# Flygtningenævnets baggrundsmateriale

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| **Bilagsnr.:** | **619** |
| Land: | Tyrkiet |
| Kilde: | UK Home Office |
| Titel: | Country Policy and Information Note Turkey: Gülenist movement |
| Udgivet: | Februar 2022 |
| Optaget på baggrundsmaterialet: | 22. juni 2022 |
| | |

Home Office

# Country Policy and Information Note
## Turkey: Gülenist movement

**Version 3.0**

**February 2022**

# Preface

## Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the Introduction section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into 2 parts: (1) an assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

## Assessment

This section analyses the evidence relevant to this note - that is information in the COI section; refugee/human rights laws and policies; and applicable caselaw - by describing this and its inter-relationships, and provides an assessment of, in general, whether one or more of the following applies:

- a person is reasonably likely to face a real risk of persecution or serious harm
- that the general humanitarian situation is so severe that there are substantial grounds for believing that there is a real risk of serious harm because conditions amount to inhuman or degrading treatment as within paragraphs 339C and 339CA(iii) of the Immigration Rules / Article 3 of the European Convention on Human Rights (ECHR)
- that the security situation is such that there are substantial grounds for believing there is a real risk of serious harm because there exists a serious and individual threat to a civilian's life or person by reason of indiscriminate violence in a situation of international or internal armed conflict as within paragraphs 339C and 339CA(iv) of the Immigration Rules
- a person is able to obtain protection from the state (or quasi state bodies)
- a person is reasonably able to relocate within a country or territory
- a claim is likely to justify granting asylum, humanitarian protection or other form of leave, and
- if a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

## Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), Researching Country Origin Information – Training Manual, 2013. Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a terms of reference which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the 'cut-off' date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available. Sources and the information they provide are carefully considered before inclusion. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate and balanced, which is compared and contrasted where appropriate so that a comprehensive and up-to-date picture is provided of the issues relevant to this note at the time of publication.

The inclusion of a source is not, however, an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a footnote. Full details of all sources cited and consulted in compiling the note are listed alphabetically in the bibliography.

### Feedback

Our goal is to provide accurate, reliable and up-to-date COI and clear guidance. We welcome feedback on how to improve our products. If you would like to comment on this note, please email the Country Policy and Information Team.

### Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the gov.uk website.

# Contents

**Assessment** ..... **6**
1. Introduction ..... 6
1.1 Basis of claim ..... 6
1.2 Points to note ..... 6
2. Consideration of issues ..... 6
2.1 Credibility ..... 6
2.2 Exclusion ..... 7
2.3 Convention reason(s) ..... 7
2.4 Risk ..... 8
2.5 Protection ..... 16
2.6 Internal relocation ..... 17
2.7 Certification ..... 17
**Country information** ..... **18**
3. Gülenist movement ..... 18
3.1 Fettulah Gülen and the history of the Gülenist movement ..... 18
3.2 Aims of the Gülenist movement ..... 20
3.3 Membership and number of adherents ..... 23
4. Coup attempt of 2016 ..... 24
4.1 Events of 15 July 2016 ..... 24
4.2 State of emergency ..... 24
4.3 Alleged involvement of the Gülenist movement ..... 25
4.4 Gülenist movement declared a terrorist organisation ..... 26
5. Legislation ..... 26
5.1 Freedom of political opinion, assembly and expression ..... 26
5.2 Anti-terrorism legislation ..... 27
5.3 Use of anti-terrorism legislation ..... 27
5.4 Use of Law No. 7262 ..... 29
6. Government action against specific groups ..... 31
6.1 Introductory information ..... 31
6.2 AKP members ..... 33
6.3 Armed forces ..... 33
6.4 Bylock users and those with other risk factors ..... 36
6.5 Civil servants and diplomats ..... 38
6.6 Civil society and human rights defenders ..... 39
6.7 Dissidents ..... 43

