

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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13 December 2024

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 human rights and fundamental freedoms while countering terrorism and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 52/4, 49/10 and 52/7.

In this letter, we would like to follow up on previous communications sent to your Excellency's Government on human rights defenders: Mr. **Özgür Yılmaz**, Mr. **Behiç Aşçı**, Mr. **Engin Gökoğlu**, Mr. **Süleyman Gökten**, Ms. **Barkın Timtik**, Mr. **Selçuk Kozağaçlı**, Ms. **Oya Aslan**, and bring to your attention the allegations of ill-treatment by prison authorities of Mr. **Aytaç Ünsal** and Mr. **Turan Canpolat**.

They were all the subject of a communication sent to your Excellency's Government by Special Procedures ([TUR 9/2021](#)). We thank your Excellency's Government for responding to the communication, however we wish to reiterate our concerns regarding the terrorism charges brought against the aforementioned human rights defenders. We are also concerned that they continue to be held in arbitrary detention, some beyond a potential pardon date.

The cases of Ms. Barkın Timtik, Mr. Aytaç Ünsal, Mr. Özgür Yılmaz, Mr. Behiç Aşçı, Mr. Engin Gökoğlu, Mr. Süleyman Gökten and Mr. Selçuk Kozağaçlı

Ms. Timtik, Mr. Ünsal, Mr. Yılmaz, Mr. Aşçı, Mr. Gökoğlu, Mr. Gökten, and Mr. Kozağaçlı, are human rights defenders and members of the Progressive Lawyers' Association (Çağdaş Hukukçular Derneği - ÇHD), which was dissolved by governmental decree on 22 November 2016. As prominent human rights lawyers and members of ÇHD, they have represented victims of police violence and torture, victims of other human rights violations, human rights defenders, and citizens being prosecuted for expressing their opinions and individuals who have been suspected of or convicted of terrorist activities.

Ms. Timtik, and Mr. Kozağaçlı were the subject of a communication sent to your Excellency's Government by Special Procedures ([TUR 1/2013](#)). Ms. Timtik, Mr. Ünsal, Mr. Yılmaz, Mr. Aşçı, Mr. Gökoğlu, and Mr. Gökten were included in the communication ([TUR 11/2017](#)). We thank your Excellency's Government for responding to both communications but reiterate our concern about the terrorism charges brought against the aforementioned human rights defenders.

In 2013, Ms. Timtik, Mr. Kozağaçlı, and Mr. Yılmaz were accused of “support, membership and leadership of a terrorist organisation (the Revolutionary People’s Liberation Party DHKP/C)” in a trial known as ÇHD trial I. They were arrested for up to one year and released in March 2014.

In September 2018, Mr. Ünsal, Mr. Aşçı, Mr. Gökoğlu, Mr. Gökten and Mr. Kozağaçlı were arrested. Ms. Timtik and Mr. Yılmaz were arrested between February and June 2019. They were sentenced on 20 March 2019 by the Istanbul 37th Heavy Penal Court (a lower court) to between three and 18 years in prison under terrorism-related charges in the trial known as ÇHD II. Concerns were raised at the time regarding the impartiality of the proceedings and the defendants’ rights to a fair trial.

On 15 December 2020, the Supreme Court of Appeals (also known as the Court of Cassation), upheld their sentences and convicted them of “membership of an armed terrorist organisation”, under article 7 of the Anti-Terror Code (ATC) and article 314 of the Turkish Penal Code (TPC). Mr. Ünsal was sentenced to 10 years and six months; Mr. Yılmaz was sentenced to 13 years and 6 months, Mr. Aşçı was sentenced to 12 years, Mr. Gökoğlu was sentenced to 10 years and 6 months, and Mr. Gökten was sentenced to 10 years and 6 months. The Supreme Court decided to overturn the lower court’s decision and to reevaluate Ms. Timtik’s sentence of 18 years and 9 months and Mr. Kozağaçlı’s 11 years and 3-month sentence in conjunction with identical terrorist related charges pending against them in ÇHD I trial.

According to the information received:

Mr. Ünsal is serving his sentence in Edirne no. 1 type F Prison, a high security prison. On 3 September 2024, when Mr. Ünsal objected to four prison guards trying to visually inspect the inside of his mouth ahead of a hospital visit, they reportedly beat him and forced him to submit to the search. He has also been subjected to ill treatment over the last few years. He did not sustain any serious injuries.

