

**Mandates of the Special Rapporteur on the situation of human rights defenders; 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 the independence of judges and lawyers**

Ref.: AL TUR 5/2023  
(Please use this reference in your reply)

19 July 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; 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 the independence of judges and lawyers, pursuant to Human Rights Council resolutions 52/4, 52/9, 50/17 and 44/8.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the threats and alleged attack, possibly amounting to torture, of Mr. Aytekin Aktaş while he attempted to carry out his professional duties as a human rights lawyer assisting members of the "Life Watch" protests. We also wish to communicate the alleged repression of the "Life Watch" movement by the Gendarmerie which in some cases involves threats and physical violence.

**Aytekin Aktaş** is a human rights lawyer and human rights defender. He is a member of the organisation Progressive Lawyers Association (Çağdaş Hukukçular Derneği – ÇHD) as well as the group Lawyers for Justice (Adalet İçin Hukukçular). Since the earthquake on 6 February 2023 gravely affected Turkey, Mr. **Aktaş** has been offering his legal services on a voluntary basis to those impacted by the disaster.

**The "Life Watch" movement** started on 3 April 2023 in the Samandağ district of the Hatay province, in response to the hazardous practices adopted in the earthquake crisis management. The initiative seeks to draw attention to the health and environmental risks associated with this management, namely the lack of sufficient measures taken by public health policy to protect against these risks. The movement is made up of citizens living in the area who are earthquake survivors, and includes environmental human rights defenders, ecology activists, representatives of local civil society organizations, unions, professional bodies and political parties. Among their activities, they have campaigned to raise awareness on these concerns, issuing press statements in relation to the problematic management of the earthquake. They have also voiced their concerns publicly, holding conferences and peaceful protests.

Their demands include covering of the debris during transport to reduce the spread of substances such as silicas, heavy metal paint and asbestos; better measurement of air to identify the presence of these substances; and occupational health training for those engaged in piling the rubble. Protests held over several days during April 2023 by the "Life Watch" movement were met with violence by Gendarmerie.

According to the information received:

Since the onset of the two earthquakes on 6 February 2023, many buildings in Turkey have collapsed and been damaged, particularly in those regions closest to the epicenter, such as the Hatay province. Practices of piling the debris and rubble of fallen buildings has become common in the State's efforts for disaster relief. Some of this debris is being piled in populated residential areas and others on agricultural land.

On 7 February 2023, the President declared a state of emergency in the ten cities affected by the earthquake until 7 May 2023. These emergency legal powers entered into force on 8 February 2023.

*The case of the "Life Watch" movement:*

On 4 April 2023, a peaceful protest was held by the organization "Life Watch" in the Yeşilköy Neighborhood of Samandağ, a district in the region of Hatay in southern Turkey. This region has recently been severely impacted by the earthquake of 6 February 2023. As part of the protest, survivors of the earthquake assembled to publicly read a press statement. Reportedly, however, the Gendarmerie detained a participant involved in the protest at the scene.

On 17 April 2023, protestors belonging to the "Life Watch" movement assembled to read their press statement in front of the governor's office in Hatay. Police again intervened to prevent the protests. Protestors and earthquake survivors have reportedly been threatened with violence by law enforcement officials.

In light of the police violence, and their freedom of opinion and expression having been curtailed, the "Life Watch" movement have changed the focus of their activities to instead conduct workshops to raise awareness amongst the earthquake survivors, as well as engaging in strategic litigation and environmental reporting.

*The case of Aytekin Aktaş:*

On 4 April 2023, the date of the peaceful protest held by the "Life Watch" movement in the Yeşilköy Neighborhood of Samandağ, in the Hatay district, human rights defender and lawyer Mr. Aytekin Aktaş visited the scene of the protests in question as part of his voluntary legal assistance in relation to the earthquake. Mr. Aktaş was informed that one of the protestors who had taken part in the demonstration was being detained by the Gendarmerie. On this basis, the human rights lawyer decided to go to the Samandağ vicinity.

Upon Mr. Aktaş's arrival at the site of the protests, more specifically behind the Samandağ-Antakya Road in Yeşilköy, the human rights defender addressed the police authorities present and identified himself as a lawyer, asking to see his client, in reference to the individual who was being detained. At first, the Gendarmerie officer he spoke to informed Mr. Aktaş that his client was being detained inside a vehicle. However, when the human rights lawyer persisted in his questions and asked whether the Gendarmerie had a requisite detention order for the detainee in question, in accordance with the law, the

Gendarmerie officers allegedly became hostile towards Mr. Aktaş. They verbally insulted him and intimidated him by roughing him up. They dismissed his inquiries about a detention order and declined to provide further information in this regard.

