), 149.24 (Switzerland), 149.25 (Namibia), 149.26 (Uruguay), 149.28 (Australia), 149.29 (Austria).

consistent with international obligations.⁴ However, many journalists and media workers continue to languish in prisons and in many investigations and prosecutions peaceful journalistic work is being presented as a “terrorism-related offence”.⁵

Turkey also accepted a recommendation to “continue to modify and implement its legislation” on freedom of expression, peaceful assembly and association to fully meet its international human rights obligations,⁶ and considered six recommendations to guarantee these rights, including by protecting protestors from ill-treatment, investigating allegations of abuse by officials promptly, thoroughly and independently, to be already implemented or in the process of being implemented.⁷ Yet, the authorities continue to restrict the right to peaceful assembly arbitrarily, including after the end of the state of emergency.

INTERNATIONAL TREATIES AND BODIES

Turkey considered the recommendation, “to guarantee full implementation of all European Court of Human Rights (ECtHR) rulings within an adequate time frame”⁸ to be already implemented; yet it has ignored judgments of the Court, such as in the cases of Mehmet Altan⁹ and Selahattin Demirtaş.¹⁰

Academic and writer Mehmet Altan, imprisoned since September 2016, was only bailed out of prison in June 2018, despite rulings for his release from the Constitutional Court in January 2018 and European Court of Human Rights in March 2018.

In November 2018, the ECtHR ruled that the former co-chair of the Peoples’ Democracy Party (HDP), Selahattin Demirtaş who has been detained since November 2016, should be released. The Court found that Demirtaş’ detention was aimed at ‘stifling pluralism and limiting freedom of political debate’ and that he ought to be released as a matter of urgency. However, on 13 December 2018, the Ankara 19th High Criminal Court ordered his continued detention. Following President Erdogan’s public dismissal of the ECtHR ruling, stating “this [decision] does not concern us. We make our move in response and finish this work”,¹¹ the Istanbul Court of Justice 2nd Criminal Chamber rejected, on 4 December 2018, Demirtaş’ appeal against his conviction by the Istanbul 26th Assize Court in another case, approving his imprisonment for 4 years and 8 months. The Court had found that Demirtaş made propaganda for an armed terrorist organization during a speech he gave during Newroz (Kurdish New Year) celebrations of 2013. The case is a test case for the ECtHR’s ability to offer a remedy against arbitrary detentions and prosecutions in Turkey.

⁴ A/HRC/29/15 and A/HRC/29/15/Add.1, recommendation 148.14 (Latvia), 148.115 (Lebanon), 148.116 (Luxembourg), 148.117 (United States of America), 148.118 (Austria), 148.119 (France), 148.120 (Switzerland), 148.121 (United Kingdom of Great Britain and Northern Ireland), 148.122 (Sweden), 148.123 (Costa Rica), 148.124 (Botswana), 148.127 (Angola).

⁵ Amnesty International, Journalism is not a crime: Crackdown on media freedom in Turkey, Index number: EUR 44/6055/2017, May 2017, <https://www.amnesty.org/download/Documents/EUR4460552017ENGLISH.PDF>.

⁶ A/HRC/29/15, recommendation 148.125 (Finland).

⁷ A/HRC/29/15 and A/HRC/29/15/Add.1, recommendations 149.35 (Austria), 149.36 (Germany), 149.38 (Norway), 149.39 (Czech Republic), 149.41 (France), and 149.42 (Australia).

⁸ A/HRC/29/15, recommendation 149.3 (Germany).

⁹ European Court of Human Rights judgment in the case of *Mehmet Hasan Altan v. Turkey* (Application no. 13237/17), 20 March 2018.

¹⁰ European Court of Human Rights judgment in the case of *Selahattin Demirtaş v. Turkey* (No. 2) (Application no. 14305/17), 20 November 2018.

¹¹ BBC Turkish, “Selahattin Demirtaş decision by European Court of Human Rights: He must be released”, 21 November 2018, <https://www.bbc.com/turkce/haberler-turkiye-46272903>.

HUMAN RIGHTS SITUATION ON THE GROUND

INDEPENDENCE OF JUDICIARY, ARBITRARY DETENTIONS AND ABUSIVE PROSECUTIONS

The justice system lacks independence and impartiality, in particular in “terrorism” related cases – a term used also to prosecute peaceful dissent - and other politically charged cases. Recent years have seen an extension of executive control over the judiciary and prosecution, widespread arrests, dismissal and arbitrary transfer of judges and prosecutors, and abusive investigations and prosecutions of lawyers.¹² These developments seriously undermine the independence and integrity of the judicial system as evidenced by the large number of pre-trial detainees in prison without any credible evidence of a criminal offence.

