

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; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context.

REFERENCE:
AL TUR 16/2018

14 November 2018

Excellency,

We have the honour to address you in our capacities 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; and Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; pursuant to Human Rights Council resolutions 33/30, 34/18, 32/32 and 34/9.

In this connection, we would like to bring to the attention of your Excellency's Government information received concerning the detention of 24 construction workers on 19 September 2018 and an additional arrest of ten construction workers and trade union officials in October 2018, for the exercise of their rights to freedom of expression and freedom of association and assembly.

According to the information received:

In 2015 construction began on Istanbul's third airport. The airport is planned to be one of the world's largest and will be the centrepiece of the President's construction projects to create what he has called the "new Turkey". With 36 000 individuals working on the site, it is one of Europe's biggest construction sites. It was opened on 29 October, and it is expected to be completed in the next ten years.

On 14 September 2018, thousands of construction workers at the site of the new airport carried out protests against workplace accidents, precarious and oppressive working conditions and violation of labour rights. The protests broke out after a shuttle bus accident left four workers dead and 17 workers injured. The incident was the latest in a series of industrial accidents at the site, which workers have described as a "graveyard" due to the lack of safety protections.

The airport workers published a list of requests, including payment of wages, no dismissals, more shuttle buses and better living conditions. Some 15, 000 workers sleep in company-supplied container homes near the construction site. These units are reportedly infested with fleas and bed bugs and have uncollected garbage and cracks in the walls and ceilings.

During the protests, an estimated 3000-4000 police and security forces arrived on site, with armoured cars, used tear gas, and detained hundreds of workers. Several hundreds of striking workers were also reportedly fired by the Istanbul Grant Airport. It has been reported that since the start of the protest on 14 September some 500 police and security forces have been stationed at the site.

On 19 September 2018, a court in Istanbul jailed 24 construction workers who took part in the strike, including four officials of the Construction Workers Union. On the same day, 275 of the arrested workers were released. In the first week of October, an additional ten construction workers and trade union officials were arrested. These ten workers face charges of resisting police, violating protest laws and damage to public property.

It has been reported that since the airport construction began in 2015, 400 workers have reportedly died from workplace accidents or poor health, caused by poor working and housing conditions on the site.

We express grave concern at the arrest and detention of construction workers following protests regarding their working conditions. We are equally concerned at allegations about the failure of the authorities to address the underlying causes for the protests, in particular the dangerous and poor working and housing conditions at the construction site since 2015. We are concerned at the crackdown on the workers' right to freedom of association and assembly. We also express our concerns at the chilling effect which these arrests may have in general and more specifically on civil society actors whose space to exercise their legitimate work is continuously shrinking in the country.

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 and any comment you may have on the above-mentioned allegations.
2. Please confirm the number of arrested and/or detained individuals following the protests on 14 September 2018. Please provide information about the legal basis for their arrest and detention, as well as of any 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 information about whether any investigation or inquiry has been initiated into the death of constructions workers at the site of the new airport since 2015, including the most recent accident leaving four individuals dead. Please also provide information about the result of any such investigation. If no investigation has taken place, please explain why.
4. Please provide information on the measures adopted by your Excellency's Government to ensure safe working conditions for the construction workers and to prevent further deaths in this context.
5. Please provide information on measures taken by your Excellency's Government to ensure adequate housing conditions, including the right to live somewhere in security, peace and dignity, for the construction workers in accordance with international human rights standards.
6. Please explain if any trainings on safety at work are provided to workers at the construction site.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence. We also urge the authorities to investigate the death of all workers on the construction site and to ensure that it complies with safety and security standards.

We would like to inform your Excellency's Government that, after having transmitted this letter of allegations to the Government, the Working Group on Arbitrary Detention may transmit these cases through its regular procedure, in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such allegations in no way prejudice any opinion the Working Group may render. If that were to be the case, the Government is required to respond separately to the letter of allegation 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

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Leilani Farha
Special Rapporteur on adequate housing as a component of the right to an adequate
standard of living, and on the right to non-discrimination in this context

Annex
Reference to international human rights law

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. Article 11 of the ICESCR also establishes a right to an adequate standard of living including adequate housing. Moreover, the CESCR in General Comment No. 14 indicates that States are required to adopt measures against occupational health hazards. We would equally like to recall that article 23.1 of the Universal Declaration of Human Rights stipulates that (1) Everyone has the “right to just and favourable conditions of work and to protection against unemployment”.

We underline the State obligation under international law to respect, protect and fulfil workers’ rights to freedom of peaceful assembly and of association. As highlighted by the Special Rapporteur on the right to freedom of association and peaceful assembly, without assembly and association rights, workers have little leverage to change the conditions that entrench poverty, fuel inequality and limit democracy (A/71/385). The rights to freedom of peaceful assembly and of association are fundamental worker rights. They are also a means to level the unequal relationship between workers and employers, thereby helping workers correct abuses and gain access to fair wages, safe working conditions and a collective voice (A/71/385). Please note that the Working Group on Arbitrary Detention has consistently consider that the deprivation of liberty as a result of the exercise of the human rights to freedom of expression, assembly and association, is to be considered an arbitrary detention under international law (A/HRC/36/38, p. 8.b)).

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.

We would also like to refer you to Human Rights Council Resolution 31/66 of 2016 according to which law enforcement agencies and officials are obligated to respect and protect the rights of all those who participate in assemblies, and that the use of force should follow the principles of legality, precaution, necessity, proportionality and accountability.

Finally, we wish to draw the attention of your Excellency's Government to the UN Declaration on Human Rights Defenders. In particular, articles 1, 2, 5, 6 and 12, which state that everyone has the right to promote the protection and realization of human rights, that the State has a prime responsibility and duty to protect, promote and implement all human rights, that everyone has the right to meet or assemble peacefully and to know, seek, receive, and impart information about all human rights.