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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Maat for Peace, Development and Human Rights Association, a non- governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 August 2019]

* Issued as received, in the language(s) of submission only.



Arbitrary detention in Turkey

Laws used to violate human rights

Although the Turkish Constitution includes a chapter on rights and freedoms and recognizes the equality of all its spectrums, article 15 of the Constitution states that "in times of war, mobilization, imposition of martial law, or a state of emergency, the exercise of fundamental rights and freedoms may be partially or totally suspended, Measures that derogate from the guarantees contained in the Constitution may also be taken to the extent required by the necessity of the situation. Conditional on not harming obligations imposed by international law, and therefore under this umbrella, arbitrary detention in emergency periods is considered necessary.¹

Following the failed coup attempt in July 2016, legislation was amended by 32 Emergency Executive Decrees having the same effect as the law. More than 300 amendments have been made based on emergency executive decrees to more than 150 separate laws, many of which have human rights implications. The measures taken violated many rights, such as those on freedom of peaceful assembly, freedom of expression, fair trial, effective remedy and arbitrary arrest of a large number of Turkish citizens

The Turkish authorities have also violated international conventions and conventions relating to the criminalization of the use of arbitrary detention, to which Turkey is a party, including the International Covenant on Civil and Political Rights, the International Convention on the Criminalization of Arbitrary Detention, and the European Convention on Human Rights, article 5 of which states that no one shall be deprived from his freedom and his right to a fair trial.² And it also violated article 9 of the International Covenant on Civil and Political Rights, which states that no one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law, shall be promptly informed of the charges against him and the right of any person who has been the victim of unlawful arrest or detention to compensation.

Increased arbitrary arrests in Turkey

According to statistics provided by the Ministry of Interior and the Ministry of Justice, it is estimated that more than 150,000 people were detained by police during the state of emergency, and more than 78,000 people were detained under anti-terrorism laws, of which more than 24,000 remained in pre-trial detention, in 2018. Thousands of criminal cases, including those under laws prohibiting defamation and trumped-up terrorism-related charges, have been instituted on the basis of the peaceful exercise by the people of their rights to freedom of expression during a state of emergency.³ A total of 44,930 people has been convicted of prison terms under anti-terrorism laws, including 31,442 political prisoners accused of belonging to Fethullah Gulen.⁴

The maximum period of pre-trial detention for some crimes related to terrorism and national security was increased, and the constitutional order was increased from 4 days to 30 days. The maximum periods of detention were routinely and arbitrarily carried out, and the maximum period of pre-trial detention was increased from 5 to 7 years in August 2017. According to official statistics, there is an "overload" of tens of thousands of prisoners,

¹ دستور الجمهورية التركية، متاح على الرابط التالي:

https://www.constituteproject.org/constitution/Turkey_2011?lang=ar.

² الاتفاقية الأوروبية لحقوق الإنسان، متاح على الرابط التالي: <http://hrlibrary.umn.edu/arab/euhrcom.html>.

³ انتهاء حالة الطوارئ لكن هناك حاجة ملحة الآن لاتخاذ إجراءات عاجلة لعكس مسار تراجع حقوق الانسان، منظمة العفو الدولية، <https://www.amnesty.org/ar/latest/campaigns/2018/07/turkey-state-of-emergency-lifted/>. يوليو 2018.

⁴ ربع مليون شخص في سجون تركيا.. وانتهاكات صارخة بحق معتقلين، سكاي نيوز عربية، 5 يناير 2019. <http://bit.ly/300YPEg>.

worrying about its citizens in Turkey, where Germany issues warnings permanently to its citizens from being in Turkey, and for the same reason: the lack of minimum freedom of opinion.¹⁰

The same was repeated on May 29, 2019, when the Human Rights Commission in Geneva confirmed that Turkey was arbitrarily detaining two Turkish nationals, who had been living in Malaysia, The Malaysian government pushed for their extradition to Turkey on the grounds of joining the Gülen group. The two men were extradited to Turkey without trial or court order, they are still imprisoned in Denizli prison, without any charges against the two men that could justify their arrest.¹¹

Recommendations

- -Amend the Turkish Penal Code and the Anti-Terrorism Law in line with international standards on the right to freedom of expression.
- -The need to consider cases of torture and complaints about detainees who are tortured in Turkish prisons, which violate of all international conventions.
- -Immediately and unconditionally release all those detained for illogical reasons.
- -The Working Group on Arbitrary Detention at the United Nations should visit Turkey and investigate arbitrary detentions and request the Turkish Government to clarify its position on the above-mentioned cases and bring them to its attention.
- -The Turkish government should amend the constitutional provisions that provide for the possibility of an exception by reducing certain rights in emergency and similar situations, to avoid the practice of such violations under the umbrella of exceptions.

¹⁰ مجلة أحوال تركيا، ألمانيا لمواطنيها: لا تسافروا إلى تركيا، تم النشر في مارس 2019، متاح على الرابط الآتي: <https://ahvalnews.com/ar/ألمانيا-لمواطنيها-لا-تسافروا-إلى-تركيا/حريات>.

¹¹ أخبار الأمم المتحدة، لجنة خبراء أممية: تركيا انتهكت حقوق شخصين احتجزا تعسفا وحرما من المحاكمة العادلة، متاح عبر الرابط الآتي: <https://news.un.org/ar/story/2019/05/1034051>.