



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### List of issues prior to submission of the second periodic report of Turkey\*

#### A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the Committee's previous concluding observations,<sup>1</sup> including steps taken to implement the Human Rights Action Plan. Recalling the previous recommendation of the Committee (para. 5), please provide information on progress in withdrawing the reservation to article 27 of the Covenant. Please also indicate the procedures for the implementation of the Committee's Views under the Optional Protocol and provide information on measures to ensure full compliance with each of the Views in respect of the State party, including in *Özçelik et al. v. Turkey*.<sup>2</sup>

#### B. Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee

##### Constitutional and legal framework within which the Covenant is implemented (art. 2)

2. Bearing in mind the previous recommendation of the Committee (para. 7),<sup>3</sup> please provide information on any steps taken during the reporting period to establish a national human rights institution in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

##### Non-discrimination (arts. 2, 3, 6, 25 and 26)

3. Recalling the previous recommendations of the Committee (paras. 8, 9, 10 and 22) and the report on follow-up to the concluding observations of the Committee, please provide information about: (a) the legislative and other measures taken within the reporting period to prevent and combat discrimination on the basis of gender, sexual orientation, disability, race, ethnicity, religion, and/or nationality; (b) any efforts made to strengthen the legislation in place to protect against discrimination on all the grounds enumerated in the Covenant; and (c) measures to curb hate speech by individuals, media outlets and political figures against groups, such as ethnic Kurds and/or persons on the ground of their sexual orientation or

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\* Adopted by the Committee at its 132nd session (28 June–23 July 2021).

<sup>1</sup> CCPR/C/TUR/CO/1.

<sup>2</sup> CCPR/C/125/D/2980/2017.

<sup>3</sup> Unless otherwise indicated, paragraph numbers in parentheses refer to CCPR/C/TUR/CO/1.



gender identity, as well as to address hate crimes, including by reforming the Criminal Code to establish discriminatory motives as aggravating factors in acts of violence.

#### **States of emergency (art. 4)**

4. Bearing in mind the Committee's general comment No. 29 (2001), on article 4, please provide information about: (a) whether all the derogations that were made from provisions under the Covenant during the extended period of emergency, between July 2016 and July 2018, including any which extend beyond the material scope of the derogations outlined in the notifications sent to other States parties, through the Secretary-General of the United Nations, were strictly required by and proportional to the exigencies of the situation; (b) what steps were taken to protect the non-derogable nature of certain rights under the Covenant during the state of emergency; and (c) whether all emergency measures were strictly limited in duration, geographical coverage and material scope. Please also address reports that emergency provisions have been transposed into ordinary law, including through the promulgation of Law No. 7145.

5. Please provide information about the measures taken by the State party to address the coronavirus disease (COVID-19) pandemic and about the legal basis for any such measures. Please specify whether any such measures derogate from the State party's obligations under the Covenant. If so, please specify whether the measures were strictly required by and proportional to the exigencies of the situation and were limited in duration, geographical coverage and material scope (see CCPR/C/128/2 – the Committee's statement on derogations from the Covenant in connection with the COVID-19 pandemic).

#### **Counter-terrorism measures (arts. 2, 4, 6, 7, 9, 14 and 17)**

6. Recalling the previous recommendation of the Committee (para. 16), please elaborate on the compatibility of the legal framework on counter-terrorism, including Law No. 7262 on the Suppression of the Financing of Weapons of Mass Destruction Proliferation, Anti-Terror Law No. 3713 and relevant provisions of the Criminal Code, with the Covenant and the Constitution. In this regard, please respond to reports that the definition of terrorism-related offences is overly vague and broad, that the legal framework does not provide for sufficient due process guarantees and that provisions have repeatedly been used to repress the work of human rights defenders and criticism of the Government. Please respond to reports that the State party is considering the reintroduction of the death penalty in cases of terror offences.

#### **Violence against women (arts. 2, 3, 6, 7 and 26)**

7. With reference to the Committee's previous concluding observations (paras. 12 and 13) and the report on follow-up to the concluding observations of the Committee, please provide information: (a) about the measures taken during the reporting period to address "honour killings"; (b) about the steps taken to provide assistance and access to justice for victims, including disaggregated data on the number of complaints, investigations, prosecutions and convictions during the reporting period, about efforts to facilitate access to official remedies, rather than informal mediation, and about the shelters and psychosocial services available to victims; and (c) about any targeted measures that have been taken to protect women from gender-based violence, including domestic violence, during the COVID-19 pandemic.

