

**Mandates of the Working Group on Arbitrary Detention, and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**

REFERENCE: UA TUR 8/2016:

9 September 2016

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention, and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolutions 24/7 and 24/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged arbitrary detention of Mr. Alp Çetiner, M.D. under the legal framework of the state of emergency in connection with his work providing healthcare to prisoners.**

According to the information received:

Following the 15 July 2016 attempted coup d'état in Turkey, a state of Emergency was declared throughout the entire territory for three months. The decision allows the President and the Council of Ministers to rule by "decrees having the force of law".

On 23 July 2016, the Council of Ministers and the President issued the first such decree – no. 667, intended to promote accountability for the attempted coup. Article 6(a) of the decree allows a suspect to be kept in police custody for 30 days. Article 6(d) allows officials to limit a detainee's access to a lawyer and observe or record a detainee's interactions with his or her lawyer. Article 6(e) imposes restrictions on visits and phone calls between detainees and their families.

On 27 July 2016, the President and Council of Ministers issued a second decree, no. 668, article 3(m) of which stipulates that detainees in custody can be denied access to a lawyer for up to five days.

In addition to these changes, alleged infringements of law and the rights of detainees have occurred in prison facilities and detention centres. On 1 August 2016, in connection with these developments, prisoners in Bakırköy Women Closed Type Prison in Istanbul staged a protest in the prison cell, which allegedly resulted in torture and ill-treatment by prison officials.

Mr. Alp Çetiner is the physician of the Bakırköy Women Closed Type Prison. He is a well-known respected professional on the health system in the prisons, member of the Istanbul Medical Chamber, and one of the few specialized physicians who works at prisons in Turkey, including in the prevention of torture. Mr. Çetiner has been practicing medicine since 1998, and has been assigned to multiple prisons over his 18 years of practice. Following the events of 1 August 2016, Mr. Çetiner provided healthcare to the prisoners at Bakırköy.

While he was conducting his work on 1 August 2016, Mr. Çetiner observed smoke rising from two of the cells. He went to the scene of the smoke to see if any of the inmates had been exposed to and affected by the smoke. After being told by prisoners that their health was unaffected, Mr. Çetiner left the scene.

On the morning of 2 August 2016, Mr. Çetiner's house was raided, and Mr. Çetiner was taken into custody for allegedly abetting a terrorist organization that supports and initiates protests in prisons. He was interrogated based on his appearance at the scene of the smoke, which was the result of a protestor-initiated fire. Mr. Çetiner's medical assistant, was also reportedly taken into custody under the same investigation.

According to reports received, Mr. Çetiner was kept in custody at the Bakırköy courthouse for seven days. The courthouse jail is designed to hold detainees on the day of hearings, and is not equipped for long-term, or even overnight detention. Reportedly, the cells do not have toilets or beds, and Mr. Çetiner was forced to sit and sleep on a chair for the seven-day period. Mr. Çetiner was then moved to Silivri prison on 9 August 2016.

The investigation of the prison protest shifted focus to Mr. Çetiner, and on 4 August 2016, it was revealed that the Bakırköy Prosecutor Office is also investigating Mr. Çetiner for being a member of the 'FETÖ-PDY' organization, the group pointed as responsible for the 15 July coup. Under the state of emergency framework, Mr. Çetiner is only permitted to see and speak with his lawyer on certain days and at certain times, and prison authorities seize the attorney notes from these meetings. Mr. Çetiner's lawyer appealed against the pre-trial detention on 16 August 2016. The appeal was submitted before the İstanbul 4th Magistrate Judge and was rejected by the 5th Magistrate Judge on 17 August 2016.

It is unclear whether another physician has been assigned to provide healthcare at the Bakırköy Prison, since Mr. Çetiner was the only physician at the prison.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern at the arrest of Mr. Çetiner, which appears to be directly related to his legitimate attempt to provide healthcare and services to prisoners of Bakırköy Women Closed Type Prison. We also express concern at the possibility that the women of Bakırköy may not have access to adequate healthcare.

We would like to refer your Excellency's Government to article 12 of the Covenant on Economic, Social and Cultural Rights, ratified by Turkey on 23 September 2003, which establishes that an obligation to respect the right to health by, *inter alia*, refraining from denying or limiting equal access for all persons, including prisoners or detainees to preventive, curative and palliative health services (General Comment 14, Para. 34). Further, States are required to take positive measures that enable individuals to enjoy the right to health and create, maintain and restore the health of the population (General Comment 14, Para. 37). In addition, we would like to underline the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in resolution 45/111, according to which prisoners should have access to health services available in the country without discrimination on the grounds of their legal situation (Principle 9).

We would further like to recall General Assembly resolution 69/132 on the protection of health workers, which notes that threatening, harassing, or otherwise preventing medical and health personnel undermines the integrity of the medical profession, thereby impeding the attainment of the right to the enjoyment of the highest attainable standard of health. The resolution calls on states to respect and protect the medical profession and health personnel.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person and the prison population of Bakırköy in compliance with international instruments

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 provide detailed information about the legal basis of Mr. Çetiner's arrest, detention and charges issued, as well as how the legal proceedings comply with international human rights norms and standards.

3. Please provide detailed information on the status of the criminal proceedings against Mr. Çetiner.
4. Please provide information on what measures have been taken to ensure that the prisoners of Bakırköy Women Closed Type Prison have continued access to health services, including a physician.
5. Please indicate what measures have been taken to ensure that health workers are able to carry out their legitimate work in a safe and enabling environment without fear of harassment of any sort.

While awaiting a reply, we urge your Excellency's Government to take all necessary measures to guarantee the rights of Mr. Çetiner and the prisoners at Bakırköy Women Closed Type Prison. In the event that your investigations support or suggest the above allegations to be correct, we request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

José Guevara  
Vice-Chair-Rapporteur of the Working Group on Arbitrary Detention

Dainius Pūras  
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable  
standard of physical and mental health