



The Crackdown on Political Dissent in Turkey After July 15, 2016. A Challenge to European Values

Marco Marsili

May 9, 2019, ISCTE — Instituto Universitário de Lisboa (ISCTE-IUL)
Panel 7: EU & the Middle East — 14h00-15h45, Room C1.01



Research supported through national funds under PhD grant SFRH/BD/136170/2018



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International Commitments

Turkey is a member of



and a candidate to the accession to the EU (2005), and should abide by major human rights instruments, *inter alia* the ECHR.



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The Rise of Erdoğan and AKP



- Founded by Recep Tayyip Erdoğan in 2001, the Justice and Development Party (AKP) is a right-wing, conservative, and authoritarian political party.
- AKP is the ruling party since 2002: won pluralities in the six most recent legislative elections (2002, 2007, 2011, June 2015, Nov. 2015, 2018).
- Erdoğan: Mayor of Istanbul (1994-1998); Turkish PM (2003–2014); incumbent President since 2014.
- On April 16, 2017 a constitutional referendum replaced the parliamentary system with a presidential system. The post of PM was abolished, and the presidency became an executive post vested with broad executive powers in emergency situations (President Erdoğan is Head of government since July 2018).



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Turkey: the Middle East Terrorism Hub

- Russia accuses Turkey of **supporting terrorism**, and Erdoğan and his family to be **involved in the illegal business of smuggling oil from ISIS controlled territory in Iraq and Syria** (Anatoly Antonov, *Speech of the Russian Deputy Defence Minister Anatoly Antonov during the briefing 'Russian Federation Armed Forces fighting against international terrorist. New data'*, Ministry of Defence of the Russian Federation, Dec. 2, 2015).
- Germany accuses **AK Party and President Erdoğan to 'support actions for the Egyptian MB, Hamas and the armed Islamist opposition groups in Syria'** (German Federal Ministry of the Interior, *Possible influence of the Turkish President Erdoğan in Germany through organizations such UETD and DITIB*, supp. answer No. 18/9399 to item No. 17 of the parliamentary question No. 18/9274, Aug. 10, 2016. Confidential answer classified for restricted use only) — **Hezbollah** and **Hamas**, both blacklisted by the EU and the US, are not considered terrorist organizations by Ankara.
- **Turkey has become the central platform for action for Islamist groups in the Middle East, as a result of the gradually Islamized domestic and foreign policy of Ankara since 2011** (Ibid.).

Documents from the German Federal Ministry of the Interior

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DATUM 10. August 2016

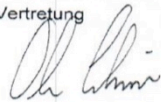
BETREFF **Kleine Anfrage der Abgeordneten Sevim Dağdelen u. a. und der Fraktion
DIE LINKE.
Mögliche Einflussnahme des türkischen Präsidenten Erdogan in Deutschland
über Organisationen wie UETD und Ditib
BT-Drucksache 18/9274**

Auf die Kleine Anfrage übersende ich namens der Bundesregierung die beigefügte
Antwort in 4-facher Ausfertigung.

Hinweis:

Teile der Antwort sind VS-NUR FÜR DEN DIENSTGEBRAUCH eingestuft.

Mit freundlichen Grüßen
in Vertretung



Dr. Ole Schröder

CONFIDENTIAL

Ergänzende Antwort zu Frage 17

Als Resultat der vor allem seit dem Jahr 2011 schrittweise islamisierten Innen- und Außenpolitik Ankaras hat sich die Türkei zur zentralen Aktionsplattform für islamistische Gruppierungen der Region des Nahen und Mittleren Ostens entwickelt. Die Türkei intensivierte ihre Beziehungen zu den nationalen Zweigen der internationalen Bewegung der Muslimbruderschaft (MB), wie z.B. der HAMAS oder der ägyptischen MB. Insbesondere seit der Entmachtung Muhammad MURSI im Juli 2013 und der starken Repression durch die Militärregierung al-SISs sind die Aktivitäten der ägyptischen MB in der Türkei sprunghaft angestiegen. Der türkische Staatspräsident und die AKP haben sich mit MURSI solidarisiert und gewähren den ägyptischen MB Unterstützung. So leben zahlreiche exilierte Anführer der Organisation inzwischen in der Türkei. Die ägyptische MB hat in den vergangenen Jahren ihre mediale Infrastruktur in der Türkei u.a. über eine Reihe von Satellitenkanälen ausgebaut und betreibt über sie Propaganda gegen die amtierende ägyptische Regierung. Die zahlreichen Solidaritätsbekundungen und Unterstützungshandlungen für die ägyptische MB, die HAMAS und Gruppen der bewaffneten islamistischen Opposition in Syrien durch die Regierungspartei AKP und Staatspräsident ERDOGAN unterstreichen deren ideologische Affinität zu den Muslimbrüdern.

