

ESCAPING THE WITCH HUNT FROM TURKEY & AROUND THE WORLD

[The Right to Leave]



April 2018



JOURNALISTS AND WRITERS FOUNDATION

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ACRONYMS AND ABBREVIATIONS

AKP	Adalet ve Kalkınma Partisi [Justice and Development Party]
ATİB	Union of Turkish-Islamic cultural organizations in Austria
BBC	The British Broadcasting Corporation
CAT	<i>Convention against Torture</i> and Other Cruel, Inhuman or Degrading Treatment or Punishment
CCF	Commission for the Control of Interpol's Files
CCPR	<i>Human Rights Committee</i>
CCTV	Closed-Circuit Television
CHP	Republican People's Party
CoE	Council of Europe
CMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
ÇHD	Progressive Lawyers' Association
DBP	Demokratik Bölgeler Partisi [Democratic Regions Party]
Diyanet	Turkey's Directorate of Religious Affairs
DİTİB	Turkish-Islamic Union for Religious Affairs (Germany)
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
HDP	Halkların Demokratik Partisi [Peoples' Democratic Party]
HCJP	High Council for Judges and Prosecutors
OHAL	Olağanüstü Hal – State of Emergency
OHCHR	Office of the High Commissioner for Human Rights
JWF	The Journalists and Writers Foundation
ICCPR	International Covenant of Civil and Political Rights
IDPs	Internally Displaced Persons
INTERPOL	International Criminal Police Organization
KHK	Kanun Hukmunde Kararname [Decrees with Force of Law]
MASAK	Financial Crimes Investigation Board of Turkey
MİT	National Intelligence Organization of Turkey
MP(s)	Member(s) of Parliament
NCEQE	National Center for Education Quality Enhancement
NGO	Non-governmental organization
NRW	North Rhine-Westphalia
PACE	Parliamentary Assembly of the Council of Europe
SCF	Stockholm Center for Freedom
TİKA	Turkish Cooperation and Coordination Agency
TRY	Turkish Lira
TSK	Türk Silahlı Kuvvetleri [Turkish Armed Forces]
TURKAK	Turkish Accreditation Agency
TUSKON	Turkish Confederation of Businessmen and Industrialists
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
WGEID	Working Group on Enforced Disappearances

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Left: Maden family who drowned in the Aegean Sea; Right: Abdurrezzak family who drowned in the Meric (Evros) river while escaping the witch hunt in Turkey.

EXECUTIVE SUMMARY

The present report discusses the right to freedom of movement, with a particular focus on the right of Turkish citizens, dual citizens and also foreigners—to leave Turkey in the aftermath of the attempted coup of July 15, 2016. It outlines the plausibility of a claim that continuing human rights violations by the government of Turkey have now turned the country into an *open-air prison* for many, regardless of whether or not individuals are formally deprived of their liberty.

Being denied any future in Turkey and facing, *inter alia*, arbitrary detention, no prospect of a fair trial, unemployability and persecution, an increasing number of civil servants, teachers, professors, lawyers, journalists, judges, police officers, military personnel and other professionals at risk, are trying to leave the country and ask for international protection.

The right to leave the country, whether one's own country or the country of residence, is firmly embodied in the Universal Declaration of Human Rights (UDHR) and the relevant United Nations (UN) human rights treaties, which have been accepted and come into force in the Republic of Turkey. The enjoyment of the

right to leave the country is not only an isolated right. It is rightly considered as a necessary prerequisite for the enjoyment of a number of other human rights, notably the right to international protection from torture, inhuman or degrading treatment or punishment.

The enjoyment of the right to leave the country is not in itself an absolute right. Restrictions of the right to leave a country can be imposed through formal legal acts, if and as these restrictions are justified and in accordance with the International Covenant on Civil and Political Rights (ICCPR), the European Convention on Human Rights (ECHR) and also the interpretation of the European Court for Human Rights (ECtHR) and the UN treaty bodies, either through their case law or through relevant General Comments. Restrictions to this right must be sanctioned by law and be “necessary to protect national security, public order, public health or morals or the rights and freedoms of others.” In any case, restrictions “must not nullify the principle of liberty of movement and are governed by the need for consistency with the other rights recognized in the Covenant.”¹

¹International Covenant on Civil and Political Rights, Article 12

Highly critical issues relating to the enjoyment of the right to leave a country arise whenever restrictions target individuals who belong or are perceived to belong to certain marginalized groups and whenever they are imposed in a discriminatory manner and in the context of crackdown on political and other dissent. Such

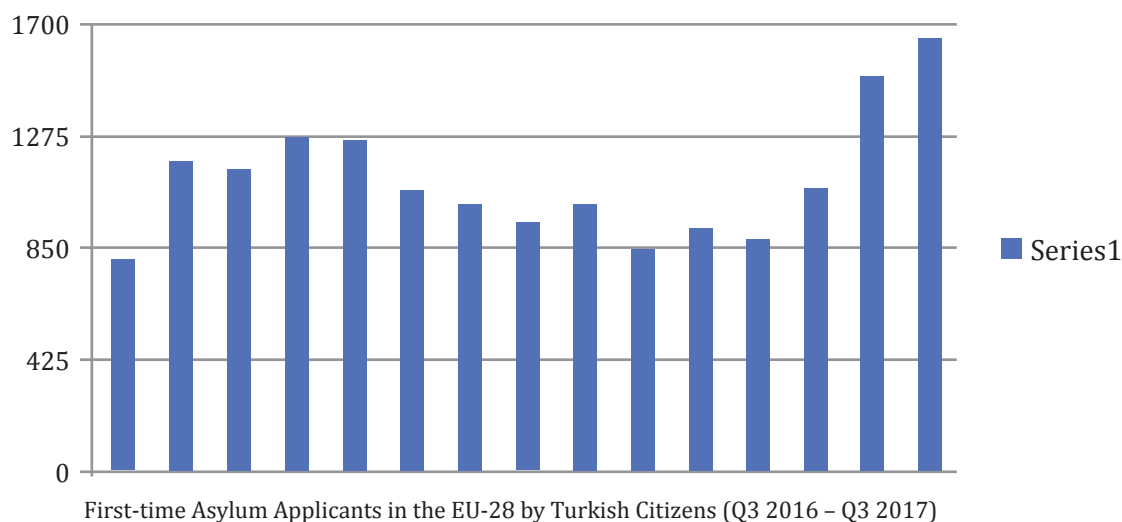
restrictions, in many cases designed on purpose and facilitated by the declaration of a state of emergency, as in the case of Turkey, not only have an adverse effect and create considerable obstacles on the right to leave – they may prove to be devastating deprivations of this right for entire groups, communities and families.

The right to leave the country, whether one's own country or the country of residence, is firmly embodied in the Universal Declaration of Human Rights (UDHR) and the relevant United Nations (UN) human rights treaties.

ASYLUM APPLICANTS FROM TURKEY TO EU AFTER THE FAILED COUP														
Q3 2016			Q4 2016			Q1 2017			Q2 2017			Q3 2017		
July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept
805	1180	1155	1270	1260	1070	1020	950	1015	850	930	885	1085	1505	1650
3140			3600			2985			2665			4240		

Q3 2016	Q3 2017	Change in % bet Q3 2016 & Q3 2017	Last 12 months
3140	4240	35% increase	13495

First-time Asylum Applicants in the EU-28 by Turkish Citizens (Q3 2016 – Q3 2017)
Source: Eurostat (migr_asyappctzm)



Immediately following the attempted coup of July 15, 2016, in the third quarter of 2016 (July-September 2016) European Union member states recorded a more than three times (228%) increase in first-time applicants for international protection² from Turkey, compared with the same quarter of 2015.³

The number of first-time applicants for international protection in the European Union member states overall decreased by 55% in the third quarter of 2017 compared with the same quarter of 2016. In contrast, the number of asylum applicants increased in absolute terms for citizens of Venezuela (1,500 more), Turkey (1,100 more)⁴ and Palestine (1,000 more). There were 4,240 first-time applicants from Turkey in the third quarter of 2017, or 35% more compared with the same quarter of 2016.

By the end of 2017, the Greek Asylum Service revealed that 186 Turkish citizens had applied for asylum in 2016 and noted a “significant” increase in 2017.⁵ According to recent data from Greek officials analyzed by pro-government media in Turkey, it is estimated that 1,750 members or sympathizers of the Hizmet Movement fled Turkey’s post-coup repression in 2017 by crossing into Greece across the Evros river in Edirne province or via the islands off Turkey’s western coastline.⁶ Many others

were not so fortunate; they were either detained by Turkish law enforcement or pushed back (to Turkey) by their official counterparts in Greece. Several people perished trying to flee the relentless persecution by which the Turkish government is targeting the members of the Hizmet Movement.

The Attempted Coup

In the late hours of July 15, 2016,⁷ a small faction of the Turkish Armed Forces (TSK) that called themselves the “Peace at Home Council” attempted a military coup by seizing control of several key places in Ankara, Istanbul, and other locations. According to official sources, at least 246 people were killed and more than 2,000 were injured during the attempt.⁸



President Erdogan speaking to the crowds after the failed coup attempt. Photo: Presidency Press Service/AP

²First time applicant for international protection is a person who lodged an application for asylum for the first time in a given state

³Asylum quarterly report, (Figure 3, Table 1), available from: <http://ec.europa.eu/eurostat/documents/6049358/7005580/Asylum+Quarterly+Report+-+Q3+2016.pdf/2ad7a4f9-495f-4480-9ed9-1d08a54b4611>

⁴Asylum quarterly report, Figure 2, Table 1, (December 12, 2017), available from: http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report

⁵NPR, *Turks Fleeing To Greece Find Mostly Warm Welcome, Despite History*, December 27, 2017, available at: <https://www.npr.org/sections/parallels/2017/12/27/571842458/turks-fleeing-to-greece-find-mostly-warm-welcome-despite-history>

⁶As of December 21, 2017, available at: <http://www.turkiyegazetesi.com.tr/gundem/529433.aspx>

⁷The events related to the attempted coup began at 7:29 p.m. in the evening of July 15, 2016

⁸Committee against Torture, *Concluding observations on the fourth periodic report of Turkey*, Addendum Information received from Turkey on follow-up to the concluding observations (CAT/C/TUR/CO/4/Add.1), November 8, 2016, para 61

On July 20, 2016, the Turkish Parliament approved the declaration of the state of emergency by a 346 to 115 vote. On July 21, 2016, the Secretary General of the Council of Europe was informed by the Turkish authorities in accordance with Article 15 of the ECHR that the post-coup measures may involve the derogation from the obligations under the ECHR. On the same day [July 21, 2016] the Secretary General of the United Nations was also notified, under Article 4 of the ICCPR, about the derogation by Turkey, *inter alia*, from the right to freedom of movement, as provided for in Article 12 of the ICCPR.

PART I INTRODUCTION

A. Background

The foundations of the Berlin wall were laid in 1945 during the Potsdam conference just outside Berlin, where victorious powers divided Berlin along with Germany. By 1961, forced by extensive oppression under the communist regime, an estimated 3.5 mil-

lion East Germans had fled to West Germany, in other words 20% of the entire East German population. The erection of the wall in 1961 constituted – according to official East German regime propaganda – “an effort to keep the decadent, immoral westerners out.” In reality it was rather an attempt to restrict the freedom to leave, lock the political and other dissident easterners in and continue the communist oppression of the entire East German population. On November 9, 1989, the borders were opened. By then, 140 people had been killed or had died at the Wall and at least 251 travelers had also died during or after they had gone through checkpoints at the Berlin border crossings. Unknown numbers of people suffered and died from distress and despair in their personal lives as a consequence of the Berlin Wall being built.⁹ Thousands more from elsewhere in the Eastern communist block also died trying to escape persecution and reach the free world. Millions died in labor camps and prisons of the communist bloc until the whole communist system collapsed in the 1990s.



Berlin Wall (first phase) / Patrice Habans/GETTY Images

⁹See also: <http://www.berliner-mauer-gedenkstaette.de/en/todesopfer-240.html>

Throughout the 20th century, heavy restrictions on the freedom of movement and the right to leave the country have been common among totalitarian regimes practicing persecution, arbitrary confinement and inhuman treatment and torture. The notorious practices of former communist regimes have been well documented. In the second decade of the 21st century, many oppressive regimes across the world continue to prevent their citizens from leaving the country. Many, however, had rightly thought that given the experience during the Cold War, this practice, which had been a very important human rights issue for decades, had once and for all left Europe. They have been proven to be very wrong.

Decades after the fall of communist regimes of the Eastern Bloc, we all bear witness to worrying developments regarding the freedom of movement in Turkey, which in many ways replicate the policies and obstacles to movement of people during the Cold War. Paradoxically, the obstacles and restrictions are put in place by one of the countries considered to have been literally in the “first lines of defense” of the so called “free world” against the oppressive communist regimes.

On the “other side of the fence” and to the dismay of many, after the Cold War, countries of the former “free world” – that were in the past among the greatest critics of this practice by communist regimes – have seen their liberal behavior towards asylum seekers vanish, by introducing summary expulsions, or “push-backs”¹⁰ to Turkey, without any individual conditions considered. Similar practices have also been witnessed by countries that were once

under dreadful communist regimes. Collective expulsions are explicitly prohibited under international law and also run contrary to the EU Charter of Fundamental Rights, the Schengen Borders Code, EU asylum procedures and return directives.

Turkey experienced a mass refugee influx from Syria and Iraq after the Syrian civil war started in 2011. The Turkish government adopted an open-door-policy towards Syrian refugees and built refugee camps in its south-eastern provinces. In addition to the refugee camps, the Turkish government provided refugees with health and education services as well as food aid facilities.¹¹ Turkey has become the country with the highest share of refugees in the world by hosting more than 2.7 million Syrian refugees.¹² In 2015, the influx of refugees and migrants to Europe reached new levels and made the headlines and political debates in Europe. In 2015 what was known to be the main Mediterranean route for many years shifted from Libya and Italy, to what later proved to be an even deadlier crossing from Turkey to Greek islands in the Aegean Sea. Continuous tragedies along the new route propelled the debate right at the center of the European Union agenda, threatening seriously its cohesion, and even its future.

Seemingly under pressure from their own constituencies, at a time of increasing populism, the 28 EU heads of state concluded in March 2016 a deal with Turkey to address the overwhelming flow of migrants and asylum seekers crossing from Turkey to the Greek islands. The agreement aimed at allowing Greece to return to Turkey all new irregular

¹⁰Push-backs happen when people are forcibly returned back to the country they are trying to leave shortly after they enter a country’s territory or jurisdiction, without an opportunity to challenge their forced return

¹¹<http://turkishpolicy.com/article/837/the-syrian-conflict-and-turkeys-humanitarian-response>

¹²UNHCR, “*UNHCR country operations profile-Turkey: Overview*,” (2015), available at: <http://www.unhcr.org/pages/49e48e0fa7f.html>

migrants arriving after March 20, 2016, in exchange of increased resettlement of Syrian refugees in EU Member States, visa liberalization for Turkish nationals on condition of fulfilling the so-called Copenhagen criteria, and more financial support for Turkey's refugee population.

The height of the refugee crisis and the desperate need to implement the EU – Turkey migrant deal overshadowed most of the other critically pressing issues in Turkey, in particular the latter's rapid descent into authoritarian rule and increasingly deteriorating human rights record. In recent years, Turkey has experienced a sharp declining trend in almost all democratic indicators, including civil, economic and social rights, freedom of expression and media, free and fair elections, government

accountability and corruption. The coup attempt of July 15, 2016, only exacerbated the already critical situation, paving the way to a massive crackdown on human rights throughout the country.

Since the attempted coup, more than 146,713 individuals have been dismissed from their jobs, 127,794 persons were taken into custody and 60,002 people were arrested – sometimes simply because they were followed on Twitter by a whistleblower. Hundreds of thousands of passports belonging to victims of the purge and their family members were cancelled and unlawful restrictions imposed on victims of the government's ongoing purge and their family members under the state of emergency. The rule of law and the independence of the Judiciary has effectively been abolished.

The coup attempt of July 15, 2016, aggravated an already critical situation, increasing the range and pace of the massive crackdown on human rights throughout Turkey. Amongst other steps, the government declared void the passports of thousands of victims of the purge and their family members, and imposed unlawful restrictions on them under the state of emergency.



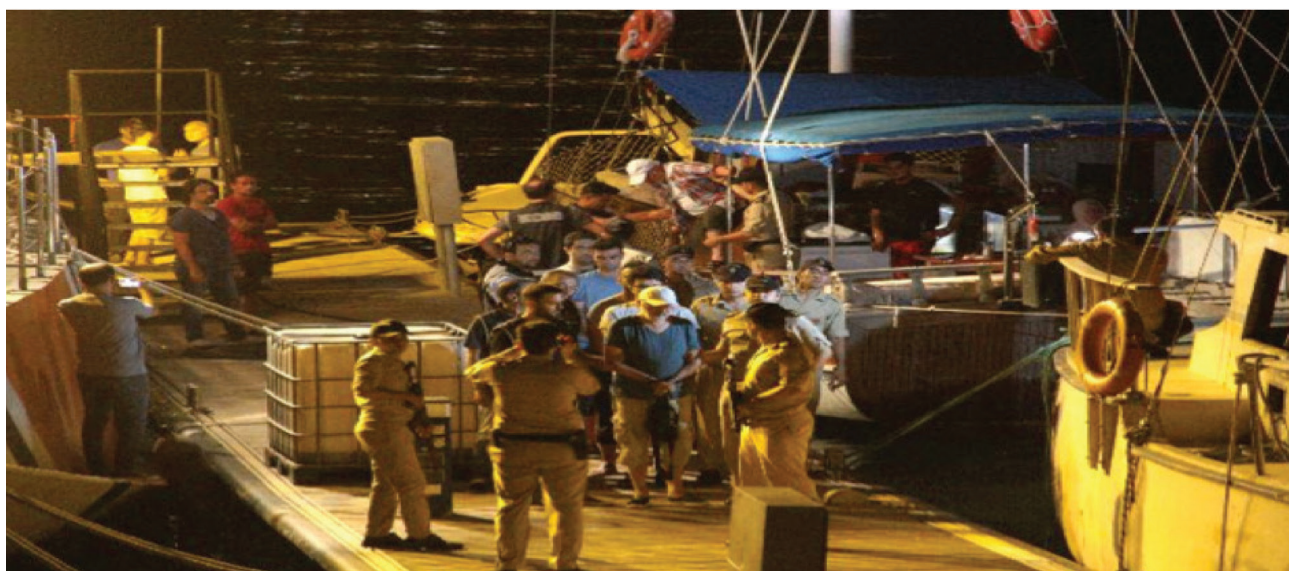
Detentions, arrests, and dismissals taking place in the aftermath of the failed coup in order to silence the dissidents. / Photo: Turkey Purge

The relentless crackdown on dissent in the country has forced thousands of Turkish citizens to live as internally displaced people and in unemployment; i.e. to leave their usual place of residence and relocate internally mainly to ensure their anonymity and to continue living in new communities without bearing the ‘terrorist’ label. Many have had to relocate several times within the country, until a window of opportunity would open for individuals under increasing distress and risk of unlawful detention to try and flee the country.

Thousands of individuals are estimated to have been able to escape the ongoing repres-

sion and seek refuge in neighboring and other countries before stricter controls of the borders were introduced. Unfortunately, attempts by victims of the purge to flee the extensive crackdown are increasingly not successful and, in some cases, have fatal consequences for entire families.

In the absence of accurate official data, it is believed that the number of Turkish nationals attempting to flee Turkey is slowly exceeding the number of Syrian nationals attempting to cross Turkey’s borders into the neighboring countries.



Turkey purge victims arrested, detained, and jailed while attempting to flee Turkey.

B. Scope of the report

The report aims to document and shed light on the relentless persecution of an increasing number of Turkish nationals who are forced to flee into exile. Mapping the magnitude of this increasingly serious issue in a comprehensive way has proven to be very difficult, given reprisals on those investigating, gathering information, reporting or speaking out against human rights violations in Turkey.

The report was drafted by the Journalists

and Writers Foundation mainly based on an analysis of the relevant international human rights law and the domestic legal framework, gathering of data from public sources, information obtained from victims in the country and abroad, their lawyers, activists on the ground and through monitoring open sources. When considered appropriate, in a few cases the Journalists and Writers Foundation decided not to reveal the identity of victims or the sources, in order to protect individuals against possible reprisals.

The report calls on the government of Turkey to fully comply with Turkey's obligations under its domestic legal framework and relevant international law. It also calls on the international community, in particular all neighboring states, to adhere to their domestic and international obligations, in accordance with the principle of non-refoulement.

The report considers all aspects related to the violation of the right to leave and refers to the origins of this right when relevant; however, it focuses in particular on the current situation and the developments in Turkey since the July 15, 2016, attempted coup.

The present report asserts that continuing violations of basic human rights by the government of Turkey must not be overlooked, in particular: extrajudicial killings, incitement to commit murder and impunity for acts of violence; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture and inhuman treatment; persecution of identifiable groups or collectively based on political, ethnic, or other grounds that are universally recognized as impermissible under international law; enforced disappearance of persons; and other inhumane acts of a similar character which are intentionally causing great suffering, or serious injury to body or to mental or physical health. All these violations of rights are forcing an increasing number of Turkish citizens from all walks of life to exercise their right to leave in order to seek international protection elsewhere.

A comprehensive analysis and any speculation on longer-term prospects and implications of the restrictions to the right to leave

Turkey or any other country is beyond the scope of this report. The report, however, argues that ignoring the plight of millions of Turkish citizens at risk grossly violates their right to international protection and will prove detrimental to the interests of justice and the interests of entire communities and different groups within Turkish society.

The present paper is dedicated to the memory of the members of Maden family (5) and Abdurrezzak family (3) who lost their lives while fleeing from Turkey to Greece. The Maden family (Hüseyin (40), Nur (36), Nadire (13), Bahar (10), and Feridun (7)) perished in the cold waters of Aegean Sea in November 2017. About three months later in February 2018, the Abdurrezzak family (Ayse Soyler (37), Halil Munir (3), and Abdulkadir Enes (11) drowned in the Meric (Evros) river while trying to exercise a basic right – their right to leave to avoid discrimination, unprecedented persecution, and most importantly, to be able to enjoy international protection from torture, inhuman or degrading treatment or punishment.

A brief account of their lives, achievements and finally their tragic end can be found in the last section of this paper. While their absence is already felt quite deeply – they shall not be forgotten!



(Maden Family: Feridun, Hüseyin, Nur, Nadire, Bahar) (Abdurrezzak Family: Abdulkadir, Ayse, Munir)

C. Structure of the report

The present paper, organized in eight parts, examines an array of important legal and practical matters related to the restrictions of the right to leave the country, including one's own, that arise out of the ongoing crackdown on dissent, following the attempted coup of July 15, 2016, in Turkey.

Part I (*above*) provides background information on the restrictions imposed on the exercise of the right to leave during the Cold War including a detailed information about the scope and structure of the report.

Part II discusses the right to leave one's own country, including the right to non-discrimination and the obligation of states to issue passports. This part examines the right to leave a country from the perspective of a right enshrined in international human rights law and as it has been interpreted by relevant decisions of the ECtHR, and United Nations human rights treaty bodies.

Part III discusses the right of individuals to leave the country of residence.

Part IV provides an analysis of the right to seek and enjoy protection/asylum.

Part V and **Part VI** discuss the current ramifications of the extensive restrictions placed on citizens in Turkey and abroad.

Part VII offers relevant recommendations to the government of Turkey, the governments of neighboring states and the international community.

Part VIII provides statistical data on the attempts to leave by Turkish nationals, including a non-exhaustive list of recent incidents in Turkey and neighboring countries, in violation of the right to leave the country and the right of individuals to international protection.

The Journalists and Writers Foundation is most grateful to all those who contributed to the report, many doing so at great personal risk for themselves and their families.



PART II THE RIGHT TO LEAVE ONE'S OWN COUNTRY



The right to leave the country was first set forth in Article 13.2 of the Universal Declaration of Human Rights: “Everyone has the right to leave any country, including his own, and to return to his country.”¹³ The right to leave was included in the different versions and articles of the draft-Declaration of the drafting committee – until in a final renumbered version was adopted without a vote¹⁴ by the United Nations General Assembly, on December 10, 1948.¹⁵

Following its enumeration as an important right under the Universal Declaration of Human Rights, the right to leave was given a specific form in Article 12.2 of the International Covenant on Civil and Political Rights (ICCPR): “Everyone shall be free to leave any country, including his own.” General Comment

No. 27 (1999) of the Human Rights Committee (CCPR) on Article 12¹⁶ provides guidance on the scope of Article 12.2, with the clarification that the “freedom to leave the territory of a State may not be made dependent on any specific purpose or on the period of time the individual chooses to stay outside the country.”¹⁷ Further to restrictions provided for in the Universal Declaration of Human Rights, Article 12, paragraph 3 of the ICCPR, also provides for exceptional circumstances in which rights under paragraphs 1 and 2 of Article 12 may be restricted. This provision authorizes the State to restrict these rights only to protect national security, public order (*ordre public*), public health or morals and the rights and freedoms of others. To be permissible, restrictions must be provided by law, must be necessary in a democratic society for the protection of these purposes and must be consistent with all other rights recognized by the ICCPR.

According to the Human Rights Committee, all restrictions of the right to leave must be narrowly interpreted. In General Comment No. 27, the CCPR warns that restrictions must not impair the essence of the right to leave and that the relationship of the norm to the exception must not be reversed. The law itself has to establish the conditions under which the rights may be limited. Restrictions which are not provided for in the law or are not in conformity with the requirements of article 12, paragraph 3, would violate the rights guaranteed by paragraphs 1 and 2.¹⁸

¹³Universal Declaration of Human Rights, Article 13. Accessible at <http://www.un.org/en/universal-declaration-human-rights/>

¹⁴The Universal Declaration on Human Rights as a whole was adopted with 48 votes in favor and 8 abstentions. Article 13 was adopted unanimously

¹⁵UNGA 183rd plenary session, U.N. Doc. A/PV.183, p. 933 (December 10, 1948). Available from: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/PV.183

¹⁶Freedom of movement

¹⁷Human Rights Committee General Comment No. 27, U.N. Doc CCPR/C/21/Rev.1/Add.9, para 8 (1999)

¹⁸*Id*, para 12

International Covenant of Political and Civil Rights



Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

In General Comment No. 27, the Human Rights Committee further noted that “Article 12, paragraph 3, clearly indicates that it is not sufficient that the restrictions serve the permissible purposes; they must also be necessary to protect them. Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected.”¹⁹ “The principle of proportionality has to be respected not only in the law that frames the restrictions, but also by the administrative and judicial authorities in applying the law. States should ensure that any proceedings relating to the exercise or restriction of these rights are expeditious and that reasons for the application of restrictive measures are provided.”²⁰

The right to leave a country is also enshrined

in very similar terms in other relevant UN human rights treaties which are in force in the Republic of Turkey, indicating both, the importance of the right to leave and the objective of coherence in its interpretation and application.

- The United Nations Convention on the Elimination of All Forms of Racial Discrimination (1966) provides for, in its Article 5, a prohibition on racial discrimination in the exercise of the right to leave one’s country. “In compliance with the fundamental obligations laid down in article 2 of the Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] (ii) The right to leave any country, including one’s own, and to return to one’s country.”

- The Convention on the Rights of the Child, in its Article 10.2, provides for the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) provides for the right to leave in its Article 8.1 - “Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect

¹⁹Human Rights Committee General Comment No. 27, U.N. Doc CCPR/C/21/Rev.1/Add.9, para 14 (1999)

²⁰Human Rights Committee General Comment No. 27, U.N. Doc CCPR/C/21/Rev.1/Add.9, para 15 (1999)

national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention.”

- The Convention on the Rights of Persons with Disabilities (CRPD) provides for the right to leave in its Article 18.1(c). - “States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities [...] (c) Are free to leave any country, including their own.”

- In addition to the core UN human rights treaties, two relevant protocols to the United Nations Convention against Transnational Organized Crime (2000), namely the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children²¹ and the Protocol Against the Smuggling of Migrants by Land, Sea and Air²² contain very important provisions related to the right to leave a country.

- The Declaration on the Human Rights of Individuals Who are Not Nationals of the Country in Which They Live²³ provides in its Article 5.2(a), for the right of aliens: *“Subject to such restrictions as are prescribed by law and which are necessary in a democratic society to protect national security, public safety, public order, public health or morals or the rights and freedoms of others, and which are consistent with the other rights recognized in the relevant international instruments and those set forth in this Declaration, [aliens] shall enjoy the following rights: (a) The right to leave the country.”*



Finally, Article 23 of the Turkish Constitution (Freedom of Residence and Movement) is formulated in very similar terms: *“Everyone has the right to freedom of residence and movement.”* As for the restrictions, initially, Article 23 provided for restriction of the right to leave the country also on account of civic obligations. With the amendments to the Constitution introduced in 2010, the ban placed on leaving the country on account of civic duties was removed. The restriction provision in the Constitution was narrowed down and amended as follows: *“A citizen’s freedom to leave the country may only be restricted on account of criminal investigation or prosecution depending on judicial decision”*. The obligation to obtain a judicial decision in order to restrict the freedom of movement was another positive development to the right to leave the country, aiming at prohibiting arbitrary restrictions.²⁴

Turkish Constitution (Article 23):
“Everyone has the right to freedom of residence and movement. A citizen’s freedom to leave the country may only be restricted on account of criminal investigation or prosecution depending on judicial decision.”