Over 4,000 judges and prosecutors were dismissed during the state of emergency by the CPJ through extraordinary procedures for alleged links to “terrorist” organizations. Law 7145, adopted in July 2018 with the stated aim of enabling an effective fight against “terrorist” organizations after the end of the emergency rule, extended the possibility for dismissal for a further three years on the same vague grounds with a continuing risk for judges and prosecutors to be dismissed arbitrarily.

At the end of 2018, the total number of detainees in prison pending trial was 57,000; over 20% of the total prison population.¹³ A total of 44,690 people were in prison on “terrorism” related charges,¹⁴ including journalists, political activists, lawyers, human rights defenders and others caught up in the crackdown following the 2016 coup attempt that has vastly exceeded the legitimate purpose of investigating those responsible and bringing them to justice.

The definition of “terrorism” in Turkey’s anti-terrorism law is overly broad, vague and lacks the level of legal certainty required by international human rights law. Fundamentally, it defines “terrorism” by its political aims rather than its tactics.¹⁵ Provisions criminalising membership of a terrorist organization have also led to abuses, such as Article 220/6

¹² See for example, Amnesty International, *Turkey: Court’s decision to re-detain lawyers adds credence to allegations that their prosecution is politically motivated*, 27 September 2018, and Amnesty International, *Turkey: Conviction of lawyers deals heavy blow to right to fair trial and legal representation*, 20 March 2019.

¹³ Figures were provided at the plenary of Turkey’s Grand National Assembly on 13 December 2018 in relation to 2019 budget of the Directorate General for the Prisons and Detention Centres by the member of parliament, İbrahim Yurducu Seven, representing the AKP. Page 55 of the transcript of the plenary is available at: https://www.tbmm.gov.tr/develop/owa/tutanak_sd.birlesim_baslangic?P4=23206&P5=H&page1=55&page2=55&web_user_id=17267610.

¹⁴ The figure was listed by Minister of Justice, Abdülhamit Gül, at the plenary of Turkey’s Grand National Assembly on 13 December 2018. Page 143 of the transcript of the plenary is available at: https://www.tbmm.gov.tr/develop/owa/tutanak_sd.birlesim_baslangic?P4=23206&P5=H&page1=143&page2=143&web_user_id=17267610.

¹⁵ Anti-Terrorism Law No. 3713, Article 1: “Terrorism is any kind of act done by a person or persons belonging to an organization with the aim of changing the characteristics of the Republic as defined in the Constitution, the political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation, endangering the existence of the Turkish State and Republic, weakening, destroying or seizing State authority, eliminating fundamental rights and freedoms, damaging the internal and external security of the State, public order or general health by means of coercion and violence; pressure, intimidation, deterrence, suppression or threats.”

and 220/7 of the Turkish Penal Code, which allow the state to punish individuals as though they were members of a “terrorist” organization, even when they have not been proven in court to be members.¹⁶

Similarly, according to Article 2 of the Anti-Terrorism Law, persons can be found guilty of membership of a terrorist organization without being a member of the organization if found to have committed a crime ‘in the name of such an organization’.¹⁷

These “anti-terrorism” provisions have frequently been brought against individuals, who advocate political ideas that may be shared by groups authorities describe as “terrorist”, even when the prosecuted individuals have not themselves advocated violence, hatred, or discrimination, and are not prosecuted for direct involvement in violent acts.

Article 13 of Law 7145 extended police custody for suspects of “terrorism” related crimes allowing police to hold some suspects for up to 12 days without charge.¹⁸

Prosecutions aimed at silencing dissent without evidence of criminal wrongdoing are frequently brought under anti-terrorism laws.¹⁹ These include the prosecution of civil society leader Osman Kavala and 15 other civil society figures, on charges of “attempting to overthrow the government or prevent it from performing its duties” for their alleged role in “directing’ the Gezi Park protests of 2013”; they risk life imprisonment without parole.²⁰ At the time of writing, Osman Kavala had already been remanded in pre-trial detention for 21 months. His co-defendant, Yiğit Aksakoğlu, was finally released at the first hearing of the trial in June 2019, after 7 months in prison.

Taner Kılıç, Amnesty Turkey’s Honorary Chair, and İdil Eser, Amnesty Turkey’s former Director, are being tried alongside nine other human rights defenders on baseless allegations of “membership of a terrorist organization” for which they could face up to 15 years of imprisonment.²¹ Taner Kılıç was released on 15 August 2018 after having spent 14 months in pre-trial detention. All 11 human rights defenders are on bail as the trial against them continues, despite the fact that, in eight separate hearings, the prosecution has failed to produce any credible evidence of the charges levelled at them.