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Human Rights in Turkey Before 2016 Coup



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CT and Human Rights Violations / 1

- 1992 — **Author of a poem on Kurds sentenced to imprisonment by Istanbul National Security Court** in application of **Anti-Terrorism Law** No. 3713 of 1991. Violation of Art. 10 on freedom of expression and Art. 6§1 ECHR on independence and impartiality of tribunals (*Karatas v. Turkey*, App. No. 23168/94, ECtHR, July 8, 1999).
- 1992 — Major shareholder and chief editor of weekly review *Haberde Yorumda Gerçek* sentenced, in application of **Anti-Terrorism Law**, for the publication of an **interview with the second-in-command of the PKK and a joint declaration by four Kurdish organizations**. Violation of Art. 10 and Art. 6§1 ECHR (*Sürek And Özdemir v. Turkey*, App. Nos. 23927/94 and 24277/94, ECtHR, July 8, 1999).
- 1992/1993 — **Political activist of People's Labour Party (HEP)**, dissolved by the Constitutional Court on July 14, 1993, **sentenced imprisonment by National Security Court for a leaflet on Kurds**. Violation of Art. 10 and Art. 6§1 ECHR (*Incal v. Turkey*, App. No. 22678/93, ECtHR, June 9, 1998).
- 1994 — **Owner and editor of Haberle Yorumda Gerçek sentenced to imprisonment by National Security Court**, in application of **Anti-Terrorism Law**, for articles on **Kurds**. Violation of Art. 10 and Art. 6§1 ECHR (*Şener v. Turkey*, App. No. 26680/95, ECtHR, July 18, 2000).
- 2003 — **Owner and the editor-in-chief** of the daily newspaper *Günlük Evrensel* sentenced fine by **National Security Court**, in application of **Anti-Terrorism Law**, for an article and **KADEK** (former **PKK**) and the detention conditions of Abdullah Öcalan. Violation of Art. 10 ECHR (*Belek and Velioğlu v. Turkey*, App. No. 44227/04, ECtHR, Sept. 15, 2015).
- 2010 — **'Automatic' conviction of journalists for the mere coverage of terrorist activities, based on Anti-Terrorism Law, allows for arbitrary prosecution of journalists**. Violation of Art. 10 and Art. 6§1 ECHR (ECtHR, case-law No. 132, *Gözel and Özer v. Turkey*, App. No. 43453/04, 31098/05, July 6, 2010).

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CT and Human Rights Violations / 2

- Dec. 2014 — **Public Prosecutor** of Ankara **requests the arrest of Imam Fethullah Gülen, accused of being the leader of a terrorist network** (*Hizmet* or Fethullahist Terror Organisation/Parallel State Structure, FETÖ/PDY) that plotted to establish a parallel state to seize power unlawfully (Presidency of the Republic of Turkey, *15 July Coup Attempt and the Parallel State Structure 2016*, Aug. 2016).
- June 2015 — **Turkish CT measures result in a sort of self-censorship** (OSCE/ODIHR, *(Republic of Turkey, Early Parliamentary Elections, 1 November 2015: OSCE/ODIHR Limited Election Observation Mission Final Report*, Jan. 28, 2016, p. 14).
- July 2015 — **Most of the journalists imprisoned as of 21 July 2015 were convicted under Anti-Terrorism Law** (OSCE RFoM, *Table of imprisoned journalists and examples of legislative restrictions on freedom of expression and media freedom in Turkey*, July 2015).
- Nov. 2015 — **“Unduly broad provisions in the Anti-Terrorism Law and the Criminal Code, including on insult of the president, allow prosecution and imprisonment of journalists”**. Cases include terrorism charges against media that are critical of the government (OSCE/ODIHR, *Final Report on 2015 Early Parliamentary Elections in Turkey*, 2017, pp. 1-2, 14).
- Nov. 2015 — **Seizure of main media outlets, the blocking of websites** and the voters' deprivation of a plurality of views and information (OSCE/ODIHR, *Final Report on 2015 Early Parliamentary Elections in Turkey*).
- Nov. 2015 — **Serious human rights violations related to CT operations by Turkish security forces** (Nils Muižnieks, *Turkey should ensure the protection of human rights in the fight against terrorism*, CoE, Nov. 18, 2015).
- Nov. 2015 — Days ahead of the elections of Nov. 1, 2015, Turkey puts **Gülen**, the arch-enemy of Erdoğan, on the **most wanted terrorists** list, along with ISIS and PKK. **Independence of the judiciary is not guaranteed by the legal framework. Arbitrary arrests, prosecutions and disciplinary measures are justified as necessary to address the ‘terrorist’ threat of the Gülenists** (OSCE/ODHIR, *Final Report on 2015 Early Parliamentary Elections in Turkey*, p. 14).

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CT and Human Rights Violations / 3

