



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

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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 12 September 2023 (AL TUR 7/2023), 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, 14 June 2024



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 COMMUNICATION FROM THE SPECIAL PROCEDURES

(Reference: AL TUR 7/2023)

1. With reference to the joint communication from the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on violence against women and girls, its causes and consequences dated 12 September 2023, the Government of the Republic of Türkiye (hereinafter, “the Government”) would like to submit its responses and observations hereinbelow.

a. The nature of Türkiye’s efforts in and around Idlib

2. At the outset, the Government would like to clarify that Türkiye’s efforts in and around Idlib are restricted to monitoring ceasefire arrangements and preventing recurrence of conflicts among the Syrian regime and the opposition groups.

To consolidate the country-wide ceasefire declared on 30 December 2016, a Memorandum on the creation of de-escalation areas 1) in Idlib province and certain parts of Latakia, Aleppo and Hama provinces; 2) in certain parts of Homs province; 3) in Eastern Ghouta/Damascus and 4) in certain parts of Deraa and Al-Quneitra provinces was signed in Astana on 4 May 2017 by Türkiye, the Russian Federation and Iran, as guarantors of the observance of the ceasefire regime in the Syrian Arab Republic. The representatives of the Syrian regime and the Syrian opposition armed groups were also present at this meeting.

Following forced evacuation operations and attacks conducted by the Syrian regime in Eastern Ghouta, Homs, Deraa and Al-Quneitra provinces, Idlib De-escalation Area has been left as the last de-escalation area. As a result, a large portion of the displaced people from these regions sought refuge in Idlib, causing its population to rise from 200.000 to 3,2 million in a very short period. In order to stabilize the situation in Idlib De-escalation Area and preserve its status, Türkiye and the Russian Federation signed “Memorandum on Stabilization of the Situation in the Idlib De-escalation Area” in Sochi on 17 September 2018 and additional protocol to this Memorandum in Moscow on 5 March 2020. It is worth noting that the aforementioned memoranda were concluded with the knowledge and consent of the Syrian regime.

These memoranda gave the guarantor states the responsibility to ensure the functioning of the checkpoints and observation posts in the de-escalation areas. In this respect, 12 military observation posts have been established along the boundaries separating the Syrian regime forces and the opposition armed groups in the Idlib De-escalation Area.

The purpose of these observation posts is to prevent recurrence of conflicts between the Syrian regime and the Syrian opposition and to monitor any possible ceasefire violations. They do not have any role of administrative nature in the area. Türkiye’s efforts to keep calm in Idlib prevented a humanitarian catastrophe and allowed the internally displaced people to continue

their lives there, preventing a new mass migration movement towards Türkiye and the rest of Europe.

The Government reiterates in all relevant platforms its commitment to Syria's sovereignty, independence, territorial integrity, and political unity.

b. The right to legal remedies in the Turkish legal system

3. In the Turkish legal system, the right to legal remedies is stipulated in Article 36 of the Constitution of the Republic of Türkiye (hereinafter, "the Constitution") which reads as follows: *"Everyone has the right of litigation either as plaintiff or defendant and the right to a fair trial before the courts through legitimate means and procedures."*

The Turkish Penal Code has established deterrent criminal sanctions for crimes that concern the exercise of freedom of expression which include the crimes of "threatening" (Article 106), "preventing the exercise of freedom of belief, thought and opinion" (Article 115), "hatred" (Article 122) and "insult" (Article 125).

Furthermore, with the amendment introduced in 2019 to Article 286 of the Code of Criminal Procedure, the additional legal remedy of appeal to the Court of Cassation was made available for crimes that are considered to concern freedom of expression, upon the exhaustion of appeal to the Regional Court of Appeals.

With regard to the case in question, the Government would like to first of all note that no identifying information beyond Ms. Al-Hajji's name and the non-governmental organization that she is executive officer of has been provided. According to official records of the relevant national authorities, including judicial and prosecutorial bodies that are geographically responsible for the regions where Ms. Al-Hajji is believed to reside based on the information provided, no applications, denunciations or complaints have been submitted by Ms. Al-Hajji to the authorities. Additionally, no investigations or case files have been detected in which Ms. Al-Hajji is a victim, complainant or plaintiff.

4. This matter will be continued to be duly assessed by the relevant Turkish authorities, in line with Türkiye's international obligations and national legislation.

c. The freedom of expression in the Turkish legal system

5. The Republic of Türkiye is a democratic state governed by the rule of law and the principle of respect for human rights. Türkiye fulfils its responsibilities and obligations in protecting and promoting fundamental rights and freedoms by taking appropriate measures as required by law and democratic governance.

6. Besides Article 10¹ of the European Convention of Human Rights (hereinafter, “the ECHR”) and Article 19² of the International Covenant on Civil and Political Rights (hereinafter, “the ICCPR”) “freedom of thought and opinion” and “freedom of expression and dissemination of thought” are also enshrined in Articles 25 and 26 of the Constitution as follows:

“Article 25 - Everyone has freedom of thought and opinion. No one shall be compelled to reveal his/her thoughts and opinions for any reason or purpose; nor shall anyone be blamed or accused because of his/her thoughts and opinions.”

“Article 26 - Everyone has the right to express and disseminate his/her thoughts and opinions through speech, writing, pictures or other media, individually or collectively. This freedom includes the liberty of receiving or imparting information or ideas without interference by official authorities. This provision shall not preclude subjecting transmission by radio, television, cinema, or similar means to a system of licensing.”

7. Freedom of expression is one of the essential foundations of a democratic society and is thus rigorously protected in Türkiye, in line with our commitment to further strengthen the rule of law and democratic governance, in cooperation with international organizations of which Türkiye is a member.

8. The foregoing notwithstanding, freedom of expression is not an absolute right. Therefore, this freedom may be subjected to certain restrictions within the framework of the rule of law where there is a legitimate purpose as specified in the ECHR³, the ICCPR⁴ and the Constitution⁵.

¹ Article 10/1 of the ECHR: “1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.”

² Paragraphs (1) and (2) of Article 19 of the ICCPR: “1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

³ Article 10/2 of the ECHR: “The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

⁴ Article 19/3 of the ICCPR: “The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.”

⁵ Article 26/2 of the Constitution: “The exercise of these freedoms may be restricted for the purposes of national security, public order, public safety, safeguarding the basic characteristics of the Republic and the indivisible integrity of the State with its territory and nation, preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation or rights and private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary.”

9. The European Court of Human Rights (hereinafter, “the ECtHR”) has also explained in its jurisprudence that freedom of expression is not among absolute rights and may be subjected to certain restrictions. The ECtHR stated that expressions containing hate speech, incitement to commit crime, praise for violence, etc. and those that contravene the fundamental values of peace and justice shall not benefit from the protection that the ECHR provides. (*See, Gürbüz and Bayar / Türkiye, Application No: 8860/13, 23 July 2019*)

10. In Türkiye, freedom of expression is guaranteed to the utmost extent in line with international standards and the rule of law and domestic courts, which are independent and impartial as guaranteed by the Constitution, give their rulings in line with the ICCPR, the ECHR, the case-law of the ECtHR and national legislation.

d. Combating violence against women in the Turkish legal system

11. Combating violence against women is a high priority policy for our government.

12. Offering holistic response with the principle of zero tolerance, Türkiye has achieved an exemplary track record so far with essential amendments in the legal system, effective action plans and coordinated services.

13. Law No. 6284 on the Protection of Family and Prevention of Domestic Violence against Women was designed to protect women against all forms of violence. The Turkish Penal Code was also amended in May 2022 to combat violence against women more effectively.

14. The 4th National Action Plan to Combat Violence Against Women 2021-2025, which was prepared in consultation with all relevant stakeholders, sets out the framework and specific actions towards strengthening our efforts at local and national levels to prevent violence against women and comprehensively address this issue.

15. Furthermore, most recently, in November 2023, Presidential Circular 2023/16 on “Combating Violence Against Women” was published. This circular aims to combat violence against women via a multifaceted and holistic approach involving all stakeholders, including public institutions, civil society and the private sector.

16. Türkiye is a party to the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) since 1985, and to its Optional Protocol since 2002. In accordance with Article 90 of our Constitution, CEDAW, like other international conventions to which it is a party, is held above national legislation that may conflict with its provisions.

17. The Government of Türkiye would like to take this opportunity to reiterate its readiness to work in cooperation with the Special Procedures of the Human Rights Council.