

**Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms
while countering terrorism**

REFERENCE: AL
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21 September 2015

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism pursuant to Human Rights Council resolutions 26/12 and 22/8.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **unlawful attacks and alleged killings of civilians by the Turkish army during the air strikes against alleged bases of the Kurdistan Workers' Party (PKK) in Iraq.**

According to the information received:

On 24 July 2015, the Turkish Government launched several airstrikes against the PKK in the Kandil Mountains. These airstrikes came after a suicide attack allegedly carried out on 20 July 2015 by IS, killing 32 people and injuring more than 80 in Suruç in the Sanlıurfa province of Turkey, and a separate attack in the same province on 26 July 2015, allegedly carried out by the PKK, killing two Turkish police officers.

On 1 August 2015, between 3 to 5 a.m., the Turkish army carried out several airstrikes in the region of the Kandil Mountains (Kurdistan Region of Iraq) against the combatants of the PKK. The Turkish strikes may have targeted residents who were not affiliated to the PKK. Those attacks have been reported to cause civilian casualties in several villages and civilian facilities have allegedly been damaged.

In the village of Zergel the Turkish government airstrikes allegedly killed eight residents, including the mayor of Bokriskan, a nearby village, and two municipality workers. Likewise the attack injured eight others, including a child. It was reported that none of the residents killed were members of the PKK, and

that they were wearing civilian clothing. They were not carrying weapons at the time of the attack.

Furthermore, it was alleged that the PKK had no presence in the region, there were no checkpoints, police stations or fixed military positions that confirmed the presence of the group. It was reported that the nearest PKK positions are situated 25 kilometers far from the village attacked.

As a consequence of the facts mentioned above, residents were injured, killed, forcibly displaced and their homes were destroyed while there was no military target within the villages attacked.

While we do not wish to prejudge the accuracy of these allegations made available to us, we express grave concerns about what appears to be repeated indiscriminate use of force (i.e. air fire power) in areas inhabited by civilian population in Iraq.

The alleged acts appear to be in contravention of international human rights law to which Turkey is obligated, including the International Covenant on Civil and Political Rights (ICCPR)(art.6) protecting the right to life and security of the person, as well as fundamental principles of international humanitarian law.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide the details, and when available the results, of any investigation and inquiry carried out in relation to these cases, including efforts made to ensure that perpetrators of the alleged acts are brought to justice
3. In the event that these allegations are confirmed, and the alleged perpetrators identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Christof Heyns

Special Rapporteur on extrajudicial, summary or arbitrary executions

Ben Emmerson

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, the following international human rights standards appear to be relevant:

The International Covenant on Civil and Political Rights (ICCPR), ratified by Turkey on 23 September 2003, provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life (article 6). Additionally in its General Comment No. 31, the Human Rights Committee has observed that there is a positive obligation on States Parties to ensure protection of Covenant rights of individuals against violations by its agents and by private persons or entities. States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice or redress the harm caused by private persons or entities could give rise to a breach of the Covenant (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18).

With regards to the alleged indiscriminate use of force, your Excellency's Government is under an obligation to distinguish between combatants and civilians and to direct attacks only against combatants (Rules 1, 6 and 7 of the Customary Rules of International Humanitarian Law identified in the study of the International Committee of the Red Cross ("Customary Rules"). Indiscriminate attacks are prohibited (Rule 11 of the Customary Rules). Further, launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, or damage to civilian objects, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited (Rule 14 of the Customary Rules). States party to the conflict must "do everything feasible to verify that targets are military objectives" (Rule 16 of the Customary Rules) and take all feasible precautions to avoid and minimize incidental loss of civilian life (Rule 15 of the Customary Rules).

With regards to the use of force by the Turkish military, under international law any loss of life that results from the excessive use of force without strict compliance with the principles of necessity and proportionality is an arbitrary deprivation of life and therefore illegal. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provides that intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life (principle 9). Exceptional circumstances such as internal political instability or any other public emergency may not be invoked to justify any departure from these basic principles (principle 8). According to the Basic Principles and the UN Code of Conduct for Law Enforcement Officials, law enforcement officials may only use force when it is strictly necessary and only to the extent required for the performance of their duties. Force used must be proportionate to the legitimate objective to be achieved. Should lethal force be used, restraint must be exercised at all times and damage and/or injury mitigated. Medical assistance should be provided as soon as possible when necessary.

We would like to remind your Excellency's Government of the duty to investigate, prosecute, and punish all violations of the right to life. The allegations presented appear to be in contravention with the human rights standards related to prevention and investigation of extra-judicial, arbitrary and summary executions (Principles 4, 9 and 18 of the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989).