- Feb. 2016 — **Summary proceedings filed against Kemal Kiliçdaroğlu, the leader of the Cumhuriyet Halk Partisi (CHP), on charges of insulting the Turkish president** (İbrahim Kalin, *Statement by Presidential Spokesperson Ambassador İbrahim Kalin*, Feb. 26, 2016). Investigations for such offence increased from 397 in 2014 to 962 in the first half of 2015. Of these, 486 were opened in the six months of 2015 alone (EC, *Turkey 2016 Report* [SWD(2016) 366 final], Doc. ID 1156617, Nov. 2016, p. 64).
- Mar. 2016 — **‘Unacceptable and undue restrictions of media freedom...judicial harassment against dissenting media and journalists’** (CoE Commissioner for Human Rights, Nils Muižnieks, *Commissioner Muižnieks deplores new case of judicial harassment against media in Turkey*", Mar. 4, 2016).
- Mar. 2016 — **Government seizes control of *Zaman*, the country's largest newspaper linked to the Hizmet movement**, after a decision of the Istanbul 6th Criminal Court of Peace (OHCHR, Mar. 8, 2016).
- Mar. 2016 — **Seizure of *Zaman* does not meet ‘international standard that a restriction must be provided by law and necessary to protect a legitimate government interest, such as national security or public order’** (UN special rapporteur on freedom of expression, David Kaye, Mar. 8, 2016).
- Apr. 2016 — **‘Respect for human rights has deteriorated at an alarming speed’** in the fight against terrorism. **Alarming scale of recourse to an overly wide notion of terrorism to punish non-violent statements and criminalization of any message that merely coincides with the perceived interests of a terrorist organization** (Nils Muižnieks, *Turkey: security trumping human rights, free expression under threat*, CoE, Apr. 14, 2016).

CT and Human Rights Violations / 4

- May 2016 — The Grand National Assembly of Turkey (GNAT) passes a **temporary constitutional change** (Bill No. 2/1028 **introduced by AKP** on Apr. 12, 2016) to **lift parliamentary immunity of 138 MPs, the overwhelming majority of whom were from the two main opposition parties CHP and HDP** (Peoples' Democratic Party). Only CHP and HDP lawmakers opposed the constitutional reform package submitted to Parliament by Turkey's ruling AK Party to expand the president's powers.
- May 2016 — **'Peaceful and legal political activities by Turkish MPs are not presented as evidence of criminal and terrorist acts'** (Martin Chungong, Secretary General of the Inter-Parliamentary Union (IPU), *IPU stresses critical role of parliamentary immunity after Turkish vote*, May 24, 2016).
- June 2016 — Turkey is **jeopardizing the freedom of the media and of expression**, and that the **erosion of the rule of law and human rights violations** related to **anti-terrorism** security operations constitute **a threat to the functioning of democratic institutions** (PACE, Res. 2121 (2016)).
- June 2016 — Under the **abusive application of Art. 299 (Insulting the President of the Republic)** there were **about 2,000 cases in two years against journalists, academics and ordinary citizens** (EP, Res. 2016/2761(RSP,) June 8, 2016, § 22).
- June 2016 — The reference to **terrorism** gives the government the pretext to pass **emergency measures and to carry out wider purges of all those not seen as loyal to government interests** (International Commission of Jurists - ICJ, *Turkey: the Judicial System in Peril*, June 2016).
- June 2016 — **Judges who refuse to comply with the will of the executive are removed and arrested on charges of being members of a terrorist organization or of attempting to overthrow the government** (ICJ, June 2016, p. 10).

CT and Human Rights Violations / 5

- June 2016 — **Extensive interpretation of Anti-Terror Law against HDP deputies** (PACE, *The functioning of democratic institutions in Turkey*, Doc. 14078 of June 6, 2016, adopted by Res. 2121 (2016) on June 22, 2016).
- June 2016 — Turkey is **jeopardizing the freedom of the media and of expression**, and that the **erosion of the rule of law and human rights violations** related to **anti-terrorism security operations** constitute **a threat to the functioning of democratic institutions** (PACE, Res. 2121 (2016)).
- June 2016 — **Serious concerns about: stripping immunity of many MPs (mostly from the opposition); numerous measures and abusive application of legal provisions restricting freedom of expression and of the media; lack of independence of the judiciary** (PACE, Res. 2121 (2016)).
- Oct. 2016 — **CT measures against Gülenists after the failed coup** involved **serious violations of human rights and international conventions, especially the ECHR and the ICCPR** (HRW, *A Blank Check: Turkey's Post-Coup Suspension of Safeguards Against Torture*, Oct. 24, 2016).
- Nov. 2016 — Making **propaganda for PKK cannot be considered terrorism** (*Prosecutor v. The Turkish State & Others*, Investigation Office No. 2009/0030-2008/0113-2008/0121, Federal Prosecutor App. No. FD.35.98.54/09-FD.35.98.634/06-FD.35.98.502/07, the Dutch language Court of First Instance of Brussels, 41th Chamber, decision of Nov. 3, 2016).
- July. 2016 — Coup d'état attempt and suspension of fundamental human rights.



Reasons Behind the Military Intervention

- The Peace at Home Council (*Yurtta Sulh Konseyi*), a council established within a faction of the Turkish Armed Forces, which attempted to seize power on July 15, 2016, stated that its aim was **‘to reinstate constitutional order, human rights and freedoms, the rule of law and general security that was damaged’** by the executive.
- The plotters stated **that democratic and secular rule of law had been eroded by government** and that they acted **‘to preserve democratic order’**, so that the **rule of law would remain a priority** (Tijen Karaş, *Under the gun I've read the declaration, the most difficult of my broadcast life*, Turkish Radio and Television Corporation Channel 1, July 15, 2016).
- When in 1923 Mustafa Kemal Atatürk, Father of the Turkish nation, included in the Turkish constitution the **military's** role as the sole **‘defender and protector of the constitution and of republican and honest civilian rule’**, he ultimately legitimized the military's intervention in politics (Amos Perlmutter, *The Military and Politics in Modern Times*, 1977, p. 111) — Military coups and interventions: 1960, 1971, 1980.
- In 2003, the 7th EU reform package, passed by the AKP majority, limited military powers.



