



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

Z-2022/62441669/35201580 - MOST URGENT

The Permanent Mission of the Republic of Türkiye 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 from Special Procedures dated 16 September 2022 (AL TUR 6/2022), has the honour to present the reply of the Government of the Republic of Türkiye.

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

Geneva, 15 November 2022



Encl: As stated.

Office of the High Commissioner for Human Rights
Palais des Nations
1211 Geneva 10

**INFORMATION NOTE IN REPLY TO THE JOINT COMMUNICATION FROM THE
SPECIAL PROCEDURES**

(Reference: AL TUR 6/2022)

1. With reference to the joint letter of the Special Rapporteurs on minority issues; on the situation of human rights defenders; and on the promotion and protection of human rights and fundamental freedoms while countering terrorism, dated 16 September 2022 regarding Bilal Yıldız and Göç İzleme Derneği (GÖÇİZDER), the Government would like to submit its observations herein below.
2. The Constitution of Türkiye imposes a positive obligation upon the state to ensure the welfare, peace and happiness of the people and the society, to protect the Republic and democracy, to remove the obstacles that limit the fundamental rights and freedoms of the persons. As a requirement of its positive obligations, the State takes the necessary measures to protect its people from terrorism.
3. In this context, the national authorities are combatting, in accordance with the rule of law and with due regard to the criteria of necessity and proportionality, the terrorist organizations that threaten the national security and the public order by targeting the security forces and the civilians.
4. In this vein, publishing a terrorist organization's declarations/statements that praise, legitimize or encourage the methods involving force, violence or threats of a terrorist organization and making propaganda of a terrorist organization or otherwise publicly degrading the nation, the republic and the organs and institutions of the State are listed as crimes in the Turkish legislation just as in some other States party to the International Covenant on Civil and Political Rights (ICCPR).
5. The PKK terrorist organization that Türkiye has been fighting for 40 years is a terrorist organization committing murder and injuries towards civilians, soldiers, police, women and children; robbery, extortion, latrocination, raiding villages, police stations and arson along with many illegal activities such as money laundering, arms, human and drug trafficking. In many countries worldwide as well as the European Union since 2002, the PKK is listed as a terrorist organization.
6. An investigation was launched against Bilal Yıldız for "*being a member of an armed terrorist organization*" offense under Article 314 of the Turkish Penal Code (TPC) upon receiving information that GÖÇİZDER had been funding the PKK terrorist organization with the grants it received from intergovernmental organizations, supporting the PKK with various illegal activities and that Yıldız had been coordinating such activities of GÖÇİZDER.

7. During investigation, as per Article 153/2 of the Criminal Code of Procedure (CCP), access to case files was restricted on grounds that a review into the contents of the files may hinder the aim of the ongoing investigation. As per Article 154/2 of the CCP, Yıldız was restricted from meeting with his lawyer for 24 hours in order to preserve evidence and safely conduct due process of law. After the restriction was lifted, Yıldız met with his lawyer 7 times during his custody.
8. Upon finding that GÖÇİZDER's publications include praises and propaganda of PKK terrorist organization and include statements within the scope of provoking the public to hatred, hostility or degrading offense, a confiscation order was issued on the publications and a sale and distribution ban was imposed. An order to search the Yıldız and other suspects' residences and workplace of GÖÇİZDER was also issued. Upon taking him into custody, he was reminded of his rights with a written form which he undersigned. During his custody, he was provided with adequate food as can be understood from the register kept in this regard which Yıldız himself undersigned.
9. On the other hand, regarding the allegations of battery and insult against Yıldız during the search on his residence, there is no complaint Yıldız had submitted to the authorities in this regard or for the conditions of detention during his custody.
10. On 10 June 2022, Yıldız was arrested for "*being a member of an armed terrorist organization*" offense under Article 314 of the TCP and admitted to the Metris Closed Penal Institution No. 1 Type T. He was transferred to Marmara Closed Penal Institution No. 5 Type L on 13 June 2022, where he has been currently detained. The ward he stays in currently accommodates 17 individuals with a capacity of 38. He has access to medical care and has been provided medications for his asthma.
11. There are effective domestic remedies available for Yıldız for the allegations presented in the communication letter. He has access to legal assistance, is able to defend himself and exercise his rights during his detention. His criminal proceedings are pending.
12. States have positive obligation to protect the public from terrorist threats as their responsibility to protect the right to life of all individuals subject to their jurisdiction and to ensure the rights recognized in human rights instruments they are party to, such as European Convention on Human Rights (ECHR) and ICCPR. Under this obligation, anti-terror legislation was formed and it applies to any terrorist threat, indiscriminately. In this respect, Yıldız, as with anybody suspected of the same

crimes would be, was investigated and being prosecuted by the independent and impartial judicial courts, in accordance with the domestic legislation and international law.

13. Considering the fact that Yıldız's criminal proceedings are currently ongoing before the competent courts, the Government is of the view that reaching conclusions on the present case by the Special Procedures before the proceedings are finalized, would be inappropriate.