

**Mandates of the Working Group on Arbitrary Detention; 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; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the promotion and protection of human rights while countering terrorism**

REFERENCE:  
UA TUR 11/2017

26 October 2017

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; 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; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the promotion and protection of human rights while countering terrorism, pursuant to Human Rights Council resolutions 33/30, 34/18, 32/32, 34/5 and 31/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and detention under accusations of membership of a terrorist organization of **Didem Baydar, Şükriye Erden, Ayşegül Çağatay, Ebru Timtik, Aytaç Ünsal, Zehra Özdemir, Yağmur Ereren, Engin Gökoğlu, Süleyman Gökten, Aycan Çiçek, Naciye Demir, Behiç Aşçı, Barkın Timtik** and **Özgür Yılmaz**, human rights lawyers working for the non-governmental organization People's Law Office.

The People's Law Office, Ms. Ebru Timtik, Mr. Naciye Demir and Ms. Şükriye Erden were the object of one previous communication sent on 15 March 2013 (case TUR 1/2013), expressing concern regarding their arrest, and that of several other lawyers, under charges of membership of a terrorist organization. While we appreciate your Excellency's Government reply of 24 September 2013, providing information on the different cases, we note that it failed to explain the core issue of how the criminal accusations against the defendants and their arrests were compatible with the rights to freedom of opinion and expression as well as peaceful assembly and association under international human rights law. In particular, we regret that the reply did not explain which of the defendants' activities amounted to membership of a terrorist organization, thus making it necessary and proportional for the authorities to arrest and prosecute them.

According to the information received:

In the night and early hours of 11 and 12 September 2017, the premises of the People's Law Office in Istanbul and Ankara, as well as several residencies of their staff members, were raided by the Turkish Police. During the raids, human rights lawyers Didem Baydar, Şükriye Erden, Ayşegül Çağatay, Ebru Timtik, Aytaç

Ünsal, Zehra Özdemir, Yağmur Ereren, Engin Gökoğlu, Süleyman Gökten, Aycan Çiçek, Naciye Demir, Behiç Aşçı, Barkın Timtik and Özgür Yılmaz were arrested.

On 20 September 2017, the detained lawyers were taken before the Istanbul Criminal Judgeship of Peace and formally accused of membership of a terrorist organization by the Prosecutor's Office, namely the Revolutionary People's Liberation Party (DHKP-C).

The arrests have allegedly kept the People's Law Office's lawyers from performing their professional duties in court regarding the cases of several prosecuted human rights defenders, activists and demonstrators who were being legally represented by them. Among others are Ms. Nuriye Gülmen and Mr. Semih Özakça, two teachers currently on hunger strike who were dismissed from their positions and prosecuted for having links with terrorist organizations, whose cases were addressed in a letter sent to Turkey on 1 June 2017 (TUR 6/2017). Ms. Gülmen and Mr. Özakça, who had to appear before court during September, were allegedly not represented in the hearings by the lawyers they had originally chosen due to their arrest.

Grave concern is expressed regarding the allegations of arrest and prosecution under accusations of membership of a terrorist organization of the above-mentioned lawyers of the People's Law Office. Moreover, serious concern is expressed at the mounting number of human rights defenders and lawyers under investigation for alleged links to terrorist organizations in Turkey, which seems to evidence a pattern of using this type of offense to target individuals and organizations legitimately expressing dissent with the policies of the current Turkish Government.

We also would like to take the opportunity to express our deep concern at the state of emergency measures in place at the moment in Turkey, as they fail to comply with the requirements of necessity and proportionality under international law. 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 measures adopted meet their threshold.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the above-mentioned individuals is arbitrary or not, we would like to appeal to your Excellency's 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, 10 and 14 of the the International Covenant on Civil and Political Rights (ICCPR), ratified by Turkey on 23 September 2003.

We would similarly like to remind your Excellency's Government of the obligation to secure the enjoyment of the rights to freedom of opinion and expression and

to peaceful association under articles 19 and 22 of the ICCPR. In this vein, we wish to refer to Resolution 12/16 of the Human Rights Council, which calls on States to recognize 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.

We would also like to draw your attention to the Basic Principles on the Role of Lawyers, which stipulate that governments have the duty to ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference, and that lawyers shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics (Principle 16). We would lastly like to highlight the fundamental principles set forth in articles 1 and 2 of the UN Declaration on Human Rights Defenders, which provide for the right to promote and to strive for the protection and realization of human rights and fundamental freedoms.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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 persons concerned, 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 provide information on the legal grounds for the arrest, detention and accusations of membership of terrorist organizations against the human rights lawyers mentioned in this letter, and explain how these measures are compatible with Turkey's obligations under articles 9, 19 and 22 of the ICCPR. In particular, please explain which actions undertaken by these lawyers are deemed to amount to membership of terrorist groups and how.

3. Please provide information on the measures adopted by your Excellency's Government to respect the fundamental due process guarantees in their cases.
4. 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.

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.

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

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 cases through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such 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.

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

Elina  
Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

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

Annalisa Ciampi  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst  
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terrorism