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Terrorism? What Terrorism?

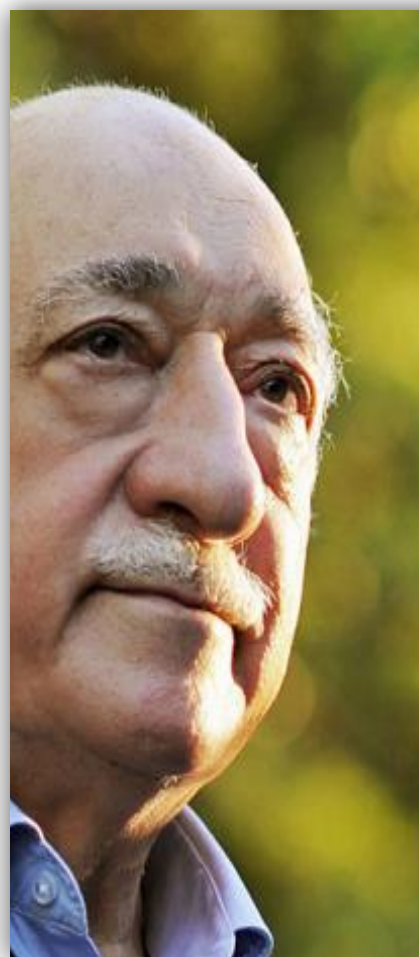
In the first stages of the coup attempt, Turkish PM, Binali Yildirim described events as an **'insurrection'** (Turkish Presidency and Anadolu Agency, *July 15 Coup Attempt in Turkey and Peoples' Victory*, 1st ed., p. 8), but later that night characterized the insurgents as **'terrorists'** (Id., p. 14), and in the aftermath of the suppressed putsch, he talked again about an **'insurrection'** (Id., p. 24).

- **None of the world leaders**, who strongly condemned the attempted coup, **deemed it a terrorist act** (Id., pp. 28-31).
- A few hours after the failed coup, President **Erdoğan characterized it a 'terrorist act'** (Erdoğan, July 16, 2016), and **accused FETÖ/PDY** of being behind the attempted golpe (Presidency of the Republic of Turkey, *Guard of Democracy at Beştepe People's Mosque*, July 16, 2016).
- Turkish regime has a 'weird' concept of terrorism, that includes **PYD** (Democratic Union Party) and its armed wing **YPG** (People's Protection Units or People's Defense Units), that Ankara considers the **Syrian affiliates of PKK** (Kurdistan Workers' Party) and its armed wing HPG (Kurdish People's Defence Force, formerly called the Kurdistan National Liberty Army or ARGK) — These all are far-left/left-wing organizations, and therefore atheists, miscreants.
- **Western governments**, including the EU and the US, despite having classified PKK as a terrorist organization, **support** other Kurdish groups (i.e. **PYD**, **YPG**, and the Revolutionary People's Liberation Party/Front or **DHKP-C**) in the fight against ISIS.

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Erdoğan & Gülen: Friends & Enemies



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CT Emergency Measures



- **Suspension of the the ECHR under Art. 15, and state of emergency ‘to eliminate the FETÖ terrorist organization’** (Erdoğan, July 20, 2016): suspension of freedom of association; some political rights; the right to freedom of education.
- **Mass arrests and preventive custody on mere suspicion of links to Hizmet**, not just military and government officials, but even journalists and university professors; none of the academics are allowed to leave the country, the deans are purged; passports confiscated (John Kirby, Daily Press Briefing, July 21, 2016; Elizabeth Trudeau, Daily Press Briefing, Department of State, Aug. 11, 2016).
- Any **public personnel** deemed to be involved in the formation or affiliated with groups or terrorist organizations considered a threat to national security is **removed from office** without any compensation and **without trial**, and can **no longer be directly or indirectly employed in public service**; their weapons licenses, ship ownership documents, pilot licenses, **passports are cancelled**. (Decree Law No. 679, T.C. Resmî Gazete 29940 of Jan. 6, 2017).
- **Associations and educational institutions are closed**, and their **assets transferred to the Turkish Treasury free of charge**; **scholarships assigned to students abroad are cancelled** (Decree Law No. 679).
- **Powers of judiciary reformulated by Decree Law** (Decree Law No. 680, T.C. Resmî Gazete 29940 of Jan. 6, 2017).
- **The state of emergency, extended seven times**, each time for a three-month period, remained in force since July 2018 (**two years** after the failed coup).