Academics who signed a peace appeal in 2016 criticizing indefinite curfews and security operations in south eastern Turkey continue to face prosecution. At least 706 have been charged with “making propaganda for a terrorist organization”, with several convicted and sentenced to up to three years’ imprisonment. On 3 March 2019, a regional appeals court confirmed the prison sentence of one of the signatories, Prof. Dr. Zübeyde Füsün Üstel, for one year and three months.²² She was released from prison on 22 July following a court decision suspending the execution of her sentence pending an appeal on its execution. On 26 July 2019, Turkey’s Constitutional Court found the convictions of

¹⁶ Article 220/6 of the Penal Code punishes those who “commit crimes in the name of a [terrorist] organization and 220/7 criminalizes “knowingly and willingly assisting a [terrorist] organization.”

¹⁷ Law No. 3713, Article 2 defines a “terrorist” offender as “any person, who is a member of organisations formed to achieve the aims specified under Article 1, and who commits a crime in furtherance of these aims in concert with others or individually, or who is a member of the organisations even if s/he does not commit the targeted crime. The second paragraph of the Article continues that “persons, who commit a crime in the name of the organisation are also considered as terrorist offenders, even if they are not members of a terrorist organisation.”

¹⁸ Article 13 of Law 7145 amending Ani-Terrorism Law No. 3713 by an additional provision (Temporary Article 19) valid for three years upon its entry into force on 31 July 2018.

¹⁹ For an analysis of the most problematic provisions under anti-terrorism laws, which facilitate abusive prosecutions and specifically hamper freedom of expression, see Amnesty International, *Turkey Decriminalize Dissent: Time to Deliver on the Right to Freedom of Expression*, 27 March 2013 (Index: EUR 44/001/2013): <https://www.amnesty.org/en/documents/EUR44/001/2013/en/>

²⁰ Amnesty International, *Turkey: Gezi Park trial lacks any evidence of criminal activity and must be dropped*, 21 June 2019.

²¹ Amnesty International, *Turkey: Prosecution of 11 human rights defenders*, 20 October 2017.

²² Amnesty International, *Turkey: First academic to go to prison for signing peace petition in a flagrant breach of freedom of expression*, 30 April 2019.

academics, including of Zübeyde Füsün Üstel, for signing the petition, violated their right to freedom of expression safeguarded by the Article 26 of the Constitution.²³

SUMMARY DISMISSALS FROM PUBLIC SERVICE AND LACK OF AN EFFECTIVE REMEDY

Of the 129,411 public sector workers²⁴ arbitrarily dismissed by emergency decree following the 2016 coup attempt, almost 120,000 have not been able to overturn their dismissal.²⁵ Those dismissed were publicly labelled as having links to “terrorist” organizations, in lists attached to executive decrees, without any individualized reasoning. They continue to be banned from working in the public sector and cannot leave the country because their passports have been cancelled. Many are facing destitution and tremendous social stigma. Some of them have been entirely cut off from access to their professions.²⁶

Only 3,733 of the dismissals were subsequently revoked through executive decrees, while others had to apply to a Commission established in January 2017 in response to domestic and international pressure over the lack of an appeals procedure to seek redress against the mass dismissals. Two and a half years since its creation, the State of Emergency Inquiry Commission has reviewed 77,900 of the 126,200 applications received, of which only 6,000 have been approved, while 71,900 were rejected.²⁷

Amnesty International’s research into the structure and the workings of the Commission has revealed that it is not set up to provide an effective remedy.²⁸ It is marred by lack of institutional independence, long waiting periods, an absence of safeguards allowing individuals to rebut allegations and weak evidence cited in decisions to uphold dismissals.

Article 26 of Law 7145, adopted in July 2018 after the state of emergency had ended, gives the government the power to continue the practice of summarily dismissing judges and other public-sector employees deemed to have links to “terrorist organizations or other groups posing a threat to national security for three more years”.²⁹ In December 2018, further legislation introduced suspension of newly qualified doctors who fail security checks, which include an administrative, rather than a judicial, assessment of a person’s possible links to “terrorist organizations”.³⁰ These provisions continue to put public sector workers at risk of arbitrary dismissal.

²³ Decision of the Plenary of Turkey’s Constitutional Court in the case of Zübeyde Füsün Üstel and Others (no. 2018/17635), 26 July 2019: <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2018/17635>.

²⁴ Those dismissed include police officers, military personnel, teachers, academics, healthcare professionals, and media workers.