Mr. Yılmaz, Mr. Gökten, and Mr. Gökoğlu are serving their sentences in Tejkirdağ no. 1 type F prison, a high security prison.

Mr. Aşçı is held in Silivri Prison No. 1, a high security prison, currently renamed Marmara Prison.

In November 2022, the Istanbul 18th High Criminal Court charged Ms. Timtik with “membership of a terrorist organisation,” and sentenced her to 12 years. The Supreme Court upheld the sentence. She is currently appealing the sentence at the Constitutional Court and is serving her sentence in Marmara Prison.

Ms. Timtik was also convicted of “propagandising for a terrorist organisation,” and sentenced to six years. She is appealing that sentence at the Supreme Court. Mr. Kozağaçlı was given a 10-year sentence in November 2022, and the Supreme Court upheld the sentence. He is currently appealing the sentence

at the Constitutional Court. He is serving his sentence in Marmara Prison.

In addition to Ms. Timtik and Mr. Kozağaçlı, the above-mentioned human rights defenders are appealing their convictions at the Constitutional Court as individual applications against the infringement of their fundamental rights and freedoms secured under the Constitution, which falls into the scope of article 5 of the European Convention on Human Rights, to which Türkiye is a party. The Constitutional Court has accepted the cases but has not made a decision so far.

The case of Oya Aslan

Ms. Aslan is a human rights defender and member of ÇHD, and a defendant in the ÇHD trial I and II. She has represented victims of human rights violations and advocates for transparency and equality in the Turkish judicial system. Her case was brought to the attention of your Excellency's Government in previous communications sent by Special Procedures' mandate holders ([TUR 9/2021](#)) and ([TUR 1/2013](#)). Once again, we thank you for responding to these allegations.

When the Istanbul 37th Heavy Penal Court announced its verdict in the ÇHD trial II on 20 March 2019, the case of Ms. Aslan was separated from that of her colleagues because she was a fugitive. She was arrested in December 2019 and put on trial for "membership of a terrorist organisation."

In November 2022, the Istanbul 18th Heavy Penal Court sentenced Ms. Aslan to 10 years and six months for "membership of a terrorist organisation," and another six years for "spreading terrorism propaganda."

On 13 November 2024, the Istanbul Regional Appeal Court upheld the decision. She is serving her sentence in Marmara Prison. She may appeal to the Supreme Court with two weeks of the decision.

The case of Mr. Turan Canpolat

Mr. Canpolat is a human rights defender and member of the Malatya Bar Association of Turkey. His career as a defence lawyer spanned a vast 21 years, during which he represented victims of human rights violations, including those who were denied the right to a fair trial.

He was arrested on 30 January 2016 when he arrived at the police station to assist a client and was detained based on incriminating statements given by his client, claiming that he was a member of the Gülen movement. During the course of the trial, Mr. Canpolat's client admitted that these statements were made against his will. According to the source, the police manipulated the arrest warrant to include Mr. Canpolat and forged the date to make it appear as if it had been issued before his arrest. On 20 November 2017, Mr. Canpolat was sentenced to 10 years' imprisonment under terrorist related articles of the TPC, for representing those with alleged affiliations with the Gülen movement, representing companies that were shut down during the emergency

decree, and for using the encrypted messenger app ByLock. He was detained in Elaziğ No. 2 Type Closed Prison.

On 27 February 2020, prison authorities placed Mr. Canpolat in a cell in isolation in Elaziğ No. 2 Type Closed Prison. However, no orders for disciplinary measures had reportedly been given, which is a condition for placing an inmate in isolation in Turkish prisons. The move was reportedly made on the pretext that the Ministry of Justice required occasional changes in inmate accommodation. In an act that may amount to ill-treatment, he was held in isolation for two years and eight months, after which he was placed in a cell with three other inmates.

On 8 April 2022, the Management and Monitoring Committee of Elaziğ Prison convened and found that he was of good conduct, that he had complied with the rules concerning the security of the prison, acted in good faith when exercising his rights, posed a low risk of reoffending, and had a good relationship with the prison staff and other inmates.

Mr. Canpolat asked to be moved to an open prison, based on the conduct report which indicated he would be eligible for the transfer by 26 July 2022, having served three fourths of his 10-year sentence.