#### **Anti-corruption measures (arts. 2 and 25)**

8. Please: (a) respond to reports of money laundering, bribery and collusion in the allocation of government contracts, including allegations of the complicity of high-level State officials in such practices; (b) address allegations that the expropriation of the assets of targeted businesses, non-governmental organizations and other associations since the attempted coup in 2016, and their management by government-appointed trustees, has resulted in an increase in corruption, and provide detailed information about the legal basis and judicial oversight of the process of asset appropriation and restoration; and (c) detail the institutional and legal framework in place to address corruption, and provide information

about the number of relevant investigations, prosecutions and convictions within the reporting period.

**Enforced disappearances and abductions (arts. 6, 9 and 12)**

9. Bearing in mind the previous recommendation of the Committee (para. 11), please: (a) provide information about reports that following the attempted coup in 2016 Turkish nationals who are considered opponents of the current regime have been abducted abroad by State agents, including the number of cases and the current whereabouts of all affected individuals; (b) respond to allegations of enforced disappearances in Turkey, particularly within the south-east region, including providing information about the number of such cases and the whereabouts of all affected individuals; and (c) detail the mechanisms in place for investigating alleged abductions and enforced disappearances and providing remedies and information about the whereabouts of individuals to their families, including in relation both to recent cases and to historical cases reported to have occurred in the 1980s and 1990s.

**Prohibition of torture and cruel, inhuman or degrading treatment or punishment (arts. 2, 7, 9, 10, 12 and 14)**

10. Recalling the previous recommendation of the Committee (para. 14), please provide information about: (a) reports that incidents of torture and ill-treatment, including beatings, sleep deprivation, sexual abuse, foot whipping, being forced to strip naked, stress positions, and blindfolding and/or handcuffing for extended periods, were widespread in police lock-ups and unofficial detention locations in the aftermath of the attempted coup in 2016 and that emergency decree provisions establish retrospective immunity for the perpetrators of such offences; (b) reports of the systemic use of torture and ill-treatment, including severe beatings, kicking, punching, verbal abuse, threats of sexual violence, sexual violence, prolonged stress positions, handcuffing, and denial of basic needs, including to extract confessions from accused persons, in the south-east region of Turkey; and (c) any independent complaints mechanisms that are in place to investigate all forms of torture and ill-treatment, as well as about the number of investigations, prosecutions and convictions during the reporting period, including about the punishments handed down to perpetrators and the compensation awarded to victims.

**Liberty and security of person (arts. 6 and 9)**

11. Bearing in mind the Committee's previous recommendation (para. 17), please: (a) clarify the maximum legal period of pretrial detention following the adoption of Decree Law No. 667, adopted on 22 July 2016; (b) describe measures taken to ensure that the rights of those held in pretrial detention to challenge their detention are consistently upheld; and (c) discuss whether remand and convicted prisoners are held together within the State party's detention facilities, particularly following the large-scale arrests made in the aftermath of the attempted coup in 2016.

12. Recalling the Committee's previous recommendation (para. 18), please provide information about: (a) the capacity of the prison system and the number of prisoners as well as efforts to address overcrowding, including measures taken as part of the State party's COVID-19 response and the promulgation of Law No. 7242; (b) the results of any investigations into the deaths of individuals detained in the prison system, such as Mustafa Kabakçioğlu; and (c) reports of the use of solitary confinement for prolonged periods of time.

**Elimination of slavery, servitude and trafficking in persons (arts. 2, 7, 8 and 26)**

13. Recalling the previous recommendation of the Committee (para. 15), please provide information on: (a) whether a national action plan to address trafficking is currently in place; (b) measures taken to identify victims and provide psychosocial support and legal protections to them, including whether any provisions are in place to prevent individuals who are victims of trafficking being penalized for unlawful acts that traffickers compelled them to commit; and (c) data on the number of complaints, investigations, prosecutions and convictions for trafficking during the reporting period, as well as on the sentences handed down to perpetrators.

**Freedom of movement (art. 12)**

14. Please provide information on: (a) amendments made by emergency decree to the laws governing the issuance of passports; (b) whether public officials dismissed in the wake of the attempted coup in 2016, as well as their family members, and human rights defenders facing criminal charges for their work, have had their passports revoked; and (c) reports that the State party has issued extradition orders for individuals abroad, on the basis of politically motivated charges.

**Treatment of migrants, refugees and asylum seekers (arts. 7, 9, 12, 13 and 24)**

15. Recalling the previous recommendation of the Committee (para. 20), please provide information about: (a) measures taken within the reporting period to amend the national legal framework in line with the provisions of the Covenant and of the Convention relating to the Status of Refugees, of 1951; (b) reports of pushbacks and collective expulsions that have denied individuals access to international protection mechanisms in violation of national and international standards, including the right to non-refoulement; and (c) how independent oversight of the State party's voluntary returns programme is ensured in order to prevent any form of coercion among refugees and asylum seekers.