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Post-Coup Repression: Mass Arrests and Mass Trials



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Figures of the Turkish Maxi-purges After July 2016

- **2,745 judges arrested** In the aftermath of the failed coup, including some 200 members of the Supreme Court of Appeals, Council of State and Supreme Board of Judges and Prosecutors (*July 15 Coup Attempt in Turkey and Peoples' Victory*, p. 24-5).
- **35,022 people detained** following the failed coup d'état (Elizabeth Trudeau, Daily Press Briefing, Department of State, Aug.11, 2016).
- **7,669 policemen removed**, including 24 central governors, 323 gendarmes, and two Coast Guard officers (Decree Law No. 672 of Aug. 15, 2016, T.C. Resmî Gazete 29818 of Sept. 1, 2016).
- **40,000 civil servants dismissed** under three decrees on state of emergency of Sep. 1, 2016 (Decree Law No. 673 and Decree Law No. 674, T.C. Resmî Gazete 29818 of Sept. 1, 2016).
- **6,000 public employees fired** for alleged ties with FETÖ, including: 1,519 workers of the Presidency of Religious Affairs (*Diyanet*), 2,018 employees of the Ministry of Health; 2,346 academics of the Council for Higher Education (*Yükseköğretim Kurulu* or *YÖK*), which oversees universities, 28,163 employees of the Ministry of Education, mostly teachers of elementary and middle schools.
- **7,500 persons removed from public office**, and their passports canceled, on the first anniversary of the coup attempt (Decree Law KHK/692, T.C. Resmî Gazete 30124 of July 14, 2017).
- **928 employees expelled from public administration** for alleged links with terrorist organizations in Aug. 2017 (Decree Law KHK/693, and Decree Law KHK/694, T.C. Resmî Gazete 30165 of Aug. 25, 2017). Most of the new purges concern the Ministry of the Interior and related bodies (212 persons), the armed forces (205 people), and academics (120).
- **150,000 people taken into custody, 78,000 arrested** and about **115,000 civilian servants dismissed or suspended** July 2016-Feb. 2018 (EC, *Turkey 2018 Report*, SWD(2018) 153 final).

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Persecution of Dissidents After the Failed Coup

- July 2016 — Turkey sends the US a formal request for **Gülen's extradition** (16 July). US Department of State: legal extradition process would be **evidence-based**, and **‘not driven by political motivation’** (Mark C. Toner, Daily Press Briefing, July 19, 2016).
- Aug. 2016 — **OHCHR accuses Turkish government of ‘thirst for revenge’** (Zeid Ra'ad Al Hussein, UN High Commissioner for Human Rights).
- Nov. 2016 - Germany's federal minister of justice, Heiko Maas: no extradition for suspects if they would face **‘politically motivated’ charges in Turkey without concrete evidence of criminality** (Anadolu Agency, *Erdogan slams Germany for not extraditing FETO members*, Nov. 3, 2016).
- Nov. 2016 — **11 HDP deputies arrested**, including co-chairs Selahattin Demirtas and Figen Yuksekdag and the party's parliamentary group leader Idris Baluken, after their immunity was lifted in May (Anadolu Agency, *Turkey MPs held in terror probe for failing to answer summons*, Nov. 4, 2016). **Arrest warrants were issued for all 59 HDP lawmakers for failing to appear to testify as part of a counter-terrorism investigation.**
- Oct. 2017 — **11 human rights activists**, including the director and chair of Amnesty International Turkey, **in pre-trial detention on charges of terrorism**. Accusations deemed **‘general, abstract, and not sufficient’** by CoE (CoE Secretary General Thorbjørn Jagland, *Telephone conversation of Secretary General Jagland with Turkish Minister of Justice Abdulhamit Gül*, Oct. 18, 2017).
- Oct. 2017 — Turkish justice minister, Abdülhamit Gül, on the request for Gülen's extradition: **‘there is no need of proof of a person’s guilt’** (Oct. 19, 2017).

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Persecution of Journalists After the Failed Coup / 1

- July 27, 2016 — **Media organizations are shut down by an emergency decree-law.** *Zaman* newspaper is closed (Decree Law No. 668, T.C. Resmî Gazete 29783 of July 27, 2016).
- July 30, 2016 — Several **editors and columnists** of *Zaman* are accused of being members of FETÖ/PDY, and put in **pre-trial detention**. The Turkish Const. Court concludes that there is no strong factual basis to justify the pre-trial detention, and that the **measure is unconstitutional**; Istanbul 13th and 14th **Assize Courts refuse to release detainees**. Pre-trial detention of journalists violates their right to liberty and security and the right to freedom of expression protected under Art. 5(1) and 10 ECHR (*Şahin Alpay v. Turkey*, App. No. 16538/17 and *Mehmet Hasan Altan v. Turkey*, App. No. 13237/17, Mar. 20, 2018).
- Oct. 31, 2016 — **13 journalists of the pro-secular opposition daily newspaper Cumhuriyet Gazetesi**, including the editor-in-chief Murat Sabuncu, three of its columnists and former editor-in-chief Can Dündar, **arrested on accusations of supporting PKK and FETÖ/PDY**. Sabuncu spent **over 1 year in preventive imprisonment** (OSCE RFoM, *OSCE Désir welcomes the release of two Cumhuriyet journalists, calls on Turkey to free Akin Atalay and drop charges against all defendants*, Mar. 9, 2018).
- Oct. 2016 — **More than 125 media outlets closed**, and **120 journalists detained** since July 2016. **CT and other legislation used to restrict media freedom ‘goes far beyond what may be justifiable under a state of emergency’**. (Dunja Mijatović, *OSCE Representative condemns continued arrests of journalists in Turkey, calls on authorities to restore media pluralism*, OSCE, Oct. 31, 2016).
- Mar. 2017 — Six months after the failed coup **more than 100 journalists were imprisoned**, and about **150 were still in jail**; **more than 150 media outlets have been shut down**, and **over 10,000 media workers had lost their jobs**, with **thousands awaiting trial for critical tweets or other social media posts, or charged with propaganda supporting terrorism** (Dunja Mijatović, *OSCE Representative on Freedom of the Media calls on Turkey to decriminalize journalistic work following arrest of Die Welt journalist*, OSCE, Mar. 1, 2017).
- Apr. 2017 — **State of emergency powers limit fundamental freedoms and undermine the rule of law by further restricting freedom of assembly and expression** (OSCE/ODIHR and PACE, *Turkey, Constitutional Referendum, 16 Apr. 2017: Statement of Preliminary Findings and Conclusions*, Apr. 17, 2017).

