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Ms Dunja Mijatović Commissioner for Human Rights  
Office of the Commissioner for Human Rights  
Council of Europe  
67075 Strasbourg Cedex  
FRANCE

Strasbourg, 27 November 2023

**RE: The re-organization operations against the Gülen movement members**

Madam Commissioner,

I am writing on behalf of ASSEDEL (*Association européenne pour la défense des droits et des libertés*) to draw your attention to the recent and worrisome ‘re-organization operations’ against the Gülen movement members in Türkiye and to express that we kindly request your support against this latest massive crackdown conducted by Turkish Government against the ECtHR jurisprudence.



### ***The criminal investigations and discriminatory practices against the Gülen movement members***

Following the 15 July 2016 coup attempt, thousands of public officials, members of the judiciary, police officers and academicians were dismissed from their jobs under the state of emergency which was declared on the 20<sup>th</sup> of July 2016 and had been in place for two years. In the same duration, several thousands of citizens were detained and investigations were initiated against them due to their alleged membership to the Gülen movement (“FETÖ”, an armed terrorist organization as named by the Turkish Government)

Within the framework of the criminal proceedings conducted as a result of these investigations, the concerned individuals were sentenced to prison sentences on the legal grounds such as having deposited money in a legal bank, being a member of a legal association, sending their children to a legal school and working in an institution closed down by a decree law. Other individuals, who have not been accused of any of these alleged acts, have been also sentenced to imprisonment on the basis of anonymous witness statements and abstract considerations that they are members of, connected to or affiliated with the Gülen movement.

The victimization suffered by the individuals who were dismissed by emergency decrees is not limited to the criminal proceedings; they have been deprived of all their economic and social rights and literally abandoned to civil death. Concretely, these individuals, who were already unable to work in the public sector due to their dismissal, have been blacklisted, and thus it has become impossible for them to work in any kind of job in the private sector, even if they have been acquitted. In addition, their family members of these individuals who were dismissed by emergency decree have also been subjected to these discriminatory practices. For instance, their children have been denied admission to certain universities despite their honors in exams, their scholarships have been terminated, or they have been denied scholarships even though they are entitled to receive them only because of their relatives.

### ***Yalçınkaya v. Türkiye Grand Chamber judgment***

On the 26<sup>th</sup> of September 2023, the ECtHR announced its Grand Chamber judgment *Yalçınkaya v. Türkiye*<sup>1</sup>, which, as stated by the ECtHR, affects hundreds of thousands people in Türkiye, and declared that the right to a fair trial, the principle of lawfulness in crime and punishment, and the freedom of association were violated in the context of the trial for membership of an armed terrorist organization in the case of dismissed teacher Yüksel Yalçınkaya, one of the individuals imprisoned after the 15 July coup attempt for his alleged membership in the Gülen movement based on the above-mentioned so-called charges.

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<sup>1</sup>ECtHR Grand Chamber, *Yalçınkaya v. Türkiye*, application no.15669/20, 26.09.2023



The Court's finding of a violation of Article 7 is particularly important noting that the ECtHR violation judgments on Article 7 are very rare in the history of the ECtHR. Under Article 7, the ECtHR found that the Turkish domestic courts interpreted the elements of the crime of membership of a terrorist organization too broadly with respect to the post-15 July 2016 trials and the Gülen movement members and thus several individuals were imprisoned to at least 6 years for their non-criminal acts.

The ECtHR also called on Türkiye, under Article 46, to address this broad and unpredictable interpretation, which continues to be adopted by domestic courts in these membership of an armed terrorist organization proceedings, as a matter of urgency and to take the necessary general measures, as follows:

*"418. The Court is therefore of the opinion that in order to avoid it having to establish similar violations in numerous cases in the future, the defects identified in the present judgment need, to the extent relevant and possible, to be addressed by the Turkish authorities on a larger scale – that is, beyond the specific case of the present applicant. It accordingly falls to the competent authorities, in accordance with the respondent State's obligations under Article 46 of the Convention, to draw the necessary conclusions from the present judgment, particularly in respect of, but not limited to, the cases currently pending before the domestic courts, and to take any other general measures as appropriate in order to resolve the problem identified above that has led to the findings of violation here (see paragraph 414 above; see also, mutatis mutandis, Guðmundur Andri Ástráðsson v. Iceland [GC], no. 26374/18, § 314, 1 December 2020). More specifically, the domestic courts are required to take due account of the relevant Convention standards as interpreted and applied in the present judgment. The Court underlines in this respect that Article 46 of the Convention has the force of a constitutional rule in Türkiye in accordance with Article 90 § 5 of the Turkish Constitution, according to which international agreements duly put into effect have the force of law and no appeal lies to the Constitutional Court to challenge their constitutionality (see paragraph 141 above)."*

Our main purpose by highlighting this determination of the ECtHR, which affects thousands of individuals who have been sentenced to imprisonment, is to kindly bring to your attention the fact that in recent times, Turkish authorities has not only disregarded the ECtHR judgments, but they have also started to carry out mass operations under the name of "re-organization" by fabricating a new crime against individuals who have been dismissed by emergency decrees and charged of being a member of the Gülen movement.



### ***The latest massive crackdown against the Gülen movement members: the re-organization operations***

As described above regarding the discrimination faced by individuals dismissed by emergency decree and their relatives, while these individuals were struggling to survive in an environment deprived of the most basic human rights, they entered into solidarity with each other in a manner that one would naturally expect. Their social relations of these individuals who were abandoned to civil death, which have taken place in a purely humanitarian frame, have been illogically turned by the Turkish judicial authorities into a matter of the reorganization of an armed terrorist organization.