²⁵ 3,733 dismissed public sector workers were reinstated during the state of emergency through subsequent executive decrees. The approximate number of those banned from public service is calculated by deducting the total number of positive decisions by the State of Emergency Inquiry Commission (6,000) as of 28 June 2019 from the remaining 125,678. See the official website of the State of Emergency Inquiry Commission: <https://soe.tccb.gov.tr/>

²⁶ Permanently purging people from all work in the public sector or their profession infringes on their right to work, and in the long term may threaten their right to an adequate standard of living. The routine cancellation of passports violates the right to freedom of movement, while the lack of an effective appeal procedure threatens the right to a fair trial and an effective remedy. Amnesty International, *No End in Sight: Purged Public Sector Workers Denied a Future in Turkey*, 22 May 2017. See also, a third party intervention the Turkey Litigation Support Project, Amnesty International, ARTICLE 19 and PEN International submitted before the European Court of Human Rights on 5 March 2019 on the key case concerning the cancellation of passports of three academics from Turkey – Alphan Telek, Edgar Şar and Zeynep Kivilcim: https://www.article19.org/wp-content/uploads/2019/03/ECHR_532019-TELEK-and-2-others-v-Turkey-Intervention_A19.pdf

²⁷ These statistics are from the Activity Report of the State of Emergency Inquiry Commission and reflect the situation as of 14 June 2019: 14 June 2019: https://soe.tccb.gov.tr/Docs/OHAL_Report_2019.pdf

²⁸ Amnesty International, *Purged Beyond Return? No Remedy for Turkey’s Dismissed Public Sector Workers*, October 2018.

²⁹ Article 26 of Law 7145.

³⁰ Article 5 of Law 7151, which entered into force on 5 December 2018, as well as Articles 1, 2 and 11 of the Regulation on the Security Clearance and Archive Research (no. 2000/284), amended on 25 October 2018 by Presidential Decree No. 228/9.

THE RIGHTS TO FREEDOM OF EXPRESSION, ASSOCIATION AND PEACEFUL ASSEMBLY

A total of 1,727 associations and foundations and 170 media outlets were closed during the state of emergency through executive decrees. While some of these were re-opened through subsequent decrees, the majority remain closed at the time of writing.³¹ These organizations and media outlets are not able to seek permission to re-open via the courts but have first to apply to the ineffective State of Emergency Inquiry Commission. Many have had considerable assets seized by the government.

Several provisions of Turkey's Penal Code directly limit the right to freedom of expression in a manner that is not permitted by international legal standards. These include:

- Article 301, which criminalizes denigration of “the Turkish nation, the state of the Republic of Turkey, the Turkish Parliament (TBMM), the government of the Republic of Turkey and the legal institutions of the state;”
- Article 318, which criminalizes alienating the public from military service;
- Article 215, which criminalizes praising a crime or a criminal going beyond the legitimate aim of criminalizing incitement to commit a criminal act;³²
- Article 216/2 that criminalizes “denigrating section of the population on grounds of social class, race, religion, sect, gender or regional differences”
- Article 216/3 that criminalizes “denigrating the religious values of a section of the population;” and
- Article 125 that criminalizes attribution of an “act or fact to a person in a manner that may devalue that person's honour, dignity or prestige or... An attack on someone's honour, dignity or prestige by swearing.”

These Articles of the Penal Code have frequently been used to prosecute and punish peacefully expressed dissenting opinions; public support for the right to conscientious objection to military service voiced at street demonstrations or in newspaper articles; criticism of dominant beliefs and power structures, and criticism of the actions of politicians and other public officials and they all must be repealed.

Other legal provisions are so broadly worded that they lend themselves to abuse, impermissibly limiting freedom of expression through their implementation. Article 6/2 and Article 7/2 of the Anti-Terrorism Law, which respectively criminalize “printing or publishing of declarations or statements of terrorist organizations” and “making propaganda for a terrorist organisation,” include vague concepts of threat and coercion without specifying in respect of these a link to violence. As such, Article 6/2 allows for the prosecution of individuals for publishing statements that do not amount to incitement to violence, while Article 7/2 is used to prosecute statements, participating in peaceful protests or other similar activities that do not amount to incitement to violence.

The Law 7145, which was passed by the Turkish Parliament in July 2018 with the stated aim of enabling an effective fight against terrorist organizations after the end of the emergency rule, introduced restrictions on freedom of movement and right to peaceful assembly into Turkish legislation. Article 8 of the Law 7145 further expands restrictions on where peaceful assemblies can take place by amending Article 6/2 of the Law on Meetings and Demonstrations. While Article 6 of the Law on Meetings and Demonstrations was already restrictive in terms of where peaceful assemblies and marches

³¹ 208 associations and foundations, as well as 21 media outlets (news agencies, television channels, radio channels, newspapers, magazines, and publication and distribution houses) were re-opened by subsequent emergency decrees, leaving 1,519 associations and foundations and 149 media outlets closed by decree. The State of Emergency Inquiry Commission had issued decisions in 90 applications concerning closures. However, Amnesty International is not aware of the outcome of these 90 decisions and whether they concern associations, foundations or media outlets or other private institutions.