²¹The Protocol was adopted by resolution A/RES/55/25 of November 15, 2000 at the fifty-fifth session of the General Assembly of the United Nations and entered into force on 25 December 2003. As of November 2017, it has been ratified by 172 state parties

²²The Protocol was adopted by resolution A/RES/55/25 of November 15, 2000 at the fifty-fifth session of the General Assembly of the United Nations and has been ratified by 146 states parties

²³The Universal Declaration of Human Rights was adopted by the General Assembly Res. 40/144 of December 13, 1985

²⁴See for example: <http://newyork.cg.mfa.gov.tr/Mission/ShowAnnouncement/118412>

A. The right to non-discrimination

The right to non-discrimination in connection with the right to leave has proved to be very important in the past, in view of extensive and sometimes blanket restrictions preventing political and other dissidents from leaving the country. The violations of the right to leave in today's authoritarian Turkey²⁵ have occurred mainly because of discrimination on the basis of political and other opinions.

The Human Rights Committee in General Comment No. 27²⁶ says, "the application of the restrictions permissible under article 12, paragraph 3 of the ICCPR, needs to be consistent with the other rights guaranteed in the Covenant and with the fundamental principles of equality and non-discrimination. Thus, it would be a clear violation of the Covenant if the rights enshrined in article 12, paragraphs 1 and 2, were restricted by making distinctions of any kind, such as on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (paragraph 18). When authorities single out individuals, or groups of individuals prohibiting them to leave the country (or refusing them travel documents), the grounds for that behavior must be examined with heightened scrutiny, in order to ensure that the criteria used in each particular case do not discriminate on prohibited grounds.

In sum, blanket restrictions, which do not meet the test of "legality", or restrictions inconsistent with other rights enshrined in the Covenant (such as the anti-discrimination

guarantee provided for in article 26) are not permissible under article 12 of the ICCPR.

The discrimination on the basis of political and other opinion is particularly important to the subject of the present report.

B. The obligation of a state to issue passports

Article 12.2 of the ICCPR, which grants the right to leave one's country, means both that a state must issue passports and that it must avoid preventing its citizens from leaving.²⁷

So that the individual may use the rights guaranteed by article 12, paragraph 2, both the State of residence and the State of nationality have obligations they must fulfill.²⁸ The right to leave a country presupposes the right to obtain the legal documents necessary for international travel, and specifically a passport.



Since the State of nationality is responsible for the issuing of passports, if a State refuses to issue or renew a passport for one of its nationals who is normally or temporarily

²⁵Prohibited discrimination relating to the right to leave the country is discussed in Part

²⁶CCPR General Comment No. 27 is available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.9&Lang=en

²⁷<https://rm.coe.int/the-right-to-leave-a-country-issue-paper-published-by-the-council-of-e/16806da510>

²⁸See communication No. 106/1981, *Montero v. Uruguay*, paragraph 9.4; communication No. 57/1979, *Vidal Martins v. Uruguay*, paragraph 7; communication No. 77/1980, *Lichtensztejn v. Uruguay*, paragraph 6.1

resident abroad, the refusal also infringes the right of the individual to leave his or her country of residence and travel elsewhere.²⁹ The State cannot justify this infringement by arguing that its national may return to its territory without his or her passport.³⁰

The UN Human Rights Committee, in considering individual petitions under the ICCPR Optional Protocol, has considered Articles 12.2 and 12.3 several times concerning violations of political dissidents' right to leave, of a type being seen now in Turkey.³¹ The Committee has consistently upheld its General Comment No. 27 that if a State refuses to issue passports to its nationals, it breaches Article 12.2, and any state in breach of Article 12.2 is obliged to justify its action under Article 12.3 ICCPR.³²

The Human Rights Committee (CCPR) has, in addition, in the past been concerned with alleged violations of the right to leave in the context of political dissent, in striking similarities with the situation in today's Turkey. Several of the relevant Communications on the right to leave were submitted by Uruguay nationals against Uruguay in the late-1970s and early-1980s. As currently in the case of Turkey among others, the Uruguayan government had since 1973 practiced legislation by decree immune from constitutional review, no domestic remedies were available, and Uruguayan lawyers who brought cases against the government were systematically arrested.

In *Samuel Lichtensztejn v. Uruguay*,³³ Mr. Lichtensztejn was forced to flee to Mexico because of the crackdown on his professional and private life.³⁴ Uruguayan authorities in Mexico refused to renew his passport, giving no explanation for the refusal.³⁵ The Human Rights Committee in its decision found that Uruguay had violated article 12 of the International Covenant on Civil and Political Rights, because the author had been "refused the issuance of a passport without any justification, thus preventing him from fully enjoying the rights under article 12 of the Covenant."³⁶ In subsequent decisions on the right to leave, e.g. *Carlos Varela Nunez v. Uruguay*,³⁷ *Sophie Vidal Martins v. Uruguay*,³⁸ the Human Rights Committee arrived at similar conclusions. It is worth noting though that even if the CCPR refused to reach a decision on the alleged violation of Article 19 in *Lichtensztejn*,³⁹ when other ICCPR rights have at least arguably been violated by the state concerned, the Human Rights Committee will, it seems, assess more critically the state's behavior with regard to the right to leave.

C. Asylum seekers leaving Turkey with fraudulent documents

At a time when unauthorized or other irregular means are used by many Turkish asylum seekers, who are forced to use fraudulent doc-

²⁹See communication No. 57/1979, *Vidal Martins v. Uruguay*, paragraph 9

³⁰Human Rights Committee General Comment No. 27, U.N. Doc CCPR/C/21/Rev.1/Add.9, para 9 (1999)

³¹See e.g. Communication No. 77/1980, *Samuel Lichtensztejn v. Uruguay*

³²*Id*

³³The author was formerly Director and Dean of the Faculty of Economic Sciences and Administration and Rector of the University of the Republic of Uruguay

³⁴Selected decisions of the Human Rights Committee under the Optional Protocol (CCPR/C/OP/2), *Communication No. 77/1980, Samuel Lichtensztejn v. Uruguay*, para. 2.2, p. 102, available from: http://www.ohchr.org/Documents/Publications/SelDec_2_en.pdf

³⁵*Id*, para 2.3

³⁶*Id*, para 8.3

³⁷Subject matter: Revocation of passport

³⁸Subject matter: Refusal of issuance of passport

³⁹Right to freedom of expression

uments to leave Turkey, an important question arises, namely whether states can legitimately prosecute asylum seekers for knowingly using fraudulent documents.

Under international law, asylum claims must not be considered on the basis of the applicant's means of entry but on the substantive merits of his or her claim. In practical terms, this means that all persons, including smuggled migrants and trafficked persons, are to have the opportunity and to be provided sufficient information to be able to make a claim for asylum or to present any other justification for remaining in the country of destination on the basis of those substantive merits. In spite of this important rule, many States penalize applicants for unlawful entry, use of false travel documents, and similar strategies to leave their own country and gain entry to another. Such penalties are often a breach of asylum applicants' rights in procedures to ascertain refugee status. In fact, a claim for refugee status can be made on the basis of having been trafficked under the Guidelines on international protection issued by UNHCR in 2006: The application of article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked (UNHCR Trafficking Guidelines). According to these guidelines, although not all victims of trafficking can be defined as refugees and being a trafficking victim is not in itself a valid

ground for claiming refugee status, nevertheless, some trafficked persons may qualify for refugee status if the acts of the traffickers amount to persecution for one of the reasons contained in the definition of the 1951 Convention and the State does not provide effective protection.⁴⁰

In addition, although article 6 of the Protocol Against the Smuggling of Migrants requires states to take necessary measures within their domestic legal systems to criminalize the behavior of parties involved in the smuggling of migrants and sets out aggravating circumstances for crimes under the Protocol, Article 5 expressly excludes from criminal liability migrants "for the fact of having been the object of conduct set forth in article 6 of this Protocol."⁴¹ Thus, states cannot legitimately prosecute migrants when they leave their own states with documents that they know to be fraudulent assuming that the facts and circumstances would position the migrants to be otherwise persecuted. Furthermore, according to the *travaux préparatoires*, Article 6(1) (b) "was adopted on the understanding that subparagraph (ii) would only apply when the possession in question was for the purpose of smuggling migrants as set forth in subparagraph (a). Thus, a migrant who possessed a fraudulent document to enable his or her own smuggling would not be included."⁴²

⁴⁰OHCHR, *Human Rights and Human Trafficking*, Fact Sheet No. 36, p. 52, available at: http://www.ohchr.org/Documents/Publications/FS36_en.pdf

⁴¹See Protocol Against the Smuggling of Migrants, Article 6

⁴²According to the *travaux préparatoires* to the Palermo Protocol, the "victims of trafficking in persons may enter a State legally only to face subsequent exploitation, whereas in cases of smuggling of migrants, illegal means of entry are more generally used." GAOR, Report of the Ad Hoc Committee on the Elaboration of a Convention Against Transnational Organized Crime on the Work of its First to Eleventh Sessions, 55th Sess., Addendum, Interpretative Notes for the Official Records (Travaux Préparatoires) of the Negotiation of the United Nations Convention Against Transnational Organized Crime and the Protocols Thereto (Travaux Préparatoires), U.N. Doc. A/55/383/Add.1, at 14, para. 79 (2000), available at http://www.undoc.org/pdf/crime/final_instruments/383a1e.pdf

PART III

THE RIGHT TO LEAVE THE COUNTRY OF RESIDENCE

The right to leave a country of which one is not a citizen is fully protected under the Universal Declaration of Human Rights and international human rights treaties. Article 13.2 of the Universal Declaration of Human Rights makes it clear that the right to leave a country is not limited to citizens, it actually extends to anyone and everyone no matter where an individual resides.

Article 12.2 of the International Covenant on Civil and Political Rights provides for the right of foreigners, persons lawfully or unlawfully present in a territory of a state party to the ICCPR, to leave the country. In its General

Comment No. 27, the Human Rights Committee provides some further clarification on its interpretation of Article 12, paragraph 2, on the destination of the aliens after leaving a country: “As the scope of article 12, paragraph 2, is not restricted to persons lawfully within the territory of a State, an alien being legally expelled from the country is likewise entitled to elect the State of destination, subject to the agreement of that State.”

In its General Comment 15 on the position of the aliens under the Covenant, the Human Rights Committee clarifies that “Once an alien is lawfully within a territory, his freedom of movement within the territory and his right to leave that territory may only be restricted in accordance with article 12, paragraph 3. Differences in treatment in this regard between aliens and nationals, or between different categories of aliens, need to be justified under Article 12, paragraph 3. Since such restrictions



Protest demonstration outside the Karachi Press Club for the recovery of the Kaçmaz family, who were recently kidnapped in Lahore and taken away to an unknown location. Photo: Fahim Siddiqi / White Star

must, inter alia, be consistent with the other rights recognized in the Covenant, a State party cannot, by restraining an alien or deporting him to a third country, arbitrarily prevent his return to his own country (art. 12, para. 4).⁴³

In summary, based on the interpretation of the right to leave in the Covenant contained in General Comment 15 and 27, it can be concluded that in the view of the Human Rights Committee:

1. The choice of the country to which an alien could leave is up to the individual, subject to the approval by the country of destination.

2. If the only country the individual may travel is the country of his/her citizenship and that person has a reasonable fear of persecution, or there is a real risk of torture or ill-treatment there, then he or she cannot be forced to travel there. The individual is then entitled to international protection where he/she is present.

3. In case an individual has been already expelled from a country to another country of which he/she is not a citizen, the person still has the right to leave from the country he/she is present.

The right to leave the country of residence, applicable to thousands of Turkish citizens abroad is discussed in Part VI.

PART IV

THE RIGHT TO SEEK AND ENJOY PROTECTION/ASYLUM

The 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol further provide for the definition of the refugee status. Pursuant to the Convention, the right to seek and enjoy asylum pertains to refugees defined under its Article 1 as “[a] person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”⁴⁴

The protection granted to the refugee means, both in theory and practice, a guarantee that he or she will not be sent back to the country where he or she would be subject to persecution.

The 1984 United Nations Convention against Torture extends the *non-refoulement*⁴⁵ obligation for states to anyone who is at risk of torture. Article 3.1 of the European Convention on Human Rights provides for the following: “No State Party shall expel, return (‘re-



COMMITTEE
AGAINST TORTURE
UNITED NATIONS

⁴³CCPR General Comment No. 15, paragraph 8, April 11, 1986

⁴⁴<http://unhcr.org.ua/en/who-we-help/2011-08-26-06-55-36>

⁴⁵*Non-refoulement* represents a fundamental principle in international law, which forbids a country receiving asylum seekers from returning them to a country in which they would be in likely danger of persecution based on “race, religion, nationality, membership of a particular social group or political opinion”



Photo: Morocco World News

The right to seek and enjoy asylum is deeply embedded in the international human rights system. The right first appears in the 1948 Universal Declaration of Human Rights, Article 14.1, which reads: “Everyone has the right to seek and to enjoy in other countries asylum from persecution.”

fouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.” This prohibition is absolute and does not admit any exception.

Interpreting Article 3 of the Convention,⁴⁶ the European Court of Human Rights (ECtHR) has emphasized its fundamental nature in prohibiting torture in “absolute terms [...] irrespective of a victim’s conduct”.⁴⁷ According to the Court, this also entails that states cannot deport or extradite individuals who may be subjected to torture, inhuman or degrading treatment or punishment, in the state to

which they are to be deported.⁴⁸

Refugee recognition is, however, possible only once the applicant is outside his or her country of origin. As long as an individual is still within his or her state of origin or habitual residence, then he or she cannot be recognized as a refugee under the 1951 Convention relating to the Status of Refugees. Along the same lines, a person who fears torture cannot be granted and receive international protection if he or she is still in his or her country of origin or habitual residence. The individual seeking asylum must necessarily cross an international border into another country, in or

⁴⁶Article 3 of the ECHR prohibits torture and “inhuman or degrading treatment or punishment”. There are no exceptions or limitations on this right

⁴⁷See e.g. *Chahal v. United Kingdom* (1997) 23 EHRR 413

⁴⁸Id, see also *Soering v. United Kingdom* (1989) 11 EHRR 439

der to be able to seek and enjoy asylum and protection from *refoulement*.

Key to the right to seek and enjoy asylum and to be protected from *refoulement* is the right of people to leave their countries. Until they have done so they cannot be recognized as refugees, but only as internally displaced persons. The right to international protection arises only once the individual has crossed an international border. This is why the right to leave one's country is fundamental to the right to international protection.

Thus, there is clearly a protection gap between the right to leave because of persecution or torture and the obligation of states parties to comply with their respective obligations under the Refugee Convention and the Convention against Torture, namely not to *refouler* individuals at risk. As long as oppressive regimes implement restrictive measures to prevent individuals from leaving the state of origin, the situation arises that notwithstanding the risk of, *inter alia*, torture and repression, refugees practically do not "exist". This issue will be discussed more in-depth in Section V below.

Across the border, a concern of another nature, shared by different stakeholders, including the UN High Commissioner for Refugees is evident. Many states, at least in Europe are exploiting the above gap in order to avoid their protection obligations.

Reacting to those concerns, on January 7, 2011, the UN High Commissioner for Refugees issued a briefing note on the right to flee emphasizing the following: "We are concerned whenever states propose measures that aim at preventing irregular migrants from entering their territory without simultaneously putting concrete guarantees in place for those seeking international protection."⁴⁹ Referring

to the specific situation at the Greek-Turkish border the High Commissioner underlined that: *"While every State has the right to control its borders, it is clear that among the many people crossing Turkey toward the European Union, there are a significant number who are fleeing violence and persecution. Establishing border control mechanisms which are sensitive to the needs of people seeking protection is therefore vital."*

The particular issue that the High Commissioner was addressing, which is still highly relevant, was the right to leave and the introduction by state authorities of measures and restrictions aimed at preventing individuals fleeing persecution and torture from arriving at their borders or entering their territory.

In addition to restrictive measures by states of origin and destination states, there are three other state border control practices which are important to the right to leave one's country to flee persecution.⁵⁰ The **first** comprises practices which make entry to the



António Guterres, Former High Commissioner for Refugees (Photo: Yoshiaki Miura)

⁴⁹UN High Commissioner for Refugees, As states increase border controls, UNHCR calls for sensitivity for those fleeing persecution, January 7, 2011. Available at www.refworld.org/docid/4d2ac6962.html, accessed on November 30, 2017

⁵⁰"The right to leave a country," Issue Paper by the Council of Europe Commissioner for Human Rights (October 2013), p. 26-27

destination country difficult for those fleeing persecution. First among these is an obligatory entry visa. So, for example, the majority of countries whose citizens apply for international protection in the EU member states, and this includes Turkish citizens, are on the EU's visa black list. This means that these persons must obtain visas before traveling to the EU or otherwise arrive irregularly. The **second** border-control practice which prevents people from fleeing to apply for international protection is the practice of sending immigration liaison officers to third states to identify persons who should not be permitted to board planes to arrive in the state for which the liaison officer works. This is done in conjunction with airlines. The **third** practice is the construction of physical blockades, including fences and walls, by states wishing to prevent asylum seekers from entering.

During the third quarter of 2017 there were 4,240 first-time applicants from Turkey for international protection in the EU member states; 2,380 (56%) individuals sought asylum in Germany, 705 (17%) in Greece, 265 (6%) in France, 145 (3%) in the United Kingdom and the rest (545 (13%)) in other EU member states.⁵¹

A. Council of Europe Guarantees

The European Convention on Human Rights does not contain any specific provision regarding refugees. Article 3 of the Convention however prohibits torture, inhuman or degrading treatment or punishment. The jurisprudence of the Court has interpreted Article 3 consistently with developments in international

human rights law as not only prohibiting the practice of torture and other ill-treatment, but also the return of a person to any country where there is a real risk that he or she would be subjected to torture, inhuman or degrading treatment or punishment that falls in the ambit of Article 3 of the Convention.⁵² Similar to the relevant obligations under the UN Torture Convention, this means that Council of Europe states are prohibited from sending someone to a country where there is such a risk.

On February 23, 2012, the Grand Chamber of the ECtHR adopted a judgment in a case where Italy had practiced a form of interdiction, by collecting people on the high seas and returning them to Libya.⁵³ The Court ruled that this violated Article 3 of the Convention both because the applicants were at risk of ill-treatment in Libya and because the applicants were at risk of being repatriated to Somalia and Eritrea. The Court also found a violation



The European Convention on Human Rights prohibits the practice of torture and other ill-treatment as well as prohibiting the return of a person to any country where there is a real risk that he or she would be subjected to torture, inhuman or degrading treatment or punishment.

⁵¹Asylum quarterly report, Figure 2, Table 5, (December 12, 2017), available from: http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report

⁵²*Soering v. United Kingdom* (1989) 11 EHRR 439

⁵³*Hirsi Jamaa and Others v. Italy*, Application no. 27765/09, Council of Europe: European Court of Human Rights, February 23, 2012, available at: <http://www.refworld.org/cases,ECHR,4f4507942.html> [accessed Dec. 10, 2017]

of Article 4 of Protocol No. 4 to the Convention (the prohibition on collective expulsion) and a violation of the right to an effective remedy (Article 13) in respect of Article 4 of Protocol No. 4 to the Convention.⁵⁴

Other provisions of the European Convention on Human Rights are also relevant to the right of individuals to enter and remain in a state because of their fear regarding their treatment in their country of origin. Article 2, which guarantees the right to life, is engaged in the same manner as Article 3 where there is a risk of extrajudicial killing and following the entry into force of Protocol No. 13 to the Convention, where there is a risk of the death penalty.⁵⁵ Similarly, Article 6, which protects the right to a fair trial in criminal and civil proceedings may be a bar to sending someone to a country where he or she would be subject to trial where the evidence is tainted by torture.⁵⁶

B. European Union Guarantees

At the European Union level, the European Union gave legally binding force to its Charter of Fundamental Rights in December 2009. The Charter includes two provisions which provide protection to people fearing expulsion from an EU state. The first, Article 18, creates a right to asylum with due respect to the Refugee Convention. The Court of Justice of the European Union has, on a number of occasions, made reference to this article. Secondly, Article 19 not only prohibits collective expulsion but also prohibits the removal, expulsion or extradition of a person to any country where there is a serious risk that he or she would be subject to the death penalty, torture or other inhuman or degrading treatment or punishment.⁵⁷

PART V THE WITCH-HUNT IN TURKEY

A. Resmi Gazete or “Turkey’s purge lists”

In April 2017, the New York Times Magazine reported that the Turkish government-run website called *Resmi Gazete*, or Official Gazette had been transformed from the official information outlet for the publication of bills passed by the Turkish Parliament into a “site of lists - that of the names of the first thousands of those who would eventually be purged from government ministries, schools, courts, universities, nongovernmental organizations, police departments, military battalions, hospitals and banks.”

The lists are usually released after midnight, Turkish citizens check the names online, and the news spreads rapidly via Twitter and Facebook. This is how many people learn that they have lost their jobs, their pensions, and their passports, and this information is available to the public so the victims, their extended families and even their children are instantly blacklisted and ostracized.



⁵⁴“The right to leave a country,” Issue Paper by the Council of Europe Commissioner for Human Rights (October 2013), p. 30

⁵⁵See also the section below on the issue of death penalty in Turkey

⁵⁶See e.g. *Othman (Abu Qatada) v. The United Kingdom*, Application no. 8139/09, Council of Europe: European Court of Human Rights, January 17, 2012, available at: <http://www.refworld.org/cases,ECHR,4f169dc62.html> [accessed December 10, 2017]

⁵⁷“The right to leave a country,” Issue Paper by the Council of Europe Commissioner for Human Rights (October 2013), p. 30

Extraordinarily, as the New York Times Magazine points out, “The lists aren’t just of people. Entire organizations, however innocuous seeming, show up on them: the Holistic and Alternative Medical Foundation, the Love Trees Protect Forests Live Humanely Foundation, the Gastrointestinal Oncology Foundation, to name just a few. Many of these are not Gulenist but Kurdish or leftist. If it seems as though Turkey’s purge lists are touching every part of its society, that’s because they are.”⁵⁸

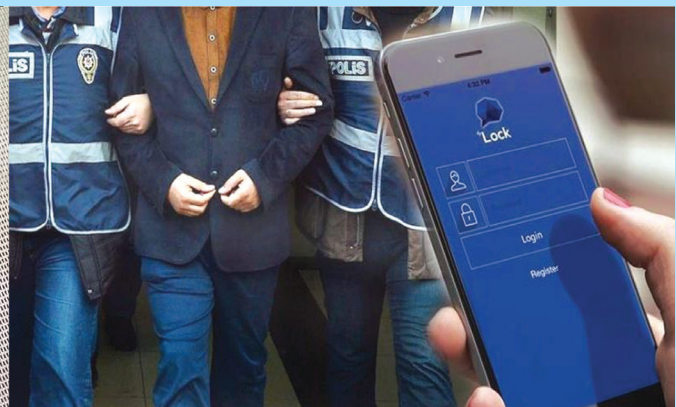
B. Dismissals of public officials

Article 4 (1) of Decree Law No. 667 of July 23, 2016, the first in a series of subsequent Decree Laws orders the dismissal of public servants “who are considered to be a member of, or have relation, connection or contact with terrorist organizations or structure/entities, organizations or groups, established by the National Security Council as engaging in activities against the national security of the State”. Public officials are dismissed by decision of the

relevant administrative entities and officials. Judges are dismissed on the same grounds by virtue of Article 3 (1) by decisions of the relevant judicial bodies (top courts and the High Council for Judges and Prosecutors-HCJP).

The scale of Turkey’s purge in the aftermath of the July 15, 2016, has been nearly unprecedented. Through monitoring government decrees and other reports from official sources, by the end of November 2017 Turkey Purge⁵⁹ reported on 146,713 dismissals and 128,998 detentions.

What are the criteria for the hundreds of thousands of dismissals? How are they determined? On September 3, 2016, the daily Milliyet newspaper revealed a shocking non-exhaustive “list of 16 criteria” used to “guide” the dismissals. According to the published article,⁶⁰ “people “fitting” these criteria in varying degrees are subjected to official processes. According to the article, “the government allegedly emphasized that the aim of preparing such a list was to discern the guilty from the innocent.”



⁵⁸The New York Times Magazine, *Inside Turkey’s Purge*, April 13, 2017, available at https://www.nytimes.com/2017/04/13/magazine/inside-turkeys-purge.html?_r=0

⁵⁹A monitoring group tracking the purge and exposing human rights abuses through an online platform

⁶⁰The article is available at: <http://www.milliyet.com.tr/16-kritere-gore-ihrac-gundem-2305561/>

The criteria listed in the article are the following:

1. Investing money in Bank Asya (a legally operating bank until was closed down by the government in 2016), and in other financial institutions of the so-called “parallel structure”.
2. Being a member of Hizmet-related trade unions or associations.
3. Using encrypted communication applications such as the ByLock application.
4. Donating to Kimse Yok Mu, once the largest Turkish aid organization.
5. Being mentioned in reports produced by the police, MIT (The National Intelligence Organization of Turkey) and MASAK (The Financial Crimes Investigation Board of Turkey)
6. Giving support to Hizmet on social media.
7. Attending lectures and meetings of the organization “under the guise of non-governmental organizations.”
8. Being promoted in a short span of time or being assigned to prominent offices exceptionally.
9. Transferring money to the organization under the guise of himmet (alms).
10. Being subject to reliable denunciations, testimonies and confessions.
11. Visiting Hizmet-linked Internet sites regularly.
12. Undertaking the “back-door businesses” of Hizmet-linked corporations and protecting them.
13. Accompanying the people in the judiciary and the police, who are determined to act in favor of the organization.
14. Supporting Hizmet in the last years after having resided in houses of the organization.
15. Being mentioned in the information given by colleagues and friends as Hizmet supporter
16. Continuing to enroll their children in the organization’s schools and maintaining the organization’s newspaper and magazine subscriptions.

Reporting in April 2017, The New York Times Magazine noted in relation to being accused of belonging or supporting the Gülen



Movement that “At present, several pieces of evidence can suggest that you may be a member of FETO,⁶¹ including having had an account at Bank Asya, which was founded by Gulenists; running the ByLock encrypted communication app on your phone (thought to have facilitated planning for the coup attempt); possessing those F-series dollar bills; sending your children to a school associated with Gülen; working at a Gülen-affiliated institution (a university, say, or a hospital); having subscribed to the Gülen newspaper Zaman; or having Gülen’s books in your house.”⁶²

⁶¹“Pro-Fetullah [Gulenist] Terrorist Organization (FETÖ/PDY), a derogatory term used by government circles to refer to the Hizmet/Gülen movement.

⁶²BBC News, Turkey arrests 1,000 in raids targeting Gulen suspects, April 26, 2017. Available at: <http://www.bbc.com/news/world-europe-39716631>

C. Cancellation and non-issuance of passports

In the aftermath of the coup attempt, UN Secretary-General Ban Ki-moon urged Turkish authorities to do their utmost to ensure that the constitutional order and international human rights law are fully respected in line with Turkey's international obligations, including freedom of expression, *freedom of movement* and peaceful assembly, independence of the judiciary and of the legal profession, right to fair trial, and strict adherence to due process.⁶³

Since the attempted coup of July 15, 2016, the Turkish authorities have increasingly resorted to the arbitrary deprivation of citizenship, denial of important consular services and cancellation of passports, as a means to punish dissent and retaliate against human rights defenders, teachers, academics and journalists in the country and exile.

In a report⁶⁴ published on May 22, 2017, Amnesty International echoed the question - Are dismissed public officials left to civil death? [...] 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."

The New York Times Magazine noted in April 2017 that it has become a common feature that freedom of movement i.e. trying to leave Turkey, has been curtailed: "People become aware of their imminent detention or arrest and try to catch a foreign flight, only to

have their passports seized or canceled before they can board the plane. Even those who have not been labeled members of a terrorist organization or been accused of trying to kill Erdoğan have arrived at the passport line and been made to wait while a clerk calls someone and reads their Turkish ID number over the phone to confirm that they are allowed to leave the country."⁶⁵

Decree No. 667, the first decree under the State of Emergency, published in the Official Gazette on July 23 [2016] provides in its Article 5 for the cancellation of passports of all those subjected to administrative acts, criminal investigation and prosecution, in clear violation of international human rights law and Article 23 of the Turkish Constitution. By December 2017, the authorities revoked 234,419 passports since the attempted coup of July 15, 2016.⁶⁶

The Council of Europe Commissioner for Human Rights raised [on July 26, 2016] serious concerns with regards to Decree KHK/667,⁶⁷ including the provisions in Article 5 regarding the automatic cancellation of passports of persons being investigated or prosecuted, without any court order. On September 1 [2016], an amendment to the decree extended this power, enabling the authorities to cancel or confiscate the passports of spouses and partners of those under investigation.⁶⁸ Article 10(2) of KHK 673 reads as follows: "The following Paragraph has been added to Article 5 of the Decree-Law No. 667: "(2) The passports held by the spouses of persons, whose names

⁶³Turkey: *In call with Foreign Minister, Ban seeks update on current probe into attempted coup*, July 27, 2016, Available at: <http://www.un.org/apps/news/story.asp?NewsID=54572#.WiBjbhNSzFY>

⁶⁴Amnesty International, "No end in sight, Purged public sector workers denied a future in Turkey", May 2017

⁶⁵The New York Times Magazine, *Inside Turkey's Purge*, April 13, 2017. Available at: https://www.nytimes.com/2017/04/13/magazine/inside-turkeys-purge.html?_r=0

⁶⁶Turkish interior minister: 55,665 jailed, 234,419 passports revoked since coup attempt, available at: <https://turkeypurge.com/turkish-interior-minister-55665-jailed-234419-passports-revoked-since-coup-attempt>

⁶⁷<https://www.coe.int/en/web/media-freedom/-/commissioner-statement-on-measures-taken-under-the-state-of-emergency-in-turkey>

⁶⁸Human Rights Watch, Turkey, *State of emergency provisions violate human rights and should be revoked*, - Joint NGO Letter, October 20, 2016

are notified to the relevant passport unit under Paragraph 1, may also be cancelled by the Ministry of Interior on the same date where it is considered as detrimental in terms of general safety.”⁶⁹

In this regard, the government of Turkey has not offered any argument for as to why seizing the passports of those dismissed through administrative acts are necessary to protect national security and the public order. In addition, *justifying* the restrictions on the freedom of movement to family members through what decree-law 673 describes as - “detrimental in terms of general safety” - does certainly not meet the standards of the Human Rights Committee, as provided for in its General Comment No. 27.