**Access to justice, right to a fair trial, and independence of lawyers and the judiciary (arts. 2, 7, 9, 10 and 14)**

16. In relation to the legal framework guaranteeing to the judiciary, prosecutors and lawyers full independence from the executive branch within the State party, please: (a) describe the implications of legal changes within the reporting period, such as Omnibus Law No. 6526 and the constitutional changes of 2017, relating to the judicial profession, which establish executive control over the Board of Judges and Prosecutors and change processes governing disciplinary measures, the transfer of judiciary members and dismissals, on the independence of judges, lawyers and prosecutors; (b) discuss the compatibility of emergency provisions allowing for the direct appointment of judges and prosecutors by the President with provisions of the Covenant, and clarify their current status, following the passing into law of article 26 of Law No. 7145; and (c) provide additional information about the status of amendments to the Law on Lawyers that allow for multiple bar associations in provinces, including explaining the rationale for such changes.

17. Please provide information about: (a) reports of the summary dismissal of thousands of judges, prosecutors and lawyers following the attempted coup in 2016, including the status of the complaint presented to the Board of Judges and Prosecutors on 21 September 2020; (b) the subsequent appointment and promotion of legal professionals on the basis of political criteria, including the number of judges directly recruited through the new system and the training they have received; and (c) prior dismissals of legal professionals in 2013, following their perceived involvement in corruption investigations that implicated government officials and their family members.

18. Please respond to allegations of the systematic denial of the right to a fair trial, particularly in cases involving terrorism-related charges, including the changing of presiding judges; the increasing use of closed courts; the failure of prosecutors and courts to meet credible evidentiary thresholds; and the denial of defendants' right to access information about charges and evidence against them, as well as to choose and meet privately with their legal counsel and to be present at their trial. Please also respond to reports that Ebru Timtik died after being on hunger strike in pursuit of the right to a fair trial, including sharing the outcomes of any investigations into her death.

19. Please discuss the due process that was afforded to the State officials, including teachers, civil servants, judges, doctors, medical professionals, military personnel and police officers, who were dismissed on the basis of perceived links to the Gülen movement, following the attempted coup in 2016. Please provide information about the work of the Inquiry Commission on State of Emergency Measures, including the status of the 130,000 appeals against such dismissals and any remedies that have been provided to those affected for loss of employment and related human rights violations.

**Right to privacy (art. 17)**

20. Please include information about: (a) the legal framework in place to protect privacy, including whether there is dedicated data protection legislation to operationalize constitutional privacy protections, and whether Law No. 6532 (2014) adheres to the provisions of the Covenant; (b) the safeguards provided by domestic law, including judicial protection, and their application to ensure the appropriate use and disposal of data collected within surveillance activities undertaken during criminal or disciplinary investigations; and (c) the compatibility of practices including reported large-scale surveillance of mobile phone communications and the use of mandatory identity cards, with article 17 of the Covenant.

**Freedom of religion or belief (arts. 2, 18, 19, 25 and 26)**

21. Recalling the previous recommendation of the Committee (para. 23) and the report on follow-up to the concluding observations of the Committee, please describe any steps taken within the reporting period, to recognize and regulate conscientious objection to compulsory military service. Please elaborate on the compatibility of article 318 of the Criminal Code, which criminalizes “alienating the public from military service”, with the Covenant, and discuss whether the State party intends to repeal such provisions.

22. Bearing in mind the previous recommendation of the Committee (para. 21), please: (a) clarify which religions are recognized under the Government’s interpretation of the Lausanne Peace Treaty, of 1923; (b) respond to reports of travel bans on and deportations of non-Turkish Protestant religious leaders; and (c) discuss steps taken to ensure that all religious minorities can access places of worship and that the property and land rights of all religious groups are upheld.

**Human rights defenders (arts. 6, 17, 19, 20, 21, 22 and 26)**

23. Please respond to allegations of harassment, intimidation and threats against human rights defenders within the State party. Recalling the previous recommendation of the Committee (para. 24), please: (a) respond to reports of human rights defenders who have faced criminal charges for their work and the exercising of their Covenant rights, and provide updated information on all such individuals, including Osman Kavala, Ömer Faruk Gergerlioglu, Selahattin Demirtaş, Eren Keskin, Öztürk Türkdogan, Taner Kılıç, Günel Kurşun, İdil Eser, Özlem Dalkıran, Fevzi Kayacan, Orhan Öngöz, Cemal Acar, İsmail Tastan, Erol Önderoğlu, Hakan Baş, Şebnem Korur Fincancı, Ahmet Nesin, Murat Arslan, lawyers from the Asrin law firm, lawyers from Halkın Hukuk Bürosu (the People’s Law Office), lawyers from the Law Firm of the Oppressed (EHB) and/or members of the Progressive Lawyers Association (ÇHD); (b) indicate whether there are plans for the immediate release of those individuals still detained and other human rights defenders held on similar charges, including in cases where the European Court of Human Rights has issued binding judgments calling for the release of detained individuals; and (c) describe the measures taken to provide access to remedies for the violations of human rights defenders’ rights, including in cases where the European Court of Human Rights has held that individuals should be awarded compensation.