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Persecution of Journalists After the Failed Coup / 2

- Jan. 2018 — **449 journalists and social media users detained for terrorist propaganda for critical posts about the military offensive against the Kurds** launched into Afrin (OSCE RFoM, *Detention of hundreds in Turkey for expressing dissenting views on military operation in Afrin is unacceptable, OSCE representative warns*, Feb. 7, 2018).
- Feb. 2018 — **6 journalists sentenced to life imprisonment** for attempting to disrupt constitutional order (OSCE RFoM, Feb. 16, 2018).
- Mar. 8, 2018 — **25 media workers sentenced to prison with no evidence**, by İstanbul 25th Heavy Penal Court, for **alleged affiliation with FETÖ media organization** (OSCE RFoM, *OSCE representative Désir urges Turkey to release and drop charges against 25 media workers sentenced to prison, including journalists Aksoy and Taş*, Mar. 9, 2018).
- Jan. 6, 2019 — **Journals are closed, and their assets transferred to the Turkish Treasury** free of charge (Decree Law No. of Jan. 6, 2017).
- Jan. 2019 — **Law on defamation is employed as means of censorship against journalists who investigate on top officials** (OSCE RFoM, *OSCE Representative expresses alarm following court sentence against Pelin Ünker, urges Turkey not to prosecute journalist for her investigative work*, Jan. 20, 2019).
- Feb. 2019 — Istanbul court upholds **convictions to prison - up to 10 years in jail - against dozens of journalists and executives of the newspaper Cumhuriyet, 'on groundless accusations of supporting terrorism, that were tried for having dissident views or reporting on issues of public interest'** (OSCE RFoM, *Cumhuriyet trial convictions a terrible setback for Turkey, says OSCE Media Freedom Representative, calls for end to criminalization of journalism*, Feb. 19, 2019).
- Apr. 2019 — **13 journalists and writers, who participated in a solidarity campaign organized by the now closed Kurdish media outlet Özgür Gündem**, are sentenced to **prison for terrorist propaganda** by the İstanbul 14th High Criminal Court (OSCE RFoM, *Sentencing journalists to prison greatly damages media freedom in Turkey, says OSCE Media Freedom Representative following Özgür Gündem trial*, Apr. 3, 2019).

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The Rule of Law in Turkey



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Judiciary Folded to Political Interest. Pro-forma Separation of Powers

- **Repressive measures, enforced through the courts, apparently for purposes of political control and suppression of dissenting or unwelcome opinions, are closely linked to attempts by the executive to gain greater control over the justice system** (ICJ, 2016, p. 3).
- **Independence of the judiciary not guaranteed by legal framework. Arbitrary arrests, prosecutions and disciplinary measures justified as necessary to address the ‘terrorist’ threat of Gülenists** (OSCE/ODHIR, *Final Report on 2015 Early Parliamentary Elections in Turkey*, p. 14).
- **Judiciary's decision against Gülenists politically driven by executive** (ICJ, 2016, p. 4-5).
- Since 2016 the **executive and AKP** have gained an **unprecedented degree of control of the judiciary** (ICJ, 2016, p. 10).
- **Judiciary is not totally independent from political power** (ICJ, 2016).
- **Lack of independence of the judiciary** (PACE, Res. 2121 (2016)).
- **Lower courts deny release of journalists** on the ground that Constitutional Court, which has jurisdiction over violations of the ECHR, had exceeded its authority by repeatedly annulling rulings delivered by the former (OSCE RFoM, Feb. 16, 2018).
- **International arrest warrants – i.e., red notice - requested to Interpol by Turkey, may allow persecution of journalists** (OSCE RFoM, Aug. 23, 2018).