Cancellation of passports of family members raises other serious concerns on ‘guilt through association’. Following his visit to Turkey in September 2016, the CoE Commissioner found that “A series of measures of particular concern to the Commissioner are those which target directly or are liable to affect family members of suspects in an automatic fashion. In addition to the evictions, termination of lease agreements and freezing of assets of the said suspects, which are likely to create unnecessary hardship and victimization for family members, the Commissioner noted other measures of an administrative nature, such as the possibility for annulling passports of spouses of suspects who are themselves not under investigation and the unlimited access by administrative authorities to the personal

data of family members of suspects.” This approach according to the Commissioner raised extremely serious concerns with regard to Article 8 of the ECHR. The Commissioner further expressed his concern that such measures will inevitably fuel the impression of ‘guilt by association’, already voiced by many of his interlocutors. In the opinion of the Commissioner, any measure treating family members of a suspect also as potential suspects should not exist in a democratic society, even during a state of emergency.”⁷⁰ Similar concerns were also expressed by different human rights bodies, including the UN Special Rapporteur on the right to freedom of opinion and expression, other special procedure mandate-holders and UN human rights treaty bodies.⁷¹

In a report published in May 2017, Amnesty International detailed the plight of dismissed public officials in several interviews with the victims. An academic dismissed from Kocaeli University told Amnesty International: “We had no idea that our passports had been cancelled, one of the other dismissed academics from the university was detained while going through passport control at the airport. After that we got our lawyer to check - apparently all of our passports have been cancelled.”⁷²

Passport cancellations apply to both the green passports available to senior public-sector employees in place of an ordinary passport and to ordinary passports. Applications for new passports by dismissed people, after their existing passports had been cancelled, have been routinely refused by the authori-

⁶⁹Decree with the force of law No. 673, Article 10(2), September 1, 2016. Available from: <http://www.turkishpedia.com/2017/01/25/decreewith-force-of-law-no-khk-673-english/>

⁷⁰Council of Europe Commissioner for Human Rights, Memorandum on the human rights implications of the measures taken under the state of emergency in Turkey, October 6, 2016, Sanctions affecting persons other than the suspects, paragraph 41, p. 8

⁷¹See UN Special Rapporteur on the right to freedom of opinion and expression, Preliminary conclusions and observations by the UN Special Rapporteur on the right to freedom of opinion and expression to his visit to Turkey 14-18 November 2016, November 18, 2016

⁷²Amnesty International, “No end in sight, Purged public sector workers denied a future in Turkey” (May 2017), p. 15

ties. Difficulties were also reported by those who had managed to leave the country. An academic who left Turkey prior to being dismissed told Amnesty International that the Turkish Embassy in Berlin refused to provide consular services to her or other dismissed public-sector workers, without explanation.⁷³

D. Severe political repression

It is generally accepted that four devastating, yet incomparable events for Turkey – the Gezi Park protests⁷⁴ in 2013, the corruption scandal of December 2013, the collapse of peace negotiations in July 2015 and finally, the July 2016 attempted coup respectively – encouraged the intensification of hostilities in the south-east and the crackdown on dissent, in particular against the Hizmet Movement and its members or alleged members. These events triggered the Turkish government’s extreme sense of threat from domestic and foreign “enemies”. Its assault on state and civil society institutions, particularly against the media and academia, goes far beyond anything reasonable.

Using emergency powers adopted after the attempted coup, on September 1, 2016 the government adopted a Decree-Law (KHK/674)⁷⁵ enabling it to appoint “trustees” in lieu of elected mayors, deputy mayors or members of municipal councils suspended or arrested on terrorism charges. Between July 22, 2015, and March 27 [2017], 8,930 members of Peoples’ Democratic Party (HDP) were detained and 2,782 party members have been imprisoned, including three (3) women governors. 494 HDP offices have been attacked; burned or vandalized, including the party headquarters. HDP rallies were attacked and law enforcement’s support for these attacks have been

widely documented, even on social media.⁷⁶

In the early hours of November 4, 2016, the Turkish police arrested 12 lawmakers (8 women) from the Kurdish Peoples’ Democratic Party (HDP), including its co-chairs,



Gezi Park Protests (2013)



Media Protests (2016)



Failed Coup (2016)

⁷³Id, p. 15

⁷⁴More information on Gezi Park protests is available at: <https://www.amnestyusa.org/files/eur440222013en.pdf>

⁷⁵[http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2016\)061-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2016)061-e)

⁷⁶Mehmet Yuksel, Testimony before the U.S. House Committee on Foreign Affairs, Hearing: “Turkey’s Democracy Under Challenge,” Washington D.C., April 5, 2017

Selahattin Demirtaş and Figen Yüksekdağ, on a range of “terrorism”-related charges. Investigations were also initiated against 54 out of 59 MPs from the HDP, the third largest party in Turkey’s Parliament. Parliamentary immunity



of 55 out of 59 HDP MPs was lifted, in a step clearly seen as enabling the prosecution of the party’s MPs.

By the end of November 2016, the Democratic Regions Party (DBP)⁷⁷ co-chair reported that from September to November 2016, 700 party officials had been arrested, along with 42 DBP municipal co-chairs. By the end of 2016, 69 municipal co-chairs of the pro-Kurdish Democratic Regions Party (DBP) had been arrested, 58 had been dismissed and most had been replaced with “trustees” in 50 municipalities,⁷⁸ or around 50 percent of all municipalities held by DBP.

In April 2017, the situation further deteriorated: “At the 84 municipalities run by the pro-Kurdish Democratic Regions Party (DBP), 88 co-mayors and 6 deputy co-mayors were dismissed and replaced by state appointed trustees. The mayors and co-mayors are currently under arrest. These mayors and co-mayors were all democratically elected by the people with overwhelming majority. Around 10,000 municipality and humanitarian employees of Kurdish origin have been suspended from their positions. The government has also been confiscating the monetary assets of people they remove from their positions.”⁷⁹

Following the visit to Turkey in November

2016, the UN Special Rapporteur on the right to freedom of opinion and expression [David Kaye] highlighted in his preliminary conclusions⁸⁰ and the report⁸¹ that “several HDP leaders have been imprisoned on the basis of emergency decrees, while they also face Ministry of Interior charges of making false propaganda. 117 investigations have been initiated recently in addition to 683 existing cases. 500 cases belong to HDP and members of parliament of HDP. The co-chairs of the HDP alone face 103 cases. Since the attempted coup, approximately two thousand members of the HDP have been detained.”



Mr. David Kaye, UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression

The state of emergency has now removed the few remaining legal safety nets and brought arbitrary governmental decision-making to new unprecedented heights. In the aftermath of the attempted coup, individuals, in particular those who are accused of Hizmet (Gülen) links, are stripped of all legal recourse against such arbitrary measures based on the denial of access to a lawyer during police custody, prolonged pre-trial detention, criminalization of dissent and ill-treatment of detain-

⁷⁷DBP is a Social Democratic Kurdish political party

⁷⁸<http://www.hdp.org.tr/en/english/statements/ongoing-detentions-and-arrests-against-hdp/9717>

⁷⁹Mehmet Yuksele, Testimony before the U.S. House Committee on Foreign Affairs, Hearing: “Turkey’s Democracy Under Challenge,” Washington D.C., April 5, 2017.

⁸⁰A/HRC/35/22/Add.3., June 7, 2017

⁸¹<http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Visits.aspx>

ees. Tens of thousands of women, including housewives, journalists, teachers, academics, physicians, health care professionals and businesswomen, have been detained in the aftermath of the attempted coup, for allegedly having links to the Hizmet Movement. Credible evidence indicates that many of the detained women in the aftermath of the coup attempt have been routinely subjected to torture and ill-treatment. Many appear to have also been sexually assaulted.

Individuals detained as part of the government crackdown on the Gülen Movement continue to be subjected to what has been regularly described as systematically perpetrated ill-treatment and torture, in places where individuals are deprived of their liberty – as pointed out *inter alia* by UN human rights bodies and mechanisms, as well as civil society organizations. Most alarmingly, in past months since the attempted coup in Turkey, independent reports have documented more than 90 suspicious deaths officially ruled as suicide,⁸² while many other individuals have been subjected to enforced disappearance.⁸³

According to official sources, by mid-December [2017], 55,665 individuals had been arrested in operations against the Gülen/Hizmet Movement.⁸⁴

Lawyers, family members and human rights activists have disclosed to the Journalists and Writers Foundation serious allegations of discrimination and ill-treatment of women during pregnancy, childbirth and in particular the postpartum period. Cases of discrimination and alleged ill-treatment range from arrest of pregnant women, women in labor taken into custody, denial of medical services and deten-

tion/arrest of women during the postpartum period.

Most alarming, hundreds of women, children and elderly are among approximately 1,200 local residents summarily killed between July 2015 and December 2016, in the context of security operations in South-East Turkey. Women, children and elderly also constitute the majority of those reported internally displaced persons (IDPs) in South-East Turkey, estimated between 355,000 to half a million people, mainly citizens of Kurdish origin.⁸⁵

Persecution of women through the abuse of the criminal justice system targets all age groups, from as young as 18 to 86 years of age, aiming mainly at creating an atmosphere of fear and intimidation which could facilitate the government's widespread and systematic crackdown on political and other dissent. Most of the persecution targets a highly-educated segment among women that includes professionals ranging from academics, teachers, doctors, judges and prosecutors. Increasingly women are also taken into custody only for the purpose of "convincing" their husbands fleeing persecution to either turn themselves in to police or once in custody to sign false testimonies.

E. Inflammatory rhetoric and hate speech targeting Hizmet Movement

President Erdogan and his political allies have, in recent years, ramped up their use of xenophobic and intolerant language and hate speech. They have deliberately deepened division and polarization within Turkey for their own short-term political advantage. This is damaging to the social cohesion, pluralism and integrity of Turkish society, as well as threat-

⁸²More details on the victims available from: <http://stockholmcf.org/suspicious-deaths-and-suicides-in-turkey-updated-list/>

⁸³For more please see: <https://turkeypurge.com/forced-disappearance-tracking>

⁸⁴Turkish interior minister: 55,665 jailed, 234,419 passports revoked since coup attempt, available at: <https://turkeypurge.com/turkish-interior-minister-55665-jailed-234419-passports-revoked-since-coup-attempt>

⁸⁵OHCHR, *Report on the human rights situation in South-East Turkey*, July 2015 to December 2016, para 14

ening fundamental human rights and liberties and politicizing state institutions. The pattern of hate speech, directed particularly at Hizmet Movement participants has resulted in mass persecution, unparalleled by anything in the recent history of Turkey.



Research⁸⁶ by the Stockholm Center for Freedom (SCF) has documented over 240 different pejorative terms used as hate speech about the Hizmet Movement.⁸⁷ This hate speech has also served as self-justification for human rights abusers and those who torture prisoners in detention centers and prisons. The many cases of torture that have been verified by human rights organization demonstrate that Erdoğan's demonization of the whole Hizmet movement has thoroughly permeated the attitudes and behavior of law enforcement officers.

President Erdoğan and his government have gone to the extreme many times by declaring that Hizmet Movement members do not have a right to life. He repeatedly publicly discusses the idea of reinstating the death penalty specifically for the members of the Hizmet Movement.⁸⁸

F. Stigmatization and discrimination

In its Opinion on Emergency Decree Laws Nos. 667-676,⁸⁹ adopted following the failed coup of July 15, 2016, the Venice Commission outlined the main concerns related to the current constitutional situation in Turkey among which it pointed out several discriminatory features that disproportionately affect the dismissed individuals. Firstly, using its emergency powers, the government has dismissed tens of thousands of public servants. Although the lists appended to the emergency-decree laws name particular individuals, no individualized reasoning is presented for the dismissal of any person. As such the dismissals are a collective punishment. In addition, there is no due process, so public servants, for example, are not permitted access to a normal disciplinary procedure which would allow them to defend themselves against accusations, challenge disciplinary action, or prevent their dismissal.

These collective dismissals have been enacted on the grounds of public servants' alleged connections to the Gülenist network or to other organizations which the government claims are "terrorist". However, the concepts of "terrorist organization" and "connection" are so loosely defined that the dismissals do not require any kind of link sufficient to call into question the public servants' loyalty to the state. Furthermore, measures associated with the public servants' dismissals also unjustly penalize their family members. Finally, by dismissing public servants through lists appended to decree-laws and similar measure, the government of Turkey aims to deprive citizens of the right to judicial review which

⁸⁶Available at: http://stockholmcf.org/wp-content/uploads/2017/06/Erdogans-Vile-Campaign-Of-Hate-Speech-Case-Study-Targeting-Of-The-Gulen-Movement_2017.pdf

⁸⁷See also: <https://www.youtube.com/watch?v=TIQcj1v9xG4>

⁸⁸See for example <https://turkeypurge.com/president-erdogan-gulenists-will-not-enjoy-right-to-life-in-turkey>

⁸⁹Venice Commission, Opinion on emergency decree laws Nos 667-676 adopted following the failed coup of 15 July 2016, 109th Plenary Session (December 9-10, 2016), para 227

would be available to them if they had been dismissed under the normal disciplinary procedures.

Dismissed public officials are unduly stigmatized and discriminated against when their names are listed in annexes to the decrees, which clearly constitutes interference with their private life and moreover - “unlawful attack on [their] honor and reputation” (Constitution Article 20, Article 8 of the ECHR and IC-CPR Article 17). In the *Sayadi* case, the Human Rights Committee concluded that dissemination of authors’ names by publication in the *Official Gazette*, constitutes an attack on their honor and reputation in light of the negative association some persons could make between the authors’ names and the title of the UN sanctions lists.⁹⁰

In a report⁹¹ published on May 22, 2017, Amnesty International echoes the question - Are dismissed public officials left to civil death? “Dismissals based on political affiliation, union membership or actions such as participation in demonstrations violate the rights to freedom of expression, association or assembly, in addition to the right to non-discrimination.” [...] “Due to the stigma of being branded ‘terrorists’ under the decrees, many have not been able to find any work at all. Others, along with their families, have lost housing and health care benefits connected to their jobs. Unable to earn a living in Turkey, dismissed public sector employees have been prevented from seeking employment abroad, as the decrees also require the cancelation of their passports.”⁹²

G. Deliberate deprivation of resources needed for physical survival

The government has not hesitated to resort to less obvious methods of destruction of people’s lives, such as the deliberate deprivation of resources needed for the physical survival of those dismissed and which are available to the rest of the population, such as food and medical services.

Twelve businessmen⁹³ were detained in the beginning of March 2017 in Kayseri province for raising humanitarian relief for families adversely affected by the ongoing crackdown on the Hizmet Movement. In May 2017 M.S. was detained for helping the overseas followers of the Gülen Movement raise money for post-coup victims in Turkey. Bursa police carried out an investigation to round up M.S. who was suspected of distributing money allegedly transferred from Canada-based Gülen followers to his account.⁹⁴

H. Imposition of life-threatening forcible deportation and segregation

Since July 2016, there have been repeated calls to forcibly displace the alleged members or sympathizers of the Hizmet Movement into detention or concentration camps given that “they have been left without a house, without financial resources, and nobody wants to be seen with them.”⁹⁵ In August 2016, acting under powers granted by the state of emergency authorities announced [and later implemented] plans to release up to 38,000 prisoners (roughly one in five in Turkish prisons of con-

⁹⁰*Sayadi and Vinck v. Belgium*, CCPR/C/94/D/1472/2006, para. 10.12 (Dec. 29, 2008)

⁹¹Amnesty International, “No end in sight, Purged public sector workers denied a future in Turkey” (May 2017)

⁹²Amnesty International, “No end in sight, Purged public sector workers denied a future in Turkey” (May 2017), p. 4

⁹³Hanifi Y., Muaz B., Mehmet A., Altan A., Hacı Ali D., Mahmut A., Mustafa A., Selçuk A., Fuat G., İbrahim Ş., İhsan Y. and Ali K

⁹⁴81See for more: <https://turkeypurge.com/retired-public-servant-under-custody-for-distributing-donations-to-post-coup-victims>

⁹⁵<https://turkeypurge.com/pro-govt-journalist-gulen-followers-should-be-kept-in-camps-given-food-tickets>

victed criminals) to make room for the wave of journalists, teachers, lawyers, civil servants, and judges detained after the coup attempt. It appears that the government's amnesty for convicted felons reduced the number of convicts in jail from 141,739 a year ago to 108,734 on the day the Justice Ministry stopped reporting.⁹⁶

I. Fear and betrayal in a police state

Constant encouragement of citizens to spy on each other in the aftermath of the attempted coup of July 15 [2016] has created an environment which is inevitably inciting social division. Such methods were promoted

through the bylaw promulgated by the Interior Ministry of Turkey on August 31st, 2016, which grants individuals who "help" the security forces to find perpetrators of "terror acts" money awards up to TRY 4 million (approximately \$1,000,000). The president and high-level officials constantly call on the public to report and use violence against those allegedly members or sympathizers of the Hizmet/Gülen Movement.⁹⁷

The Financial Times reported in March 2017 that "As political pressure intensifies, friends, colleagues and even spouses are reporting each other for a range of offenses."⁹⁸ The same source further elaborated: "On an



⁹⁶Turkey Stops Publishing Data On Prison Figures Amid Mass Crackdown, (2017, March 31), <http://stockholmcf.org/turkey-stopped-publishing-data-on-prison-figures-amid-mass-crackdown/>

⁹⁷Gülen movement is also referred to as Hizmet (the Service) Movement

⁹⁸Financial Times, *Erdogan's informers: Turkey's descent into fear and betrayal* (March 16, 2017), available at <https://www.ft.com/content/6af8aaea-0906-11e7-97d1-5e720a26771b>

almost weekly basis, stories emerge of friends, colleagues and even spouses reporting each other for a catalogue of offenses [...].”⁹⁹

As authoritarianism in Turkey deepens, the army of volunteer informants grows. The Financial Times lists stories of an informant taxi driver, teachers reported for speaking Kurdish and accused of praising a “terror organization,” a man arrested for criticizing President Erdogan while chatting in a park, academics recorded and reported to the police by their students.

The informants are induced and encouraged by record reward payments. As much as TL 4,000,000 (\$1,000,000) is on offer for the capture of the most-wanted figures. The National Intelligence Organization (MIT) reports that the number of people who went online to inform on others almost doubled from 34,000 in 2015 to 65,000 in 2016 [...].¹⁰⁰

Sabah’s Europe edition, a pro-government daily, runs the “FETO report line” for its readers to report Gülen Movement participants. The Turkish press in general is replete with stories of betrayal by friends, neighbors and even within families. In October 2016, Haber-

türk newspaper reported that the police force was overwhelmed by the number of calls to their hotline, many of which were baseless, rooted in personal grievances, and a waste of police time.¹⁰¹

At the end of June 2017, during an event organized by the İstanbul branch of his AKP to mark Eid al-Fitr, the president called on people: “Wherever you know of or find a member of FETÖ [a derogatory term coined by the Justice and Development Party (AKP) government and Erdoğan to refer to members of the Gülen Movement] you will report them to us. If you do not inform us, you will be held responsible...We will hold those who divide the Ummah to account.”¹⁰²

As the witch hunt progresses the authorities are pursuing even people with very tenuous links to the social and business networks of the Gülen Movement. Its informal, diffuse, temporary and decentralized network structure and variety of relations with citizens and user groups mean that it is easy to make accusations of affiliation — and hard to prove or disprove.

The state of Turkey’s judicial system com-

The Most Wanted List and Awards by the Turkish Ministry of Interior Affairs

ARANMA DURUMU	ARANMA DURUMU	ARANMA DURUMU	ARANMA DURUMU	ARANMA DURUMU
				
KIRMIZI LİSTE	MAVİ LİSTE	YEŞİL LİSTE	TURUNCU LİSTE	GRİ LİSTE
ÖDÜL MİKTARI	ÖDÜL MİKTARI	ÖDÜL MİKTARI	ÖDÜL MİKTARI	ÖDÜL MİKTARI
4.000.000 TL 'ye kadar	1.500.000 TL 'ye kadar	1.000.000 TL 'ye kadar	600.000 TL 'ye kadar	300.000 TL 'ye kadar

⁹⁹Financial Times, *Erdogan’s informers: Turkey’s descent into fear and betrayal* (March 16, 2017), available at <https://www.ft.com/content/6af8aaea-0906-11e7-97d1-5e720a26771b>

¹⁰⁰*Id*

¹⁰¹*Id*

¹⁰²<https://turkeypurge.com/erdogan-whenever-you-find-a-gulenist-you-will-report-them-to-us>

pounds the dangers of spurious and unproven accusations. Prosecutors and judges who reject or close cases are often branded terrorist sympathizers and may even be accused and arrested themselves for failing to proceed with a prosecution for which there is little to no evidence or sidelined and replaced with loyalists.¹⁰³

J. Humiliation and terror against marginalized groups

Lawyers, family members and human rights activists have disclosed to human rights organizations serious allegations of discrimination and ill-treatment of women during pregnancy, childbirth and in particular the postpartum period. Cases of discrimination and alleged ill-treatment range from arrest of pregnant women, women in labor taken into custody, denial of medical services and detention/arrest of women during the postpartum period.

In an abhorrent attempt apparently to humiliate and degrade women perceived close

to the Hizmet Movement, the government has been systematically detaining women on coup charges even when they are pregnant or shortly after giving birth. In few weeks in July-August 2017, according to an incomplete account on the phenomenon, at least 16 cases were reported across Turkey.

In addition, children of individuals accused of being close to the Hizmet Movement have increasingly resorted to changing their last names, in order for them not to be associated with their parents [Hizmet Movement] and avoid, inter alia, discrimination, harassment and pressure at school, in their neighborhoods and beyond.¹⁰⁴

K. Treatment of the disabled, elderly and sick

Persons with disabilities, elderly and the sick have been disproportionately targeted, following the attempted coup of July 15, 2016, and in its oppressive treatment of detained people with disabilities the government is in violation of its obligations under Article 28 of the UN Convention on the Rights of Persons with Disabilities.¹⁰⁵

Visually impaired journalist Cüneyt Arat, who was initially detained on July 21, 2016 over social media posts that praised the Gülen Movement, was sentenced on February 22, 2017 to 6 years and 3 months for allegedly promoting a “terrorist” organization and an additional one year, 10 months and 15 days for alleged [Gülen] propaganda. On July 10, 2017 Mr. Arat turned himself in to serve the sen-



¹⁰³Financial Times, *Erdogan's informers: Turkey's descent into fear and betrayal* (March 16, 2017), available at <https://www.ft.com/content/6af8aaea-0906-11e7-97d1-5e720a26771b>

¹⁰⁴<https://turkeypurge.com/imprisoned-journalists-children-changes-surname-amid-peer-pressure>

¹⁰⁵<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-28-adequate-standard-of-living-and-social-protection.html>



Cüneyt Arat, visually impaired journalist

tence, after the prison sentence of February 22 was earlier upheld by the Gaziantep Regional Court of Appeals. A letter by journalist Cüneyt Arat in October 2017 from a prison in Tarsus (Southern Turkey), reveals the difficulties he is facing while trying to simply survive in prison, mainly due to the fact that places of deprivation of liberty are not designed to address even the minimal needs of disabled persons.

Ali Osman Karahan, a 87-year-old in custody in an Isparta prison for almost 15 months, was given eleven day's solitary confinement for comforting other inmates by saying: "As Said Nursi put it, you will be released if you are not guilty." The Isparta Prison's disciplinary board justified the penalty by saying Karahan had made propaganda for a criminal group.¹⁰⁶

Discrimination against members of marginalized groups, in particular the Hizmet Movement, is leading to the violation of their rights to health, safety and human dignity. Numerous reports of denial of healthcare in medical facilities across Turkey provide a deeply distressing picture of the extent of the exposure of victimized individuals to degrading treatment, and verbal and physical violence.

L. Arbitrary detention and arrest

The state of emergency into force since July 2016 has removed the few remaining legal safety nets and brought arbitrary government decision-making to new unprecedented heights. In the aftermath of the attempted coup individuals are stripped of all legal recourse against arbitrary measures, based on the denial of access to a lawyer during police custody, prolonged pre-trial detention, the criminalization of dissent and ill-treatment of detainees.

Decree Law No. 667, the first decree under the state of emergency increased the maximum period of police custody from 4 to 30 days, which according to the government will be limited to the duration of the state of emergency. This measure not only violates the European Convention on Human Rights, but it also increases the risk of torture and ill-treatment. In addition, Article 3 of Decree Law No. 668 of 27 July 2016, entitled "Investigation and prosecution procedures", under which the right of the suspect in custody to see his/her lawyer may be restricted for five days upon the decision of the public prosecutor, noting that no statement should be taken during that time.

The government has increasingly imposed restrictions on lawyers in visiting their clients as well as the recording of the conversations and seizure of documents pertinent to the defense, measures which in practical terms make the principle of undisturbed access to legal counsel and a fair trial impossible. The Government has provided no explanation on the legitimacy of restriction of the right of the suspect in custody to see his/her lawyer and has so far failed to present any reasonable justification that would show the proportionality of the need for the restriction.

¹⁰⁶<https://turkeypurge.com/87-year-old-prisoner-gets-11-day-solitary-confinement-hoping-release-one-day>

Lawyers themselves have been reluctant to represent those accused of alleged links to the coup for fear that they would be tainted by association or for being associated with the attempted coup if they did. In addition to extensive limitations, many lawyer's associations across the country have been shut down and at least 580 lawyers are under arrest, while detention warrants have been issued for 1539 attorneys since the attempted coup.¹⁰⁷

The sheer number of over 130,000 individuals taken into custody¹⁰⁸ and detained on remand and over 62,000 arrests¹⁰⁹ since the attempted coup with little or no clarity



about the charges, is highly disturbing. From the number of detained persons, it is further evident that reasonable suspicion, an essential requirement for the imposition of pretrial detention, has not been present at every stage of individual detention.

The disastrous consequences and the impact of the state of emergency on the Turkish society as a whole are yet to be fully understood, as the measures taken under the state of emergency are still ongoing. Based on the review of cases brought to the attention of many human rights and other organizations, the deprivation of liberty has been imposed in an unlawful and arbitrary manner - inconsistent with international standards set forth in the Universal Declaration of Human Rights and relevant international legal instruments accepted by Turkey.

M. Enforced disappearances

The Rome Statute of the International Criminal Court clearly defines the “enforced disappearance of persons” as meaning the arrest,



¹⁰⁷ <https://arrestedlawyers.org/2018/03/27/report-incarceration-of-turkish-lawyers-en-masse-arrests-and-convictions-2016-2018/>

¹⁰⁸ Source: TurkeyPurge (November 30, 2017), available at <https://turkeypurge.com/>

¹⁰⁹ *Id*

detention or abduction of persons by, or with the authorization, support, or acquiescence of a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.” In international law, there is no exceptional circumstance, including a state of or a threat of war, internal political instability or any other public emergency, which can be used to justify enforced disappearance. Moreover, covert and forcible abduction of citizens from the territory of another state is a flagrant violation of the sovereignty of the state concerned.

In July 2016, the Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Turkey noted that: “Turkey has not come to terms with past enforced disappearances in all relevant areas, namely truth, justice, reparation, and memory of the victims. There has been no comprehensive policy to address disappearances. Many families do not know the truth about what happened to their loved ones, there has hardly been a single case of criminal responsibility or civil liability for an act of enforced disappearance, there are no reparation programs independent from the compensation that may be awarded by a court, nor any effective and accessible social or psychological support for families, and there is no public memorial site or symbolic place for the families - and for society as a whole - to remember the victims and pay tribute to them. This lack of measures to address disappearances results from a combination of factors: mainly the lack of clear political will in all spheres to seriously tackle the issue, combined with legal and other obstacles.”¹¹⁰

Over the years, until March 2016 (last visit by WGEID), the UN Working Group on Enforced or Involuntary Disappearances (WGEID) has transmitted to Turkey 202 cases of disappeared persons. 79 of them were still outstanding as of March 2016. In the aftermath of the attempted coup, when thousands of individuals were detained, hundreds of people went missing for sometimes weeks. In monitoring and providing assistance on the cases, the Journalists and Writers Foundation was able to establish the whereabouts of many of the disappeared, who mostly reappeared weeks later in custody, with signs of torture and ill-treatment.

The practice of enforced disappearances, however, never ended and the reluctance by authorities to investigate recent cases suggests that they are being perpetrated by individuals associated with the government or the ruling party, who continue to act with complete impunity. In Turkey today, mysterious broad daylight abductions of government opponents are probably the most terrorizing instrument of intimidation in particular against members of the Hizmet Movement.¹¹¹

Abductions all follow similar patterns and have in common most of the following:

1. Victims are members of opposition groups stigmatized as terrorists or traitors.
2. Victims have been purged after the attempted coup on allegations of having links to the Hizmet Movement.