³² Article 217 of the Penal Code separately criminalizes incitement to commit a criminal act. Amnesty International considers the wording of Article 215 extremely broad with a potential to abuse even though it states that the person carrying the offence will be punishable by up to two years imprisonment “in the case of a clear and present danger to public order as a result of praising a crime or a criminal”

can take place, the amendment added to the list of considerations another vague condition that they should take place in locations which do not cause extreme and intolerable difficulties in the daily lives of citizens.³³

Law 7145 further extends the power of governors to restrict freedom of movement within the boundaries of the province they govern in cases where “there are serious indications that public order or public security is or may be disturbed in a way that can disrupt or suspend usual flow of life.”³⁴ According to the amendment, governors can limit for up to fifteen days entry to and exit from specific locations within their province by individuals suspected to pose a threat to public order or public security and regulate access by anyone to certain locations or at certain times.

Over 100 journalists and other media workers remain in jail either in pre-trial detention or serving a custodial sentence.³⁵ Some of those investigated and prosecuted under anti-terrorism laws have been convicted and sentenced to between two-and-a-half years and over ten years’ imprisonment with their peaceful journalistic work presented as if it were a criminal offence. Among them are journalists and executives from *Cumhuriyet* and *Zaman* newspapers.³⁶ The threat of criminal investigations, arrests, long periods of detention, prosecutions and imprisonment has had a chilling effect on the media, with the vast majority of the mainstream media supporting the government in their reporting after the *Doğan* group, the last remaining independent media group was sold, in March 2018, to a conglomerate known to have close business ties to the government.

In 2018 and 2019, several provincial governors continued to use extraordinary powers now enshrined in law to restrict the right to peaceful assembly. The blanket and indefinite ban on all LGBTI events issued by Ankara governorate in November 2017 was only lifted in April 2019 following a court order. The student pride march at the Middle East Technical University in Ankara, in May 2019, was broken up by the police using unnecessary and excessive force. Blanket bans were issued by Izmir, Antalya and Mersin governorates in June 2019 to prevent pride week events. The Istanbul pride march was banned for the fifth year in a row in 2019.³⁷

Blanket bans have also been imposed on protests in solidarity with individuals who have been on hunger strike since November 2018.³⁸ On 22 April 2019, for example, Kırklareli Governorate announced on its website that all protests and assemblies in relation to the hunger strike within the border of Kırklareli province were to be banned between 22 April and 6 May as per an ordinance³⁹ that was later extended until 21 May 2019.⁴⁰

³³ Article 6/2 of the Law on Meetings and Demonstrations as amended by Law 7145 reads as follows: “Places and itineraries for assemblies and demonstrations in provinces and districts shall be determined by the highest administrative authority of the location through considering the opinions of political parties representatives in province and district having groups in the Grand National Assembly of Turkey, of mayors of the province and district where the assembly or demonstration will be held, of provincial and district representatives of three labour unions with the largest number of members and public professional organizations, provided that public and general order is not interrupted, that they do not create extreme and intolerable difficulties on citizens’ daily life and restrictions under first paragraph of Article 22 are observed. More than one place and itinerary may be determined for assemblies and demonstrations considering the capacity, development and housing features of the province and district.”

³⁴ Article 1 of Law 7145 amending Article 11 of Law on Provincial Administration (No. 5442).

³⁵ Bia Media Monitoring Report of May 2019 covering first quarter of the 2019 reports that 106 journalists are in prison (41 convicted, 30 on trial, 22 on appeal, 13 yet to be indicted).

³⁶ See Amnesty International press releases, *Turkey: For journalists, Turkey has become a dungeon*, 3 May 2018; *Turkey: Conviction of six Zaman journalists “sends further shock through an already devastated media landscape”*, 6 July 2018; *Turkey: Courts being used to strangle media freedom*, 19 February 2019; *Turkey: Rights defenders tried for standing up for press freedom, must be acquitted*, 15 July 2019.

³⁷ Amnesty International, *Turkey: Further Information: Authorities Unlawfully Restrict Pride Marches*, 16 July 2019: <https://www.amnesty.org/en/documents/eur44/0713/2019/en/>

³⁸ Thousands of prisoners in Turkey went on hunger strike since November 2018 demanding that the imprisoned leader of the armed Kurdistan Workers’ Party (PKK), Abdullah Öcalan, can meet regularly with his lawyers and family members. The hunger strikes ended on 26 May after Abdullah Öcalan’s lawyers were able to visit him on 2 and 22 May following an interruption of almost eight years.

