

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
AL TUR 1/2017

23 January 2017

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 and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 25/2 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the suspension of Mr. **Osman Isci**, an academic researcher and human rights defender, from his research position at Agri Ibrahim Cecen University, in Ankara, through the use of emergency decrees, as a reported act of reprisal for his cooperation with the Special Rapporteur on the promotion of the right to freedom of opinion and expression during his official country visit to Turkey from 14 to 18 November 2016.

Mr Osman Isci is also a member of the Executive Committee of EuroMed and of the Human Rights Association (IHD), two non-governmental organizations, in Turkey.

The issue of academic freedom and dismissal of academics was most recently raised in the preliminary observations of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression at the end of his official country visit to Turkey on 18 November 2016. Concerns about academic freedom and the dismissal of academics following the signing of the "Peace Petition" has also been the subject of two communications sent to your Excellency's Government; on 31 March 2016 (TUR 3/2016) and on 24 June 2016 (TUR 4/2016). We acknowledge with appreciation the receipt of the replies from your Excellency's Government of 18 May 2016 and 3 August 2016.

According to the information received:

On 11 January 2016, Mr. Osman Isci, together with more than 180 other academic and university researchers signed the "Peace Petition", published by Academics for Peace. Many of these academics have since been dismissed, suspended or forced to resign, and all of them continue to be subjected to administrative and judicial investigations (see communication TUR 3/2016).

On 15 December 2016, approximately one month after he participated in a civil society meeting with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression during his official country visit to Turkey, Mr. Isci received a document notifying him that according to Emergency Decree nos. 667, 668 and 675, and Articles 137 and 138 of the Law on Public Officers, he had been placed under administrative investigation and suspended until its completion. The notification contained no information about the grounds for the administrative investigation initiated against Mr. Isci. Mr. Isci's university e-mail account has also been blocked by the university administration.

Mr. Isci has been subject to criminal investigations in relation to his human rights activities also in the past. Between June 2012 and March 2013, he was detained for ten months in pre-trial detention reportedly on politically motivated charges. He is still regularly summoned to court in the context of the ongoing trial targeting him and 71 other members of the Confederation of Public Workers' Union (KESK) before the 6th Heavy Penal Court of Ankara.

We express serious concern at the suspension, administrative investigation and criminal prosecution of Mr. Isci, which appears to result from his legitimate exercise of the right to freedom of expression and to be directly linked with his activities aimed at promoting peace and human rights protection in Turkey. We further express serious concern that the suspension and administrative investigation initiated against Mr. Isci may constitute acts of intimidation and reprisal for his cooperation with the United Nations in the field of human rights, considering that these measures took place shortly after his meeting with the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

We take note of your Excellency's Government's explanation of the measures taken following the signing of the "Peace Petition" and that these measures were within permissible restrictions under international human rights law, but we continue to express concern at the conflation of expression of critical views on political and public affairs with the spreading of terrorism and terrorist propaganda. We express concern at this form of criminalization of expression through the application of national security provisions and emergency decrees to target speech that is dissenting or critical, in ways that do not comply with the requirement that state of emergency measures be necessary and proportionate in scope and duration and only used to counter genuine security threats to the nation. We express concern at the devastating effects such measures have on the exercise of academic freedom and the promotion and protection of human rights carried out by human rights defenders and civil society in general.

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

As 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 be grateful for your observations on the following matters:

1. Please provide any additional information you may have on the above-mentioned allegations.
2. Please provide detailed information about how the criminal prosecution, administrative investigation and suspension of Mr. Isci are justified under the emergency decrees and Law on Public Officers, and explain how this is compatible with Turkey's obligations under international human rights law, in particular article 19 of the ICCPR.
3. Please provide information about why no reason was given to justify Mr. Isci's suspension.
4. Please provide information about measures taken to ensure that actions taken under the state of emergency are brought into line with international human rights law.
5. Please indicate what measures have been taken to ensure that human rights defenders in Turkey are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and reprisal, and are able to cooperate freely with the United Nations in the field of human rights without fear of reprisals.

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.

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Turkey 23 September 2003, which provides that "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".

We would like to draw the attention of your Excellency's Government to Principle 3 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, as endorsed in E/CN.4/1996/39 of 1996, which provides that in time of public emergency which threatens the life of the country and the existence of which is officially and lawfully proclaimed in accordance with both national and international law, a state may impose restrictions on freedom of expression and information but only to the extent strictly required by the exigencies of the situation and only when and for so long as they are not inconsistent with the government's other obligations under international law.

We would also like to refer to 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to draw your attention to article 1, 2, and 6 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels, as well as right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms, while each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

We refer to Human Rights Council Resolution 12/18 which calls upon States to refrain from using counter-terrorism as a pretext to restrict the right to freedom of opinion and expression in ways that are contrary to their obligations under international law. In this regard we also refer to General Assembly Resolution 57/219, Security Council Resolution 1456/2003, and Human Rights Council Resolution 22/6 which reiterate that States must ensure that any measure taken to combat terrorism, including legislation, must comply with all their obligations under international law and do not hinder the work and safety of human rights defenders.

We also wish to refer to Human Rights Council resolutions 12/2 and 24/24 which, inter alia, condemn all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights and calls upon all States to ensure adequate protection from intimidation or reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights.

Moreover, in his 2016 report on cooperation with the United Nations, its representatives and mechanisms in the field of human rights (A/HRC/33/19) the Secretary-General reiterates his firm position that all such acts, no matter how seemingly subtle or explicit, are without exception unacceptable and must be halted immediately and unconditionally, effective remedies provided and preventive measures adopted and implemented to prevent reoccurrence. (para. 49).