



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

Z-2023/62441669/37284141 - 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 Communication from Special Procedures dated 25 October 2023 (AL TUR 8/2023), has the honour to enclose herewith the information note provided by relevant Turkish authorities.

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, 22 December 2023



Encl: As stated.

Office of the High Commissioner for Human Rights
Palais Wilson
Rue des Pâquis 52
1201 Geneva

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

(Reference: AL TUR 8/2023)

1. With reference to the joint communication of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the minority issues dated 25 October 2023, the Government of the Republic of Türkiye (hereinafter, “the Government”) would like to submit its responses hereinbelow.

On the protective measures put in place to ensure the physical and psychological security and integrity of Mr. Sezgin Tanrikulu and his family

2. Protection decisions are taken by protection commissions in accordance with the regulations on protection services, which set forth the principles and procedures to be followed in identifying the persons to be protected and providing protection services. In this context, Mr. Sezgin Tanrikulu has been under protection pursuant to the above-mentioned regulations since 2016.

On the steps taken by the Government to investigate the threats, referred to in the joint communication, against Mr. Tanrikulu and his family

3. According to Article 160 of the Criminal Code of Procedure (CCP), as soon as the public prosecutor is informed of a fact that creates an impression that a crime has been committed, either through a report of a crime or through any other manner, he/she shall immediately investigate the factual truth, in order to make a decision on whether to file public charges or not.

4. However, based on the records of Ankara Public Prosecutor’s Office, there has been no complaint or report with regard to the threats stated to have been received by Mr. Tanrikulu in the joint communication.

On the factual and legal basis of the investigation concerning Mr. Sezgin Tanrikulu and its compatibility with international human rights norms and standards relating to freedom of opinion and expression

5. Information as to the factual and legal basis of the investigation concerning Mr. Tanrikulu is provided in the following paragraphs:

- Upon his statements regarding Turkish Armed Forces on 8 September 2023 in a television broadcast, an investigation has been initiated concerning Mr. Tanrıkulu, pursuant to Article 216 of the Turkish Penal Code (TPC) titled “Provoking the public to hatred and hostility or degrading the public” and Article 301 of the TPC titled “Degrading the Turkish Nation, the State of the Republic of Türkiye, the organs and institutions of the State”.
- The investigation has been initiated based on the official records relating to the incident prepared by the Ankara Public Prosecutor’s Office on 9 September 2023 and the complaint submitted by the Ministry of National Defence on 11 September 2023.
- Since the carrying out of an investigation into the offence stipulated in Article 301 is subject to the permission of the Minister of Justice, permission was requested as per the said Code. The permission for an investigation to be carried out pursuant to the said Article was granted on 13 September 2023.
- On the other hand, members of parliament benefit from parliamentary immunity as per Article 83/2 of the Constitution, which states that “(2) *A deputy who is alleged to have committed an offence before or after election shall not be detained, interrogated, arrested or tried unless the Assembly decides otherwise (...).*” The purpose of parliamentary immunity is to eliminate disproportionate and unnecessary interruption of parliamentarians’ performance of their legislative functions. It is limited to the terms of office of the members of parliament and it is not absolute, thus it can be lifted by a decision of the Grand National Assembly. The scope and procedures of the examination of requests for lifting parliamentary immunity are regulated in Articles 131-134 of the Rules of Procedure of the Grand National Assembly of Türkiye. According to Article 85 of the Constitution, the member of parliament whose parliamentary immunity has been lifted or another member of parliament may, within seven days from the date of the decision of the lifting of parliamentary immunity, appeal to the Constitutional Court, for the decision to be annulled. The Constitutional Court shall decide on the appeal within fifteen days.
- As Mr. Tanrıkulu is a parliamentarian benefiting from parliamentary immunity, the investigation documents along with the request for lifting Mr. Tanrıkulu’s legal immunity were conveyed to the Grand National Assembly of Türkiye via an official letter dated 14 September 2023 (No. 2023/373) and the matter is currently pending.

6. Freedom of expression constitutes one of the indispensable elements of a democratic society. Article 26 of the Turkish Constitution protects the freedom to express and disseminate opinions and sets forth the criteria by which this freedom can be restricted, in accordance with the International Covenant on Civil and Political Rights, the European Convention on Human Rights, as well as international jurisprudence.

7. The public authorities in Türkiye, including courts and public prosecutors' offices, abide by this framework in their acts and decisions.