**Freedom of expression, peaceful assembly and association (arts. 19, 21 and 22)**

24. Recalling the previous recommendation of the Committee (para. 24), please: (a) provide updated information about whether steps have been taken to decriminalize all offences relating to free expression, including defamation and insulting the President, and to bring all parts of the Criminal Code into line with article 19 of the Covenant; (b) describe the provisions in Law No. 5651 and discuss their compatibility with the Covenant and the Constitution; and (c) respond to reports of systematic restrictions on online expression, including the blocking of websites, government requests that social media companies take down content, network shutdowns, and social media users facing criminal proceedings for posts related to the COVID-19 pandemic.

25. Please provide information about: (a) the closure of multiple media outlets in 2016 and, in some cases, the seizure of their assets, according to emergency decrees, such as Law No. 667, Law No. 668 and Law No. 676, including about the status of processes to reopen

such outlets, restore the assets of organizations and provide access to compensation; (b) reports of the removal of television channels critical of the Government from the satellite providers Digitürk and TÜRKSAT; and (c) the alleged revocation of cards reflecting official media accreditation and the banning of journalists from parliamentary meetings.

26. Bearing in mind the Committee's general comment No. 37 (2020), on article 21, please: (a) discuss the compatibility of Law No. 2911 with the Covenant and the Constitution, including with regard to provisions requiring that assembly organizers give prior notification to authorities at least 48 hours before planned events; (b) clarify the grounds outlined in Law No. 2935 upon which authorities can restrict assemblies, and the current status of such provisions; and (c) respond to allegations that regular and emergency legal provisions prescribe broad and vague grounds for restricting assemblies, which have been used to restrict a variety of forms of peaceful assembly, including those marking Pride, vigils of the Saturday Mothers, and International Women's Day. Please also discuss whether the use of force when policing assemblies within the reporting period has consistently adhered to the fundamental principles of legality, necessity, proportionality, precaution and non-discrimination, including during the Gezi Park demonstrations in 2013.

27. Please: (a) respond to reports that a large number of organizations, including non-governmental organizations, trade unions and judicial associations, were closed down during the extended period of emergency starting in 2016, and provide information about the legal basis for such measures, as well as how due process and independent oversight were ensured; (b) describe the status of processes to restore the assets of these organizations, facilitate their reopening and provide access to compensation, including information on the relevant work of the Inquiry Commission on State of Emergency Measures; and (c) provide information about provisions within Law No. 7262 that amend the legal framework on freedom of association, and discuss their compatibility with the Covenant.

#### **Participation in public affairs (arts. 2, 3, 19, 21, 25 and 26)**

28. Please provide information about the compatibility of constitutional amendments made in 2016 that stripped Members of Parliament of their immunity, with the provisions of the Covenant. Please also respond to allegations that subsequent to these legal changes, Peoples' Democratic Party (HDP) deputy Ömer Faruk Gergerlioğlu was stripped of his parliamentary membership because of a conviction for a social media posting, including whether there are plans to reinstate his elected office.

29. In relation to the legal and institutional framework in place to guarantee free and fair elections, please include information about: (a) legal changes during the reporting period, including the scope of constitutional amendments made in 2017 relating to elections and emergency decrees relating to elections; (b) whether the State party intends to amend provisions banning those convicted of intentional crimes, conscripts and military cadets from voting; and (c) measures taken to ensure that all decisions of the Supreme Election Council are in line with national legal provisions, including the Constitution, and that any complaints about the fulfilment of its mandate are afforded due consideration.

30. Please provide information about the elections held within the reporting period, including: (a) the rationale for holding elections, including a referendum on major constitutional changes, as well as presidential and parliamentary elections, during a state of emergency that curtailed freedom of assembly and expression; (b) reports of restrictions of the campaigning activities of candidates for the 2018 presidential and parliamentary elections, including the HDP presidential candidate Slahattin Demirtaş remaining in pretrial detention during the campaigning period, and alleged violations of campaign rules by the ruling party; and (c) the functioning of the 2019 local elections, including addressing allegations that mayors and councillors, mostly from the HDP, were detained on politically motivated terrorism charges preventing them from standing and that the Supreme Election Council denied the mayoral mandates of six successful HDP candidates and assigned those mandates to second-placed candidates.