6.8 Education and academia ..... 43
6.9 Family members of suspected Gülenists ..... 43
6.10 Journalists and freedom of expression ..... 46
6.11 Judges and lawyers ..... 48
6.12 Police ..... 50
6.13 Suspected Gülenists outside Turkey ..... 50
7. Other government action ..... 52
7.1 Dismissals and suspensions ..... 52
7.2 Closure of businesses ..... 52
7.3 Enforced disappearance ..... 53
7.4 Travel restrictions ..... 54
8. Arrests and detention ..... 55
8.1 Introduction ..... 55
8.2 Incidences of re-arrest ..... 56
8.3 Pre-trial detention ..... 56
8.4 Treatment in detention ..... 58
8.5 Action to address ill-treatment ..... 61
8.6 Detention facilities ..... 62
9. Judical processes ..... 63
9.1 Independence of the judiciary ..... 63
9.2 Due process ..... 65
9.3 Access to lawyers ..... 65
9.4 Trials ..... 66
9.5 Charges and sentencing ..... 67
9.6 Political prisoners ..... 69
9.7 E-Devlet and UYAP ..... 70
10. Avenues of redress ..... 71
10.1 Constitutional Court ..... 71
10.2 Inquiry Commission on the State of Emergency Measures ..... 72
11. Societal difficulties ..... 75
11.1 Stigma ..... 75
**Annex A ..... 77**
**Terms of Reference ..... 78**
**Bibliography ..... 79**
Sources cited ..... 79
Sources consulted but not cited ..... 82
**Version control ..... 83**

# Assessment

Updated: 2 February 2022

## 1. Introduction

### 1.1 Basis of claim

1.1.1 Fear of persecution or serious harm by state actors due to a person's actual or perceived involvement with the Gülenist movement.

Back to Contents

### 1.2 Points to note

1.2.1 For the purposes of this note, the term 'Gülenist movement' is used. However, the movement is known in Turkey as 'Hizmet' ('Service') and is considered by Turkey as a terrorist organisation known as the 'Fetullahçı Terör Örgütü (FETÖ)' ('Fethullah Terrorist Organization') and may also be referred to as the 'Parallel Devlet Yapılanması (PDY)' (the 'Parallel State Structure').

## 2. Consideration of issues

### 2.1 Credibility

2.1.1 For information on assessing credibility, see the instruction on Assessing Credibility and Refugee Status.

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants).

2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the Asylum Instruction on Language Analysis).

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Back to Contents

## 2.2 Exclusion

2.2.1 Decision makers must consider whether there are serious reasons for considering whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.

2.2.2 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection (which has a wider range of exclusions than refugee status).

2.2.3 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instructions on Exclusion under Articles 1F and 33(2) of the Refugee Convention, Humanitarian Protection and Restricted Leave.

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Back to Contents

## 2.3 Convention reason(s)

2.3.1 The Gülenist movement is a term used to describe a worldwide cultural and educational initiative which is rooted in the values of Islam and inspired by Mr Fethullah Gulen. It is not a political party, neither is it a religion. The Gülenist movement is believed to have a large number of sympathisers in Turkey; some estimate the number to be in the millions (see Gülenist movement).

2.3.2 Members of the movement have founded a wide range of organisations, including hundreds of schools, tutoring centres, hospitals and relief agencies. Sympathisers and graduates of Gülenist institutions are believed

to have held influential positions in institutions from the police and security services to the judiciary (see Gülenist movement).

2.3.3 Fethullah Gülen has long been accused by leading Justice and Development Party (AKP) lawmakers and President Erdoğan of forming and heading a terrorist organisation with the aim of toppling the Turkish government through insiders in the police and other state institutions (see Alleged involvement of the Gülenist movement and Gülenist movement declared a terrorist organisation).

2.3.4 While the Gülenist movement is not a political party, given the Turkish authorities' views of it, those whose claim is based on actual or perceived involvement with the movement should be regarded as having a 'political opinion' for the purposes of a Refugee Convention reason.

2.3.5 However, establishing links to the movement is not sufficient to be recognised as a refugee. The question to be addressed in each case is whether the particular person will face a real risk of persecution on account of their actual or perceived membership of the movement.