¹¹⁰UN Human Rights Council, *Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Turkey*, July 27, 2016, Note by the Secretariat

¹¹¹See also: <https://www.hrw.org/news/2017/08/03/letter-human-rights-watch-minister-gul>

3. The authorities are reluctant or refuse to investigate the abductions.
4. CCTV camera footage show that they were forced to get to a black Volkswagen transporter van.
5. Most of the disappearances have taken place in Ankara and Izmir.
6. Abductions point to a shadowy militia group, SADAT and Turkish Intelligence Agency.¹¹²

A list of individuals missing since July 2016 can be found below:¹¹³

1. Ayhan Oran (Intelligence Officer), missing since November 1, 2016.
2. Mustafa Özgür Gültekin (employee of the Competition Authority), missing since December 21, 2016.
3. Hüseyin Kötüce (employee of the Information and Communication Technologies Authority), missing since February 28, 2017.
4. Mesut Geçer (Intelligence officer), missing since March 26, 2017.
5. Turgut Çapan (Former employee of Turgut Özal University), missing since March 31, 2017.
6. Önder Asan (teacher), abducted on April 1 and missing until May 12, 2017. Ever since in custody.
7. Cengiz Usta (teacher), missing since April 4, 2017.
8. Mustafa Özben (lawyer), missing since May 9, 2017.
9. Fatih Kılıç (teacher), missing since May 14, 2017.

10. Cemil Koçak (engineer), missing since June 15, 2017.
11. Ümit Horzum (employee of the Turkish Accreditation Agency (TURKAK)), missing since December 6, 2017.

N. Torture and ill-treatment

Under the government crackdown on the Gülen Movement, detainees have been subjected to systematic and “barbaric methods of torture” – physical assault, sexual assault (rape), nail extraction and anal penetration with foreign objects – all of which are firmly prohibited under international law.¹¹⁴

On October 16, 2016, the President of the Progressive Lawyers’ Association (ÇHD), addressing the Ankara Bar Association’s General Assembly, called on lawyers to stand up for all the alleged sympathizers of the Gülen Movement who are being systematically tortured.¹¹⁵ Former detainees, their relatives, the media and human rights defenders have documented the use of all the following methods of torture:

- Blunt force trauma, including severe beatings
- Falaka (beating the soles of the feet)
- Sexual torture of all types, including sexual torture (rape), anal penetration with foreign objects, electrocution and pressure on sexual organs
- Starvation, denial of water and medical treatment
- Positional torture/suspension and stress positions for up to 48 hours
- Verbal abuse and threats, including

¹¹²<http://www.platformpj.org/opinion-erdogans-muscles-game/>

¹¹³More detailed information on the missing individuals available at: <http://stockholmcf.org/enforced-disappearances-in-turkey-2/>

¹¹⁴http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/TUR/INT_CAT_NGS_TUR_25838_E.pdf

¹¹⁵http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/TUR/INT_CAT_NGS_TUR_25838_E.pdf

- mock execution
- Palestinian hanging
- Electric shock
- Nail extraction
- Cold/high pressure water hosing
- Asphyxiation/suffocation
- Air-conditioning torture (hot air conditioning during the day and cold at night)
- Exposure to icy water
- Dripping molten plastic on the extremities and burns
- Sharp force trauma
- Reports of torture and ill-treatment are emerging from almost all regions of Turkey, from legal and illegal places of detention, including prisons, police stations, gymnasiums, sports centers, warehouses, stables, abandoned buildings, gym salons, and other places where individuals are being detained.

O. Impunity for serious violations of international human rights law and atrocity crimes

Impunity [for serious human rights violations in Turkey] remains pervasive, in particular on allegations of torture and ill-treatment against members of the military – even in case of murder. [JWF is] concerned about the lack of any investigation into the allegations of torture, lynching and even beheading of unarmed soldiers who were surrendering in the morning of July 16, as the attempted coup was fading away. Graphic pictures circulated on social media show one soldier being beheaded by a mob and his bloodied body on one of the bridges crossing the Bosphorus strait in Istanbul,

as a group of people with belts and sharp objects reportedly lynched six other soldiers. The crowd also tried to throw the lifeless bodies of soldiers from the bridge, but reportedly “abandoned that intention” as the police intervened.¹¹⁶

In its concluding observations for its report on Turkey in June 2016, the United Nations Committee against Torture stated: [...] Numerous credible reports of law enforcement officials engaging in torture and ill-treatment of detainees while responding to perceived and alleged security threats in the south-eastern part of the country (e.g. Cizre and Silopi). [...] The Committee is further concerned at the reported impunity enjoyed by the perpetrators of such acts (arts. 2, 4, 12, 13 and 16).¹¹⁷ Similar concerns were voiced in its Preliminary Observations and Recommendations by the United Nations Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, Mr. Nils Melzer following his official visit to Turkey, from November 27 to December 2, 2016.¹¹⁸

The climate of impunity in the country was legally “reinforced” with the promulgation of the Decree-Law No. 667¹¹⁹ which states that “Legal, administrative, financial and criminal liabilities shall not arise in respect of the persons who have adopted decisions and fulfill their duties within the scope of this Decree Law.”¹²⁰ With a September 1 [2016] decree the Government also dissolved the prison monitoring boards, evidently with the intention of avoiding any allegation on torture and ill-treatment making it beyond prison walls.

Further to granting impunity for public officials, Decree-Law No. 696 issued on De-

¹¹⁶Journalists and Writers Foundation, *Post-Coup Turkey: State of Emergency, Torture and Impunity*, October 2016, p. 11-12

¹¹⁷Committee against Torture, *Concluding observations on the fourth periodic reports of Turkey (CAT/C/TUR/CO/4)*, June 2, 2016, para 11

¹¹⁸More information available from: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20976&LangID=E#sthash.eWfVrksA.dpuf>

¹¹⁹Published in the Official Gazette on July 23, 2016

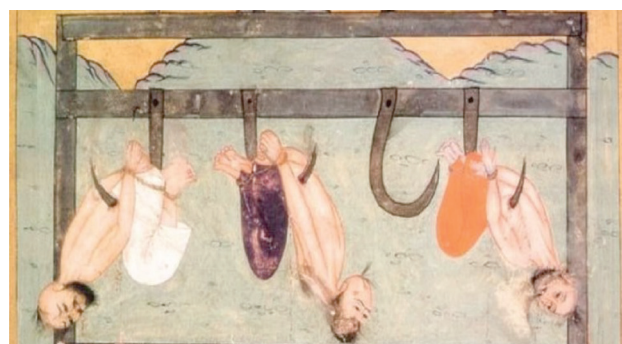
¹²⁰Decree Law No. 667, Article 9

cember 24, 2017, extended that immunity to civilians “whether they have an official title or not, and whether they have carried out official duties or not”. The new provision¹²¹ permits vigilantes to use violence against anyone who opposes the government or anyone they claim to suspect of opposing the government or of having been involved in the attempted coup of July 15, 2016 (or its continuation) and to go unpunished thereafter. It is unclear from the decree what is meant by “furthering the aims of the coup”, so civilians who make revenge attacks are now protected from punishment even where there is little or no evidence of due cause for the attacks.¹²²

Immediately following the issuance of Decree 696, Turkey’s main opposition party¹²³ stated that it would appeal the decree before the constitutional court. The Ankara and Istanbul bar associations called the two decrees¹²⁴ issued on December 24, 2017, “the last two nails in the coffin of the law”. Former president Abdullah Gul, longtime ally of President Tayyip Erdoğan expressed concern at the wording of the decree, adding that he hoped it would be revised to prevent problems in the future.

P. Reinstatement of death penalty

President Erdoğan and his government have gone to the extreme many times by declaring that Hizmet Movement members do



not have a right to life. He has repeatedly and publicly discussed the idea of reinstating the death penalty specifically for the members of the Hizmet Movement.

This idea has been reinforced and encouraged by pro-government media. In July 2017 the Erdoganist Kanal7 TV advocated a range of cruel execution methods which were last used during the Ottoman era, including suspending the accused by hooks piercing the abdomen.¹²⁵ It suggested these would be appropriate for Gülen Movement participants.

The channel’s website posted an illustrated article¹²⁶ showing the seventeenth-century methods it advocated and captioned it: “An execution sample from the days of which the decisions of execution were given immediately without wasting any time with the processes of investigation, interrogation and trial etc. to execute those who revolted against the state.” Kanal7.com added that those who rebelled against the state were left to die in agony in public.

¹²¹The paragraph reads in pertinent part: “regardless of an official title or duties or the lack thereof, people who played a role in the suppression of a failed coup attempt on July 15, 2016 and subsequent events and terrorist activities will be exempt from criminal, administrative, financial and legal liability”

¹²²<https://www.reuters.com/article/us-turkey-security/turkish-lawyers-say-decree-grants-impunity-for-political-violence-idUSKBN1EJ0MW>

¹²³Republican People’s Party (CHP)

¹²⁴A separate decree (decree 695) issued on December 24 dismissed 2,756 more individuals from their jobs, accusing them of links to terrorist organizations (637 from the Turkish armed forces, 350 from the general command of gendarmerie, 341 from the Religious Affairs Directorate [Diyanet], 245 from the Justice Ministry and 61 from the police). Decree 695 also provided for the closure of 7 associations, 7 foundations, 2 newspapers and a private company

¹²⁵<https://stockholmcf.org/pro-erdogan-media-hints-execution-for-gulen-sympathizers-through-impalement-of-torso-by-hooks/>

¹²⁶See above

The stated intention by high-level officials to reinstate the death penalty in Turkey, targeting members of one particular group is particularly troubling, mainly for the following reasons:

1. The reintroduction of the death penalty is incompatible with Turkey's membership of the Council of Europe and also contrary to the European Union's Charter of Human Rights.

2. The state of emergency and the derogation from the UN International Covenant on Civil and Political Rights (ICCPR) and the European Convention for Human Rights (ECHR) cannot serve as legal justification for the reintroduction of death penalty.

3. The Turkish judicial system currently provides no guarantees whatsoever for due process, fair trial and transparency. The three crucial components of what constitutes a fair trial, namely the defense, the prosecution and the courts, have all collapsed in Turkey in recent years, turning the judicial system into merely an extension of the political authority that thwarts an effective defense and appoints partisan and loyalist prosecutors and judges. Dismissals of judges in particular have had an adverse and devastating effect on the Turkish judiciary, its independence and the effectiveness of the principle of separation of powers. In the current circumstances, when thousands of judges are detained and imprisoned (close to one-third of judges and prosecutors), it is inconceivable that the remaining judges could reverse any measure declared under the emergency decree laws out of fear of becoming subject to such measures themselves.

4. Articles 6.2 (imposition of death penalty) and 14.1 (equality before the courts and tribunals) of the International Covenant on Civil and Political Rights clearly provide that the court pronouncing a final judgment of the death sen-

tence must be competent and moreover; independent and impartial tribunal established by law. A death sentence not rendered by such a court would be a summary execution.

5. From the legal perspective, the reintroduction of capital punishment in Turkey is not possible for the following reasons:¹²⁷

- A 2004 amendment to Article 15.2 of the Constitution deleted a reference to capital punishment potentially being lawful during a state of emergency. Therefore, capital punishment has been abolished by the Constitution such that its abolition cannot be revoked even in a state of emergency.

- Turkey ratified without reservations ECHR Protocols 6 and 13 as well as the Second Optional Protocol to the ICCPR, all of which are *non-derogable*. Turkey has therefore permanently abolished capital punishment in peacetime and in wartime.

- Withdrawing from the ECHR Protocols 6 and 13 as well as the Second Optional Protocol to the ICCPR is not legally possible since none of the Protocols contain a withdrawal clause.

- Criminal law cannot be applied retroactively under Articles 15 and 7 of the ECHR, Articles 4 and 15 ICCPR (that would remain in place even if Turkey left the ECHR system). Article 15 of Turkey's Constitution also prohibits retroactive application of criminal law, including during a state of emergency.

Q. Lack of legal remedies

The plight of dismissed public sector employees is aggravated by the fact they have no legal means by which to challenge their dismissal. So far, no court in Turkey has ruled that it has the jurisdiction to review such dismissals because they were not administrative decisions but come under statute law as the names of the plaintiffs were written in the law-decrees.¹²⁸

¹²⁷<https://www.ejiltalk.org/turkeys-derogation-from-the-echr-what-to-expect/>

¹²⁸See Human Rights Joint Platform, 685 Sayılı KHK ile kurulan OHAL komisyonu etkili bir hukuk yolu mu? Kerem Altıparmak, January 2017, page 1-2. Available at: http://www.ihop.org.tr/wpcontent/uploads/2017/03/%C4%B0nceleme-Komisyonu_OHAL.pdf p.1-2

The highest administrative court, the Council of State, also refuses to review the cases unless local administrative courts rule on them first.¹²⁹ The Constitutional Court has also ruled that it does not have the jurisdiction to rule on the constitutionality of the decrees, although since 2012 it has had the power to consider individual applications.¹³⁰

The European Court of Human Rights (ECtHR) has rejected all applications so far as inadmissible on the grounds that applicants



have not shown that all domestic remedies have been exhausted.¹³¹ The Venice Commission has determined that neither administrative courts nor individual application to the Constitutional Court are available to public officials dismissed by Emergency Decrees¹³² and recommended that the government should establish an ad hoc commission to review the State of Emergency measures.¹³³ The Secretary General of the Council of Europe made a similar recommendation, and an ad hoc subcommittee established by the Parliamentary Assembly of the Council of Europe supported the recommendation.¹³⁴

To preempt the pointed criticism from the Council of Europe of the relentless crackdown on dissent in Turkey, the government issued Emergency Decree 685,¹³⁵ by which it established the State of Emergency Inquiry Commission¹³⁶ and Prime Minister Binali Yıldırım announced the names of its seven members on May 16, 2017.

¹²⁹See Bianet Danıştay Kararı: KHK ile İhrac Edilenler İdare Mahkemesine Başvuracak, 6 October 2016. Available at <https://bianet.org/bianet/insan-haklari/180456-danistay-karari-khk-ile-ihrac-edilenler-idare-mahkemesine-basvuracak>

¹³⁰See Venice Commission opinion Venice Commission, Opinion on emergency decree laws 667-676 following the failed coup of 15 July 2016, paras 190-205. Available at: [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)037-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)037-e)

¹³¹See European Court of Human Rights, 8 December 2016, A teacher dismissed by emergency legislative decree after the failed coup d'état did not exhaust domestic remedies <http://hudoc.echr.coe.int/app/conversion/pdf?library=ECHR&id=003-5571467-7027985&filename=Decision%20Zihni%20v.%20Turkey%20-%20dismissal%20of%20a%20teacher%20by%20emergency%20legislative%20decree.pdf>

¹³²Venice Commission, Opinion on Emergency Decree Laws Nos. 667-676 Adopted Following the Failed Coup of 15 July 2016, CDL-AD(2016)037, para 201

¹³³Venice Commission, Opinion on Emergency Decree Laws Nos. 667-676 Adopted Following the Failed Coup of 15 July 2016, CDL-AD(2016)037, para. 220 ff

¹³⁴Committee on Political Affairs and Democracy Ad hoc Sub-Committee on recent developments in Turkey, Report on the fact-finding visit to Ankara (21-23 November 2016), AS/Pol (2016) 18 rev, para. 62,63

¹³⁵Emergency Decree (KHK) 685 can be found here <http://www.resmigazete.gov.tr/eskiler/2017/01/20170123-4.htm>

¹³⁶Article 2(1). The Commission is tasked to carry out an assessment of and render a decision on the following acts established directly through the decree-laws under the state of emergency; a) Dismissal or discharge from the public service, profession or organization being held office; b) Dismissal from studentship; c) Closure of associations, foundations, trade unions, federations, confederations, private medical institutions, private schools, foundation higher education institutions, private radio and television institutions, newspapers and periodicals, news agencies, publishing houses and distribution channels; ç) Annulment of ranks of retired personnel



By December 2017, 103,276 complaints had been lodged with the Commission, over dismissals and post-coup abuses. On December 22, 2017, the Commission took its first decision and rejected the appeal of a person who had applied for a compensation.¹³⁷

The Commission is predetermined to fail in achieving its supposed objectives and serving the interests of justice for several reasons:¹³⁸

- The Commission members are from the very institutions that decided on the dismissals;¹³⁹ independence and impartiality are thus impossible from the outset.

- It will take many years for the seven-member Commission to review hundreds of thousands of applications, even assuming it is to be done in good faith.

- Even for cases which the administrative courts, the appeals, or the Constitutional Court reverse, it will take years to exhaust domestic remedies and so those cases may never be able to reach the ECtHR.

- Under Article 9 of KHK 685, “the Commission shall perform its examinations on the basis of the documents in the files,” but such documents are not available to those dismissed, who therefore cannot defend themselves ef-

fectively without knowing which groups were designated by the National Security Council as “terrorist organizations.”

- The Commission is required to decide on the basis of information and documents provided by the government. However, the government is free to decide in every case which documents it is willing to disclose. Even though the government may be willing to disclose documents, the Commission does not have the authority to view classified documents. Since the reason given for dismissals is terrorist affiliation, most of the documents on which the government claims to have based the dismissals are unlikely to be made available to the Commission on the grounds that their disclosure would undermine national security.

The Venice Commission envisaged that “the essential purpose of that ad hoc body for the review of the emergency measures “would be to give individualized treatment to all cases. That body would have to respect the basic principles of due process, examine specific evidence and issue reasoned decisions. This body should be independent, impartial and be given sufficient powers to restore the *status quo ante*, and/or, where appropriate, to provide adequate compensation. The law should enable for subsequent *judicial review* of decisions of this ad hoc body. Limits and forms of any compensation may be set by Parliament in a special post-emergency legislation, with due regard to the Constitution of Turkey and its international human-rights obligations.”¹⁴⁰

However, the State of Emergency Inquiry Commission as set up by the Turkish government is unable to fulfil the Venice Commission criteria and the case-law standards of the ECtHR. Rather than justice for hundreds of thou-

¹³⁷http://www.cumhuriyet.com.tr/haber/turkiye/891088/OHAL_Komisyonu_ilk_kararini_verdi.html

¹³⁸<http://silencedturkey.org/tag/disappearance>

¹³⁹The Prime Minister’s Office (3), the Justice Ministry (1), The Interior Ministry (1) and the High Council of Judges and Prosecutors (2)

¹⁴⁰Venice Commission, Opinion on Emergency Decree Laws Nos. 667-676 Adopted Following the Failed Coup of 15 July 2016, CDL-AD(2016)037, para 202

sands of individuals affected by the measures of the State of Emergency, the Commission seems designed to serve the immediate interests of the government of Turkey and of the ECtHR in that, first of all, because of the numbers concerned and the restrictions on the Commission's own access to information, the Commission's own operations will inevitably be drawn out over many years, thus delaying applications to the ECtHR and sparing it the corresponding workload. Secondly, this lengthy process will buy a great deal of time (estimated at between two and ten years) for the Turkish government before it meets any national or international legal repercussions for its current violations of the rule of law. In this projected interim period, applicants will continue to suffer all the social and economic consequences of being labeled as "terrorists" and "guilty until proven innocent."

The State of Emergency Inquiry Commission clearly fails to establish a prompt, independent and impartial appeal procedure, and it should be replaced. This will only occur if the ECtHR begins to accept dismissal cases, which it should do forthwith.¹⁴¹

R. Foreign citizens in custody or at risk of deprivation of liberty

Turkish nationals are not the only targets of the relentless crackdown on dissent. Hundreds of foreign nationals have been wrongfully deprived of their liberty in the Republic of Turkey in the aftermath of the attempted coup of July 15, 2016.

Decree-Law 694, which the Turkish government issued on August 25, 2017, alters 12 critical laws, on state intelligence services, judges and prosecutors, the personnel of the Turkish Armed Forces (TSK), military academies and foreigners. The decree law introduces a disturbing 'novelty', which provides for the possibility of *extraditing* or *exchanging* foreigners sentenced/detained in Turkey with other countries upon the request of the foreign minister and approval of the president. If implemented, this will in practical terms enable the government of Turkey to use hundreds of foreigners unlawfully deprived of their liberty in Turkey for diplomatic bargaining.

On September 26, 2017, only a month after the issuance of the Decree-Law 694, president Recep Tayyip Erdoğan admitted that Turkey is holding Pastor Andrew Brunson (US citizen) hostage in hopes that the United States hands over Mr. Fethullah Gülen, a Muslim cleric living in Pennsylvania, whom the Turkish government has accused, in absence of any evidence, for orchestrating the attempted coup of July 2016.¹⁴²

Similar "proposals" have been also previously extended by Turkey to Germany¹⁴³ and other countries whose nationals have been wrongfully deprived of their liberty; with the ill-intentioned objective of future 'exchanges', in return of thousands of political and other dissidents who have recently fled persecution in Turkey. The irresponsible actions of the government of Turkey, the hostage-taking of hundreds of foreign citizens in order to compel other states to deport thousands of Turkish citizens who have fled persecution, represents a blatant violation of the right to life and the liberty and security of person, as set

¹⁴¹Amnesty International, "No end in sight, Purged public sector workers denied a future in Turkey" (May 2017), p.18

¹⁴²See for example: <http://www.reuters.com/article/us-usa-turkey-cleric/turkeys-erdogan-links-fate-of-detained-us-pastor-to-wanted-cleric-gulen-idUSKCN1C311K>

¹⁴³Another example on the same topic: <https://www.turkishminute.com/2017/08/29/merkel-calls-on-turkey-to-release-jailed-german-journalist-yucel/>

out, inter alia, in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the 1951 Refugee Convention and the European Convention on Human Rights.

Active preparations and actions by the government further violate the obligations of Turkey under the International Convention Against the Taking of Hostages (1979),¹⁴⁴ to which it is a state party since 1989. Put simply, the government of Turkey has already committed the offense of taking of hostages (“hostage-taking”) within the meaning of the Convention.¹⁴⁵ Furthermore, the issuance of the Decree-Law 694 clearly demonstrates that taking of foreign hostages is part of a wider policy of the government to compel other states to unlawfully deport political and other dissidents and that wrongful arrests of foreign citizens in the future will only intensify.

It is not clear whether this new policy of hostage-taking has had an effect on the recent surge of abductions and expulsions of Turkish nationals from several countries; however, it is particularly troubling that a country might be eventually compelled into bargaining the freedom of their citizens. In the event that any “bargaining” should be successful, the Turkish government would only be motivated to seize more and more foreign citizens, and then invent their supposed terror links.

PART VI THE WITCH-HUNT OF TURKISH NATIONALS ABROAD

The December 2013 corruption scandal and the failed coup attempt of July 15, 2016 only served as catalysts for an unprecedented crackdown on dissent targeting citizens from all walks of life, in particular opponents of AKP intentions in promoting its political Islam agenda through education, both in Turkey and abroad.

In 2013, four days after it was revealed that the police were investigating corruption among members of his family and his cabinet, Erdoğan claimed that the investigations were part of an international conspiracy against the state and threatened to “make those who are behind this treason and espionage pay for this.”¹⁴⁶

On September 20, 2016, the Turkish president addressed the UN General Assembly in New York stating: “I would like to call on all our friends to take the necessary measures against the Fethullah Terrorist Organization in their own countries for the future of their own people and their well-being”. He further told the United Nations that “the Movement was present in 170 countries, posing a ‘national security threat’ to all of them. This terrorist organization is in a deep mental heresy of subduing the whole world, far beyond Turkey”.¹⁴⁷

¹⁴⁴Entered into force in 1983

¹⁴⁵Article 1. Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the “hostage”) in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offense of taking of hostages (“hostage-taking”) within the meaning of this Convention

¹⁴⁶“Erdoğan: İninize gireceğiz didik didik edeceğiz” (We will come into your lairs and we will search every nook and cranny) *cnnturk.com* (December 22, 2013) <http://www.cnnturk.com/turkiye/erdogan-ininize-girecegiz-didik-didik-edecemiz>

¹⁴⁷See e.g. Al Arabiya, “Erdogan at UN urges global action against preacher”, available at: <https://english.alarabiya.net/en/News/middle-east/2016/09/20/Erdogan-at-UN-urges-global-action-against-preacher-.html>



Following the coup attempt in 2016, Erdoğan and his government hugely accelerated the black propaganda and hate speech campaign against the Gülen Movement that they had been promulgating since the corruption investigations in 2013 and have worked to convince the international community of the Turkish government's own perception of the movement.¹⁴⁸

According to a Foreign Ministry source, from July 15 to November 18, 2016 Turkish diplomats met around 600 ministers, 1,444 foreign members of parliament, in addition to nearly 6,190 senior officials globally to explain the so-called "FETÖ structure and its vast network abroad." The same source revealed that Turkish diplomats also contacted international media outlets 2,270 times, wrote 448 articles and letters, and organized 236 news meetings on the same issue.¹⁴⁹

A report by Anadolu Agency pointed out that until July 14, 2017, more than 400 of over 12,000 propaganda and defamation talks targeting the Gülen Movement were allegedly made with foreign presidents or prime ministers. Foreign Minister Mevlüt Çavuşoğlu

made 808 contacts and 304 telephone calls to foreign officials about the Gülen Movement as part of the Turkish government's systematic defamation campaign. As many as 2,789 written or video interviews were given to the international press by the Turkish missions and institutions under the direct directives of Erdoğan abroad to defame the movement. The same missions and institutions have also held 267 press conferences and published 646 articles and letters for the same purpose. Also, a website *15.07.gov.tr* in the English language was launched for the defamation campaign. Turkish Cooperation and Coordination Agency (TİKA), an effective instrument of radical Islamist policies of Erdoğan regime abroad, has been also organizing events to shape public opinion about the Gülen Movement, at its 58 offices in 56 countries spread across Africa, Asia and Latin America.¹⁵⁰

A. Turkish schools and teachers abroad

The Hizmet Movement has been a phenomenon in Turkish society since the 1960s and its participants are well known for their efforts to promote secular education, dialogue and contribute to the alleviation of poverty, especially in the poorest parts of the country. The Hizmet Movement believes that education is key to solving social and economic challenges, both in Turkey and across the globe.

With the breakup of the Soviet Union in the early 1990s, inspired by the values shared by the Movement, philanthropic businessmen were encouraged to contribute in establishing quality educational institutions in Central Asia, with a view of addressing the existing challenges in the region. Along with providing quality

¹⁴⁸Source: Anadolu Agency, see <https://stockholmcf.org/turkish-govt-makes-over-12000-talks-abroad-to-defame-gulen-movement/>

¹⁴⁹<http://www.worldbulletin.net/africa/180397/turkish-foundation-takes-over-feto-schools-in-chad>

¹⁵⁰Source: Anadolu Agency, see <https://stockholmcf.org/turkish-govt-makes-over-12000-talks-abroad-to-defame-gulen-movement/>



Pakistani students of the private PakTurk International Schools and Colleges protest in Karachi in November 2016 (Photo: AFP)

education, schools constantly focused on charity/humanitarian activities and dialogue – all three Hizmet Movement's pillars of work.

Within a short period of time, with the assistance of philanthropic businessmen, Hizmet inspired schools were established and began to operate in the new Turkic republics in the territory of the former Soviet Union. Through collaboration between business people, university students and local Diaspora groups Hizmet Movement ideas and schools spread initially through Europe, Australia and North America and later Africa, Asia and finally South America.

Highly enthusiastic, altruistic and well-educated young Turkish teachers graduated from the best universities in Turkey and elsewhere were key to the establishment and later success of the schools. Making decisions mostly in favor of less material gains and working sometimes in very difficult security environments; local populations witnessed how determined and committed teachers were providing quality education, even during times of political crisis or violent upheavals in their countries.

Slowly and owing to enormous and constant efforts the Hizmet schools phenomenon became a global socio-cultural entity that constructed a universal language of peace, coin-

ciding with the culture of peace initiative of the United Nations. In addition, they served as cultural and economic bridge between Turkey and the host country, long before any honorary, diplomatic, or other official presence of Turkish government institutions were present in the respective countries. By doing so, entire populations came in contact with Turkey for the very first time through the Hizmet inspired teachers and afterwards Turkish businessmen. Overwhelmingly the experience had been a very positive one.

Turkey as a nation took great pride on the many achievements and services provided by Turkish teachers abroad, and rightly so. Turkish governments regularly praised and appreciated the significant role which the schools played in contributing to the national wealth, along with, more importantly the image of the country and the Turkish citizens abroad. As recently as 2012 even then-Prime Minister Erdoğan and his ministers regularly praised the schools in their official visits to the respective countries.

The above policy, however, ended abruptly following the public exposure of the December 17, 2013 corruption scandal that implicated family members of AKP officials, including family members of then-Prime Minister Erdoğan.

Following the scandal, the government labeled the allegations of corruption – “a conspiracy to topple the government,” and actively and zealously embarked upon a mission to discredit, criminalize and eventually liquidate the Hizmet/Gülen Movement in Turkey and abroad, for its perceived alleged role in the corruption investigations.¹⁵¹

The Hizmet-affiliated schools in particular and other institutions came under immense pressure ever since the Turkish government declared Hizmet the “public enemy number one” in Turkey and abroad. Since 2014 the government pursued a persistent, coordinated and systematic campaign against Hizmet schools in the country and abroad by claiming that these schools were an extension of a “parallel state” – a term coined by Erdoğan to label individuals and civil society groups that refused to participate in government wrongdoings.