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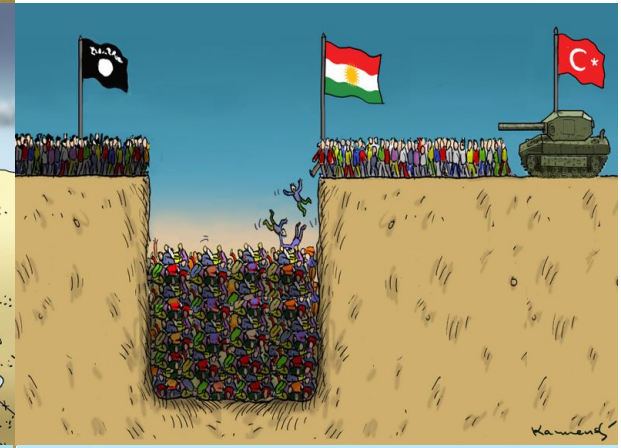
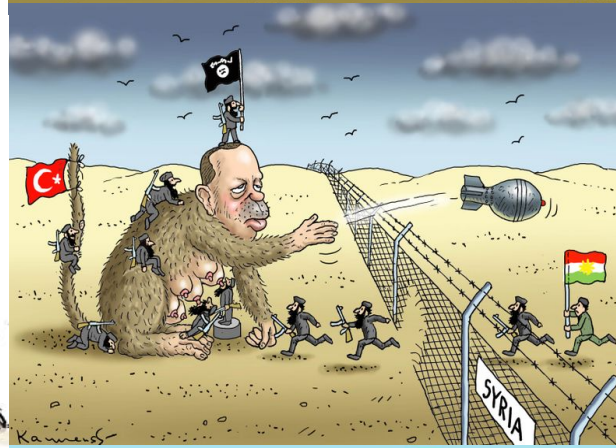
International Law and Standards

- **The erosion of judicial independence by politicization in Turkey fails to comply with international law and international standards** (Consultative Council of European Judges—CCJE, *Challenges for judicial independence and impartiality in the member states of the Council of Europe*, Mar. 24, 2016; Venice Commission, *Declaration on Interference with Judicial Independence in Turkey*, June 20, 2015; *Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul*, May 4, 2012, A/HRC/20/19/Add.3).
- **GHRV and disproportionate use of force** by Turkish security forces, including **violation of procedural rights** and of the prohibition of **torture and ill-treatment** (EC, *Turkey 2016 Report* [SWD(2016) 366 final], Doc. ID 1156617).
- **Already prior to the 2016 coup attempt, several key pieces of Turkish legislation regarding the rule of law and fundamental rights were not in line with the European standard** (EC, *Turkey 2016 Report* [SWD(2016) 366 final]).
- **Turkish CT law is not in line with the *acquis* with regard to its scope and definitions and its application raises serious concerns about fundamental rights; it should be aligned with ECtHR case law** (EC, *Turkey 2016 Report* [SWD(2016) 366 final]).

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Turkey's War on Terror



- Aug. 2015 — Turkey hits PKK bases in the Kurdistan Region of Iraq (KRP, Aug. 1, 2015).
- Dec. 2015 — Turkey invades Northern Iraq, an area with Kurdish majority.
- Apr. 2017 — The Kurdistan Regional Government (KRG) accuses Turkey of targeting PKK in Iraq (Ministry of Peshmerga Affairs, Apr. 25, 2017).
- Apr. 2017 — In the fight against ISIS, Turkey conducts airstrikes that kill combatants of CJTF-OIR partner forces SDF and Syrian Arab Coalition in Syria, and Kurdish Peshmerga in Iraq (DoD, Apr. 26, 2017).
- Jan. 2018 — Operation Olive Branch against the Kurds in Northern Syria, part of the Operation Euphrates Shield, with the purpose to fight and eliminate 'terrorist organizations' SDF, PKK, PYD, YPG (Erdoğan, Jan. 20, 2018).



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Violations of Sovereignty of Iraq and Syria

- Feb. 2015 — **Operation Shah Euphrates** to protect the Tomb of Suleyman Shah **on Syrian soil**.
- Dec. 2015 — **Turkish troops are ‘occupation forces’ in Iraq; the invasion is a gross violation of the sovereignty of Baghdad** (PM of Iraq, Dec. 5, 2015).
- Oct. 2016 — Every force should be in Iraq with the coordination or and with the permission of the government; **Turkish troops are not there under the auspices of the CJTF-OIR** presence (Col. John L. Dorrian, US DoD, 12 Oct. 2016).
- Oct. 2016 — Turkey motivates its **interventions in Syria and Iraq to fight terrorist organizations Daesh, PYD, YPG, PKK**, and ‘to secure the ‘terror corridor’ along its southern border (Erdoğan, Oct. 22, 2016).
- Aug. 2016 — Operation Euphrates Shield: **invasion of Syria as an anti-terrorism operation** against **Daesh** and **PYD** (Erdoğan, Aug. 24, 2016).
- Oct. 2016 — **Invasion of Syrian soil** to carry out **CT operation against PKK** (Erdoğan, Oct. 22, 2016).
- Nov. 2016 - **Turkish troops enter Syria** ‘in order to end the rule of Assad who has been responsible for state led terror’ (Erdoğan, Nov. 29, 2016).
- Oct. 2016 — Syrian General Command of the Army and Armed Forces: any presence of Turkish army units in Syria is an **‘occupation force’**, **does not matter if they claim to fight ISIS or whatever excuse** (SANA, Oct. 22, 2016).
- Sept. 2016 — The advance of **Turkish troops into Syria** is a **threat to the sovereignty and territorial integrity of Damascus** (MFA of the Russian Federation, Sept. 7, 2016. See also: UNSC, *The situation in the Middle East*, Journal of the UN, No. 2016/196 of Oct. 11, 2016, p. 21).

