

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the right to freedom of peaceful assembly and of association and the Special Rapporteur on extreme poverty and human rights

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Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the right to freedom of peaceful assembly and of association and Special Rapporteur on extreme poverty and human rights, pursuant to Human Rights Council resolutions 33/30, 26/12, 34/18, 33/9, 32/32 and 26/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the recent arrest of Ms. **Nuriye Gülmen** and Mr. **Semih Özakça**, two teachers on hunger strike protesting against the dismissal from their jobs under the state of emergency measures adopted in 2016, as well as the one-day arrest of Ms. **Sultan Özakça** and Ms. **Esra Özakça**, the mother and the wife of Mr. Özakça, respectively, who were conducting a hunger strike opposing his detention. We would similarly like to refer to information received concerning the hunger strike held by Mr. **Kemal Gün** for almost three months to demand for the return of the remains of his deceased son, who was killed in airstrikes conducted by Turkish Armed Forces in the eastern part of the country. Furthermore, we wish to note our concern at the failure of the Turkish authorities to address the general human rights concerns arising from the state of emergency measures, as well as the underlying reasons for the hunger strikes undertaken by Mr. Kemal Gün, Ms. Nuriye Gülmen, Mr. Semih Özakça, Ms. Sultan Özakça, and Ms. Esra Özakça.

Several mandate holders have previously expressed concerns about Turkey's derogation from the International Covenant on Civil and Political Rights (ICCPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), and the arbitrary arrest, detention and dismissals of tens of thousands of police officers, judges, prosecutors, lawyers, teachers and other civil servants, following the attempted coup in July 2016. We note the reply of your Excellency's Government to the joint urgent appeal of 19 August 2016 (TUR 7/2016) in which it is held that that the measures taken were necessary to eliminate threats posed by those who plotted the coup.

Concerns about state of emergency measures and their compatibility with Turkey's obligations under international human rights law, were also raised by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression at the end of his official visit to Turkey in November 2016.

Special Procedures mandate holders sent a further communication to your Excellency's Government on 11 April 2017, reiterating Turkey's obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) and highlighting concerns about the impact of the state of emergency measures on economic, social and cultural rights of affected persons and their families (TUR 4/2017). We regret that no reply to this communication has been received to date. Another communication dated 23 May 2017 was sent to Turkey concerning measures taken against judges, prosecutors, lawyers, including dismissal, arrest and detention, since the failed coup attempt of July 2016 (TUR 5/2017). We encourage your Excellency's Government to kindly reply to the concerns expressed in both communications.

According to the information received:

On 9 September 2016, Mr. Semih Özakça was suspended, together with approximately ten thousand colleagues, from his position as a class teacher at Cumhuriyet Primary School in Mazıdag, District of Mardin, allegedly under very general accusations of having links with terrorist organizations. By Decree Law No. 675, dated 29 October 2016, he was definitively dismissed from his employment, barred from future public positions, and deprived of several economic and social rights, including social security and unemployment benefits.

On 3 October 2016, Ms. Nuriye Gülmen was suspended from her position as Research Assistant at Selçuk University Comparative Literature Department, a position she had held for four years, on account of an investigation launched against her concerning alleged links with the Gülenist movement.

On 9 November 2016, Ms. Gülmen started a sit-in protest in front of the Human Rights Monument on Yuksel Street in Ankara, demanding to be restored to her position and respect for her rights. On 23 November 2016, Mr. Özakca joined this protest.

On 6 January 2017, Ms. Gülmen was formally dismissed from her position by Decree Law No. 679, and barred completely from future public positions. The Decree also had the effect of depriving her of economic and social rights, including social security and unemployment benefits, and imposed a travel ban on her by ordering the seizure of her passport.

On 9 March 2017, Ms. Gülmen and Mr. Özakça started a hunger strike in front of the same Monument on Yüksel Street, to demand for restitution in their jobs and respect for their rights. Since then, they have both been repeatedly harassed by security agents, including short periods of detention and use of force against them. In the case of Ms. Gülmen, her nose was broken in these events and micro fractures were formed in her leg due to violence used against her, leading to the formation of bone marrow edema. Mr. Özakça has similarly been detained and also sustained injuries to different parts of his body.

As they approach 80 days of hunger strike, Ms. Gülmen and Mr. Özakça have lost significant weight and are experiencing blood pressure and pulse drops, headaches, heartburns, muscle aches, difficulty in walking, intra-oral scarring, and oversensitivity to light. Their health conditions have deteriorated to the extent that the continued hunger strike would pose a risk to their lives.

On the night of 21 May 2017, Ms. Gülmen and Mr. Özakça were arrested by the Turkish police at the Monument on Yüksel Street in Ankara. Although the legal basis for this action remains unclear, according to the information available, the charges brought against them include crimes related to terrorism. While they have had direct contact with their lawyers, there are concerns that they may be subject to forced feeding and that they may not have access to timely healthcare services.

On the night of 22 May 2017, Ms. Sultan Özakça and Ms. Esra Özakça, the mother and wife of Mr. Özakça, were also arrested and detained after having announced that they had started a hunger strike to protest the detention of Ms. Gülmen and Mr. Özakça. Their arrest took place on Yüksel Street in front of the same Monument, in Ankara, together with other demonstrators who had gathered at the site. Ms. Esra Özakça reportedly had to be taken to a hospital after suffering adverse effects from tear gas used by police. On 23 May 2017, both Ms. Sultan Özakça and Ms. Esra Özakça were released by the Turkish authorities.

