

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

REFERENCE:  
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 34/18, 34/5 and 34/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **Ms Eren Keskin**, a prominent lawyer and human rights defender from Turkey. She is the co-president of the Human Rights Association in Turkey (IHD). For the past 30 years, Ms Keskin has contributed to protecting the rights of persons belonging to minorities, and worked on issues relating to violence against women and torture. She is the recipient of numerous prestigious human rights awards, including the 2018 Helsinki Civil Society Award; the Aachen Peace Award and the Theodor Haecker Prize for Civic Courage and Political Integrity.

Özgür Gündem was an independent newspaper that reported on the Turkish-Kurdish conflict until it was ordered "temporary shut-down" by the 8<sup>th</sup> Magistrates Court of Istanbul on 16 August 2016, as a result of a statutory decree issued under the state of emergency. As a result of a solidarity campaign consisting of 44 journalists, writers and activists campaigning for media freedom by acting as symbolic co-editors of the publication, criminal investigations were launched into participants involved in the campaign. Concerns about these investigations, in particular the use of national security and terrorism charges, have previously been raised by Special Procedures mandate holders on 24 June 2016 (TUR 4/2016); and by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression following his official visit to Turkey in November 2016 (A/HRC/35/22/Add.3). We thank your Excellency's Government for the response received to the communication on 4 August 2016.

According to the information received:

On 30 March 2018, the Istanbul Criminal Court of First Instance sentenced Ms. Keskin to 7.5 years of imprisonment in relation to her contribution to the now closed *Özgür Gündem* newspaper. From 2013 to 2016, Ms. Keskin held the title of co-editor of the newspaper. *Özgür Gündem* which reported extensively on the Turkish-Kurdish conflict and on the situation of persons belonging to the Kurdish minority. This was a symbolic position, as more than hundred persons named

themselves as editors-in-chief on a rotating basis, to express their support for the newspaper.

As a result of Ms. Keskin's symbolic title of "editor-in-chief", over 120 lawsuits have been filed against her in Turkish courts. Under the provisions of the Turkish Press Law, editors-in-chief can be indicted for publications in cases where the responsible authors cannot be held to account. The court found that Ms. Keskin had degraded the Turkish nation and had insulted the President, despite the fact that she was not the author of the articles in question.

On 7 May 2018, the 7<sup>th</sup> hearing of the trial of Eren Keskin and 8 other defendants took place at the 14<sup>th</sup> High Criminal Court of Istanbul. The prosecutor is seeking a prison term for Ms. Keskin on charges of "conducting propaganda for a terrorist organization", in connection with her role as symbolic editor-in-chief for *Özgür Gündem* newspaper in 2013. The trial has now been adjourned until 9 July 2018. On 4 June 2018, the 9<sup>th</sup> hearing of the *Özgür Gündem* main trial was held. During the hearing the court requested that the prosecutor prepare a statement for the next hearing, which is now scheduled for 20 October 2018.

Out of the 120 lawsuits filed, six court proceedings have now been concluded, with all options for remedies exhausted. In these cases, the charges and convictions relate to "degrading the Turkish nation, the Republic, institutions and organs of the state" under Article 301 of the Turkish Criminal Code, and with "insulting the President of the Republic of Turkey" under article 299 of the Criminal Code, "spreading propaganda for an armed terrorist organisation" under article 7(2) of the Law on the fight against terrorism, as well as "failure to publish article corrections in the newspaper" under article 18 of the Press Law. The original sentences contained fines to the equivalent of a 28,000 euro. Given that Ms. Keskin failed to pay the original fines, they have now been converted to prison sentences.

In a further 69 cases, Ms. Keskin has been pronounced guilty but the lawsuits are still under review before the Court of Appeals or the Supreme Court. Additionally, Ms. Keskin is currently subject to a travel ban and has to report to the police weekly. Furthermore, an application has been filed by the office of the President of Turkey to the Istanbul Bar Association to impose disciplinary measures on Ms Keskin, a motion which may result in her disbarment.

Concerns are expressed that the charges against, and conviction to imprisonment of Ms. Eren Keskin are related to her legitimate work in defence of human rights, in particular her work on the rights of minority groups, particularly the rights of persons belonging to the Kurdish minority in Turkey. Further concerns are expressed regarding the fact that the indictment and conviction of Ms. Keskin takes place in a context of an increasingly closed space for civil society in Turkey and may deter human rights defenders from continuing their legitimate and peaceful work promoting and protecting human rights. We reiterate our concerns at the continued use of national security and

counter-terrorism legislation and criminal defamation to criminalize the legitimate exercise of the right to freedom of expression in Turkey.

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 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 information on how the charges against, and conviction of, Ms. Eren Keskin is compatible with Turkey's obligations under international human rights law, in particular with articles 14, 15 and 19 of the International Covenant on Civil and Political Rights, which Turkey ratified in 2003.
3. Please provide information on measures taken to ensure that trials are conducted in a free and fair manner, in compliance with Turkey's obligations under international human rights law.
4. Please provide information on measures taken to ensure that all lawyers, journalists and human rights defenders, including all those who work and advocate for the rights of national or ethnic, religious and linguistic minorities, can carry out their legitimate professional duties and activities without fear of reprisals, physical violence or other forms of intimidation and threats.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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.

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

Fernand de Varennes  
Special Rapporteur on minority issues

**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, without expressing at this stage an opinion on the facts of the case and on whether the detention of the individuals was arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the right not to be deprived arbitrarily of 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 14, 15 and 19 of the International Covenant on Civil and Political Rights.

We would also 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 Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights, ratified by Turkey on 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 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 (A/RES/53/144, adopted on 9 December 1998), 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.

Furthermore, we would like to bring your Excellency's Government's attention to its article 17, which provides that in the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

We would like to bring to the attention of your Excellency's Government the international standards regarding the protection of the rights of persons belonging to minorities, in particular to article 27 of the International Covenant on Civil and Political Rights and to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on Minorities), adopted by the General Assembly in 1992, which in its article 1 refers to the obligation of States to protect the existence and the identity of minorities within their territories and to

adopt measures to that end. Article 2 further establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them. Article 4.1 establishes that “States will take measures where required, to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law”.