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Attacks on Western Allies: EU, US, NATO

- **Germany is 'the perpetrator of the Holocaust'** (Ibrahim Kalin, *Presidential Spokesperson Kalin: 'German parliament's resolution is an example of political irresponsibility'*, June 2, 2016, commenting Bundestag res. No. 18/8613 of May 31, 2016 recognizing the Armenian genocide).
- **Belgium perpetrated genocide in Congo, Germany in Namibia, France in Rwanda in 1994, Britain and France in other countries** (Erdoğan, June 4 and 5, 2016).
- **European countries support PKK terrorists** (Ibrahim Kalin, *Presidential Spokesperson Kalin: 'Double-standards and hypocrisy should come to an end in the fight against terror'*, June 8, 2016).
- **'[A] section of the US administration insists on working jointly with the PKK/PYD-YPG terrorist organization in Syria and Iraq'** (Erdoğan, Oct. 1, 2016).
- **Germany protects members of terrorist organizations** PKK, DHKP-C, FETÖ (Erdoğan, Nov. 3, 2016).
- **Global Coalition To Defeat ISIS partners (79-members, including the UE and NATO) supports terrorist organizations YPG, PYD, and DAESH** (Erdoğan, 27 Dec. 2016).
- **US lends 'overt support...to terrorist organizations'** in the region (Erdoğan, Dec. 29, 2016).
- **Gülen is 'a German agent'** (Erdoğan, Mar. 3, 2017).
- **'There is no difference between the incumbent government's practices and the Nazi ones... Nazism is still alive in Germany'** (Erdoğan, Mar. 5, 2017).
- **'Dutch government harbors and feeds terrorists...is a Nazi and Fascist government'** (Erdoğan, Mar. 11, 2017, after The Netherlands denied the landing clearance for the airplane of Turkish foreign minister Mevlüt Çavuşoğlu).
- **The Netherlands is 'a banana republic'** (Erdoğan, Mar. 11, 2017).
- **'I call on all the EU institutions and all the international organizations to impose sanctions on the Netherlands'** (Erdoğan, Mar. 12, 2017).

Was It True Glory?

Before July 15, 2016

The EU constitutional packages, passed by the AKP since Feb. 2002, limited the role of the military, liberalized the political system, facilitated Kurdish broadcasting and education, abolished death penalty, and subjected Turkish courts to the European Court of Human Rights (ECtHR), introducing reforms such as:

- freedom of expression, association, press and thought;
- reduction of police powers of detention;
- allowing investigations into politicians suspected of corruption;
- right to broadcast in the Kurdish language;
- limiting death penalty to terrorism and war;
- limiting military interference in politics through the National Security Council;
- protection of privacy;
- gender equality.



After July 15, 2016

In **Nov. 2016** the EU Parliament (EP) calls on the European Commission EC to freeze the accession negotiations due to the **'disproportionate measures under the state of emergency'** and the **situation on human rights**; in July 2017 the EP calls on the EC to formally suspend the accession negotiations (EP, *2018 Report on Turkey*, Res. of Mar. 13, 2019 on the 2018 Commission Report on Turkey (2018/2150(INI)).

Sept. 2016-Feb. 2018 — 33, 373 new applications registered by the ECtHR, that has found violations of the ECHR in 163 cases (out of 168) relating mainly to the right to a fair trial, freedom of expression, freedom of assembly and association, right to liberty and security among others (EC, *Turkey 2018 Report*, SWD(2018) 153 final, p. 30). On February 1, 2018, the total number of applications pending before the Court was 7,059.

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Conclusions

- Turkey has a long tradition in violating fundamental human rights under the pretext of fighting terrorism.
- Since AKP and Erdoğan seized power, Turkey is under an iron fist by large-scale imposition of special and repressive laws.
- The coup attempt provided a justification for tough repression, involving arrests and purges in all areas of the public administration under emergency measures.
- Under the guise of fighting terrorism, general laws are used to silence dissidents and political opponents, and to solve the Kurds issue.
- Selective and arbitrary application of CT and national security legislation against journalists, writers, and social media users, is having a negative impact on the freedom of expression.
- A two-years state of emergency set a backdrop for violations of fundamental human rights.
- The fight against terrorism is a pretext to reconsider borders: '[t]he Lausanne Treaty is not an indisputable text' (Erdoğan, Jan. 22, 2016) — Art. 3 of the Lausanne Treaty (1923), along with the Treaty of Ankara (1921), and the Treaty between Great Britain, Iraq, and Turkey (1926), settles the boundaries of Turkey, Syria and Iraq.
- Turkey does not comply with international law and standards on fundamental human rights, *inter alia* the major instruments such as the ECHR.
- The authoritarian turn put in place by the Turkish government is a challenge to the values of European and Western civilization.

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Is Turkey Sliding into Dictatorship?





“That’s all Folks!”

Thanks for your attention

La commedia è finita!



DOI: 10.5281/zenodo.2652909



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