When Mr. Aktaş maintained that the detention without the requisite order from the prosecutor's office was not legal, and that the police interference with Mr. Aktaş performance of his duties as a lawyer was in contravention of the law, the Gendarmerie officers would have reacted violently. The officers would have physically assaulted Mr. Aktaş and other protestors present at the scene and forcibly removed them from the vicinity of the vehicle where the protestor was being detained.

At this point, Mr. Aktaş used his phone to take a recording of the violence being perpetrated by the police. On seeing this, the officers reportedly removed the name tags they were wearing from their uniform, so as to conceal their identity, and confiscated Mr. Aktaş's phone. Following this, at least 10 Gendarmerie officers attacked Mr. Aktaş and dragged him to a more discrete location between two vehicles. Once partially concealed by the cars, the officers proceeded to violently attack Mr. Aktaş. They subjected him to various forms of beatings, kicking him, punching him and striking him with batons. They reportedly stepped on his neck with their boots and dragged him on the ground. They twisted his arm around and subjected him to psychological abuse by making him believe that they would snap it, encouraging one another to "break his arm". They also threatened to kill him, arguing that they were in a "state of emergency region" as justification for this threat, and saying "we will kill you here and no one can do anything about it".

In addition to physically assaulting Mr. Aktaş on the ground, the assailants subsequently forced him inside one of the vehicles where they continued their violence which may amount to torture. The perpetrators forcefully held the human rights lawyer inside the vehicle and refused to release him, only eventually letting him go after 30 minutes.

Once released, Mr. Aktaş tried to document the information that would enable him to file a complaint about the attack, collecting details such as the names of the officers involved as well as the license plates of the vehicles. Allegedly, these observations provoked the officers to subject the human rights defender to another round of attacks. This assault only concluded when Mr. Aktaş managed to escape.

Furthermore, other protestors at the site who witnessed the attacks, possibly amounting to torture of Mr. Aktaş, were reportedly also violently detained.

ÇHD, the non-governmental organization to which Mr. Aktaş belongs, filed a criminal complaint with the Hatay Chief Public Prosecutor's Office concerning this incident. At the time of this communication, we are unaware of any measures taken to investigate this incident.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our serious concern at the physical assault of human rights lawyer and defender Mr. Aktaş, as well as the threats and intimidation to which he was subjected.

Should these allegations be confirmed, the facts alleged would contravene the United Nations Convention against Torture, ratified by Turkey on 2 August 1988. We underscore that the prohibition of any form of ill-treatment under international law is absolute and non-derogable. This prohibition has become a norm of *jus cogens* which is reflected in numerous international human rights instruments and Human Rights Council and General Assembly Resolutions. Furthermore, these allegations would represent a violation of the right to health, as protected by the International Covenant on Economic, Social and Cultural Rights, signed by Turkey on 15 August 2000, and subsequently ratified on 23 September 2003.

We wish to recall that, in accordance with article 9 of the ICCPR, everyone has the right to liberty and security of person, and no one shall be subjected to arbitrary arrest or detention. As such, detaining individuals based on their activities as human rights defenders violates their right to equality before the law and equal protection of the law under article 7 of the Universal Declaration of Human Rights and article 26 of the Covenant. In addition, arresting or detaining an individual as punishment for the legitimate exercise of rights protected under the ICCPR may be arbitrary.

We are particularly concerned at the information that describes that Mr. Aktas was beaten after identifying himself as a lawyer trying to fulfil his legal functions. The legal profession and its free exercise are an essential element of the rule of law, the protection of human rights and the functioning of an independent judicial system. The free exercise of the legal profession contributes to ensuring access to justice, oversight of state power, protection of due process and judicial guarantees. According to international standards, States must guarantee that those who practice law can do so free from intimidation, obstacles, harassment or interference.

We would additionally like to express our concern regarding the emergency legal powers introduced by President Erdoğan on 7 February 2023 in the ten cities affected by the earthquake, which came into force from 8 February 2023 to 7 May 2023, and which, we note, were enacted in addition to other disaster response legislation in Turkey such as Law no. 7269 on “Precautions to be Taken due to Disaster Affecting Public Life and Assistance to be Provided”. Given the reported information received, by Mr. Aktaş in particular, these measures appear to be co-opted as a threat by officials whereby members of the police allude to the state of emergency laws as allowing them to commit violations with impunity and free from redress. This would suggest that the emergency measures are in fact being weaponised against civil society and earthquake survivors who express criticism at the state’s disaster response, in violation of international law.