³⁹ Ordinance No. 1150: <http://www.kocaeli.gov.tr/basin-duyurusu-22042019>

⁴⁰ Ordinance No, 1227, issued on 6 May 2019: <http://www.kocaeli.gov.tr/basin-duyurusu---06052019>

The peaceful gatherings of the “Saturday Mothers”,⁴¹ a group that since the mid-1990s has held weekly vigils in Galatasaray Square for victims of enforced disappearances, have been banned since August 2018. Following their removal with unnecessary and excessive use of force, a blanket ban was imposed on all protests in the square.

Hundreds of construction workers and five trade union representatives protesting against poor working and living conditions as well as the high number of accidents (some of them fatal) at the construction site of Istanbul's new airport, were detained *en masse* in September 2018.⁴² More than 60 workers are being prosecuted for their involvement in the protests, of whom 31 were held in pre-trial detention for around two months until their release at the first hearing.⁴³

University students also continue to be targeted and prosecuted merely for participating in peaceful protests or writing critical social media posts.⁴⁴

Prisoners and others, who have been on hunger strike, are facing prosecution solely for their peaceful protest. On 26 February 2019, Istanbul Heavy Penal Court No. 26 accepted an indictment accusing 25 prisoners in Maltepe L Type Prison No. 2 and one in Maltepe L Type Prison No. 1 of “propagandizing for a terrorist organization” and “knowingly and willingly helping a terrorist organization” through their hunger strike. Their trial is ongoing.

Similarly, around 80 individuals, including relatives of prisoners on hunger strike are facing prosecution at Diyarbakir Heavy Penal Court No. 11 for “propagandizing for a terrorist organization” because of going on hunger strikes that were to last for two or three days on various dates since 17 November 2018 at the Diyarbakir office of People's Democratic Party (HDP) to show solidarity with the prisoners on hunger strike.⁴⁵

In Istanbul, journalist Zeynep Kuray, covering solidarity protests in Sirkeci neighbourhood and journalist, İrfan Tunççelik, covering another one in front of Bakırköy Women's Prison were taken into police custody on 10 May 2019 along with some of the protestors. On 13 May, an Istanbul Court released the journalists with bail conditions pending criminal investigation.

ALLEGATIONS OF TORTURE AND OTHER ILL-TREATMENT

After the failed coup in 2016, more than 50,000 people were detained. Amnesty International has gathered credible evidence that some of the detainees were subjected to torture, including rape, as well as other ill-treatment in official and unofficial police detention centres.⁴⁶ These violations have partially been facilitated by legal amendments introduced during the state of emergency which suspended key safeguards protecting detainees from torture and other ill-treatment, for example in relation to the maximum duration in police custody and access to lawyers.

Amnesty International has also received credible allegations of more recent cases of torture. In Urfa, eastern Turkey, men and women who were detained in May 2019 after an armed clash between security forces and the armed PKK⁴⁷ reported, through their lawyers, torture including electrocution of genitals.⁴⁸ The lawyers reported that at least some of the former

⁴¹ The group, primarily comprising female relatives of the disappeared, was forced to disperse on 25 August 2018 after the police used tear gas and water cannons.

⁴² Amnesty International, *Turkey: Detention of protesting construction workers an attempt to stifle legitimate protest*, 19 September 2018, and *Workers arrested in Turkey for protesting conditions at airport construction site must be released*, 5 December 2018.

⁴³ The trial continues and the next hearing is scheduled for 27 November. There are 61 defendants in the trial.

⁴⁴ These included 30 students from Boğaziçi University peacefully protesting against Turkey's military involvement in Afrin in Syria, four students from the Middle East Technical University displaying a banner depicting a caricature of President Erdoğan during the university's graduation ceremony and ‘insulting the President’ in a social media post about journalism (one student from the Black Sea Technical University).

⁴⁵ The numbers of joined up files that Amnesty International is informed of are 2019/96 and 2019/100.

⁴⁶ Amnesty International, *Turkey: Independent monitors must be allowed to access detainees amid torture allegations*, 24 July 2016.

⁴⁷ Kurdistan Workers' Party.

⁴⁸ Amnesty International, *Urgent Action: Dozens at Risk of Torture in Police Detention*, 24 May 2019. Also see, Foundation for Society and Legal Studies (TOHAV), *Preliminary Report on the Human Rights Violations in Urfa from 18 May onwards*, 31 May 2019:

Ministry of Foreign Affairs officials, who were detained in Ankara Security Directorate in May 2019 in relation to crimes of “membership of a terrorist organization, aggravated fraud and forgery for terrorism purposes”, were stripped naked and threatened with being raped with batons.⁴⁹ In both cases, lawyers have also reported that their clients did not have access to a confidential consultation with a doctor.