A morally corrupt and at least criminal campaign of intimidation of Turkish teachers, kidnappings and alleged murders, either directly by intelligence operatives or through criminals in foreign countries materialized during 2016, before the attempted coup even took place. There were even reports allegedly demonstrating that the Turkish National Intelligence Organization (MİT) orchestrated the assassination of five teachers in an attack on a school bus in Mogadishu in March 2016.¹⁵²

The July 15 attempted coup only served to intensify the Turkish government’s efforts, which started using the failed coup as a pretext to shut down thousands among the best secular schools in Turkey, none of which had any record of criminal activity. Turkey’s government further mobilized the nation’s diplomatic, econom-



Pakistani students of the private PakTurk International Schools and Colleges stage a protest in Islamabad against the government’s ordered deportation of 130 teachers. (Photo: Aamir Qureshi/AFP via Getty Images)

ic and political power to hunt down members of the Hizmet Movement abroad, asking foreign governments to jail and deport their members, as well as shut down their institutions, including high-performing science schools. Maarif Foundation is the organization established and tasked by the Turkish government to encourage foreign governments to seize Turkish educational foundations operating in respective countries, possibly targeting enterprises run by individuals close to Hizmet Movement. In the event seizures are successful, through different legal, administrative and practical actions, the Maarif Foundation would be offered as an alternative foundation with the authority to purchase, take over and rent properties.

Since the attempted coup Turkey’s National Intelligence Organization (MİT) has increasingly taken action to find, capture and even kill Hizmet Movement participants working in institutions abroad. Abductions and alleged extrajudicial executions of Hizmet Movement

¹⁵¹The Hizmet Movement has denied having any role, either in the corruption scandal or its investigation. Former Turkish police officer, Huseyin Korkmaz, who fled Turkey in 2016 with evidence from the 2013 Turkish corruption investigation, testified [December 13, 2017] during the Iran sanctions case in the Federal District Court in New York that he was not a member or sympathizer of the Hizmet Movement. See for more: https://www.washingtonpost.com/business/iran-sanctions-trial-judge-slams-foreign-conspiracy-theory/2017/12/15/ce32fed0-e209-11e7-b2e9-8c636f076c76_story.html

¹⁵²<https://www.turkishminute.com/2016/03/31/two-turkish-teachers-among-five-killed-gun-attack-mogadishu/>

sympathizers orchestrated by the MIT have previously taken place in Malaysia in October/December 2016 and again in May 2017, as well as in Somalia, Myanmar, Thailand, Nigeria, Pakistan, Kazakhstan, Sudan and Afghanistan among other countries.

B. Diyanet network¹⁵³

The vast network of Diyanet abroad has been turned into a sophisticated intelligence-gathering agency. A confidential document of September 20, 2016 from Diyanet instructed Turkish missions and religious representatives abroad to profile Hizmet Movement expatriates in their respective countries.¹⁵⁴ Those perceived as Hizmet sympathizers in many countries have been subject to violence by mosque members, and others have not been allowed to pray in Diyanet funded mosques. Many of the Turkish imams abroad have openly admitted being involved in intelligence gathering activities. Hundreds of imams are currently under investigation in several European countries. Many of them have been recalled and returned to Turkey. Increasingly imams of Diyanet funded mosques also incite worshippers to spy on followers of the Hizmet Movement and affiliated institutions, including schools.

On December 7, 2016, Hürriyet Daily News reported that "Turkey's Directorate of Religious Affairs (Diyanet) has gathered intelligence via imams from 38 countries on the activities of suspected followers of the U.S.-based Islamic preacher Fethullah Gülen [...] The Diyanet briefed a parliamentary commission formed to investigate the thwarted coup and revealed its intelligence activities regarding

the Gülen Movement in Europe and Asia. The Diyanet said it gathered intelligence and prepared reports on Gülenists in, Abkhazia, Germany (three reports from Dusseldorf, Cologne and Munich), Albania, Australia (two reports from Melbourne and Sydney), Austria (two reports from Salzburg and Vienna), Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria (two reports from Plovdiv and Sofia), Denmark, Estonia, Finland, Georgia, the Netherlands, the United Kingdom, Sweden, Switzerland, Italy, Japan, Montenegro, Kazakhstan, Kenya, Kyrgyzstan, Kosovo, Lithuania, Macedonia, Mongolia, Mauritania, Nigeria, Norway, Poland, Romania, Saudi Arabia, Tajikistan, Tanzania, Turkmenistan and Ukraine. Photos of individuals allegedly linked to the Gülen Movement were also included in some of the Diyanet's files. Gülen-linked schools, businesses, foundations, associations and media outlets were also included in the 50 reports prepared from the intelligence gathered from mosque officials, religious coordinators and religious services counselors."¹⁵⁵

Documents obtained by *Deutsche Welle* in February 2017 reportedly reveal "a larger effort by Diyanet in Germany and Europe to report back to Ankara on the Gülen Movement. Among the reports are ones written by religious attachés at Turkish diplomatic missions in Munich, the Netherlands, Austria, Switzerland and Belgium. In all, the reports identify dozens of individuals, associations, businesses and schools with supposed affiliations to the global network of the Gülen, who denounced the coup attempt and denied any involvement. Fethullah Gülen called for an independent international body to investigate the coup at-

¹⁵³Diyanet is the Turkey's state-run Directorate for Religious Affairs

¹⁵⁴The document was quoted as stating: "We request that you send a detailed report about all FETÖ/PDY networks, activities, educational institutions [kindergartens, primary and secondary schools, faculties, dormitories, etc.] NGOs, aid organizations, human resources, associations that host cultural activities, etc., to disiliskiler@diyanet.com.tr by September 27, 2016"

¹⁵⁵Hürriyet Daily News, December 7, 2016, available at: <http://www.hurriyetdailynews.com/diyanet-gathers-intelligence-on-suspected-gulenists-via-imams-in-38-countries-107028>



"Photo Credit : Alliance/dpa/D. Naupold"

tempt and uncover the many absurdities that the Erdoğan-led government has failed to explain so far (see: <http://jwf.org/request-for-an-international-commission-to-investigate-turkeys-failed-coup-of-july-15th-2016/>).

In other parts, the memos describe activities organized by the Movement.¹⁵⁶ One section from the Salzburg, Austria, memo describes how a Gülen-affiliated group 'successfully infiltrated (the Turkish community) in the name of cultural integration' by organizing swimming classes for women. Austrian authorities in 2015 awarded the organization an 'Integration Award' for its efforts in the field. It is unclear how the religious attachés gathered the information, or what exact role Turkish imams played. The documents from Vienna and Salzburg show Diyanet officials have worked with ATIB, a similar organization to DITIB in Austria, to monitor and counter the activities of the Gülen Movement".

Deutsche Welle reported in January 2017 that "Imams in Germany have informed Turkish authorities of alleged supporters of cleric

Fethullah Gülen, according to reports" in particular "imams at one of Germany's largest Islamic organizations have gathered intelligence at the behest of Turkey's official religious authorities".¹⁵⁷ According to documents obtained by Deutsche Welle "13 imams and a 'deputy coordinator' in the two states provided information to the Turkish religious attaché at the consulate in Cologne on at least 14 Gülen affiliated institutions and 45 people with alleged ties to the Gülen Movement. NRW's ministry of education has identified five people on the list as state-employed teachers".¹⁵⁸

In February 2017, German police raided apartments of four men, "said to be clerics", suspected of carrying out espionage on behalf of the Turkish government on alleged Gülen supporters.¹⁵⁹ In April 2017 Deutsche Welle reported that "the German Interior Ministry said [...] it is questioning 20 individuals for allegedly spying on followers of an exiled preacher accused of being responsible for the attempted coup in Turkey in 2016".

¹⁵⁶Deutsche Welle, *Turkish imam spy affair in Germany extends across Europe*, <http://www.dw.com/en/turkish-imam-spy-affair-in-germany-extends-across-europe/a-37590672>

¹⁵⁷Deutsche Welle, *Turkish imams spied on teachers at German state schools*, 25 January 2017, available at: <http://www.dw.com/en/turkish-imams-spied-on-teachers-at-german-state-schools/a-37261502>

¹⁵⁸Deutsche Welle, *Turkish imam spy affair in Germany extends across Europe*, 16 February 2017, available at: <http://www.dw.com/en/turkish-imam-spy-affair-in-germany-extends-across-europe/a-37590672>

¹⁵⁹Deutsche Welle, *Germany investigates possible anti-Gülen spies*, 15 February 2017, available at: <http://www.dw.com/en/germany-investigates-possible-anti-gulen-spies/a-37557872>

C. Abuse of INTERPOL systems

Under Article 2 and 3 of its Constitution, INTERPOL must act in the spirit of the Universal Declaration of Human Rights and is not permitted any intervention or activities of a political, military, religious or racist nature. However, on occasion, member states have abused or attempted to abuse INTERPOL and its Red Notice system for political purposes.¹⁶⁰

In its report in February¹⁶¹ 2017 the Parliamentary Assembly of the Council of Europe (PACE) PACE noted with great concern the dramatic fivefold increase in the number of Red Notices between 2005 and 2015, reaching 11,492 from 2,343. In 2016 a total of 12,787 Red Notices were issued.¹⁶² Among the most oppressive states abusing Interpol's notice system to persecute dissidents are Russia, Belarus, Turkey, Venezuela, Sri Lanka, Indonesia, Uzbekistan, Azerbaijan and Iran.¹⁶³

In August 2017, German Chancellor Angela Merkel warned Turkey about its abuse of Interpol to have Mr. Dogan Akhanli, a German author, detained on a Turkish warrant when he was in Spain.¹⁶⁴ Back in October 2017, the extensive abuse of INTERPOL red notices by Turkey prompted the European Union to call on INTERPOL to prevent abuse of Red Notices.¹⁶⁵

The crackdown by Turkish authorities on Gülen Movement participants abroad through Interpol's mechanism is unprecedented be-

cause of the enormous scale of political persecution. The exact numbers of victims of the abuse of Interpol Red Notices by Erdoğan's regime is not known, but it is definitely one of the biggest challenges for Interpol itself to prove if the CCF [Commission for the Control of Interpol's Files] is able to prevent or stop such scale of abuses. At the moment, it seems that the CCF is not in control of the situation. Therefore, civil society participation will be crucial to the reform of Interpol in order to protect those at risk of arrest under such misuses of the Red Notice system, now and in the future.¹⁶⁶

On July 5, 2017, pro-government Turkish media reported that Interpol removed Turkey from its database after Ankara uploaded a list of 60,000 suspected followers of the U.S.-based Islamic preacher Fethullah Gülen. The decision to suspend Turkey's access to the database of wanted individuals came after the



¹⁶⁰Report by Parliamentary Assembly of the Council of Europe, "Abusive Use Of The Interpol System: The Need For More Stringent Legal Safeguards", February 27, 2017, available at: <http://website-pace.net/documents/19838/3254453/20170227-+PRESSajdoc-EN.pdf/d5a0698ec954-4906-b282-9832e87c01bd>

¹⁶¹*Id*

¹⁶²Report by Parliamentary Assembly of the Council of Europe, "Abusive Use Of The Interpol System: The Need For More Stringent Legal Safeguards", February 27, 2017, available at: <http://website-pace.net/documents/19838/3254453/20170227-+PRESSajdoc-EN.pdf/d5a0698ec954-4906-b282-9832e87c01bd>

¹⁶³See for example: <https://www.fairtrials.org/abuses-of-interpols-systems-must-be-stopped/>

¹⁶⁴<http://www.dw.com/en/spain-releases-dogan-akhanli-german-author-detained-on-turkish-warrant/a-40163753>

¹⁶⁵European Union calls on INTERPOL to prevent abuse of Red Notices, available at: <https://www.fairtrials.org/european-union-calls-on-interpol-to-prevent-abuse-of-red-notices/>

¹⁶⁶Anita Porta, Vocal Europe, *Monday talk with Lyudmyla Kozlovska on the misuse of INTERPOL by autocratic regimes*, September 11, 2017, available at: <http://www.vocaleurope.eu/monday-talk-with-lyudmyla-kozlovska-on-the-misuse-of-interpol/>

July 2016 coup attempt. Access to the database had been allegedly reported to be blocked for almost a year, despite protests from Ankara.¹⁶⁷ If true, this would have been the single largest scale abuse of the system ever, given that the overall number of warrants in 2016 was 12,787 Red Notices from all countries. On July 6 [2017] Interpol issued a statement, originally released to BBC Turkey, stating that *“Interpol supports each and every one of its 190 members as part of security cooperation benefits. No access block has been implemented in Interpol’s databases, including for those who have international warrants in Turkey.”*

As more and more notices are expected to be issued from the Turkish government, it is vital not only that those notices are better vetted, but also that those who are subject to Red Notices have access to transparent appeal processes that allow them to challenge them. In sum, international mechanisms like INTERPOL, mechanisms designed to protect individuals, must not be exploited by an oppressive regime to make the world an inherently unsafe place for those who dare to expose corruption and human rights abuses.

D. Arbitrary deprivation of nationality and denial of consular services

On January 6, 2017, the Turkish Government adopted three new decree-laws pursuant to Turkey’s state of emergency (Decree-Laws No. 679, 680 and 681). Decree-Law 680,

divided into four sections and 87 articles, covers judicial regulations, provisions on media service providers, domestic security and miscellaneous provisions.

One very pernicious measure contained in Decree-Law 680 is the capacity to revoke the citizenship of individuals abroad, who do not respond within 90 days to judicial summons for crimes of terrorism or crimes against the state. If they cannot be reached, in due course the Justice Ministry will issue a “return home” notice in the Official Gazette. If they do not respond to that call within three months, there will be a process through which they will lose their citizenship.

The intended objective of the Decree-Law 680 in revoking citizenship in a discriminatory manner and as a method to sanctioning political dissent constitutes arbitrary deprivation of nationality, explicitly prohibited by the Turkish Constitution and international human rights law. The provisions of the Decree-Law 680 are also contrary to the objectives set out in the UNHCR Global Action Plan to End Statelessness 2014 – 2024.

Pursuant to the provisions of the Decree-Law 680, the Turkish Justice Ministry has twice published a “return home” notice in the Official Gazette; on June 5, 2017 concerning 130 (one hundred thirty) individuals and on September 10, 2017 concerning 99 (ninety-nine) individuals - who are currently abroad. If the individuals whose names appear in the respective lists have not responded to the call within three months, their citizenship could have been already revoked through a Government decision, upon proposal from the Justice Ministry.

Another deeply concerning matter since the attempted coup has been the denial of consular services to Turkish nationals around the world. In addition, from May 2017 to February

¹⁶⁷<http://www.hurriyetdailynews.com/interpol-denies-reports-of-turkeys-removal-from-database-after-listing-60000-wanted-gulenist-names-115135>

2018, the Journalists and Writers Foundation has been able to document at least 877 cases¹⁶⁸ (in 26 countries) where Turkish consulates have declined to provide consular services to Turkish citizens – including an alarming number of 111 cases of denial of passports and nationality IDs for newborns in 15 countries.



E. Detentions, abductions and expulsions

In June 2017, during a live broadcast on TGRT news channel, journalists Cem Küçük and Fuat Uğur called for the assassination of Hizmet Movement participants living outside Turkey. Uğur approvingly quoted İsmail Hakkı Pekin, former Intelligence Chief of the General Staff, who has said, “Those from FETÖ¹⁶⁹ who have betrayed and run abroad should be exterminated and that is the responsibility of the Republic of Turkey.” Küçük, known for his attacks on government critics on social media, suggested that Justice and Development Party (AKP) supporters abroad could carry out the assassinations and that the Turkish National Intelligence Organization (MİT) has the authority to carry out killings abroad.



¹⁶⁸The number of cases not reported to the Journalists and Writers Foundation is believed to be higher

¹⁶⁹An acronym for the so-called “Gülenist Terror Organization”, frequently used by Erdoğan and pro-Erdoğan media networks to refer to the Hizmet Movement

In December 11, 2017, during a live TV broadcast on TGRT, the same individuals intensified the threats. Küçük suggested that Turkish intelligence should kill family members of jailed Gülen Movement followers in order to turn inmates into operatives. Speaking along with his program partner Uğur, Küçük also stated that Israeli intelligence agency MOSSAD had killed family members of Palestinian, Jordanian and Egyptian inmates to turn them into MOSSAD operatives, suggesting that the National Intelligence Organization (MİT) adopt similar techniques to use on followers of the Gülen Movement. On December 13, 2017, the Diyarbakır Bar Association on Wednesday filed criminal complaints against pro-government journalists Cem Küçük and Fuat Uğur for “inciting crime” and “praising crime.”¹⁷⁰

In June 2017 Turkey’s National Intelligence Organization (MİT) established an “Office for Human Abduction and Executions” - In Turkish “*İnsan Kaçırma ve İnfaz Bürosu*”. The Office is reputed to have the authority to conduct ‘operations’ abroad to abduct or murder government opponents, mainly Hizmet sympathizers, living and working in foreign countries. The Turkish media has reported that the Office will initially operate in Sudan, Morocco, Pakistan, Azerbaijan and Iraq and has already been allocated a five-million-US-dollar budget, including funds for payments to various criminal and other illegal groups to achieve its “objectives”.

**Illustrative Country
Information on Detentions,
Abductions, and Expulsions**

¹⁷⁰<https://www.turkishminute.com/2017/12/14/diyarbakir-bar-files-criminal-complaints-against-kucuk-ugur/>

CASE 1 ●

Country: *Afghanistan*

Treatment: Abduction and Arbitrary Detention

Victim(s): Yılmaz Aytan, Önder Akkuşçi, Yunus Demirci, Sami Yavuz, Masood Wardak,

Date: December 12, 2017

On December 12, 2017, at around 07:30 a.m. local Afghan time (3:00 a.m. GMT, December 12, 2017), state agents acting on behalf of the Government of the Islamic Republic of Afghanistan, arbitrarily abducted and deprived of their liberty Mr. Yılmaz Aytan, Mr. Önder Akkuşçi, Mr. Masood Wardak (afghan national) and Mr. Yunus Demirci on their way to their respective workplaces in the schools administered by the Afghan-Turk Cag NGO. Mr. Sami Yavuz, a Turkish businessman was detained a few hours later [10:20 a.m. local Afghan time], on December 12, 2017, in front of main gate in Sharak-E- Aria residence, beside main road Kabul, Afghanistan. The victim was on its way to his workplace, the restaurant he manages in Kabul.

The Afghan authorities (intelligence services) had allegedly a list of 19 Turkish nationals subject to imminent detention. At around 3:30 p.m. of the same day (Tuesday, December 12, 2017), 10-15 intelligence officers (all male in civilian clothes), in absence of any search warrant, attempted to detain Turkish teachers and principals at the Girls High School. Due to fierce resistance by parents and students, intelligence officers could not enter the dormitory and were eventually forced to abandon their plans.

Students and teachers of Afghan-Turk Schools sent a delegation to the Attorney General’s office on December to file a complaint about the illegal actions of the security forces against the school. On December 17, 2017, after being held for five days incommunicado in an undisclosed location, three of teachers were released, but Mr. Yılmaz Aytan and Mr. Sami Yavuz have been kept under house arrest due to the pressure of the Turkish government.

CASE 2 ●

Country: *Albania*

Treatment: Arbitrary Detention,
Asylum Seeker

Victim(s): Yasir Aydoğmuş, Nermin
Aydoğmuş, 8 and 10-year-old children

Date: October 8, 2017



Turkish academic Yasir Aydoğmuş, his spouse Nermin Aydoğmuş and the couple's 8 and 10-year-old children were detained in Albania on October 8, 2017 as they were trying to cross to Italy. They were released on a bail on October 11, however Mr. Aydoğmuş was re-detained the same day based on an arrest warrant filed through Interpol by the Turkish government demanding his extradition. Human rights organizations and the European Parliament protested his detention with the Albanian authorities, urging his immediate release. Yasir Aydoğmuş revealed before the court that he and his family members had requested protection at the moment of detention, however their request was disregarded. On October 13, 2017 he reapplied, this time in written, seeking asylum and protection in Albania. His request was registered and the court ruled for the transfer of the family to an asylum-seeker detention center near the capital [Tirana], pending the determination of the refugee status.

Ever since, media reports indicate that in November 2017, the Court ruled for his rearrest, since he had allegedly breached the condi-

tions of his status as an asylum-seeker; however this information could not be verified. Their whereabouts and the medical and other situation regarding the members of Aydoğmuş family remain unknown.

CASE 3 ●

Country: *Angola*

Treatment: Arbitrary Detention, Imprisonment
Victim(s): İbrahim Gökhan Karadöl, Aishan
Tushdevi

Date: March 21, 2017

In mid-February 2017, the government of Angola decided to close the *Colégio Esperança Internacional* (Coespi-Luanda, Angola) and to deport all of the Turkish teachers and other staff (66 individuals in total), allegedly based on what the government described as "national security grounds".

On March 21, 2017, Turkish national İbrahim Gökhan Karadöl and Georgian national Aishan Tushdevi, allegedly with links with the Hizmet Movement, were sentenced to long prison terms in Angola on terrorism-related charges. They were legal brokers for legitimate travel business companies; Mirza Tur based in Turkey and the Angolan travel company Eurostral Limitada.



CASE 4 ●

Country: *Austria*

Treatment: Espionage and Blacklisting

Victim(s): Gülen/Hizmet sympathizers and organizations

Date: March 21, 2017

In February 2017, Deutsche Welle reported that “Peter Pilz, a Green party lawmaker had claimed that Turkish diplomats were enlisting Turkish religious organizations in Austria to undermine Gülen supporters there. MP Peter Pilz revealed that he and his team was working on documents to show the practice was even more widespread, spanning some 30 countries across Europe, Africa and Asia.”¹⁷¹

CASE 5 ●

Country: *Azerbaijan*

Treatment: Arbitrary Detention, Expulsion

Victim(s): Taci Şentürk

Date: June 7, 2017



Mr. Taci Şentürk, a Turkish teacher working in Baku, Azerbaijan was detained on June 7, 2017 and his deportation was stopped by UNHCR officials at Baku Heydar Aliyev International

Airport. Mr. Şentürk was re-detained on June 10 and arbitrarily deported to Turkey without any due judicial process. In August 2016, Azerbaijan reportedly also detained a senior opposition figure [Faig Amirov, an aide to Ali Kerimli, the leader of the Popular Front opposition party] for allegedly possessing books by US-based preacher Fethullah Gülen.” Mr. Amirov was subsequently arrested “on suspicion of inciting religious hatred.” According to his lawyer he allegedly faced up to five years imprisonment.”¹⁷²

CASE 6 ●

Country: *Belgium*

Treatment: Espionage and Blacklisting by Diyanet

Victim(s): Gülen/Hizmet Movement participants

Date: December 2016

In December 2016, Belgian Justice Minister Koen Geens ordered security and intelligence units to monitor mosques operated by the Turkish Religious Affairs Directorate, or Diyanet, because of reports that the Diyanet had asked imams to inform on Belgians of Turkish origin suspected of being Gülen Movement participants.¹⁷³

¹⁷¹Deutsche Welle, *Germany investigates possible anti-Gülen spies*, 15 February 2017, available at: <http://www.dw.com/en/germany-investigates-possible-anti-gulen-spies/a-37557872>

¹⁷²Al Arabiya, *Azerbaijan detains dissident over books by Erdogan's foe*, August 21, 2016, available at: <https://english.alarabiya.net/en/News/middle-east/2016/08/21/Azerbaijan-detains-dissident-over-books-by-Erdogan-s-foe.html>

¹⁷³Source: TurkeyPurge, available at: <https://turkeypurge.com/france-germany-belgium-go-after-spying-threats-against-turkish-expats-abroad>

CASE 7 ●

Country: *Bulgaria*

Treatment: Expulsions

Victim(s): Abdullah Büyük / 3 Police officers, 1 Reporter, 1 Teacher, 1 Academic, 1 Businessman

Date: August 10, 2016 – October 12, 2016



On August 10, 2016, the Turkish citizen Abdullah Büyük was handed over to Turkish authorities, even though during 2016 a court ruled twice that Büyük was not to be extradited as he could be facing political oppression in Turkey. Moreover, neither Bulgaria's Ombudsman nor the Bulgarian Helsinki Committee were informed of the expulsion, with the Interior Minister admitting that the procedure was not "strictly followed." In extraditing Mr. Büyük, Bulgaria became the only EU member state to extradite an alleged supporter of the Gülen Movement to Turkey.

On October 12, 2016, seven individuals, including three dismissed police officers, a reporter of a confiscated newspaper, a teacher, an academic and a small business owner were detained and then handed over to Turkey by the Bulgarian authorities.¹⁷⁴

CASE 8 ●

Country: *China*

Treatment: Right to Leave

Victim(s): 50 Turkish citizens

Date: August 10, 2016 – October 12, 2016

Since the beginning of the G20 Summit, the Chinese authorities have practically banned more than 50 Turkish citizens and members of their immediate families (approximately 200 individuals in total) from leaving the country, without providing any explanation, either orally or in a written form. The above-mentioned individuals and their legal representatives have in addition made efforts to contact various Chinese government authorities and agencies,¹⁷⁵ in order to learn the reason for their obstruction, but have ever since not received any substantial information related to their cases.

The above situation has resulted in almost devastating psychological, financial and other consequences for the Hizmet sympathizers, as several of them have been practically separated from their family members living in Hong Kong, China; while the businessmen have suffered considerable financial losses, witnessing simultaneously their reputations steadily declining. Later, the situation was reported as resolved by the Turkish citizens in China.



¹⁷⁴Source: <https://turkeypurge.com/police-officers-academic-journalist-detained-while-fleeing-massive-witch-hunt-in-turkey>

¹⁷⁵Including the Shanghai Office of the Ministry of Foreign Affairs of China and the Shanghai Immigration Agency

CASE 9 ●

Country: *Gabon*

Treatment: Arbitrary Detention, illegal transfer across international boundaries

Victim(s): Osman Özpınar, Ibrahim Akbaş, Adnan Demirönel, Nesibe Özpınar, Fikriye Akbaş, Darya Demirönel, 7 children

Date: March 15, 2018



On March 15, 2018, the Gabonese government detained Osman Özpınar, Ibrahim Akbaş and the French national Huseyin Serce in Libreville. Adnan Demirönel was detained in the beginning of April 2018, while Mr. Huseyin Serce was released, re-detained and released again within few days. Turkish nationals were held incommunicado and without access to their lawyers, with little, if any clarity on charges or allegations against them. On April 8, 2018 their spouses (Nesibe Özpınar, Fikriye Akbaş and Darya Demirönel) and all seven children of the three couples were taken into custody following coordinated actions by Gabonese and Turkish authorities and immediately transferred to the Libreville airport, where they were forced to board a plane headed to Istanbul, Turkey. Osman Özpınar, Ibrahim Akbaş and Adnan Demirönel were arrested on arrival, while women and children were released.

CASE 10 ●

Country: *Georgia*

Treatment: Arbitrary Detention, Asylum Seeker

Victim(s): Mustafa Emre Çabuk

Date: Date: May 24, 2018

Mustafa Emre Çabuk, Principal of Demirel College's in Tbilisi was detained by Georgian police on May 24, 2017, after a brief visit by Turkish Prime Minister Binali Yıldırım to Georgia. Çabuk was allegedly accused of 'supporting a terrorist organization'. Dozens of protesters rallied in front of the Georgian government's chancellery in the capital, Tbilisi, to demand his release and voice support for the professor who faced extradition to Turkey. Activists, NGO officers, and Black Sea University students and teachers handcuffed themselves in support of Mustafa Emre Çabuk.¹⁷⁶ After several human rights groups, including Amnesty International's Georgia branch and Transparency International urged authorities not to extradite him, Georgian authorities temporarily halted the extradition process in July 2017, to only resume it a month later. Earlier in 2017 the Georgian government also revoked the license of another school affiliated with the Gülen Movement in Batumi. Georgian



¹⁷⁶Additional information available at: <https://turkeypurge.com/?s=georgia>

officials also detained Turkish businessman Sinan Saraç, allegedly for his links to the Gülen Movement. The National Center for Education Quality Enhancement (NCEQE) also cancelled Demirel College “authorization,” in Tbilisi on August 29, 2017.

CASE 11 ●

Country: *Germany*

Treatment: Espionage, Blacklisting

Victim(s): Turkish citizens in Germany

Date: August 2016

In August 2016, the German *Die Welt* cited an official of the German government who spoke on condition of anonymity, claiming that nearly 6,000 people spy on the Turkish community in Germany for Turkish intelligence.¹⁷⁷ In January 2017 German federal and regional justice ministers stopped cooperating with Turkish judicial authorities on criminal matters on the grounds that Turkey was misusing their cooperation process for political purposes: “Ankara has used the pact [a 1974 agreement between Germany and Turkey] to prosecute Turkish citizens living in Germany who have insulted the president, with German courts hearing testimony from the suspect and witnesses on Turkey’s orders”.¹⁷⁸

CASE 12 ●

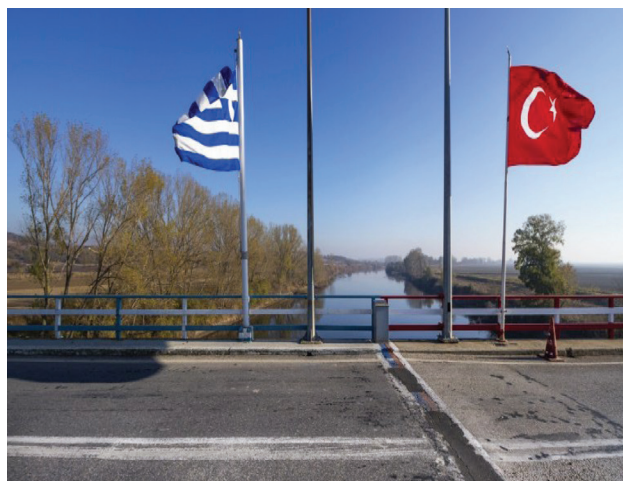
Country: *Greece*

Treatment: Arbitrary Detention, Expulsions

Victim(s): Murat Çapan, Ali Erkan Ataç, Süleyman Sivri, Halil Kumcu, Fatih İlkaya, Yılmaz Erdoğan, Fethullah Çatal, Mustafa Can, Hatice Can, 4 children

Date: May 24, 2017 / June 2, 2017

On May 24, 2017, Mr. Murat Çapan editor in chief *Nokta* magazine (closed in Turkey), Mr. Ali Erkan Ataç and Mr. Süleyman Sivri



were subject to push-backs from Greece, even though they had already applied for asylum within Greek territory.