Periodically, all over Türkiye, hundreds of people are being arrested for their humanitarian aid activities through simultaneous operations which carry out with heavy weapons by members of the security forces. In this regard, we would like to highlight two major operations that were announced by the then Ministers of Interior.

On the 18<sup>th</sup> of October 2022, Gazi Turgut Aslan Operation was carried out simultaneously throughout 59 provinces of Turkey and in this context, 704 people were arrested. The former Minister of Interior Süleyman Soylu announced this operation through a press statement<sup>2</sup>, stating that the operation was carried out with the aim of disclosing the reorganization of members of the Gülen movement (FETÖ). According to his statement, the accusations were based on money transfers and phone calls between the individuals subject to the arrest warrants under the subjected operation, which were identified through technical and physical surveillance conducted over a period of approximately 10 months. On the 18<sup>th</sup> of March 2023, the second phase of the Gazi Turgut Operation was carried out<sup>3</sup>. Accordingly, a simultaneous operation was carried out in 5 provinces and 47 people were arrested with the same accusations and evidences.

On the 24<sup>th</sup> of October 2023, Kısaç (*Clamp*) Operation was carried out simultaneously throughout 77 provinces of Turkey and arrest warrants were issued for 611 people. The operation, which was announced by the current Minister of Interior Ali Yerlikaya<sup>4</sup>, was aimed at preventing the re-organization of members of the Gülen movement (FETÖ), as a result of a number of evidence, such as the financial support of the members of the Gülen movement to each other, the tutoring of children whose parents were in prison to prepare them for university entrance exams, and the marriage of members of the movement with each other.

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<sup>2</sup>See, <https://www.aa.com.tr/tr/gundem/bakan-soylu-fetoye-yonelik-gazi-turgut-aslan-operasyonunda-543-supheli-gozalti-na-alindi/2714362> , last accessed 21.11.2023.

<sup>3</sup> See, <https://x.com/EmniyetIzmir/status/1637180400228245507?s=20> , last accessed 27.11.2023.

<sup>4</sup> See, <https://x.com/AliYerlikaya/status/1716736507128500236?s=20> , last accessed 21.11.2023.



Within the scope of these massive operations, the accused individuals' phone conversations with each other were intercepted, their meetings in public were monitored by the security forces, the money they sent to each other through legal banks, the food aid provided to women whose husbands were in prison and who had no income, were deemed to be criminal elements within the scope of the re-organization of the armed terrorist organization<sup>5</sup>.

During their police interrogation, these individuals, who are accused of their membership in an armed terrorist organization, are asked questions such as for which purpose they met with people who were dismissed with the decree law, why they transferred money to each other, how they paid their house rents even though their spouses are in prison, and thus, as the ECtHR has found, Turkish authorities are continuing to fabricate the crime of being a member of an armed terrorist organization from non-criminal activities.

### ***The failure of the Turkish authorities to enforce a number of ECtHR judgments***

The aforementioned operations clearly reveal that Türkiye has been ignoring a series of judgments of the ECtHR ruled after July 15, 2016, in which the ECtHR found that arrests and detention against Turkish citizens on the grounds of alleged membership of an armed terrorist organization violated the right to liberty and security<sup>6</sup>. The right to liberty and security under Article 5 of the ECHR is violated for these individuals who were arrested without any reasonable suspicion for their completely lawful actions on the grounds of alleged re-organization, and these operations massively give rise to the ongoing human rights violations in Turkey in terms of the right to liberty and security.

The right to respect for private and family life under Article 8 ECHR is also violated. According to the ECtHR jurisprudence<sup>7</sup>, domestic courts which authorise the covert surveillance must verify whether there was a "reasonable suspicion" against an applicant and apply the "necessity in a democratic society" and "proportionality" tests. As set out above, the fact that these persons were subjected to technical and physical surveillance within the scope of the operation due to the absence of any reasonable suspicion that they committed the crime of membership of an armed terrorist organization constitutes a violation of Article 8.

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<sup>5</sup> See, <https://stockholmcf.org/mass-detention-of-gulen-followers-over-donations-sparks-condemnation-and-anger/>, last accessed 21.11.2023.

<sup>6</sup> In this scope, see in particular, ECtHR Alparslan Altan v. Türkiye, application no. 12778/17, 16.04.2019, Baş v. Türkiye, application no. 66448/17, 03.03.2020, Tercan v. Türkiye, application no. 6158/18, 29.06.2021, Akgün v. Türkiye, application no. 19699/18, 20.07.2021, Turan and 426 others v. Türkiye, application no. 75805/16, 23.11.2021, Ilıcak v. Türkiye (no.2), application no. 1210/17, 14.12.2021, Taner Kılıç v. Türkiye (no.2), application no. 208/18, 31.05.2022.

<sup>7</sup> ECtHR, Gladkiy and others v. Russia, application no. 57143/11, 30.09.2021.



Moreover, during the operations, financial assets found in the homes of individuals for whom arrest warrants have been issued have also been seized. Yet again, without any reasonable suspicion, the disproportionate seizure of the individuals' financial assets constitutes a disproportionate interference with the right to property within the scope of Article 1 of Protocol No. 1 to the ECHR and violates their right to property.

We therefore kindly invite you to call on the Turkish Government to put an end to these operations, which are being carried out in violation of the ECtHR judgments, notably by writing an open letter to the Ministry of Interior and issuing a statement concerning these operations, and to call on the Turkish Government to take all other necessary measures.

Teoman AYDOGAN  
*Secrétaire Général*