<http://www.tohav.org/sanliurfa-hak-ihlalleri-on-raporu> and Urfa Bar Association, *Halfeti Incidents Report*, 3 June 2019:
<http://www.sanliurfabarusu.org.tr/Detay.aspx?ID=119155>.

⁴⁹ Ankara Bar Association’s report on the torture allegations:
http://www.ankarabarusu.org.tr/HaberDuyuru.aspx?BASIN_ACIKLAMASI=&=3099

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RECOMMENDATION FOR ACTION BY THE STATE UNDER REVIEW

AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF TURKEY TO:

INDEPENDENCE OF JUDICIARY, ARBITRARY DETENTIONS AND ABUSIVE PROSECUTIONS

- Guarantee the independence and impartiality of the judiciary in law and in practice;
- Repeal all emergency measures and other legal provisions which arbitrarily restrict human rights, including Articles 1 and 8 of Law 7145 which restrict the rights to freedom of movement and peaceful assembly, Article 13 which extends police custody for suspects of “terrorism” related crimes, and Article 26 which allows for arbitrary dismissal from the public sector, including the judiciary, for another three years;
- Amend the definition of “terrorism” in Article 1 and “terrorist” offender in Article 2 of the Anti-Terrorism Law in line with international human rights law and standards;⁵⁰
- End the routine use of lengthy pre-trial detention without any credible evidence of criminal conduct and ensure that all detentions are regularly reviewed by a civilian, independent and impartial court and that detainees have access to a lawyer and to adequate information to be able to effectively challenge their detention;
- End arbitrary prosecution on trumped up charges of human rights defenders and peaceful activists, including civil society leader Osman Kavala and others in the so-called “Gezi Park trial”, as well as Taner Kılıç and the other human rights defenders on trial with him.

SUMMARY DISMISSALS FROM PUBLIC SERVICE AND LACK OF AN EFFECTIVE REMEDY

- Reinstate public sector workers arbitrarily dismissed by emergency decrees;
- In all cases where individuals are reasonably suspected of wrongdoing or misconduct during their employment, or of a criminal offence, ensure that decisions on their dismissal are made only in a regular disciplinary process with full procedural safeguards;
- In any disciplinary proceedings resulting in suspension or dismissal, ensure the protection of human rights, including to work, freedom of movement, health, housing and adequate standard of living.

FREEDOM OF EXPRESSION, ASSOCIATION AND RIGHT TO PEACEFUL ASSEMBLY

- Allow civil society organizations and media outlets that have been arbitrarily closed to reopen and restore their confiscated property.
- Ensure that any closures or other restrictions on media outlets comply with Turkey’s obligations to respect the right to freedom of expression and be open to appeal before an independent and impartial court.
- Ensure that people can gather and protest peacefully, including by lifting the repeated bans imposed on LGBTI events, the “Saturday Mothers” and other peaceful demonstrations across the country;
- End prosecution of individuals or groups for exercising their right to peaceful assembly, including the workers from Istanbul’s new airport currently on trial.

⁵⁰ For an analysis of these provisions as well as those listed under recommendations concerning freedom of expression, association and the right to peaceful assembly, see Amnesty International, *Turkey Decriminalize Dissent: Time to Deliver on the Right to Freedom of Expression*, 27 March 2013 (Index: EUR 44/001/2013): <https://www.amnesty.org/en/documents/EUR44/001/2013/en/>

- Repeal Articles 301 (Denigrating the Turkish Nation), 318 (Alienating the public from military service), 215 (Praising a crime or a criminal), and 125 (Criminal defamation) of the Penal Code;
- Repeal or amend paragraphs 6 and 7 of Article 220 (Committing a crime in the name of an organization) of the Penal Code, by setting out clear criteria for when assisting an armed group can be criminalized, including requiring that such assistance must itself be an internationally recognizable offence, including when it directly involves the planning or commission of such a crime;
- Drop all charges and release journalists and media workers who have been detained solely for peacefully carrying out their media work and cease detaining and prosecuting journalists and media workers and others for peacefully expressing their views;
- Repeal or amend Article 6/2 (Printing or publishing declarations/statements of a terrorist organization) and Article 7/2 (Making propaganda for a terrorist organization) of the Anti-Terrorism Law to ensure they are precisely and clearly formulated and can no longer be used to prosecute people merely for the peaceful expression of their views;
- Repeal paragraphs 2 and 3 of Article 216 of the Penal Code (Incitement to hatred or hostility) to ensure that they can no longer be used to prosecute people merely for the peaceful expression of their views.