On June 2, 2017, non-commissioned officer Halil Kumcu, Assistant Professor Fatih İlkaya, teachers Yılmaz Erdoğan and Fethullah Çatal, Mr. Mustafa Can, his wife Mrs. Hatice Can and their four children were pushed-back from Greece into Turkish territory. From the ten individuals detained by Turkish gendarmerie on June 2, 2017, Kumcu, Can and Çatal were later arrested in Turkey, while the cases of İlkaya and Erdoğan are still pending. Hatice Can and her four children were released, under judicial supervision.

CASE 13 ●

Country: *Indonesia*

Treatment: Arbitrary Detention, Expulsion

Victim(s): Mustafa Kenel, 4 Turkish citizens

Date: December 16, 2017

In the beginning of December 2017, upon request from the Turkish government, the Indonesian authorities issued detention warrants for five individuals, over their alleged links to the Gülen Movement. Mustafa Kenel was detained together with four other Turk-

¹⁷⁷Source: *Die Welt*, available at <http://www.dw.com/en/report-turkeys-mit-agency-menacing-german-turks/a-19490657>

¹⁷⁸Politico, Germany to stop cooperating with Turkey’s judiciary, January 25, 2017, available at: <https://www.politico.eu/article/germany-to-stop-cooperating-with-turkeys-judiciary/>



ish citizens by the Indonesian authorities, after reportedly a list of ten individuals was handed over to the Indonesian government by the Turkish government. While the other four individuals were later released, Kenel was deported to Turkey, on December 16, 2017. Unconfirmed reports indicate that Kenel later appeared testifying in the İstanbul's Bakırköy Courthouse.

CASE 14.1 ●

Country: *Kazakhstan -1*

Treatment: Arbitrary Detention

Victim(s): Kayahan Bolel

Date: February 2017

In February 2017 Kazakh authorities, arbitrarily detained Dr. Kayahan Bolel, a distinguished physician from Kutahya, Turkey. Acting upon request from the Kutahya Attorney General's Office (Turkey), the Kazakh authorities arrested Dr. Bolel at his home in the city of Almaty, Kazakhstan. The charges pressed against Dr. Bolel by the Turkish authorities were the following:

- Depositing money in a Bank Asya account, a Turkish bank officially under government control.
- Using a messaging app that is available for download on the android store and the internet, downloaded and used by hundreds of thousands of people across the world.
- Helping people in need, providing scholarships for students and donating money during the Muslim holiday Eid-al Adha, something representing a religious duty.

- Being the owner of a closed hospital.

According to the contents of the request by Turkey, the pretended "crimes" were allegedly "committed" on July 15, 2016, the day of the attempted coup; however, from January 2016 Dr. Bolel was residing in Kazakhstan and did not travel to Turkey ever since. He was employed in a private hospital in Almaty and obtained resident status in Kazakhstan. Contrary to the ruling by the Almaty District Court, one week after the initial decision, the Appellate Judicial Board decided to authorize the extradition arrest to extradite for 12 months Dr. Kayahan Bolel to Turkey. Following legal action in Kazakhstan and an individual submission with the UN human rights treaty bodies, Dr. Bolel was finally able to leave Kazakhstan and join his family in Europe.

CASE 14.2 ●

Country: *Kazakhstan -2*

Treatment: Enforced and Involuntary Disappearance

Victim(s): Enver Kilic, Zabit Kisi

Date: September 16, 2017

On September 16, 2017, Mr. Enver Kilic and Mr. Zabit Kisi were not allowed to board a plane in Kazakhstan heading back to Kirghizstan, because their passports were allegedly cancelled. They were thereafter abducted from the plane by an unknown group



Enver Kilic and Zabit Kisi were abducted from Almaty Airport, Kazakhstan

of people and according to Turkish media were subject to unlawful deportation to Turkey. There is no information on their whereabouts and their medical and other conditions ever since.

CASE 15.1 ●

Country: *Kosovo -1*

Treatment: Arbitrary Detention, Asylum Seeker

Victim(s): Uğur Toksoy

Date: October 2, 2017

In September 2017, a list of twenty-five (25) names of Turkish nationals sought for deportation were allegedly handed over to Kosovo authorities by the Turkish government. Mr. Uğur Toksoy, an employee of the Atmosfera Educational Foundation in Kosovo was the first to be detained on October 2, 2017. He was released on bail on November 2, 2017 and in absence of proof of any wrongdoing the prosecutor was finally “forced” to drop the charges against Toksoy, on December 14, 2017. In the aftermath of the hearing the prosecutor re-



Uğur Toksoy, an employee of the Atmosfera Educational Foundation

vealed that in the month preceding the trial, on a daily basis he had asked for evidence from his counterparts in Turkey on the matter. According to the prosecutor, despite repeated assurances, no evidence ever reached him until the hearing of November 14, 2017.¹⁷⁹

The extradition request¹⁸⁰ from Turkey to Kosovar authorities published in a Kosovo newspaper (Gazeta Express) on November 2, 2017, in relevant part provides an insight on the nature of “evidence” the Turkish government is using to deport hundreds of dissidents from abroad. Out of a 5-page document, in 2-3 paragraphs in the end of page 3, the document refers to Mr. Toksoy and his supposed “crimes.”¹⁸¹ It reads: “The General Directorate of Consular Affairs of the Ministry of Foreign Affairs with its communication No. 60925238-400-2016/11685320 of December 6, 2016, informs that the suspected individual Uğur Toksoy has responded with loyalty to the aforementioned organization [Hizmet Movement]. On the basis of the investigation it results that Uğur Toksoy is the head (imam) of the armed terrorist organization in the geographic region (continent) Republic of Kosovo; he leads the FETO/PDY dependent institutions in this country; accumulated funds, from these institutions are transferred in the accounts of the organization, under the disguise of interreligious dialogue have made possible their activities in this country. On January 26, 2017, the First Instance Criminal Court No. 2 in Hatay issued a detention/arrest order for the suspect. Pursuant to the documentation subject to investigation, it can be noted that investigative proceedings are ongoing.”

¹⁷⁹Zaman Macedonia 2017, *Prokuroria Speciale e Kosovës tërheq kërkesën për ekstradimin e shtetasit turk Uğur Toksoy*, Available from: <http://www.zaman.mk/al/ballkan/12605-prokuroria-speciale-e-kosoves-terheq-kerkesen-per-ekstradimin-e-shtetasit-turk-ugur-toksoy-video.html>

¹⁸⁰Available here in Albanian: <http://www.gazetaexpress.com/lajme/si-po-i-ben-hyzmet-pa-kushte-kosova-erdogan-it-gylenistet-po-arrestohen-pa-asnje-deshmi-dokument-456445/>

¹⁸¹Mr. Toksoy has been accused of membership in an armed terrorist organization.

CASE 15.2 ●

Country: *Kosovo -2*

Treatment: Abduction, Illegal transfer across international boundaries

Victim(s): Mustafa Erdem, Yusuf Karabina, Kahraman Demirez, Cihan Özkan, Hasan Hüseyin Günakan, Osman Karakaya

Date: March 29, 2017



In the early morning hours of March 29, 2018, in coordinated illegal actions in several cities across Kosovo, intelligence agencies of Turkey and Kosovo, as well as the Kosovo police abducted and immediately deported the following Turkish nationals working for educational institutions allegedly linked to the Hizmet/Gülen Movement:

1. Mr. Mustafa Erdem - General Director of Mehmet Akif College
2. Mr. Yusuf Karabina – Deputy Director, Mehmet Akif College
3. Mr. Kahraman Demirez - Director of Gjakova/Djakovica Branch of Mehmet Akif College
4. Mr. Cihan Özkan – Biology teacher, Mehmet Akif College
5. Mr. Hasan Hüseyin Günakan – Chemistry teacher, Mehmet Akif College
6. Prof. Osman Karakaya – Turkish medical doctor visiting on a tourist visa

Only a few days prior to the actual kidnapping (March 29) the head of the Special Prosecution of the Republic of Kosovo (SPRK) Chief-Prosecutor rejected the extradition demand from Turkey as groundless. As a result, the perpetrators, intelligence agencies of both countries, with assistance from the Kosovo police and the Turkish embassy (which served as a detention center for the abducted) resorted to kidnapping and immediate illegal and clandestine transfer to Turkey. The Interior Minister and the Head of the Counterintelligence Agency of Kosovo were sacked the next day (March 30, 2018).

CASE 16 ●

Country: *Madagascar*

Treatment: Confiscation of Passport, Face Deportation

Victim(s): 60 Turkish teachers, businessmen and their family members

Date: March 2017

In March 2017, passports of 60 Turkish teachers, businessmen and their family members in Madagascar were confiscated without any reason. There is no further information whether they continue to be under imminent threat to be deported to Turkey. Turkish citizens have applied for protection with the United Nations and followed the necessary procedures. There is also no information whether their applications have been approved. Five Turkish citizens whose passport expired and newborn children without passports had repeatedly applied to the Turkish Embassy, with their requests being rejected.

CASE 17 ●

Country: *Malaysia*

Treatment: Abduction, Detention, Arrest, Expulsions

Victim(s): Alettin Duman, Tamer Tıbık, Unknown Person, Turgay Karaman, Ihsan Aslan, İsmet Özçelik,

Date: October 13, 2016 / May 2, 2017 / December 13, 2016



On October 13, 2016 three individuals allegedly linked to the Hizmet Movement were abducted in Kuala Lumpur and subsequently deported to Turkey, as follows:

- Alettin Duman (abducted, deported on October 13 and arrested)
- Tamer Tıbık (abducted, deported on October 13 and arrested)
- Unknown Person (abducted, deported on October 13 and arrested) – The Turkish Foreign Minister announced 3 citizens as deported from Malaysia, but the identity of the third individual is not known.

Turkish citizens Turgay Karaman and Ihsan Aslan were abducted during simultaneous raids in Kuala Lumpur on May 2, 2017.

No details were released on the abduction of Mr. Aslan, while CCTV recordings show that Mr. Turgay was abducted by five men in plain clothes immediately after he exited his car in a parking lot, forcing him to enter one of their cars. The location of their detention is not known yet, however the police stated they are in police custody.

Mr. İsmet Özçelik (57), came under attack by four unknown individuals¹⁸² on December 13, 2016, in his apartment in Kuala Lumpur. The unknown assailants tried to handcuff and forcibly transfer him to the premises of the Turkish Embassy, allegedly claiming that his passport was no longer valid. Özçelik was then detained without a court order and spent 50 days in Sungai Buloh Prison. He was released on January 31, 2017, after being granted refugee status by UNHCR. Özçelik was rearrested on May 4, 2017 with no information on which grounds. UNHCR Malaysia contacted by family members has replied that it cannot do anything in this case. He was deported in May 2017 along with Turgay Karaman and Ihsan Aslan and arrested at arrival, with the three of them appearing handcuffed in Turkey.

In a May 19, 2017 letter to the victims' lawyers in Brussels, the UN Human Rights Committee urged Turkey to take all necessary measures to confirm the whereabouts of the detainees and to officially inform the committee, their families and lawyers.¹⁸³

¹⁸²The unknown individuals did not show any ID, even after being repeatedly requested

¹⁸³<https://www.turkishminute.com/2017/06/02/video-un-urges-turkey-to-grant-access-to-3-gulen-followers-detained-in-malaysia/>

CASE 18 ●

Country: *Morocco*

Treatment: Detention, Arrest

Victim(s): *Ismet Bakay, Ferhat Erdoğan, Mustafa Onder, Aydin Elmas*

Date: March 27, 2017 / April 9, 2017 / July 26, 2017 / July 28, 2017

On January 5, 2017, the Minister of Interior stated that - "Investigations into the institutions of the Mohamed al-Fatih Group linked to Fethullah Gülen have revealed that the schools were spreading the "ideology" and ideas of Gülen Movement, ideology and ideas which contradict the educational system and religious principles of Morocco. In view of the failure to comply with the warnings issued by the Ministry of Education to remedy the recorded shortcomings, it was decided to close all the schools belonging to this group within a maximum period of one month." The schools in Morocco affiliated with the Gülen Movement were closed by the Moroccan Ministry of Interior on February 5, 2017.

Extradition to Turkey on baseless grounds has been requested for the following Turkish nationals under UN protection: (1) Ismet Bakay, (2) Ferhat Erdoğan, (3) Mustafa Onder and (4) Aydin Elmas. Spouses and family members of some of these individuals have already been granted refugee status in different European countries.

- *Ismet Bakay* is a mathematics teacher and he graduated from Balikesir University (north-western Turkey). He first worked at Balikesir Firat Anatolian High School and Euphrates Elementary School before moving to Morocco along with his family, on February 29, 2016, due to psychological pressure and fear of persecution [in Turkey], based on perceived affiliation with the Hizmet Movement. At the time of detention in Morocco, on March 27, 2017, Mr. Bakay was under UNHCR protection.

- *Ferhat Erdoğan* moved to Morocco back in 2015 as an investor in the construction sector. There he incorporated the "Umrán" company in Casablanca, Morocco, which produces, imports and sells construction materials. He was detained on April 9, 2017 in front of his children, at the Casablanca Mohammed V Airport, while traveling to Germany from Morocco on valid passport and necessary entry visa. No explanation or reason was given for his detention. At the time of detention he was under UNHCR protection.

- *Mustafa Onder*, a professor by profession, moved in Tetouan, Morocco back in 2013 to work in a private school. He was detained on July 28, 2017 following a detention warrant by Turkey.

- *Aydin Elmas*, a businessman by profession, was detained on July 26, 2017 in Tetouan, Morocco and thereafter transferred to Rabat to appear before the court. His access to the lawyer and the UNHCR is limited. His health conditions are have already deteriorated, since Mr. Elmas is diabetic (needs to use insulin), has undergone spinal cord and surgeries.

Mr. Ismet Bakay and Mr. Ferhat Erdoğan were detained on March 27 and April 9, 2017 respectively. No explanation or reason has been provided for their detention and they were not accused of any wrongdoing in Morocco. The Government claims that all the members have participated to the attempted coup, even though it is easily verifiable that several of the four individuals were not in Turkey at the time of the attempted coup. Other accusations include:

- Working as a professor in a school affiliated with the Gülen Movement

- Having a bank account at Bank Asya (a legally operating bank until its closure by the government)

- Having donated to the charity organization 'Kimse Yok Mu', until its closure the biggest aid organization in Turkey.

- Having a prior subscription to the daily 'Zaman', once the newspaper with the biggest circulation in Turkey
- Being a member of international commerce organization 'TUSKON'
- Providing scholarships to poor students

The 2002 agreement on extradition into force between Turkey and Morocco clearly states that political crimes do not constitute a basis for extradition. Yet, the Moroccan Supreme Court gave a favorable opinion for the extradition of the above individuals to Turkey.

Following the favorable opinions of the Moroccan Supreme Court, in June 2017 the lawyer for the victims lodged a petition with the UN Committee against Torture (CAT), aiming to ensure that the Kingdom of Morocco does not extradite the individuals at risk, but instead upholds its human rights obligations under the relevant international treaties it is currently a state party. As an interim measure, the Committee against Torture has asked the government of Morocco not to extradite the individuals at risk, who are still in custody, until it adopts an opinion on any individual case.

CASE 19 ●

Country: *Myanmar & Thailand*

Treatment: Expulsions (Airport)

Victim(s): Muhammet Furkan Sokmen

Date: May 24, 2017

On May 24, 2017, the Sokmen family¹⁸⁴ was travelling from Myanmar to Thailand on valid passports and necessary visas. They arrived at the airport, passed the security checkpoint without any problems, and waited to board Air Asia flight FD 254. While waiting for the flight at Gate no. 10 that was scheduled to depart at 18:00, Mr. Oral Partal, police attaché from the Turkish Embassy in Myanmar arrived at Gate



10 with a local flight security officer. Mr. Partal informed Mr. Sokmen that his passport was cancelled and he could not travel to Bangkok, Thailand without any documents, evidence or proof. In the meantime, Mr. Sokmen missed his Air Asia flight FD 254 to Bangkok, Thailand. At the end of the day, Mr. Sokmen was allowed to travel to Thailand, where he was detained at the airport in Bangkok and flown to Turkey. He was arrested at arrival.

UN Human Rights for South-East Asia expressed grave concern over the deportation by Myanmar - via Thailand - of Turkish national Muhammet Furkan Sokmen, and strongly urged authorities not to deport those deemed at risk upon their return to Turkey.¹⁸⁵

CASE 20 ●

Country: *Netherlands*

Treatment: Espionage, Blacklisting

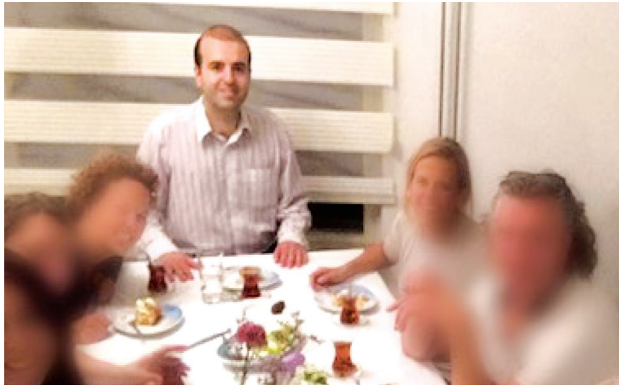
Victim(s): Hizmet Movement participants

Date: May 24, 2017

The Stockholm Center for Freedom has reported a rapid rise in the Netherlands in attacks on civil society organizations, media organizations, educational institutions, busi-

¹⁸⁴Mr. Muhammet Furkan Sokmen, Mrs. Ayse Sokmen and Ms. Sibel Sokmen (3-year old daughter)

¹⁸⁵<https://www.reuters.com/article/us-myanmar-turkey-politics/u-n-expresses-grave-concern-over-myanmar-thai-deportation-of-turkish-national-idUSKBN18N0GX?il=0>



nesses, health-care facilities and individuals affiliated with the Hizmet Movement.¹⁸⁶

Specifically, the report highlighted that “People were forced to cancel their subscriptions to newspapers affiliated with the Hizmet Movement and stop sending their children to the schools that are linked to the movement. There was increased activity of profiling, targeting and threatening people affiliated with the Hizmet Movement via social media and newspapers supported by the ruling AKP and its extensions in the Netherlands,”¹⁸⁷ as well as stone throwing, violence and setting building on fires of businesses affiliated to the Gülen Movement. A former imam and a person “close to the Hizmet Movement”¹⁸⁸ was attacked and badly beaten a few days after the attempted coup in Turkey in July 2016, journalists working mainly for the *Zaman Hollanda* newspaper and the Dutch language *Zaman Vandaag* newspaper were harassed and threatened, another journalist received death threats.¹⁸⁹

According to the report 175 complaints were filed with the Dutch police resulting in 4 detentions but no arrests.¹⁹⁰ It was further reported that “In December 2016, it turned out that the Religious Affairs Consultancy of Tur-

key’s embassy in The Hague was conducting intelligence activities. This led to a number of scandals. It was understood that the Dutch Religious Affairs Foundation asked 145 mosques in the country to draw up profiling lists and sent these lists to Religious Affairs Counsellor Yusuf Acar in The Hague. Some victims interviewed by SCF [Stockholm Center for Freedom] stated that based on these profiling lists, Acar banned certain people from entering mosques and that these notices were hung on the doors of mosques.”¹⁹¹

On September 11, 2017 a Turkish businessmen, owner of fast food chain Halal Fried Chicken, was murdered in Amsterdam over his alleged links to the Hizmet Movement.¹⁹² On December 6, 2017 Oğuzhan Erkuş, a 19-year-old supporter of the Justice and Development Party (AK Party), who threatened to kill Mehmet Demirözcan (32), a sympathizer of the Gülen Movement who live in the Netherlands’ Tilburg city was sentenced by a Dutch court. Erkuş was imposed a fine by the Breda court for sending threatening and insulting messages to the educator, Mr. Mehmet Demirözcan and the appeal court of S-Hertogenbosch affirmed the sentence on December 6, 2017. Erkuş was sentenced to 60 hours of park and street cleaning; however if he commits the same crime within 2 years, he will be given extra 30 hours of penalty and 250 euros fine.

¹⁸⁶Stockholm Center for Freedom, *Erdogan’s long arm in Europe: The case of The Netherlands*, February 27, 2017, available at: http://stockholmcf.org/wp-content/uploads/2017/02/Erdogan’s_long_arm-in_Europa_The_case_of_the_Netherlands_27.02.2017.pdf, p. 11

¹⁸⁷*Id.*, p. 12

¹⁸⁸*Id.*, p. 15

¹⁸⁹*Id.*, p. 21

¹⁹⁰*Id.*, p. 24/25

¹⁹¹*Id.*, p. 30

¹⁹²<https://stockholmcf.org/a-turkish-businessman-killed-in-amsterdam-over-his-alleged-links-to-gulen-movement/>

CASE 21 ●

Country: *Pakistan*

Treatment: Abduction, arbitrary detention, illegal transfer across international boundaries

Victim(s): Mesut Kaçmaz, Meral Kaçmaz, Huda Nur Kaçmaz, Fatma Huma Kaçmaz

Date: September 26, 2017



The Kaçmaz Family who was abducted from Pakistan on 26 September 2016.

PakTurk International Schools and Colleges were first established in 1995 in Pakistan and now include 28 schools in the cities of Islamabad, Lahore, Quetta, Karachi, Peshawar, Rawalpindi, Multan, Hyderabad, Khairpur and Jamshoro. PakTurk Schools are considered Pakistan's best educational institutions regarding the quality of education, character-building, and educational facilities.

PakTurk Schools recruited Pakistani teachers along with 120 teachers and staff members who in mid-November 2016 were Turkish nationals. Ahead of the Turkish President's

visit to Pakistan on November 16, 2016, the Pakistani government canceled Turkish teachers' valid visas and ordered the teachers and family members (approximately 450 individuals) including women and children to leave Pakistan within three days.

Terrorized by its own government and under distress in Pakistan, the Turkish teachers were given protection from the UNHCR and granted temporary stay by Pakistani Courts against coercive measures, including deportation to Turkey. Since November 2016 however, the government of Turkey intensified its efforts to forcibly and illegally repatriate the teachers. Recently, the Pakistani government disregarded the decisions given by Pakistani courts and the protection granted by the UNHCR for the teachers at risk.

On September 26, 2017, Pakistani law enforcement agencies abducted Mr. Mesut Kaçmaz, Mrs. Meral Kaçmaz and their two daughters from their apartment in Lahore. The Kaçmaz family was held incommunicado for three weeks, before forcibly and illegally transferred to Turkey on October 14, 2017. Mesut and Meral Kaçmaz are under custody and held quasi-incommunicado.

Turkish teachers remaining in Pakistan are harassed and detained daily, subjected to abuse, inhumane, and degrading treatment; prompting Pakistani courts to order the government stop their harassment and place police officers in front of residences. In addition, Turkish teachers have their passports cancelled, their children born stateless, and face revocation of their national citizenship. Turkish teachers and their families face precarious living, health, and other conditions. Finally, they are also subjected to financial, economic and other hardships.

CASE 22 ●

Country: *Romania*

Treatment: Passport seizure, risk of expulsion

Victim(s): Soner Cesur, Enes Kanter

Date: March 25, 2017 / May 21, 2017



Enes Kanter, Knicks NBA Player

On March 25, 2017, Romanian police seized the passport of Mr. Soner Cesur, a Turkish businessman with investments in Romania upon a demand made by the Turkish government. Cesur's passport [valid until 2024] was seized by police at Henri Coanda Airport as he was attempting to fly to Warsaw. In a written document¹⁹³ handed over to Mr. Cesur, the police cited in that the passport was seized upon an order from the Romanian Foreign Ministry. The police also said Cesur's passport would be sent to the Turkish Embassy in Bucharest.

In May 2017, Mr. Enes Kanter, an NBA basketball player from Turkey was stopped at Henri Coanda Airport, after Turkey allegedly cancelled his passport, due to his political views and being a supporter of the Gülen Movement. Mr. Kanter was eventually allowed to travel to London and from there back to the United States, on May 21, 2017.¹⁹⁵

Imams from Turkey's Religious Affairs Directorate (Diyanet) have also provided intelligence on people sympathetic to Turkish Islamic scholar Fethullah Gülen and the movement he inspired" in Romania, including in "11 schools, kindergartens and one university that are part of the Lumina Educational Institutions, which have been active in Romania since 1994". The same source further stated that the report by The Black Sea news website reported that There are tough allegations that the Turkish Embassy is blocking the release of vital documents to Turkish citizens and cancelling their passports - forcing them to stay in Romania, and 'blackmailing' parents into pulling their children from Gülenist schools.¹⁹⁶

CASE 23 ●

Country: *Saudi Arabia*

Treatment: Arbitrary Detention, Expulsions

Victim(s): Faruk Yanık, Ercan Orucu, Mehmet Altan, İrfan Bayar, Usame Türkyılmaz, Huseyin Avni Güngören, Yunus Beşir Birol, Beşir Başoğlu, Aziz Erten, Adil Veli Kartal, Şener Yurek, 15 family members

Date: January 2017

In January 2017, passports of (1) Faruk Yanık, (2) Ercan Orucu, (3) Mehmet Altan, (4) İrfan Bayar, (5) Usame Türkyılmaz, (6) Huseyin Avni Güngören, (7) Yunus Beşir Birol (8) Beşir Başoğlu, (9) Aziz Erten, (10) Adil Veli Kartal and (11) Şener Yurek were confiscated, reportedly due to the perceived affiliation with the Hizmet Movement. Fearing torture and ill-treatment in the hands of the Turkish

¹⁹³For more please see: <https://www.turkishminute.com/2017/03/27/romanian-police-seize-passport-upon-turkeys-demand/>

¹⁹⁴<http://www.bbc.com/news/world-europe-39987275>

¹⁹⁵http://www.espn.com/nba/story/_/id/19431319/enes-kanter-oklahoma-city-thunder-back-united-states-news-conference-monday

¹⁹⁶Stockholm Center for Freedom, *Diyanet Imams Spied On Gülen Sympathizers In Romania*, April 2, 2017, available at: <https://stockholmcf.org/diyanet-imams-spied-on-gulen-sympathizers-in-romania/>

government due to their perceived affiliation to the Movement, Turkish nationals and their family members applied for protection from the UNHCR. No protection measures from the UNHCR were however granted to address the urgent human rights and humanitarian situation of the Turkish citizens at risk.

On March 15, 2017, they were taken in custody by the Saudi police in four different cities and were scheduled for expulsion to Turkey on April 7, 2017. Terrorized by its own government and under unlawful distress imposed on them in the country they have genuinely contributed for as long as 40 years in different fields - the Turkish citizens placed high hopes on the United Nations to avoid deportation to Turkey, torture and ill-treatment.

Following several postponements, they were finally deported to Turkey on May 4, 2017, along with their family members. They were detained at arrival and no information is currently available on their whereabouts or health condition.

CASE 24 ●

Country: *Spain*

Treatment: Arbitrary Detention

Victim(s): Hamza Yalçın

Date: August 3, 2017



Swedish journalist of Turkish origin, Mr. Hamza Yalçın, was detained on August 3, 2017, in El Prat airport in Barcelona, where he was vacationing. Mr. Yalçın faced extradition to Turkey on the request from Turkey via Interpol. If extradited to Turkey, Yalçın would have faced a sentence of up to 22 and a half years in prison on charges of belonging to a 'terrorist group' THKP-C and of 'insulting' the Turkish president in his magazine, *Odak*.¹⁹⁷ After almost 2 months in detention, Hamza Yalçın was finally released on September 28, 2017 by a ruling of the Spanish National High Court.¹⁹⁸

CASE 25 ●

Country: *State of Qatar*

Treatment: Arbitrary Detention, Expulsions

Victim(s): 45 Turkish citizens, Zekeriya Özşevik, Derya Özşevik

Date: June 24, 2017

On June 24, 2017 forty-five (45) Turkish nationals were deported from Qatar to Turkey, most of them taken in custody at arrival in Istanbul or released on judicial control. While the names and whereabouts of the Turkish nationals deported from the State of Qatar and then detained in Turkey on June 24 are still to be confirmed, the Journalists and Writers Foundation has learned that one of the detainees is the Turkish academic Zekeriya Özşevik and his wife Derya Özşevik – charged on 'terrorism'-related charges and joining an 'armed terrorist group'. It is not known how many of the deported Turkish nationals were children.

¹⁹⁷Reporters without Borders, *Journalist still held in Spain under Turkish request to Interpol*, September 21, 2017

¹⁹⁸<https://europeanjournalists.org/blog/2017/09/27/spain-must-release-journalist-hamza-yalcin/>

CASE 26 ●

Country: *Sudan*

Treatment: Arbitrary Detention, Expulsion

Victim(s): Y.K., Memduh Çıkmaz

Date: November 21, 2016 / August 3, 2017



Y.K., an accountant moved to Khartoum after receiving a job offer on January 1, 2016 from a Turkish company. He moved to Khartoum from Turkey on March 15, 2016 with his wife and 3 children and worked for approximately 10 months in the Turkish company. In the aftermath of the attempted coup of July 15, 2016 in Turkey, Y.K. who has no prior criminal record, reportedly learned about a political case launched against him back in Turkey over his alleged involvement with the Hizmet Movement and the attempted coup, while he was physically in The Sudan. His employment was subsequently terminated and he was detained by the Sudanese authorities on November 21, 2016. Y.K. was given no information on charges and alleged “crimes” he is accused of; and reportedly received no explanation on the reasons of his detention either.