Soon after, Mr. Canpolat was summoned by the prison administration and asked to sign a letter confessing to the offence he was convicted of and promising that he would not repeat it, and to denounce fellow inmates as terrorists. He was threatened that unless he signed it, he would not be moved to an open prison, an act amounting to psychological ill-treatment. He refused to sign it and remains held in Elaziğ No. 2 Type Closed Prison.

On 24 October 2024, the prison administration rejected, for the fifth time, his request for transfer to an open prison, citing again their condition for him to sign the confession.

Without wishing to prejudge the accuracy of the information received, we express serious concern at the continued arbitrary detention of human rights defenders and lawyers, some of whom were arrested in 2016, who were sentenced to lengthy prison terms in trials that did not meet international fair trial standards under article 14 of the ICCPR. We remain deeply worried about the apparent misuse of the Anti-Terror Code, particularly article 7, and the use of article 314 and 312 of the Turkish Penal Code which have been used to categorize the above-mentioned human rights defenders as members of terrorist organisations. We are further concerned that the offence of spreading propaganda for terrorism infringes on the right to freedom of expression under article 19 of the ICCPR. Although no universal treaty generally defines “terrorism”, we emphasize that counter-terrorism legislation should be limited to criminalizing conduct which is properly and precisely defined on the basis of the international counter-terrorism instruments, the General Assembly’s Declaration on Measures to Eliminate International Terrorism (1994) and Security Council resolution 1566 (2004) (see annex).

We also express concern with the long-term prison sentences of more than ten years imposed against human rights defenders as a result of their affiliation with the ÇHD, as well as their work as human rights lawyers who represented clients of human rights violations, and alleged clients with links to terrorist organisations. We also express concern over the use of counter-terrorism legislation to criminalise Mr. Canpolat, who is serving a lengthy prison sentence, for supposed links to the Gülen movement. We maintain our concern most recently communicated in [AL TUR 5/2024](#) that the designation of the Gülen Movement as a terrorist organization does not appear to meet the requirements of due process or satisfy the criteria outlined in the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/16/51, para. 28). We further note that there appears to be an observable trend in Türkiye where individuals and groups who have been linked to the Gülen Movement experience significant risks to their safety and have been detained. By exposing human rights violations, exercising their right to freedom of expression and association, which are rights protected under international human rights law and outlined in the annex below, the above-mentioned human rights defenders have been criminalised and given lengthy prison sentences.

We are also worried about the reports of the physical and psychological ill-treatment of Mr. Ünsal and Mr. Canpolat in prison, who were held in isolation for over two years, in contravention with the International Covenant on Civil and Political Rights, ratified by Türkiye in 2003, the Convention against Torture and Other Cruel Inhuman or degrading Treatment or Punishment, ratified by Türkiye ratified on 2 August 1988, and the UN Standard Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Forced confessions additionally undermine the right to fair trial. We are also particularly concerned by the continued detention in high security or closed prisons of the above-mentioned human rights defenders, where sources have reported issues regarding their prison conditions, their placement in isolation, and visitation and communication rights. We remind your Excellency's Government that States are under an obligation to treat arrested and detained persons with dignity and humanity at all times.

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 details, and where available the results of, any measures taken to investigate the alleged physical and psychological ill-treatment of Mr. Ünsal and Mr. Canpolat. If no investigation has taken place, please explain why.

3. Please explain why Mr. Canpolat's request to be transferred to an open prison has not been granted, despite his eligibility for such a move according to prison administration reports.
4. Please provide information of the measures taken by your Excellency's Government to ensure that human rights defenders and civil society organisations are able to carry out their peaceful and legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any kind.
5. Please explain what steps will be taken to revise Türkiye's counter-terrorism laws to comply with international human rights law.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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.