We would like to further express our concern regarding the targeting of peaceful protesters involved in the “Life Watch” movement. Such threats and detentions of peaceful protesters creates a chilling effect for protest movements in Turkey, and ultimately curtails the rights to freedom of peaceful assembly and freedom of expression. We urge your Excellency’s Government to safeguard the rights to peaceful assembly and freedom of expression for those involved in peaceful protest movements, including those involved in the “Life Watch” movement.

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 the observations of your Excellency's Government on the following matters:

1. Please provide any additional information and any comment(s) you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the use of force reported in this case and how these measures are compatible with international human rights law.
3. Please provide the details, and where available the results, of any investigation, judicial or other inquiries which may have been carried out in relation to this case. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken; have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
4. Please explain what measures have been taken to ensure that all human rights defenders in Turkey, in particular those working on issues of freedom of opinion and expression, of freedom of association and assembly can carry out their peaceful and legitimate activities without fear of violence, or other restrictions.

We would appreciate receiving a response within 60 days. Past 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 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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Irene Khan  
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

Margaret Satterthwaite  
Special Rapporteur on the independence of judges and lawyers

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In this context, we would first like to draw the attention of your Excellency's Government 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, otherwise known as the UN Declaration on Human Rights Defenders, which was adopted by consensus at the UN General Assembly in 1998. In particular we would like to highlight articles 1 and 2 of the Declaration, which state that everyone, individually and in association with others, has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms and that each State has a prime responsibility and duty to promote, protect and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- Article 5(a) and (b), which underscores the rights to meet or assemble peacefully and to form, join and participate in non-governmental organisations, associations or groups.
- Article 6(b) and (c), which reiterates the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights.
- Article 7 which provides that everyone has the right, individually or in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance;
- Article 8.2 which provides that all persons, individually or in association with others, have the right to submit to government authorities criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms;
- Article 9(1), which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.
- Article 10, which provides that no one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or

adverse action of any kind for refusing to do so

- Article 11 which provides that everyone has the right, individually or in association with others, to the lawful exercise of their profession;
- Article 12(2) and (3), which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.
- Article 16, which enshrines the fundamental role of individuals, non-governmental organisations and relevant institutions in society, who raise awareness to the public of issues relating to human rights and fundamental freedoms through their activities within civil society.

We would also like to refer to Human Rights Council Resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

In addition to the above regarding human rights defenders, we would like to refer to the Human Rights Council resolution 31/32 which in paragraph 2 calls upon all States to take all measures necessary to ensure the rights and safety of human rights defenders, including those working towards realization of economic, social and cultural rights and who, in so doing, exercise other human rights, such as the rights to freedom of opinion, expression, peaceful assembly and association, to participate in public affairs, and to seek an effective remedy. It further underlines in paragraph 10 the legitimate role of human rights defenders in mediation efforts, where relevant, and in supporting victims in accessing effective remedies for violations and abuses of their economic, cultural rights, including for members of impoverished communities, groups and communities vulnerable to discrimination, and those belonging to minorities and indigenous peoples.

Furthermore, we would like to stress the absolute and non-derogable obligation of your Excellency's Government, to prohibit and prevent torture and other cruel, inhuman or degrading treatment or punishment, mental or physical, in accordance with articles 1, 2 and 16 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), ratified by Türkiye on 2 August 1988.

In its general comment no. 34, the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of expression, including inter alia 'political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism'. Moreover, with regard to the emergency powers recently enacted by the State, the Human Rights Committee made clear that "It is not compatible with article 19 paragraph 3, for instance, to invoke such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information". Article 19 requires the States to guarantee the right to freedom of expression (Id.). It is the States' duty to put in place effective measures to

protect against attacks aimed at silencing those exercising their right to freedom of expression (paragraph 23).

Restrictions on the right to freedom of expression must be compatible with the requirements set out in article 19(3), that is, they must be provided by law, pursue a legitimate aim, and be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. We would like to emphasize that that any restriction on expression or information that a government seeks to justify on grounds of national security must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest (CCPR/C/GC/34).

In this connection, the Human Rights Committee in general comment 34 has held that “under any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with article 19. (...) All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted (...).”.

Furthermore, Human Rights Council Resolution 12/16 calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.