Mr. Memduh Çıkmaz, a successful Turkish businessman with alleged links to the Gülen Movement was detained by Sudanese authorities on September 6, 2017. Mr. Çıkmaz contributed to, inter alia, education, humanitarian and charities, but was forced to sell all his properties and flee to the Sudan in January 2016, after

being constantly harassed and threatened by the Turkish government. The Sudanese Intelligence Services took Mr. Çıkmaz into custody at around 12.00 (midday), reportedly in the Intelligence Services Headquarters in Khartoum, in the presence of his spouse, son, brother and his company director.¹⁹⁹ At the time of his detention he was not informed of any reasons for his arrest, or any explanation on charges brought against him. His lawyer has no access to him and so far, no knowledge on his whereabouts. His lawyer did not have any opportunity to take proceedings before any court, which can decide on the lawfulness of his detention. Since his detention in early September 2017, no charges had been brought against him from the Sudanese authorities, nor was he brought before a judge to review his detention. He also lost around 30 kg in weight in the Sudan. Without any prior warning or indication, on November 26, 2017, at around 23:00 local Sudanese time (GMT+2) Mr. Memduh Çıkmaz, was forcibly taken from the Khartoum Intelligence Headquarters (where he was held since September 6, 2017) and handed over to members of Turkey’s National Intelligence Organization (MİT) at Khartoum Airport. Handcuffed and subject to humiliation, Mr. Memduh Çıkmaz was forced to board a Turkish Airlines flight (TK 681) headed to İstanbul, Turkey. At arrival (7:13 a.m. local time in İstanbul) - at İstanbul Atatürk airport Mr. Çıkmaz was detained. A photo of Mr. Çıkmaz taken at arrival in İstanbul shows him handcuffed.²⁰⁰

¹⁹⁹<https://www.turkishminute.com/2017/09/09/sudan-arrests-gulen-linked-businessman-at-turkeys-request/>

²⁰⁰<https://stockholmcf.org/report-turkeys-mit-abducts-turkish-businessman-from-sudan/>

CASE 27 ●

Country: *Switzerland*

Treatment: Risk of abduction, illegal transfer across international boundaries

Victim(s): Swiss-Turkish businessman

Date: March 15, 2018

On March 15, 2018 lawmakers from the Swiss parliament requested a strong reaction from the Swiss government in response to active preparations by two Turkish diplomats to kidnap (and subject to rendition in Turkey) a dual citizen and Swiss-based businessman, who was allegedly active in the Hizmet/Gülen movement.²⁰¹ The existence of the plot was confirmed by the Office of the Swiss Attorney General based “on suspicion of political intelligence gathering ... and prohibited acts for a foreign state.”

CASE 28 ●

Country: *Ukraine*

Treatment: Arbitrary Detention (Airport)

Victim(s): A.Y., spouse, 2 children

Date: May 25, 2017

Mr. A.Y., traveling with his family from Bangkok to Casablanca, Morocco through a connecting flight in Kiev, Ukraine when he was detained by Ukraine authorities. There is no further information on his whereabouts and his current situation.

CASE 29 ●

Country: *United Arab Emirates and FYR Macedonia*

Treatment: A Passport seizure (Airport)

Victim(s): M.K.

Date: October 3, 2017

On October 3, 2017, Mr. M. K., a physics teacher from Adana (Turkey) was traveling

to the United States of America through Tehran (Iran), Dubai (United Arab Emirates) and Skopje (Macedonia), where he was allegedly informed that his Turkish passport had been reported lost, before put in a plane and flown back to the Dubai airport. The Macedonian authorities promised to return his passport at the gate, but unfortunately this was not the case and with a copy of the passport he was held at the Dubai airport. Mr. K. once boarded a plane for Skopje, where he finally was able to ask for international protection.

PART VII CONCLUSIONS AND RECOMMENDATIONS

The right to leave is enshrined in very similar terms in numerous relevant human rights treaties into force in the Republic of Turkey, indicating both, the importance of the right to leave and the objective of coherence in its interpretation and application. Blanket restrictions, requirements which do not meet the test of “legality”, or restrictions which are inconsistent with other rights in the ICCPR (e.g. the antidiscrimination guarantee in Article 26), are not permissible.

Purged public sector workers, teachers, academics, journalists, human rights defenders, trade unionists, businessmen, lawyers, judges, prosecutors, police officers, military personnel and other professionals - have all been denied a future in Turkey.

Hundreds of thousands of individuals have been detained or arrested and investigated on charges for membership of an ‘armed terrorist organization’. Around two hundred fifty thousand (250,000) Turkish citizens have had their passports cancelled and also labeled by the government as terrorists.

²⁰¹<https://www.tagesanzeiger.ch/schweiz/nach-entfuehrungsversuch-bundesrat-soll-scharf-gegen-die-tuerkei-vorgehen/story/17604118>

Grave human rights violations and relentless persecution against real or perceived political opponents and individuals with dissenting views - are forcing an increasing number of Turkish nationals from all walks of life to seek international protection.

Abroad, Turkish teachers, businessmen, academics and other intellectuals are under increasing distress and face enforced and involuntary disappearance, attempts to forcibly and unlawfully expel them to Turkey, where they would be subjected to arbitrary detention, torture and ill-treatment. They face abuse, inhumane, and degrading treatment; precarious living, health, financial, economic conditions and other hardships; have their passports cancelled, their children born stateless, and scores face arbitrary deprivation of nationality.

Unless the relentless assault on dissent in the country, all legal, administrative and practical measures that contribute to the unprecedented assault, are not immediately reversed - the future of hundreds of thousands more individuals in Turkey will be denied - and many in the future will have no other choice then to risk their lives in trying to leave the country, in order to seek international protection.

Recommendations to the government of Turkey:

- To fully comply with its international human rights obligations and ensure that its citizens and foreigners residing in the country enjoy their right to leave.
- Immediately end the state of emergency, rescind the decree-laws and reverse all measures detrimental to the future of hundreds of thousands of individuals, including the cancellation of approximately two hundred fifty thousand (250,000) passports.
- Ensure that every loss of life, enforced disappearances, torture and other grave human

rights violations since the attempted coup, are duly investigated and that perpetrators of human rights violations are brought to justice.

- Organize all State organs and governance structures through which public authority is exercised in a manner consistent with the need to respect and ensure the right to life, both in Turkey and abroad.

- Ensure effective reparations for victims and family members whose human rights have been affected by unlawful and arbitrary measures, which contravene the rights of individuals to freedom of movement.

Recommendations to the International Community

The Journalists and Writers Foundation urges the international community to actively seek solutions for the acute deterioration of democracy and human rights within Turkey and to take steps to counteract the Turkish government's lawless acts against its perceived opponents abroad, with a particular focus on the recommendations made in mid-2017 by the Institute on Statelessness and Inclusion as set out below:²⁰²

- *Directly address*, as a matter of utmost priority and importance, the deteriorating human rights situation in Turkey, including in relation to the right to leave and arbitrary deprivation of nationality of Turkish citizens, through all relevant and appropriate United Nations, Council of Europe and other mechanisms, as well as through bilateral diplomatic engagement.
- *Ensure* that Turkish citizens are not deported to Turkey, where they risk being subject to severe and irreparable harm. Such deportations violate the international obligation of states to *non-refoulement*.
- *Assist* in resettlement efforts of Turkish

²⁰²http://www.institutesi.org/policy-brief-Turkey-arbitrary-deprivation-of-nationality_2017.pdf

nationals, to avoid forcible return of the individuals at extreme risk to Turkey, or any other place where they face torture, ill treatment and a real risk to their lives.

- *Consider* granting refugee status and international protection to Turkish citizens at risk, including those who have been issued summons under Decree 680 or denied consular services.

- *Encourage* the UNHCR to urgently make the determination and grant all the Turkish citizens at risk refugee status, based on the degree of risk and vulnerability.

PART VIII ANNEXES

ANNEX 1- Interviews with Individuals in Exile (3)

ANNEX 2 – Individuals Deprived of Nationality and Denied Counselor Services

ANNEX 3 - List of Cross-border Incidents

ANNEX 4 - List of Abductions, Detentions, Arrests, Deportation

Annex 1 - Interviews with Individuals in Exile

In the process of drafting the present report, the Journalists and Writers Foundation identified around 436 Turkish citizens who were detained, jailed or released only after their passports were seized or cancelled. Many people who had fled into exile in the aftermath of the attempted coup, from all age groups and belonging to different social and economic backgrounds, enthusiastically expressed readiness to tell their stories. They all did so in the hope that their accounts would somehow help those left behind.

The Journalists and Writers Foundation is grateful to all individuals who contributed with their stories in facilitating the drafting of the report. While not all of them will be able to identify their stories in the present report, simply due to page limitations; all contributors may rest assured their accounts of persecution

and their suffering until reaching liberty – have all helped the Journalists and Writers Foundation draw relevant conclusions and make recommendations to address this increasingly important issue. The relevant statistics drawn from analyzing those cases have also been shared with relevant stakeholders for possible remedies.

In particular, these accounts confirmed that all those fleeing the country, without exception risking their lives in every single meter of their respective routes, are forced to leave and seek international protection because they are denied any future in Turkey and are facing, *inter alia*, arbitrary detention, torture, enforced disappearance or extrajudicial killings.

The Journalists and Writers Foundation carefully examined and found all the accounts consistent and credible. The interviews in the paragraphs that follow were selected as the most illustrative, based on the fact that they come from individuals belonging to different age groups, social and economic backgrounds, who are now living in different countries.

The Journalists and Writers Foundation has withheld their names and other relevant information, such as dates, times, place of detention, border crossings and profession - to the extent necessary to protect them, their relatives and friends in Turkey from eventual reprisals.

Interview 1

My name is Nurten [real name and identity withheld]. I worked nearly 26 years as a civil servant in Turkey. We had a happy family life together with my husband and our two children. My husband was a businessman and my children were attending school. The younger child was attending high school and the older one was a university student. My children were hard-working students in their schools and active participants in their social and civic engagement.

My husband believed in social responsibility and engaged in civil society organization to help the people in need and contribute to the quality of life. He assisted students get a bet-

ter education, helped the poor and improved the trade volume of business people, both in the country and abroad.

After [the corruption case] December 17-25, 2013, a division emerged within the society in Turkey. The government and the media began to threaten the peace and harmony in the community by propagating discrimination against some of the segments of the society. I started being afraid about my children and family, due to hate speech against civil society associations, to which my husband was affiliated. The level of threats against my family constantly increased. We were further, witnessing unfairness and discrimination towards many innocent people, who were arrested and imprisoned, while their businesses were increasingly a target.

Attending a Wedding during the Attempted Coup

In the evening of July 15, 2016, we were attending a wedding ceremony of a family friend when first learned about the coup attempt from the TV. Returning home after the wedding we tried to understand what was happening. We were worried about the fate of our country. As a matter of principle, we are vehemently against military coups, as we believe military coups offer nothing positive to people.

On July 16, 2016, the 2nd day of the attempted coup, the AK Party began mobilizing people to attend protests and walks against the coup in the streets, which put social pressure on businesses and organizations. Our employees shared with us fear and uncertainty for the future. In particular I was worried about my family, my husband's employees, and the future of our country.

On July 17, 2016, the 3rd of the coup attempt, my husband had to travel abroad due to growing threats. We were all terrified given the immense social pressure over the course of a week, and we were worried and threatened because people around us knew that my husband was affiliated with the Hizmet Movement and civil society organizations.

As a civil servant, I went to my workplace regularly for one more week after the attempted

coup. Everyone in the workplace was discussing about the attempt, and some people were pointed to as perpetrators. About a week after the coup attempt, our house was raided at 7:00 a.m. by 7-8 police officers in uniform, who thoroughly searched our house. The officers had a search warrant and a list of names in their hands. First, they showed me the search warrant, thoroughly searched our house for about 3 hours and took notes. They confiscated all of the electronic devices (computers, cell phones, CDs, cassettes, video cassettes, etc.) at home. The police officers told me that there was a court decision against me and my husband. Since my husband had already travelled abroad, I was taken into custody, interrogated, and placed in custody in the police department.

The police officers asked these questions:

1. Which schools did you attend from primary, secondary, high school to university?
2. Did you stay at home or in a dorm while you were in high school and college?
3. Which schools do your children attend?
4. Did your children stay in the Hizmet schools, dorms, or homes?
5. Did you participate in Hizmet meetings?
6. Did you give donations or help the Hizmet Movement financially?
7. Did you have a bank account in Bank Asya?
8. Did you subscribe to newspapers, magazines or other publications affiliated with Hizmet Movement?
9. Did you favor or create any privilege for Hizmet Movement followers at your workplace?

I spent about seven days in custody in the police station. During this time, I was allowed to see my lawyer three times, but not allowed to see anyone else. There were ten men and me in custody detention in the police station. By the end of the 7th day in custody I was taken to court with an accusation of being a member of an "armed terrorist organization." The prosecutor took the case to court for an arrest. The judge ordered a ban to travel abroad and released me under the condition of signing at the police station five days a week. In total, my right of liberty and security was taken from me for eight entire days.

After being released, I learned that I was suspended from public service because I was taken into custody for being a member of an armed terrorist organization. About two months later, I was expelled from my job by the decree law (KHK). I retired then, but they also confiscated my retirement pension.

Every time I would go to the police station to sign the log, I was afraid of being arrested again. Since my husband had to flee abroad, I had to take care of the needs of my children and the employees at my husband's business places.

In mid-October 2017, I was taken again into custody, after I went to the police station to sign the log. The public prosecutor put pressure on me to testify against the Hizmet Movement and my husband. I knew that being taken into custody for the second time meant imprisonment. The public prosecutor threatened me by sending me to the prison. I was asked who I knew and questioned about the phone calls I made. I was taken into custody for five more days. Then, the public prosecutor referred to court for my arrest, and the judge released me with a condition to signing the log at the police station and ordered travel ban outside the country.

The public prosecutor objected the decision of the judge. I was aware that the prosecutor and the overall situation in the country would have forced the judge to change his decision. I therefore decided to leave everything behind and flee from my country with all my children.

My older son was a senior student at the university. I did not want to leave him behind in Turkey because I was worried about him staying alone to face the pressure by himself while finishing his studies. Therefore, my older son, with a heavy heart, had to abandon his higher education in the last year without completing his studies.

We experienced serious threats and unbearable social pressure in Turkey. We had no dreams and aspirations left for the future. Therefore, unfortunately, there were no other options but flee abroad until the day when the situation gets back to normal in Turkey.

Leaving Turkey

We had to take severe risks of life (drowning) to sail to the Greek Islands and then escape to Greece. Just a day before, we heard from the news that a group of people was caught trying to escape through the same route, and we were simply terrified about our journey. The news reported that one of the individuals apprehended a day before was a judge who was caught trying to escape to Greece. We just set off with a backpack, so people do not understand that we are fleeing from Turkey.

We arrived at the arranged meeting place at 8:00 a.m. in the morning. We waited until 16:00 pm to avoid suspicious activity, because everybody was anxious and stressed about getting caught. I experienced such a terrible depression that I could not try to do it again if I did not do it that day. In total, we were four families with 11 children: 2 children (3-4 yrs. old); 1 infant (3-4 months old); 1 girl (10 yrs. old); and my son at the age of 14.

After a 2-hour journey, we arrived at the Greek island. Later, we traveled from Greece to Germany, Germany to Poland, and finally from Poland to the United States. We were lucky to reach the United States because we had passports with valid visas. However, on our way to the United States, the police stopped us at the airport in Poland. A police team took us to a small room and questioned us for some time. We were stressed out of being deported to Turkey. The police officers however approved our passports and allowed us to board the plane.

Arrival in the United States

In the end of October 2017, we arrived in the United States, and my husband met us at the airport. It was unexplainable happiness that our family got back together, once again after a life-threatening journey to freedom. When we arrived in the United States we felt safe and secure; however, many new challenges were waiting for our family. Until we rented our home, my husband's friend generously welcomed and hosted us at their house for about a month. Later, we applied for asylum in the United States because

our life is in danger in Turkey and if we were sent back, we would face torture, ill-treatment and imprisonment on totally false accusations.

Unfortunately, we had to leave behind many relatives and friends in Turkey. Now, we are worried about their future. Unfortunately, we do not want to call them on the phone to avoid any harm, because we are accused of being members of an armed terrorist organization in Turkey.

The government put a hold on our assets, and our bank accounts were frozen in Turkey. Unfortunately, we had to leave all our assets behind to save our lives. Our businesses are running, but we cannot pay the debts from investments, due to the bank seizures. The life in the United States is wonderful, and we have dreams for the future, but it is really tough to start a new life again and get hold of it. After all, we feel grateful for what we have here when we think about the people left behind. We pray for the innocent people and the future of Turkey.

Thank you.

Interview 2

My name is Ali [real name and identity withheld], and I have been in journalism for almost 30 years. I studied journalism and made tens and hundreds of news and interviews. My interest areas are politics and recent history. I have published books, and I am an honorary member of the journalistic society. I have a permanent press card. I am married and have three children. I worked as an editor in Istanbul before our broadcast group was seized.

The Nature of Pressure, Fears, and Threats

Before the July 15th failed coup attempt, the pressure against our media group increased. The government did not want independent free press. The newspapers were silenced one by one. There were lawsuits against the journalists. In short, they prevented us from doing journalism. My press card was canceled. They asked me to return my entry card to the Grand

National Assembly of Turkey. We resisted until July 15th, but I did not get a chance to do journalism when the government appointed a Board of Trustees to the Zaman Media Group on March 4, 2016. Our editorial independence was destroyed. I had to resign on these terms as many journalists were fired from their jobs. The Zaman daily was closed after July 15th, and everything was confiscated. Over 2 thousand of my friends lost their jobs, and I became unemployed, too. My wife used to teach at a private school. Her school was also shut down, and she also became unemployed. My two children were going to foundation universities, and their universities were seized. They were left without higher education. They opened an investigation against me. I almost lost my freedom because journalism had become a crime.

I have always defended democracy and freedom throughout my professional life, and I have been unequivocal against military coups. I was with my family when the attempted coup was developing, and I cursed the July 15th failed coup, too. Within a few days, I understood that it was a fictitious coup. In one night, 4,000 judges were taken from their posts. Thus, they must have blacklisted them beforehand. The opponents would be oppressed. Then, they declared the state of emergency (OHAL). The journalists were arrested as the witch hunt started.

The Risks faced in Turkey

There was no account that I could not give, but there was no rule of law. I wouldn't sacrifice myself for the sake of the ruling party. I went into hiding for few months. They raided my home and confiscated my books. Since I had a valid visa, I looked for the first opportunity to leave the country.

I talked with a lawyer. He told me that no lawyer could defend me. None of my friends could find a lawyer. They were jailed and tortured. I had to take a huge risk for freedom. I had to cross the border at night. After passing two countries, I flew to this country because I had a valid visa. It was a life-threatening journey full of dangers. One week later, my wife joined me here using the same route.

A New Chapter in Life

Opening a new page in life is difficult. I could not even bring a photo with me. I had to leave everything in my country including relatives and friends. I have experienced all sorts of challenges that all exiled journalists undergo in a foreign country. I remember that Stefan Zweig who fled from Hitler committed suicide in exile. Now, I understand him better.

Unfortunately, many of them are in prison, and others are unemployed. The courts just started looking at the lawsuits. The journalists are being tried for their ideas, but you cannot reach anywhere by forbidding ideas and thoughts. Where did Hitler go? If the free world is more sensitive to human rights violations in Turkey, we would see less human suffering there. Thank you.

Interview 3

I was studying business at a university. I was a sophomore undergraduate student, but I had to quit. Now, I am 22 years old. My mother was arrested and we did not know where our father was. We had to settle down somewhere and start a new life for my sisters. For security reasons, we were not able to stay in our house and we were living in some other locations. One day, we went to our house to pack a couple of things and the security officer of our town center told us that the police had come, asking for us and requesting that we need to give a testimony. Townhouse management advised us to run away and not to go back again. Then we realized that we were not able to stay there anymore as we did not have a right to live due to the purge. Later, we managed to get in touch with our father and agreed that we needed to leave the country.

We were subject to exile as a result of the social labeling, we did not choose to escape Turkey, we just had to.

We had to flee in exile because of the purge.

No one would choose to travel with two little girls. My sisters, the younger one is 6 years, the other one 10 years old. It is such a dangerous road for the children and I knew it, my father also knew it. We have heard so many terrific incidents, people dying while trying to escape.

However, when you do not have any other choice, you are only left with the choice to leave the country. We had to flee as a result of the social labeling, we did not choose to escape Turkey, we just had to, like thousands of other families. My mother was in jail and her children, including my little sisters, did not have visitation permission and could not see her. For three months, we could not speak to our mother. We had to leave without seeing our mother. My mother stayed in prison for 8 months and my sisters could not see her for almost a year. In addition, we did not know where our father was.

We left the country on September 15, 2016. It was such a stressful travel. I told my little sisters that we are going for a vacation and my father is waiting us there. We were so stressed when we were going to the borderline. We sailed with a very unsafe boat composed of wood materials. We had to exit the boat before we reach the marina as they said police was coming. We jumped right into the water with the girls. We had to walk to the meeting point where a car was planned to pick us up, without being seen.

The region was an army base and if we were caught we would surely be detained. We were only thinking about the traumas that the girls are going through. We only knew that we were in Greece, but we did not know exactly where we were. We were in a place where it was only covered with bushes and thorns, which was hurting us so bad while walking around them. Betul's face (6) was bleeding as thorns were scratching her face, arms and her legs. We kept on walking. We had my younger brother (19) with us too. He was walking in front of us checking the road, and I was holding the girls.

At one point, several dogs attacked us. I am not afraid of dogs, however; I just did not know what to do in that moment. Somehow, we were

able to reach to the meeting point and the car took us to the airport.

Police stopped us when they noted we were holders of Turkish passports. Without even looking at our visas and tickets, they pulled us up apart. We had Sweden visas as my father had arrived before us and applied for a family reunion. After a stressful passport control, the police then released us. We did not have any other problems while boarding the plane.

Merve (10) is playing violin for 5 years and she loves it. We all had our backpacks, Merve only wanted her violin with her. It was just like a movie scene - a refugee girl escaping with her violin on her back through bushes and thorns. We were receiving so many threats in Turkey via Twitter. During my mother's stay in prison, my Twitter account was attacked even more. My friends from high school started to threaten me. When all the difficulties came together we had to seek ways to escape Turkey.

My sisters do not know we left our mother behind

When we came to Sweden, a family hosted us for a while as we did not have our own house yet. My sisters were kind of happy as we were united with our father; however, they still felt that my mother was missing. They did not know that we left my mother back in Turkey. Especially Betul was at an age when a child needed her mother's care the most.

We did not have much problem integrating into the society as the Swedish do not really make you feel like a refugee. They never behave mean against immigrants. Swedish people were shocked when they hear our story. The fact that the most educated and intellectual part of the society being forced to leave the country is very strange for them.

There is a 40 years old professor driving Taxi

The financial crisis was among the other problems that we had. There is a 40 years old professor driving Taxi. A businessman of 20 years left behind his factory and came here delivering pizzas. A journalist of 30 years is doing transportation... We are also living in circumstances which are way below our normal life standards. I am working now to sustain the family while my brother is going to the language school. Someone must work.

We have left our older brother in Turkey as someone had to stay there to take care of my mother in prison and most of our relatives were not very helpful. Later, my mother and older brother also left the country together. They also had to take a very dangerous route. We did tell our little sisters that our mother and older brother were on the way to join us, until they boarded the plane.

Betul was repeatedly saying that "My mother is dead and you are not telling me about it. If my mother would have been alive somewhere, she would have not resisted and would have called me". One day my mother was able to send a letter from the prison. My brother has pictured the letter and send it to us. That was her first communication with us. It was very hard to believe for all of us that my brother and my mother boarded on the plane without any problem. My little sisters were separated from their mothers for a year. She was detained on July 30, 2016 and she arrived in Sweden on June 6, 2017, almost a year.

The financial problems mentioned above are not big obstacles. If people who are arbitrarily detained in Turkey could be released, we will open our houses to host them. People in Turkey are struggling the most. We are just sustaining our lives here and try to do something for them, if it is any help. I hope one day they will be released and have a free life as well. Thank you.

IN MEMORY OF MADEN AND ABDURREZZAK FAMILIES

A brief story of their lives, achievements, and finally their tragic end are summarized here while their absence is already felt quite deeply – they shall not be forgotten!



(Feridun, Hüseyin, Nur, Nadire, Bahar)

MADEN FAMILY

The members of Maden family, allegedly linked to the Hizmet Movement drowned after their boat capsized in the Aegean Sea, off the western coast of Turkey. The bodies of Hüseyin Maden, his wife Nur Maden and their children, Nadire Maden, Bahar Maden and Feridun Maden were reportedly

discovered²⁰³ over several days during November 2017, in different parts of the Greek island of Lesbos. A Turkish MP said prosecutors were investigating the Maden family over ties to the Hizmet Movement. MPs and activists tweeted their shock at these latest deaths. “It’s a sad day for the whole country,” one opposition MP wrote. “People are dying in the absence of democracy and law”. “It was not their bodies but our humanity that washed up on that shore,” wrote a journalist.



(Abdulkadir, Ayşe, Munir)

ABDURREZAK FAMILY

Uğur (39) an English language teacher, and his wife Ayşe Abdurrezak (37) a Turkish language teacher, were among tens of thousands of teachers dismissed from their professions under the state of emergency. Both of them lost their jobs on the account of being alleged members of the Gülen Movement. According to reports, Uğur Ab-

durrezak was detained by police during a raid to his home after six months of his dismissal from his position and was kept in Kandıra Prison for 11 months. He was reportedly released in January 2018, pending trial on the accusation of “being a member of terror organization.” Uğur faced a prison sentence between 6,5 years and 22 years, prior to deciding to leave the country with his family. Together with their 11-year-old son Abdülkadir Enes and 2-year-old son Halil Münir, the Abdurrezzak couple was set to flee Turkey through the Maritsa/Evros River at around midnight of February 13, 2018. After a long walk accompanied by human traffickers (there was another family walking along with them), the families reached the Maritsa/Evros River around 05:00 a.m. An eyewitness revealed that “The boat was not big enough to carry all of them and they insisted for two rounds, but the smugglers did not agree. Also, the water level was too high. The boat was constantly spinning. We first hit a tree branch and were driven away. Then the boat capsized when we hit a tree branch for the second time. The water was so cold... I could not hear any sound when the boat overturned. I thought that I was going to die, too. Fortunately, I could hold a piece of branch. I could hardly take myself to the shore. I roamed around for about 5 hours with my wet dresses. All my stuff and phone were gone. Then, I found a Greek soldier.” The bodies of two children of the Abdurrezak couple and their mother washed up onto the river bank. The body of Uğur Abdurrezak has not been found.