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Ben Saul

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Alice Jill Edwards

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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 like to draw attention to article 7 of the ICCPR which refers to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment; as well as to articles 1, 2, and 16 of the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), ratified by Türkiye in 1988. We recall that attached to such prohibition are obligations to criminalize and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute suspects, to punish those responsible and to provide remedies to victims. Victims are to be protected from reprisals or intimidation during said investigations and they have an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible.¹

We would like to further refer to article 9.1 of the ICCPR that states that everyone has the right to liberty and security, and that no person should be the subject of arbitrary arrest or detention. This article also provides that in accordance with international law, no individual should be deprived on his liberty without cause. We also wish to refer to article 9.4 of the ICCPR, whereby individuals deprived of their liberty have the right to be brought before a court without delay to decide on the lawfulness of their detention. We wish to emphasize that this right, which is in fact a peremptory norm of international law, applied to all forms of deprivation liberty, including not only to detention for purposes of criminal proceedings, but also to situations of detention under administrative and other fields of law, including detention under counter-terrorism measures.²

We also draw attention to article 10.1 of the ICCPR, which enshrines the right of all persons deprived of their liberty to be treated with humanity and respect for the inherent dignity of the human person. In this regard, we would also like to remind your Excellency's Government of its obligations under article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which guarantees all individuals, including prisoners and detainees, the right to the highest attainable standard of physical and mental health.

We also would like to refer you to the UN Standard Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which in rule 37 limits the use the involuntary separation from the general prison population, such as solitary confinement or

¹ For a full explanation on the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment and the related States' obligations to criminalize, investigate and prosecute crimes of torture and other ill-treatment, see Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/77/502): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/610/77/PDF/N2261077.pdf?OpenElement>; and Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Good practices in national criminalization, investigation, prosecution and sentencing for offences of torture (A/HRC/52/30): <https://documents.un.org/doc/undoc/gen/g23/033/16/pdf/g2303316.pdf?token=clzfg4HLIHmm6KknXQ&fe=true>.

² See the UN Basic Principles and Guidelines on Remedies and Procedures on the Rights of Anyone Deprived of their Liberty to Bring Proceedings before a Court (A/HRC/30/37).

isolation to be subject to authorization by law. Furthermore, rule 43-46 prohibits restrictions that amount to torture, cruel, inhuman or degrading treatment or punishment, including prolonged solitary confinement, which is defined as a time period exceeding 15 consecutive days. In its concluding observations on the fifth periodic report of Türkiye on 14 August 2024, the Committee against Torture asked in No. 15(b) that Türkiye should ensure that all persons deprived of their liberty have adequate time outside their cells for meaningful social interactions, and that solitary confinement should under no circumstances exceed 15 days.

We would like to emphasize that that any restriction on expression or information that a government seeks to justify on grounds of national security and counter terrorism must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest (CCPR/C/GC/34). We would like to stress that counter terrorism legislation with penal sanctions should not be misused against individuals peacefully exercising their rights to freedom of expression and freedom of peaceful association and assembly. These rights are protected under ICCPR, and non-violent exercise of these rights is not a criminal offence. Counter terrorism legislation should not be used as an excuse to suppress peaceful minority groups and their members.

Furthermore, we bring to your attention the fundamental principles set forth in 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 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 and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Respect for human rights while countering terrorism

Although no universal treaty generally defines “terrorism”, States should ensure that counter-terrorism legislation is limited to criminalizing conduct which is properly and precisely defined on the basis of the international counter-terrorism instruments, the General Assembly’s Declaration on Measures to Eliminate International Terrorism (1994), and Security Council resolution 1566 (2004). Based on these authoritative sources, the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism provides clear, “best practice” guidance, by identifying conduct that is genuinely terrorist in nature and precisely defining the elements.

We also bring your Excellency’s Government’s attention to the principle of legal certainty under article 15(1) of the ICCPR which requires that criminal laws are sufficiently precise so that it is clear what types of behaviour and conduct constitute a criminal offence and the legal consequences of committing such an offence. This principle recognizes and seeks to prevent ill-defined and/or overly broad laws which are open to arbitrary application and abuse, to target civil society on political or other unjustified grounds.

We respectfully refer your Excellency's Government to the many resolutions of the United Nations General Assembly, Security Council and Human Rights Council reaffirming that any measures taken to combat terrorism and violent extremism must comply with the obligations of States under international law, in particular international human rights law, refugee law and international humanitarian law. Counter-terrorism measures must conform to fundamental requirements of legality, proportionality, necessity and non-discrimination. The wholesale adoption of security and counter-terrorism regulations without due regard for these principles can have exceptionally deleterious effects on the protection of fundamental rights, particularly for minorities, historically marginalized communities, and civil society.

We remind your Excellency's Government that States must ensure that measures to combat terrorism and preserve national security do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights.