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**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
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**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of 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; and the Special Rapporteur on the situation of human rights defenders.**

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)  
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 16/4, 24/5, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **legislation restricting Internet access and the blocking of the microblogging website *Twitter.com* by the Turkish authorities, following the publication of information criticizing the Government, in the context of the coming municipal elections. Information has been received that an administrative court in Ankara issued a temporary injunction decision, ordering the telecommunication authorities to restore access to Twitter.**

According to the information received:

Existing legislation, including Law No. 5651 enacted in May 2007, authorises the Turkish telecommunication authorities to block websites, including without a court order, in cases of paedophile content, suicide advocacy and "other obscene" content.

On 6 February 2014, the Turkish parliament adopted amendments to this legislation through the Law 6518 allowing, among others, the blocking of Internet content by the Turkish authorities without a court order, in cases of "violation of privacy", where the content is "discriminatory or insulting towards certain members of society", or to "protect the family and children". Users who believe Internet content is "violating their privacy" may contact Internet Service Providers directly in order to block said content within four hours. Hosting companies that

do not immediately execute a content withdrawal order could be fined 10,000 to 100,000 Turkish pounds (3,300 to 33,000 euros).

On 20 March 2014, Prime Minister Recep Tayyip Erdoğan reportedly announced at an election rally in the city of Bursa the application of a judicial decision authorising the Government to curtail online communications. Later that day, the Turkish authorities reportedly blocked the entire access to the microblogging website *Twitter.com*. It is reported that the Turkish authorities further blocked the relevant Internet Protocol (IP) addresses and Google Domain Name System (DNS) that provide access to the *Twitter* website. It is reported that *Twitter* has over ten million users in Turkey. In the same speech, the Turkish Prime Minister reportedly threatened to block other social media such as *Facebook* and *YouTube*.

Sources have indicated that the blocking of microblogging website *Twitter.com* result from the application of court order, following the publication through *Twitter* and other social media of information denouncing cases of corruption and criticising the Prime Minister and the Government, published in the context of public debates ahead of the Municipal elections due to take place on 30 March 2014.

On 26 March, an administrative court in Ankara issued a temporary injunction decision, ordering the telecommunication authorities to restore access to *Twitter*.

While acknowledging and commending the temporary injunction decision of an administrative court in Ankara, ordering the telecommunication authorities to restore access to *Twitter*, serious concerns are expressed about the legitimate exercise of the right to freedom of opinion and expression, including the right to seek, receive and impart information and ideas of all kinds, as well as the right to freedom of peaceful assembly, particularly in the context of political debates and electoral processes. In particular, concerns are expressed on legislation that allows restrictions on the use and access to the Internet and the decision of Turkish authorities to block the microblogging website *Twitter.com*. Further concerns are also expressed relative to the allegations that the blocking of the microblogging website *Twitter.com* was ordered to curtail criticism against the Government in the context of coming Municipal elections. Similar concerns are expressed at the alleged threats of limiting access to Internet, blocking websites and social media, such as *Facebook.com* and *YouTube.com*, or other domains.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer to your Excellency's Government to article 19 of the International Covenant on Civil and Political Rights (ICCPR), which provides that “[e]veryone 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.”

In its General Comment No. 34 on the right to freedom of opinion and expression, the Human Rights Committee noted that “The free communication of information and

ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. The public also has a corresponding right to receive media output” (CCPR/C/GC/34, para 13)

We would also like to recall the tight relation of this provision with article 25 of the ICCPR relative to civil and political rights. In particular, the Human Rights Committee has provided some guidance as to how States should to promote and protect freedom of opinion and expression during electoral processes. (CCPR/C/21/Rev.1/Add.7) The recent report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association to the General Assembly, which focused of the protection and promotion of those rights in the context of elections, also considered some of the steps that must be taken by States to ensure freedom of expression during electoral processes, noting that "the freedom of political parties to expression and opinion, particularly through electoral campaigns, including the right to seek, receive and impart information, is as such, essential to the integrity of elections." (A/68/299)

The Committee has emphasized that “the value placed by the Covenant upon uninhibited expression is particularly high in the circumstances of public debate in a democratic society concerning figures in the public and political domain.” (CCPR/C/GC/34, para 34) The Committee emphasizes that “Defamation laws must be crafted with care to ensure that they comply with [article 19] paragraph 3, and that they do not serve, in practice, to stifle freedom of expression”. Indeed, “the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties. (...) Moreover, all public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition. Accordingly, the Committee expresses concern regarding laws on such matters as (...) defamation of the head of state and the protection of the honour of public officials, and laws should not provide for more severe penalties solely on the basis of the identity of the person that may have been impugned. States parties should not prohibit criticism of institutions, such as the army or the administration.” (CCPR/C/GC/34, paras.38 and 47)

We would like to refer to article 21 of the International Covenant on Civil and Political Rights, which provides that “[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

In this connection, we would like to refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade

unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

We would also like to make reference to the first thematic report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association to the General Assembly, in which he called upon States in times of elections to “allow unimpeded access to and use of information and communication technology through which the rights to freedom of peaceful assembly and of association can be exercised” (A/68/299, para. 58(i)).

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; and

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights to freedom of opinion and expression, including the right to seek, receive and impart information and ideas of all kinds in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide information on the legal basis, including possible judicial decisions, that authorised the blocking of the entirety of *Twitter.com*, the reasons that justified this decision and the timeframe for the application of this blocking.
3. Please provide information on the measures taken to restore access to information though Internet, including microblogging websites, like *Twitter.com*, and social media, following the temporary injunction decision of an administrative court on 26 March.
4. Please provide information on the measures taken to ensure access to information, guarantee the right to impart information, and facilitate and protect peaceful assemblies, in particular in the context of the municipal elections of 30 March 2014, in compliance with the rights to freedom of expression and opinion and peaceful assembly.
5. Please indicate what measures have been taken to ensure that human rights defenders, including journalists, bloggers, *Twitter* users, civil society and activists, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatisation or criminalization of any kind.
6. Please provide information on measures taken to bring Law 5651 and Law 6518, and their application, in conformity with Turkey's obligations under the aforementioned international human rights norms and standards.

We undertake to ensure that your Excellency's Government's response will be available in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of opinion and expression, including the right to seek, receive and impart information and ideas of all kinds, particularly in the context of political debates and electoral processes are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

We would like to inform your Excellency's Government that we will issue a press release on the subject of this communication.

Please accept, Excellency, the assurances of our highest consideration.

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opinion and expression

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