²⁰³http://www.institutesi.org/policy-brief-Turkey-arbitrary-deprivation-of-nationality_2017.pdf

ANNEX 2 – Individuals Deprived of Nationality and Denied Counselor Services
Revised February 2018

Turkish Citizens Abroad facing Deprivation of Nationality/Denial of Counselor Services		
Category	Violations of Right to Leave	# of Victims
Deprivation of Nationality	Individual's names were published in the Official Gazette	229
Denial of Passport for Newborns/Nationality ID	Not issuing Passports / IDs for children	111
Denial of Consular Services	Canceling Adult / Children Passports	705
Denial of Right to Travel	To/from any country	9
	Confiscation of Passports	21
	Resolved (Spouse and children returned Turkey)	31
Total:		1106

Right to Leave Problems by Country							
		705	111	21	9	31	877
	COUNTRY	Counselor	Newborns	Confiscation	Travel Right	Resolved	Total
1	Afghanistan	27	17	1	-	30	75
2	Algeria	3	3	-	-	-	6
3	Cambodia	1	-	-	1	-	2
4	China	12	3	1	4	-	20
5	Dominican Republic	-	1	-	-	-	1
6	Egypt	66	6	2	-	-	74
7	Gabon	5	-	-	-	-	5
8	Georgia	56	4	10	-	-	70
9	India	5	-	-	-	1	6
10	Indonesia	4	7	1	-	-	12

11	Iraq	107	26	1	-	-	134
12	Kosovo	1	-	-	-	-	1
13	Morocco	9	3	1	-	-	13
14	Myanmar	4	4	1	-	-	9
15	Niger	1	-	-	-	-	1
16	Nigeria	16	24	-	1	-	41
17	Pakistan	365	-	-	-	-	365
18	Philippines	6	3	-	3	-	12
19	Poland	-	-	1	-	-	1
20	Russia	-	-	1	-	-	1
21	Saudi Arabia	3	-	-	-	-	3
22	Taiwan	1	-	-	-	-	1
23	Tajikistan	-	3	-	-	-	3
24	Thailand	2	-	-	-	-	2
25	Tunisia	8	1	-	-	-	9
26	Ukraine	2	-	1	-	-	3
27	Vietnam	1	6	-	-	-	7
	TOTAL	705	111	21	9	31	877

ANNEX 3 - List of Cross-border Incidents
(Data Excel Sheet until January 2018)

Date	Name (initials)	# of people	Men	Women	Children	Profession	Status
4/25/17	Aziz T.	7	7	-	-	Former Deputy Police Chief	Arrested
10/18/17	M.G	1	1	-	-	Judge	Arrested
5/13/17	Turgay Karaman, Ihsan Aslan, Ismet Ozcelik	3	3	-	-	Teacher, Businessmen, Academic	Arrested
12/16/17	Mustafa Kenel	5	1	-	-	Businessman	Arrested
2/2/17	-	14	-	-	-	-	Arrested

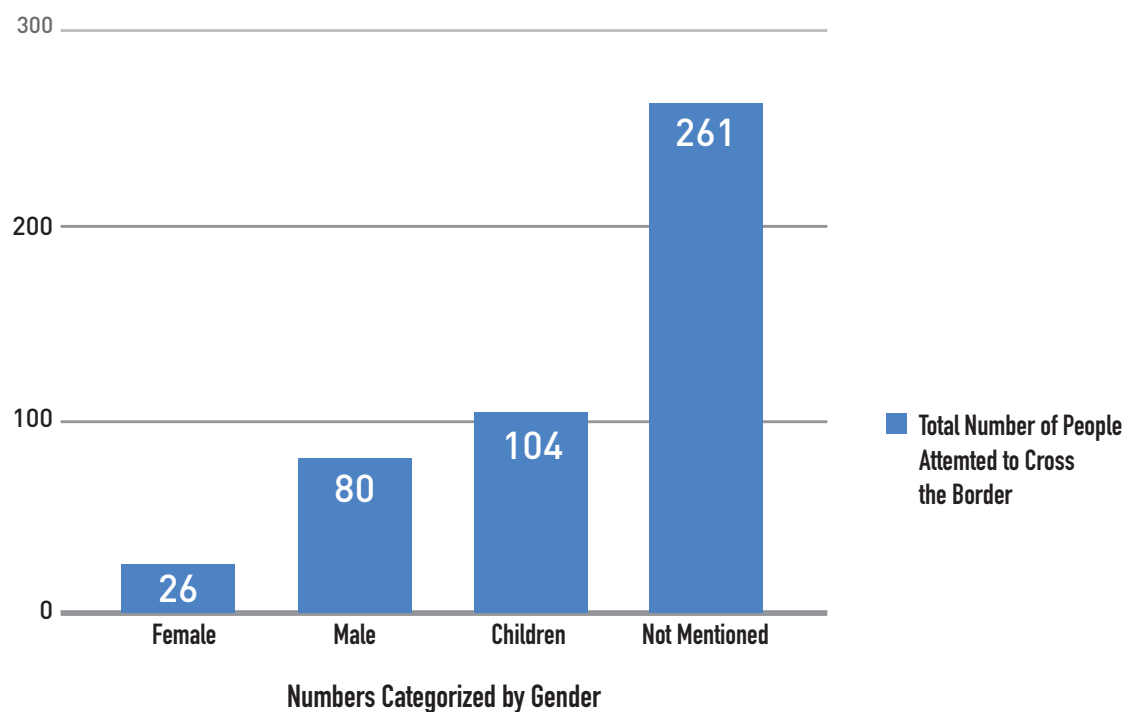
9/5/17	F.F.B, Y.Y.Y, Ö.T,	3	-	-	-	-	Arrested
6/3/17	Halil Kumcu, Fathullah Catal, Mustafa Can	3	3	-	-	Noncommissioned Officer, Assistant Professor, 3 Teachers	Arrested
1/9/18	Şenol U, Oğuzhan P., Hüseyin S., Mahmut A.	4	4	-	-	-	Arrested
2/5/17	E.O, T.O, A.K.O, I,O	4	1	1	2	Engineering Professor	Detained
2/14/17	B.K, V.K, A.T, T,C	8	2	2	4	Former Family Ministry employee, Former Academic, Former Auditor at Labor Ministry, Former Doctor	Detained
2/20/17	G.Y, T.O.Y, M.Y and F.S	4	-	1	3	Former National Police Department employee	Detained
2/26/17	-	97	-	-	-	-	Detained
3/3/17	M.S.C	1	1	-	-	Police Officer	Detained
3/4/17	H.T.K	1	-	1	-	-	Detained
4/25/17	-	2	-	-	-	Public Servants	Detained
5/8/17	M.O	1	1	-	-	Police Officer	Detained
5/21/17	-	11	-	-	2	Architect, Teacher, Academics, 2 Policemen	Detained
5/22/17	M.A.B, A.M.K, S.K	3	-	-	-	2 Academics and Teacher	Detained
5/25/17	-	4	4	-	-	Police chiefs and Student	Detained
5/29/17	Y.C and O.C	2	2	-	-	Academic	Detained
6/2/17	-	10	-	-	4	4 Teachers, Doctor and Sergeant	Detained
6/8/17	A.T and A.T	5	1	1	3	2 Teachers	Detained
6/23/17	M.S	1	1	-	-	Businessman	Detained
6/24/17	M.G	1	1	-	-	Former Police Chief	Detained
7/3/17	O.K	1	1	-	-	Judge	Detained
7/13/17	-	12	-	-	2	Teachers and Police officers	Detained
7/21/17	S.A	1	1	-	-	-	Detained
8/28/17	B.A, B.S.A	5	3	1	1	3 Doctors	Detained

9/14/17	-	14	-	-	2	Former vice president of the Banking Regulation and Supervision Agency (BDDK)	Detained
9/15/17	E.K and H.K	5	1	1	3	-	Detained
9/28/17	H.Y.Y. and A.B.	2	2	-	-	Businessman and Teacher	Detained
9/28/17	-	3	-	-	-	Teacher, Businessman	Detained
10/11/17	-	12	-	-	4	Teacher	Detained
10/13/17	-	5	4	1	-	-	Detained
10/18/17	S.A	2	2	-	-	Police Chief	Detained
10/19/17	M.O	1	1	-	-	-	Detained
10/20/17	-	7	3	2	2	2 teachers	Detained
10/22/17	Bulent Kinay,Fatih Mehmet Uslu	2	2	-	-	2 Former Judges	Detained
10/23/17	-	10	4	2	4	-	Detained
10/25/17	S.K	1	-	-	1	-	Detained
10/27/17	-	30	-	-	17	former civil servants	Detained
10/30/17	-	3	-	-	-	-	Detained
11/8/17	S.T	1	1	-	-	-	Detained
11/9/17	I.P	6	1	1	4	Teacher	Detained
11/13/17	Y.Y	10	-	-	-	-	Detained
11/22/17	-	11	-	-	5	-	Detained
11/30/17	-	4	-	-	-	-	Detained
12/11/17	M.S, O.Y, S.S, H.H.E, S.A, O.A	8	6	-	2	2 Academics, Force Officer, Teacher, 3 Former Police Chiefs	Detained
12/15/17	A.S.,H.İ.İ,E.I., S.K.,	12	-	-	4	Fr. Public Servant, 2 Fr. Chemistry Teacher, Agricultural Engineer, High School Personnel.	Detained
12/16/17	E.S	4	1	1	2	Former Police Officer	Detained
12/26/17	-	20	4	-	5	4 Teacher, 4 Policemen, Academic	Detained
1/1/18	M.A, A.C.E, H.H	3	-	-	-	2 Academics, Teacher	Detained
1/6/18	S.M, H.M	2	1	1	-	2 Teacher	Detained
1/7/18	O.E	1	1	-	-	Teacher	Detained
1/12/18	-	4	-	-	-	Teacher, Hospital Worker	Detained

1/23/18	-	6	-	-	-	4 Former Public Servants	Detained
1/29/18	H.S, O.S	4	-	1	3	-	Detained
2/3/18	-	12	-	-	4	Teacher, midwife, Former military officer	Detained
2/5/18	-	6	-	-	-	-	Detained
6/10/17	Taci Senturk	1	1	-	-	Teacher	Detained
6/12/17	Muhammed Furkan Sokmen, Ayse Sokmen, Sibel Sokmen	5	1	1	3	Teacher	Detained
6/12/17	1 Family	3	-	-	-	-	Detained
1/9/18	-	1	1	-	-	-	Detained
10/8/17	I.Y.	1		1		2 Teacher	Detained
6/3/17	Fatih Ilkkaya, Yilmaz Erdogan	2	2	-	-	Non-commissioned Officer, Assistant Professor, 3 Teachers	Detained
9/5/17	C.İ, E.T, K.K	3	-	-	-	-	Detained
2/2/17	-	6	-	-	-	-	Detained
3/17/17	Murat Zumre	1	1	-	-	Computer Engineer	Died
2/13/18	Ayşe Abdulrezzak, Halil M., Abdulrezzak. Abdulkadir E. Abdulrezzak	3		1	2		Died
11/20/17	Hüseyin Maden, Nur Maden, Nadire Maden, Bahar Maden, Feridun Maden	5	1	1	3	Teachers	Died
2/13/18	Fahrettin Dogan, Aslin Dogan, Ibrahim Selim Dogan, Ugur Abdurrezzak	4	2	1	1	-	Lost
10/8/17	H.Y.	3	1		2	2 Teacher	Released
6/3/17	Hatice Can	5		1	4	Noncommissioned Officer, Assistant Professor, 3 Teachers	Released
1/9/18	-	8	-	3	5	-	Released

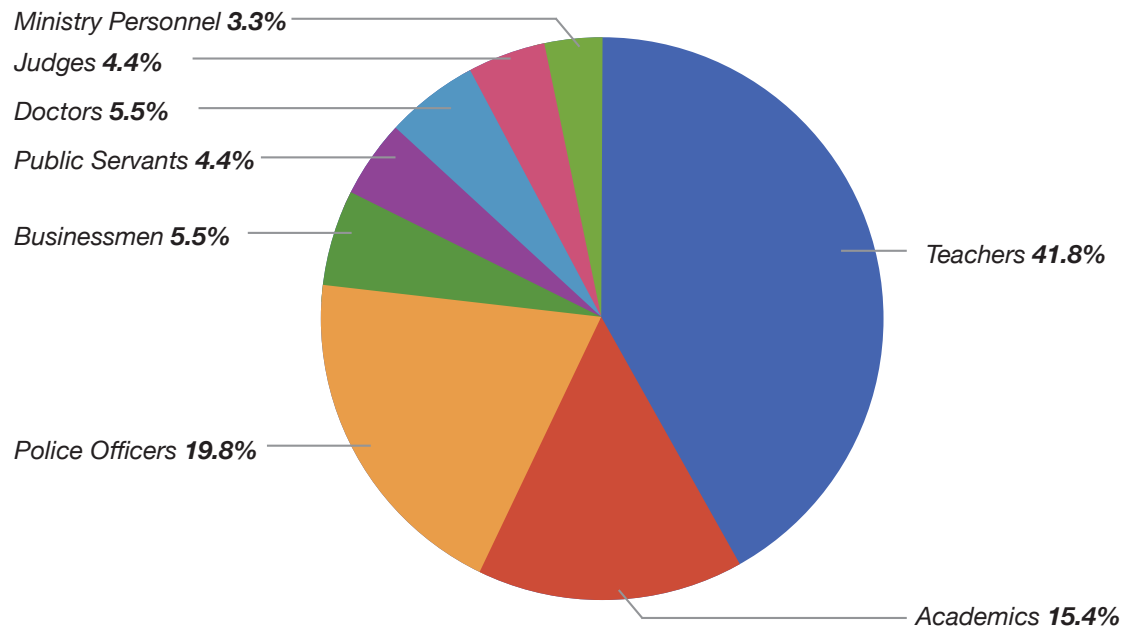
Total:		474	80	26	104	TOTAL	474
						Detained	313
						Arrested	40
						Died	9
						Released	5
						Lost	4
						Children	103

Cross-border Incidents by Gender



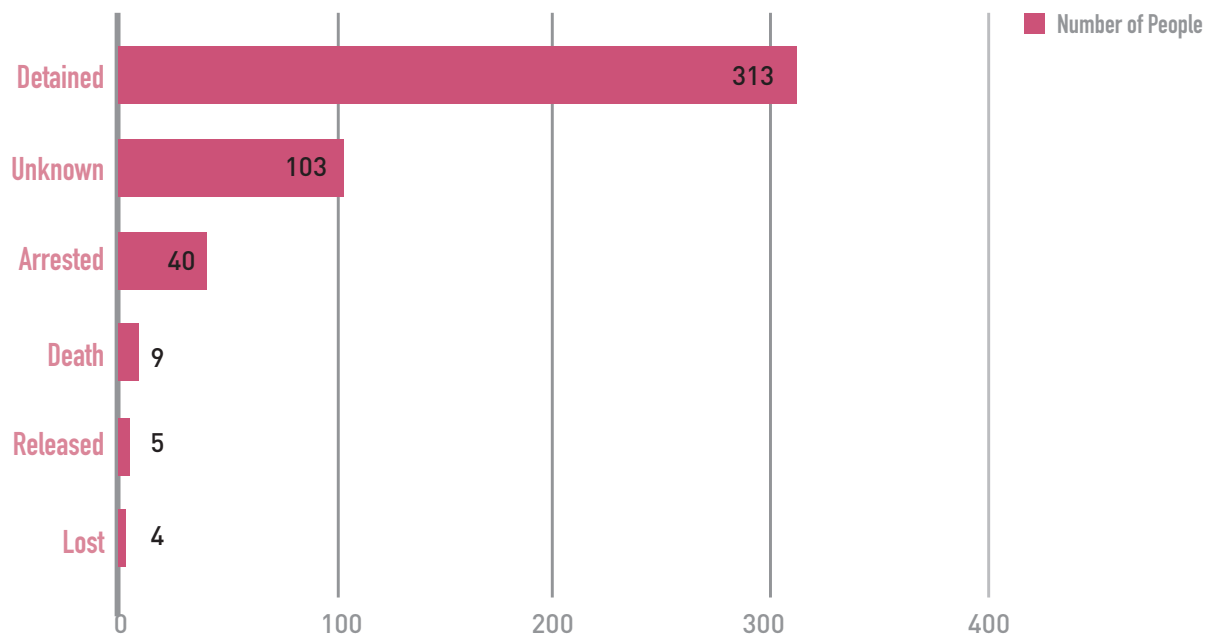
Source: Journalist and Writers Foundation
(February, 2018) www.jwf.org/reports

Cross-border Incidents by Profession



Source: Journalists and Writers Foundation (February, 2018) www.jwf.org/reports

Cross-border Incidents by Status

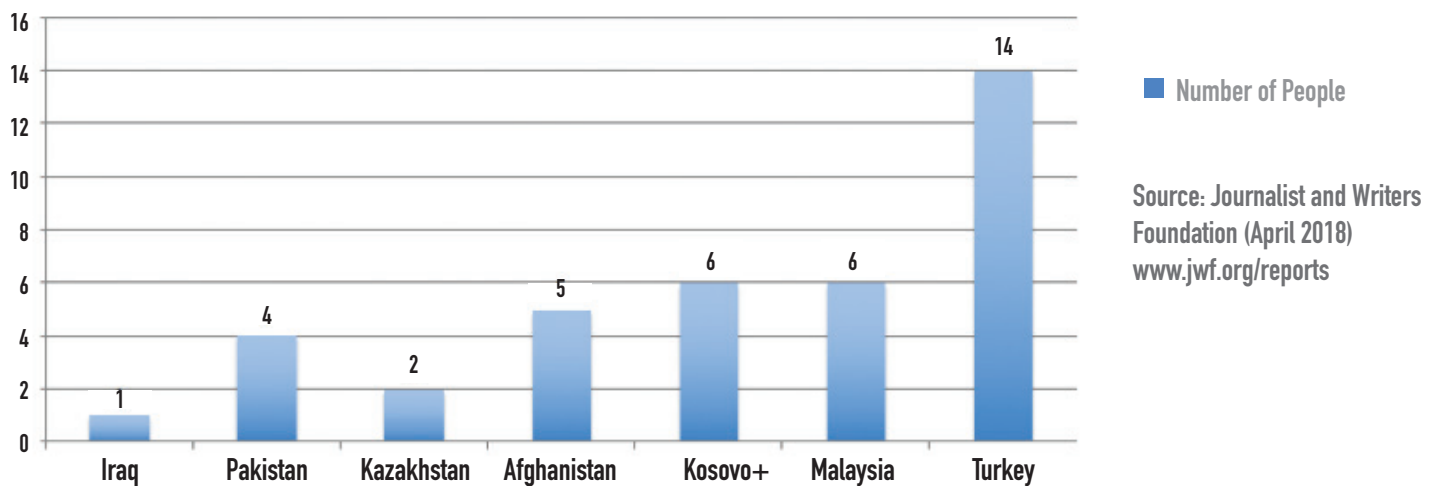


Source: Journalist and Writers Foundation (February, 2018) www.jwf.org/reports

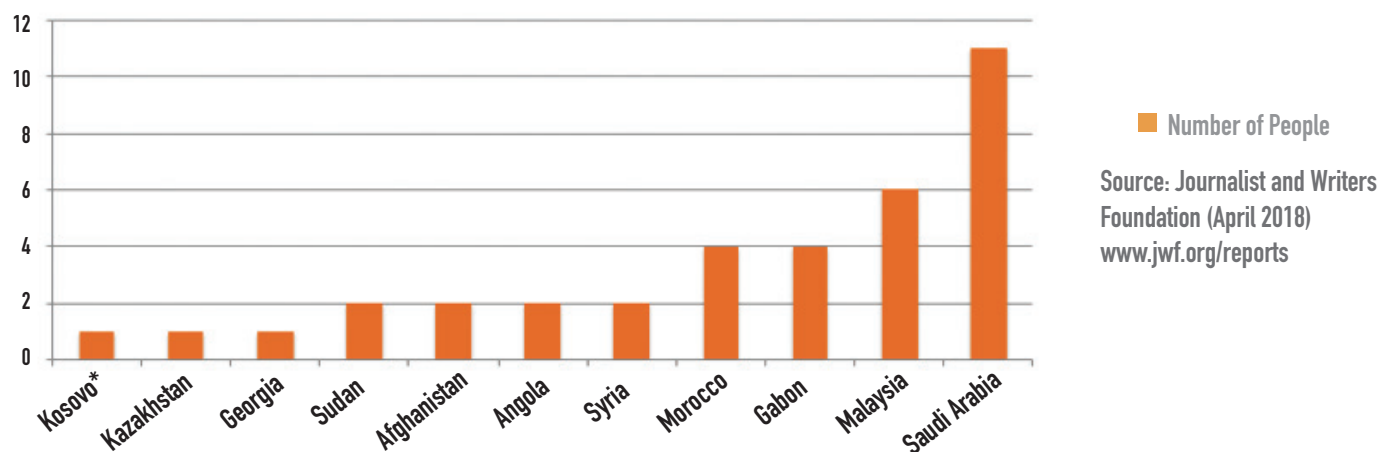
ANNEX 4 - List of Abductions, Detention, Arrests, Deportation (April 2018)

ABDUCTION CASES IN TURKEY AND ABROAD				
CASE	COUNTRY	VICTIMS	DATE	NOTE
1	Turkey	Sunay Elmas	27-Jan-16	Unknown
2	Turkey	Mustafa O. Gultekin	21-Dec-16	Unknown
3	Turkey	Huseyin Kotuce	28-Feb-17	Unknown
4	Turkey	Mesut Gecer	26-Mar-17	Unknown
5	Turkey	Turgut Capan	31-Mar-17	Unknown
6	Turkey	Onder Asan	1-Apr-17	Handed over to police after 42 days
7	Turkey	Mustafa Ozben	9-May-17	Unknown
8	Turkey	Murat Okumus	16-Jun-17	Unknown
9	Turkey	Ayhan Oran	1-Nov-16	Unknown
10	Turkey	Umit Horzum	6-Dec-17	Unknown
11	Turkey	Durmus Ali Cetin	17-May-17	Unknown
12	Turkey	Cemil Kocak	16-Jun-17	Unknown
13	Turkey	Fatih Kilic	14-May-17	Unknown
14	Turkey	Cengiz Usta	4-Apr-17	Unknown
15	Malaysia	Alettin Duman	13-Oct-16	Deported to Turkey
16	Malaysia	Tamer Tibik	13-Oct-16	Deported to Turkey
17	Malaysia	Unknown	13-Oct-16	Deported to Turkey
18	Malaysia	Turgay Karaman	2-May-17	Deported to Turkey
19	Malaysia	Ihsan Aslan	2-May-17	Deported to Turkey
20	Malaysia	Ismet Ozcelik	2-May-17	Deported to Turkey
21	Kazakhstan	Enver Kilic	16-Sep-17	Unknown
22	Kazakhstan	Zabit Kici	16-Sep-17	Unknown
23	Pakistan	Mesut Kacmaz	26-Sep-17	Deported to Turkey
24	Pakistan	Meral Kacmaz	26-Sep-17	Deported to Turkey
25	Pakistan	Huda Nur Kacmaz	26-Sep-17	Deported to Turkey
26	Pakistan	Fatma Nur Kacmaz	26-Sep-17	Deported to Turkey
27	Afghanistan	Yilmaz Aytan	12-Dec-17	Under Arrest
28	Afghanistan	Sami Yavuz	12-Dec-17	Under Arrest
29	Afghanistan	Onder Akkus	12-Dec-17	Released
30	Afghanistan	Yunus Demirci	12-Dec-17	Released
31	Afghanistan	Masood Wardak	12-Dec-17	Released
32	Iraq	A.C.	19-Jan-18	Unknown
33	Kosovo	Mustafa Erdem	29-Mar-18	Deported to Turkey
34	Kosovo	Yusuf Karabina	29-Mar-18	Deported to Turkey
35	Kosovo	Kahraman Demirez	29-Mar-18	Deported to Turkey
36	Kosovo	Cihan Ozkan	29-Mar-18	Deported to Turkey
37	Kosovo	Hasan H. Gunakan	29-Mar-18	Deported to Turkey
38	Kosovo	Osman Karakaya	29-Mar-18	Deported to Turkey

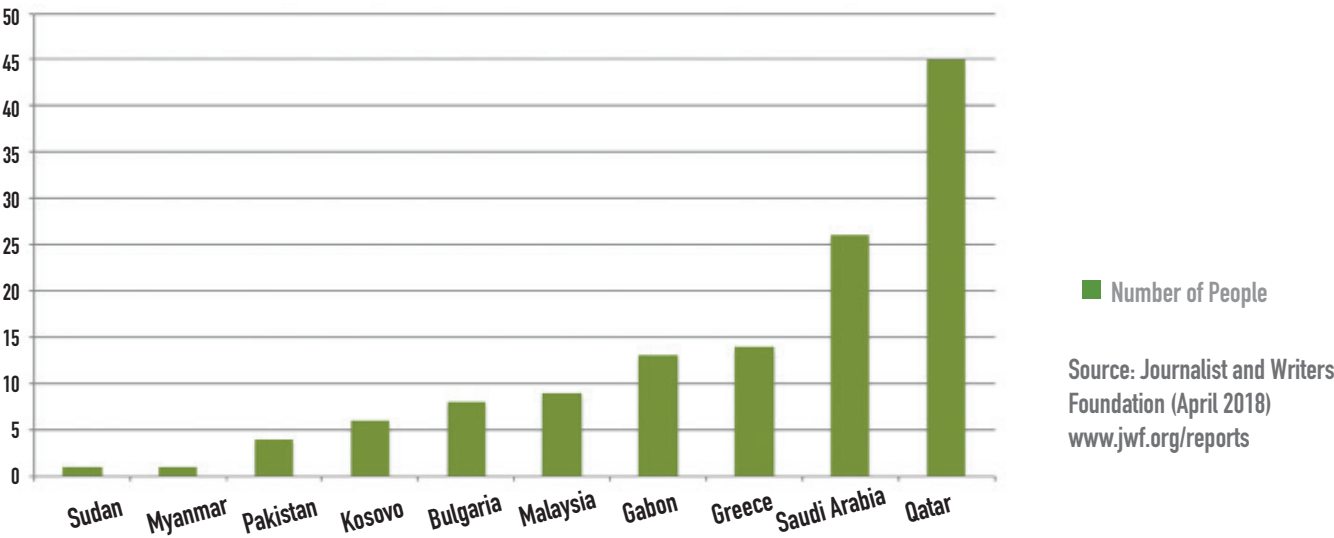
38 Turkish citizens affiliated with Hizmet Movement abducted abroad in partnership with Turkish Intelligence (MIT)



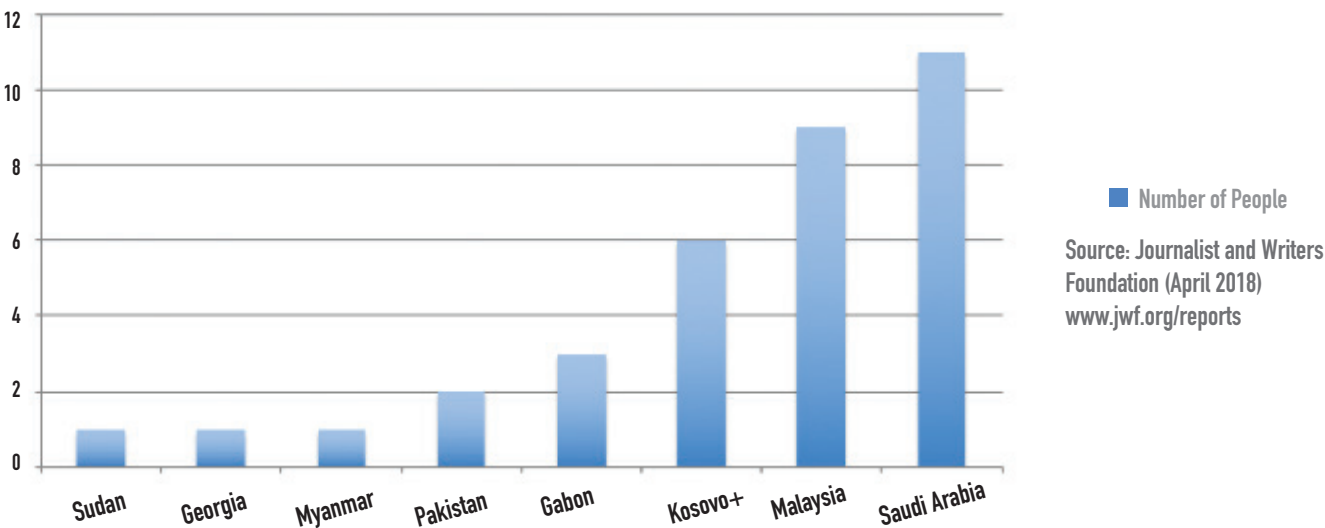
38 Turkish citizens affiliated with Hizmet Movement detained, arrested, or imprisoned at the request of Turkish Government



127 Turkish citizens affiliated with Hizmet Movement deported upon request by the of Turkish Government



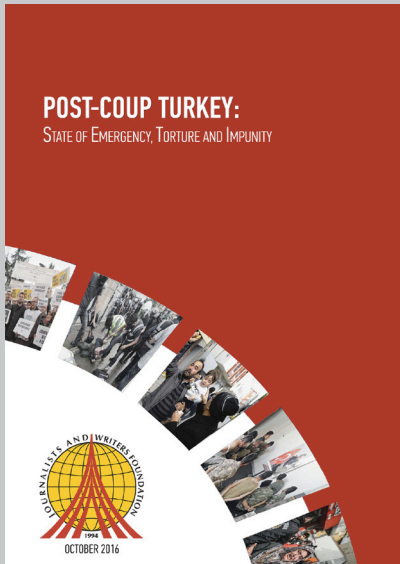
34 Turkish citizens affiliated with Hizmet Movement jailed upon arrival in Turkey



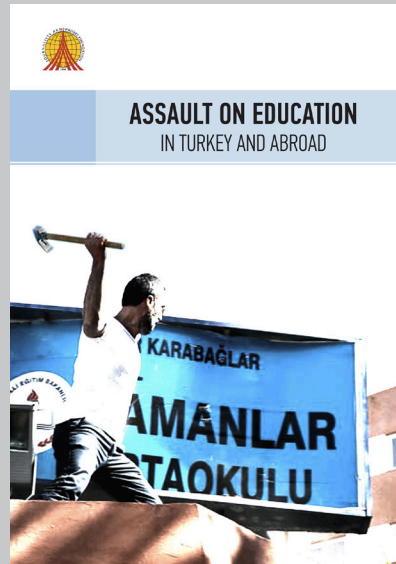
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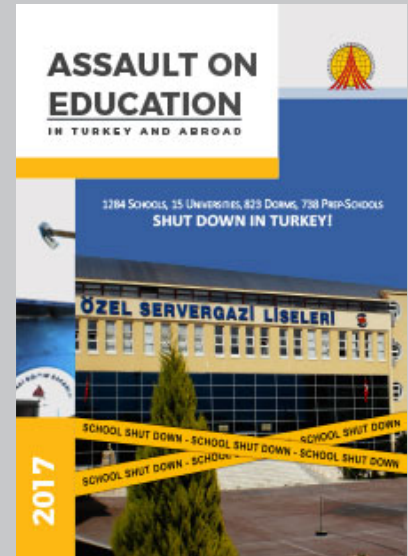
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State of Emergency, Torture,
and Impunity



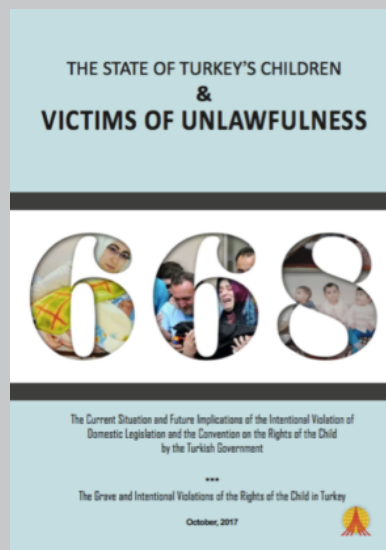
ASSAULT ON EDUCATION
In Turkey and Abroad
(Long-Version)



ASSAULT ON EDUCATION
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(Short-Version)



WOMEN'S RIGHTS
UNDER ATTACK IN TURKEY



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