TORTURE AND OTHER ILL-TREATMENT

- Ensure that anyone who complains of torture or other ill-treatment is offered medical or other support, is safe from threats and harassment, and if vindicated provided with reparations in accordance with international standards;
- Develop an effective independent complaints mechanism to carry out prompt, independent, impartial and thorough investigations into all complaints and reports of torture, other ill-treatment and other human rights violations committed by law enforcement officials.
- Where there is sufficient, admissible evidence, prosecute those suspected of human rights violations, including those with command responsibility, in fair trials.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE⁵¹

Turkey: Deterioration of human rights situation must be addressed by the Human Rights Council – written statement to the 36th session of the Human Rights Council, 4 September 2017, IOR 40/7043/2017

INDEPENDENCE OF JUDICIARY, ARBITRARY DETENTIONS AND ABUSIVE PROSECUTIONS

Turkey Decriminalize Dissent: Time to Deliver on the Right to Freedom of Expression, 27 March 2013, EUR 44/001/2013

Turkey: Rights must be respected in aftermath of failed coup, 16 July 2016, EUR 44/4463/2016

Turkey crackdown by the numbers: Statistics on brutal backlash after failed coup, 26 July 2016

Turkey: State of emergency provisions violate human rights and should be revoked, 19 October 2016, EUR 44/5012/2016

Turkey: Prosecution of 11 human rights defenders, 20 October 2017.

Turkey: Weathering the storm: Defending human rights in Turkey's climate of fear, 26 April 2018, EUR 44/8200/2018

Turkey: Court's decision to re-detain lawyers adds credence to allegations that their prosecutions is politically motivated, 27 September 2018, EUR 44/9149/2018

Turkey: Conviction of lawyers deals heavy blow to right to fair trial and legal representation, 20 March 2019

Turkey: Gezi Park trial lacks any evidence of criminal activity and must be dropped, 21 June 2019.

SUMMARY DISMISSALS FROM PUBLIC SERVICE AND LACK OF AN EFFECTIVE REMEDY

Turkey: No end in sight: Purged public sector workers denied a future in Turkey, 22 May 2017

Turkey: Purged beyond return? No remedy for Turkey's dismissed public sector workers, 25 October 2018, EUR 44/9210/2018

FREEDOM OF EXPRESSION, ASSOCIATION AND RIGHT TO PEACEFUL ASSEMBLY

Turkey: Temporary closure of Özgür Gündem latest blow to freedom of expression, 19 August 2016, EUR 44/4697/2016.

Urgent Action: Turkey: Massive crackdown on media in Turkey, 8 November 2016, EUR 44/5112/2016

Urgent Action: Turkey: Further information: Turkey permanently closes hundreds of NGOs, 23 November 2016, EUR 44/5208/2016

Turkey: Journalism is not a crime: Crackdown on media freedom in Turkey, 3 May 2017, EUR 44/6055/2017

Urgent Action: Turkey: Students detained for anti-war protest, 28 March 2018, EUR 44/8142/2018

Turkey: For journalists, Turkey has become a dungeon, 3 May 2018

Urgent Action: Turkey: Detained rapper accused of promoting drugs: Sercan İpekcioglu ('Ezhe!'), 1 June 2018, EUR 44/8512/2018

Turkey: Istanbul Pride march must go ahead unhindered, 28 June 2018, EUR 44/8693/2018

⁵¹ All these documents are available on Amnesty International's website: [amnesty.org](https://www.amnesty.org)

Turkey: Conviction of six Zaman journalists “sends further shock through an already devastated media landscape”, 6 July 2018

Turkey: Authorities must ensure relatives of people forcibly disappeared can continue with their peaceful weekly vigil, 29 August 2018, EUR 44/9009/2018

Urgent Action: Turkey: Further information: Students detained for insulting the President: Released but still facing charges, 3 September 2018, EUR 44/9025/2018

Turkey: Detention of protesting construction workers an attempt to stifle legitimate protest, 19 September 2018

Turkey: Crackdown on civil society continues with full force despite end of state of emergency, 16 November 2018, EUR 44/9419/2018

Workers arrested in Turkey for protesting conditions at airport construction site must be released, 5 December 2018

Turkey: Courts being used to strangle media freedom, 19 February 2019

Turkey: First academic to go to prison for signing a peace petition in a flagrant breach of freedom of expression, 20 April 2019, EUR 44/0290/2019

Turkey: Rights defenders tried for standing up for press freedom, must be acquitted, 15 July 2019.

Urgent Action: Turkey: Further information: Authorities unlawfully restrict Pride marches, 16 July 2019, EUR 44/0713/2019

TORTURE AND OTHER ILL-TREATMENT

Turkey: Independent monitors must be allowed to access detainees amid torture allegations, 24 July 2016

Urgent Action: Turkey: Authorities must immediately investigate torture allegations of student protesters, 11 June 2018, EUR 44/8567/2018

Urgent Action: Turkey: Dozens at risk of torture in police detention, 24 May 2019, EUR 44/0440/2019

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WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**