

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on minority issues

Ref.: AL TUR 8/2023
(Please use this reference in your reply)

25 October 2023

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 and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 52/9 and 52/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **targeting and death threats against, and criminalisation of opposition member of the Turkish Parliament Mr. Sezgin Tanrikulu.**

Mr. Tanrikulu is a member of Parliament (MP) representing Diyarbakir, Turkey's largest Kurdish city, for the main opposition Republican People's Party (CHP). Since 2010, he has served in the Turkish Grand Assembly. He is also an internationally renowned human rights lawyer and advocate known for his defence of the rights of Kurdish people. He is co-founder of the Diyarbakir Human Rights Association, the Secretary of the Bar Association in Diyarbakir, and the regional representative of the Human Rights Foundation of Turkey.

We previously raised our concern about the alleged targeting of Mr. Tanrikulu and the Human Rights Foundation of Turkey (TIHV)'s centre for the rehabilitation of victims of torture in a communication sent to your Excellency's Government (TUR 19/2004) on 14 September 2004. We thank your Excellency's Government for its reply to this communication.

According to the new information received:

On 8 September 2023, during a live broadcast on national television, Mr. Tanrikulu criticised the Turkish Armed Forces (TSK) for staging a coup d'état on 12 September 1980 and committing atrocities against Kurdish civilians including extrajudicial executions and village burnings. He referred specifically to the disappearance of 11 villagers in Diyarbakir after they were taken away by military helicopter in 1993 and the military bombing of villages in Şırnak killing 33 villagers in 1994, incident on which the European Court of Human Rights (ECtHR) pronounced itself and which were recognised by the State. He ascertained that "we are members of parliament, we question these matters" and that the TSK and the current government are not immune to criticism.

On 9 September 2023, Mr. Tanrikulu shared excerpts of the two aforementioned ECtHR decisions confirming the serious human rights violations by the State against Kurdish populations in Diyarbakir and Şırnak on his social media account X, formerly Twitter. That same day, the Ankara Chief Public Prosecutor's Office launched criminal investigations against

Mr. Tanrıkulu on charges of “insulting the Turkish Nation, the State of the Republic of Turkey, and State institutions and Bodies” and “Inciting the Public to Hatred and Hostility or Contempt”, outlined in articles 301 and 216 of the Turkish Penal Code, charges which carry a possible prison sentence of up to two years.

On 9 September 2023, the Minister for Defence issued an online statement calling Mr. Tanrıkulu comments “unacceptable”. On 11 September, President Tayyip Erdoğan stated that Mr. Tanrıkulu’s statements were “insults and slanders,” which “will not go unpunished”, and accused him of being a collaborator of the Kurdistan Armed Forces (PKK). Since this statement, Mr. Tanrıkulu and his family members have been receiving death threats.

Mr. Tanrıkulu was previously put under investigation for his comments on allegations that the Turkish armed forces used chemical weapons in their operations against the PKK. Mr. Tanrıkulu said that he had seen the footage of the alleged use of chemical weapons and that chemical weapons are a crime against humanity.

Without prejudging the accuracy of these allegations, we would like to express our concern that the criminalisation and death threats against Mr. Tanrıkulu appear to be in direct retaliation of his criticism of human rights violations in Türkiye.

We are concerned that the criminalisation of Mr. Tanrıkulu is yet another case in which opposition politicians, human rights advocates and outspoken critics of the government face charges of insulting the president, the Government, the military or other government organs. If proven to be true, the judicial action against Mr. Tanrıkulu would constitute a violation of his right to freely express his political opinion as a citizen and parliamentarian and to comment freely on public affairs, including on human rights violations. In this regard, we remind your Excellency’s Government that the Human Rights Committee has held that States parties to the International Covenant on Civil and Political Rights (ICCPR) are required to guarantee the right to freedom of expression, which includes, inter alia, ‘political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism’.

We express deep concern over the safety of Mr. Tanrıkulu and his family, who have been receiving death threats. In this regard, we remind your Excellency’s government of the case of Kurdish lawyer and rights activist (brought your attention in TUR 6/2021 and TUR 4/2015) who had received private death threats and insults for statements he had made regarding the Kurdish conflict before his violent death. He had also faced criminal prosecution and was the subject of intimidation and harassment campaigns by pro-government media, government supporters and high-level government officials before his assassination. We wish to reiterate that attacks on a person for the exercise of his or her freedom of opinion or expression, including through arbitrary arrests, threats to life and killings, are incompatible with article 19 of the ICCPR.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide full details of any protective measure put in place to ensure the physical and psychological security and integrity of Mr. Tanrikulu and his family.
3. Please provide information on the steps taken by your Excellency's government to investigate the death threats against Mr. Tanrikulu and his family.
4. Please provide the factual and legal basis for the investigation against Mr. Tanrikulu and how this complies with the international human rights norms and standards relating to freedom of opinion and expression.

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.

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

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Fernand de Varennes
Special Rapporteur on minority issues

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 International Covenant on Civil and Political Rights (ICCPR), ratified by Turkey on 23 December 2003.

We would also like to draw the attention of your Excellency's Government to article 19 of the ICCPR, which provides for the right to freedom of expression, as well as to the Human Rights Council resolution 12/16, which called 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. This right applies online as well as offline. Any limitation to the right to freedom of expression must meet the criteria established by international human rights standards. Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality, must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

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).

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. 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.

We would also like to refer to Human Rights Council Resolution 22/6, which urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights. (OP 10). We would further like to refer to Human Rights Council resolution 34/5, which notes that, in some instances, national security and counter-terrorism legislation and other measures, such as laws regulating

civil society organisations, have been misused to target political opponents, human rights activists and lawyers or have hindered their work and endangered their safety in a manner contrary to international law. We also recall that the Human Rights Council, in its resolution 7/36, stressed “the need to ensure that invocation of national security, including counter-terrorism, is not used unjustifiably or arbitrarily to restrict the right to freedom of opinion and expression.” We would further like to remind your Excellency’s Government that respect for human rights and the rule of law must be the bedrock of the global fight against terrorism. This requires the development of national counter-terrorism strategies that seek to promote and protect human rights and the rule of law.