Ms. Gülmen, Mr. Özakça and their families and representatives have had no access to judicial or other remedies of any kind against these measures, and have repeatedly been denied any direct communication with the Turkish authorities regarding their complaints. In particular, it has been impossible for them to file a complaint before the State of Emergency Inquiry Commission, as it is not yet operational despite its legal creation in January 2017, and a hearing with the Ministries involved in the adoption of measures against them has been repeatedly denied.

Regarding the case of Mr. Kemal Gün

On 28 February 2017, Mr. Kemal Gün began a hunger strike at Seyot Roza Square in Tunceli province, demanding that the remains of his deceased son, Mr. Murat Gün, be returned to him. Mr. Murat Gün was killed together with ten other alleged members of the Revolutionary People's Liberation Party (DHKP-C) in an airstrike launched by the Turkish Armed Forces in the eastern part of the country on 7 November 2016. The Government reportedly refused to address his concerns until 24 May 2017, during which day, and after 86 days of hunger strike, the remains of Mr. Murat Gün were finally returned to his father.

We express serious concern at the arrest and prosecution of Ms. Nuriye Gülmen and Mr. Semih Özakça, as well as the arrest and one-day detention of Ms. Sultan Özakça and Ms. Esra Özakça, which appear to have had the intention of silencing their protests against the measures of state of emergency adopted in 2016, and forcibly ending their hunger strikes in violation of their right to the highest attainable standard of physical and mental health, which includes their right to receive healthcare with full and informed consent.

We also reiterate our deep concern at the state of emergency measures themselves, which fail to comply with the requirements of necessity and proportionality under international law. As set out in the previous communication dated 11 April 2017, the criteria for permissible derogations from or limitations of human rights are deliberately narrow and restrictive, and your Excellency's Government has not demonstrated that the state of emergency measures are legitimate and proportionate measures compatible with its international human rights obligations.

Moreover, we express our dismay at the failure by the authorities to address the human rights violations that have given rise to the use of hunger strike as the ultimate form of protest, retaining the state of emergency measures that severely limit the right not to be arbitrarily deprived of liberty, fair trial rights, freedom of expression, freedom of assembly and association, and the right to work in violation of Turkey's obligations under the ICCPR and the ICESCR.

Without expressing, at this stage, an opinion on the facts of the case and on whether the detentions of the above-mentioned persons are arbitrary or not, we would like to appeal to your Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the ICCPR, ratified by Turkey on 23 September 2003.

Furthermore, the above-mentioned allegations appear to be in contravention of the rights to an effective remedy, to freedom of expression and to freedom of assembly guaranteed under articles 2 (3), 19 and 21 of the ICCPR. They also raise concerns

regarding the right to life guaranteed under article 6 of the ICCPR. Similarly, these allegations seem to contravene articles 6 and 12 of the ICESCR, also ratified on 23 September 2003, which establishes the right to work and to the highest attainable standard of physical and mental health.

We also wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States to recognise the exercise of the right to freedom of opinion and expression as one of the essential foundations of a democratic society, and which reminds that any limitation to the right to freedom of expression must be determined by law and conform to the strict test of necessity and proportionality. We would also like to refer to Human Rights Council resolution 24/5 of 2013 which reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, as well as to ensure that any restrictions on these are in accordance with their obligations under international human rights law.

Finally, with respect to the hunger strikes held by Ms. Nuriye Gülmen, Mr. Semih Özakça, Ms. Sultan Özakça and Ms. Esra Özakça, we would like to recall that the best way to respond to these demonstrations is to address the underlying human rights violations that are the basis of the protest. Authorities have a duty to look for solutions to extreme situations created by a hunger strike, including through good faith dialogue about the grievances, and always respecting the rights of those who use this form of protest.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 of the above-mentioned persons in compliance with international instruments.

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 and any comment you may have on the above-mentioned allegations.
2. Please confirm the legal basis for the arrest and detention of Ms. Nuriye Gülmen and Mr. Semih Özakça, as well as the charges brought against them. If confirmed, please indicate how such measures are compatible with Turkey's obligations under international human rights law, in particular with respect to articles 9, 14, 19 and 22 of the ICCPR.

3. Please provide additional information on the arrest and detention of Ms. Sultan Özakça and Ms. Esra Özakça. In particular, please explain the legal nature of such arrest and detention as well as the compatibility of such measures with articles 9, 14, 19 and 22 of the ICCPR.
4. Please provide information on the measures adopted by your Excellency's Government to guarantee Ms. Nuriye Gülmen and Mr. Semih Özakça access to adequate healthcare while in detention, as well to ensure that they will not be fed against their will.
5. Please provide information on the particular reasons and the legal basis for dismissing Ms. Gülmen and Mr. Özakça from their academic positions, as well as for subjecting them to several other significant restrictive measures including deprivation of social security and unemployment aid, as well as the seizure of their passport. Similarly, please provide information on the reasons for denying any legal remedy regarding these measures.
6. Please explain why it took 86 days of hunger strike before the body of Mr. Kemal Gün's son was returned to him. Similarly, please provide information on any related measure of reparation and compensation undertaken by the Turkish authorities, or the reasons for their absence.
7. Please provide additional information on the compatibility of the state of emergency measures with the obligations of Turkey under international human rights law, including at the moment of adoption and at present.
8. Please provide information on the measures undertaken by the Turkish authorities to protect the rights affected by the state of emergency measures, including the right not to be arbitrarily deprived of liberty, fair trial rights, freedom of expression, freedom of assembly and association, as well as the effects of these restrictions on the right to work.

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 responsible of the alleged violations.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such urgent appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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.

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