



PERMANENT MISSION OF THE REPUBLIC OF TURKEY  
TO THE UNITED NATIONS OFFICE IN GENEVA

2020/62441669/31528879

The Permanent Mission of the Republic of Turkey to the United Nations Office in Geneva and other international organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the joint communication letter by the Special Rapporteurs, dated 22 April 2020 (Ref: AL TUR 3/2020), has the honour to enclose herewith an information note, comprising the response of the Government of the Republic of Turkey.

The Permanent Mission of the Republic of Turkey avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 17 July 2020



Encl. A/S

Office of the High Commissioner for Human Rights  
Special Procedures Branch  
Geneva

**OBSERVATIONS OF THE GOVERNMENT OF THE REPUBLIC OF  
TURKEY IN REPLY TO THE JOINT COMMUNICATION FROM SPECIAL  
PROCEDURES**

**(AL TUR 3/2020)**

1. With reference to the joint communication dated 22 April 2020, sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on arbitrary detention; the Working Group on enforced or involuntary disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment concerning allegations in respect of the deportation of Saeed Tamjidi and Mohammad Rajabi, the Government of the Republic of Turkey would like to submit its observations herein below.

2. Principles and procedures with regard to foreigners' entry into, stay in and exit from Turkey as well as applications regarding international protection are regulated by Law No. 6458 on Foreigners and International Protection. According to Article 4 of the said law, in line with the principle of non-refoulement, a foreigner should not be returned to a place where he/she may be subjected to torture, inhuman or degrading punishment or treatment or, where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion.

3. In case a foreigner applies for international protection, he/she will be interviewed in due time in accordance with Article 75 of Law No. 6458 in order to verify the accuracy of his/her statements and the documents provided by the applicant. As a result of the interview, the decision can either be positive or negative depending on the overall evaluation of the interview, documents and statements made by the applicant.

Administrative review and judicial appeal procedures are available against the decision. In this context, the applicant is allowed to stay in Turkey until the completion of the review process or judicial proceeding according to Article 80 of Law No. 6458.

4. It is also important to underline that, once an application for international protection is made, the applicant is given an "International Protection Applicant Identity Document" according to Article 76 of Law No.6458 and is granted the right to access healthcare and education services as well as legal and counselling services (including access to an interpreter) free of charge.

5. On the other hand, deportation is an administrative procedure carried out pursuant to the instruction of the relevant Governorate in accordance with the Law No. 6458. According to the said law, which is in line with international standards, foreigner or

his/her legal representative is notified of the deportation decision, the reasons and the consequences thereof, as well as the procedures and the time limits for appeal.

Foreigner or his/her legal representative may appeal against the deportation decision before the administrative court within seven days after the notification.

6. Article 54 of the Law No. 6458 indicates the legal grounds on which a deportation decision has to be based on. According to Article 54 (h) of the said law, a deportation decision can be issued against a foreigner who breached the terms and conditions for legal entry into/exit from Turkey.

According to Article 55 of the Law No. 6458, a deportation decision cannot be issued when there are serious indications to believe that the foreigner will be subjected to death penalty, torture, inhuman or degrading treatment or punishment in the country to which he/she will be returned; or if there is a risk of traveling due to serious health conditions, age or, pregnancy, if the foreigner is undergoing treatment for a life threatening health condition and would not be able to receive such treatment in the country to which he/she will be returned, if he/she is a victim of serious psychological, physical or sexual violence or human trafficking or supported by the victim's assistance programme.

7. The Government would also like to refer to the case-law of the European Court of Human Rights, which states that, as a rule, a Contracting State has the authority to not accept an alien into its country, to deport an alien who has unlawfully entered the country or who unlawfully tries to stay in the country, to return an individual who committed a crime in the country where he is located or to return an alien to another country where he/she committed a crime.

8. All proceedings within the scope of Law No.6458 are in line with Turkey's international obligations and, more specifically, with the principle of non-refoulement.

*Specific allegations in the joint communication*

9. With regard to the joint communication, the Government would like to underline that the absence of specific identity information, such as passport number, date and place of birth, makes it difficult for the Turkish authorities to conduct an accurate investigation. Therefore, following information is based solely on the names provided by the joint communication.

10. Records indicate that Saeed Tamjidi and Mohammad Rajabi entered into Turkey illegally. On 29 November 2019, during an identity control at a gas station in the district of Aksu in Antalya, three individuals of Iranian nationality were apprehended by Antalya Gendarmerie Command.

Two of those individuals were Saeed Tamjidi and Mohammad Rajabi. After establishing that they entered the country illegally, they were handed over to Antalya Directorate General of Migration Management.

11. On 2 December 2019, deportation and administrative detention decisions were issued by the Governorate of Antalya regarding Saeed Tamjidi and Mohammad Rajabi in line with Article 54 of Law No.6458 based on the ground of breaching the terms and conditions for legal entry into Turkey. Pursuant to their transfer to Ağrı Directorate General of Migration Management on 21 December 2019, they were both placed under administrative detention at Ağrı Repatriation Center.

12. On 26 December 2019, Ağrı Directorate General of Migration Management issued an entry ban to Turkey regarding Saeed Tamjidi and Mohammad Rajabi. They exited the country through Ağrı Gürbulak Border Gate on the same day.

13. Saeed Tamjidi and Mohammad Rajabi did not submit an international protection application in Turkey and were deported in accordance with the decision of the competent authorities in line with the relevant national legislation and international obligations.

14. In light of the information provided above, it is the view of the Government that allegations asserted in the joint communication are unfounded and therefore should be dismissed.