2.3.6 For further guidance on Convention reasons see the instruction on Assessing Credibility and Refugee Status.

Back to Contents

## 2.4 Risk

### a. State treatment

2.4.1 The coup attempt of 15 July 2016 was attributed by the Turkish government to members of the Gülenist movement (see Gulenists held responsible for coup attempt).

2.4.2 In May 2016 the Turkish Government declared that the Gülenist movement was an illegal terrorist organisation and in June 2017 the Supreme Court of Appeal ruled that the Gülenist movement is an armed terrorist organisation. This is broadly equivalent to the UK's proscribing of terrorist organisations and Turkish courts are likely to rule accordingly (see Gülenist movement declared a terrorist organisation and Annex A).

2.4.3 A state of emergency was put in place in Turkey a few days after the coup attempt, and this was renewed every three months until it was ended on 18 July 2018. Under the state of emergency, Turkey derogated from its obligations under the European Convention on Human Rights and the International Covenant on Civil and Political Rights. When the state of emergency ended, all derogations were revoked but Parliament has permanently adopted most of the 36 statutory decrees issued under the state of emergency (see State of emergency).

2.4.4 Under Turkish law, it is a criminal offence to establish or command an armed terrorist organisation or to belong to such an organisation, but clear definitions of what constitutes a terrorist organisation are lacking. As a result, the law is open to a very broad interpretation and the lack of clarity is used by the Turkish government to target opponents, particularly lawyers, human rights defenders, journalists and opposition politicians. Freedom of political opinion, assembly, association and expression are permitted by law, but the

government regularly invokes the anti-terrorism law to criminalise these freedoms. The authorities referred more than 10,000 social media accounts to judicial authorities for alleged terrorist propaganda in the first quarter of 2019, with more than 3,600 users facing legal action for their social media activities. In December 2020, the president of Turkey's Human Rights Association stated that approximately 300,000 people are sued each year for membership of a terrorist organisations (see Use of anti-terrorism legislation).

2.4.5 In September 2021, Turkey's Interior Minister announced that a total of 622,646 people had been the subject of investigations and 301,932 had been detained, while 96,000 others had been jailed due to alleged links to the Gülen movement since the failed coup. The minister said there were 25,467 people in Turkey's prisons who were jailed on alleged links to the movement (see Introductory information and Introduction).

2.4.6 Turkish authorities have stated that a distinction is made according to the level of involvement a person may have with the Gulen movement. In March 2020, the Court which investigates the appeals of suspected Gulenists identified these levels as follows:

1. The people who provide the Gülen movement with (financial) support driven by good intentions.

2. A loyal group of people who work in Gülen-related organisations and are familiar with the ideology of the Gülen movement.

3. Ideologues who embrace and propagate the Gülen ideology in their surroundings.

4. Inspectors who monitor the various forms of service provided by the Gülen movement.

5. Officials responsible for creating and implementing the policies of the Gülen movement.

6. An elite group that facilitates contact between the different layers and dismisses people from their positions.

7. The seventeen people who were directly chosen by Gülen and are at the top of the Gülen movement.

The Court added that those from the third level should be prosecuted. Several sources question to what extent the subdivisions are applied. Those most likely to be targeted may be those in a position of authority or influence such as police officers, army officers, diplomats, and lawyers, but actions taken can seem arbitrary and unpredicatable (see Introductory information).

2.4.7 In December 2020, the UN High Commissioner for Human Rights expressed 'serious concern' about intimidation and harassment of, and violence towards, human rights defenders, journalists, academics, judges and the media, and urged Turkey to stop detaining and prosecuting them (see Introductory information).

2.4.8 In December 2020, Turkey's parliament passed a new law, number 7262, on 'the prevention of financing of the proliferation of weapons of mass destruction.' The definition of terrorism within the legislation is ambiguous,

and the law applies to the fund-raising of all civil society associations, regardless of their aims, rather than targeting those which may be more vulnerable to financing by terrorists. This has raised concerns of a 'chilling' effect on civil society. A further legal amendment means that the authorities can remove an association's board members and replace them with trustees who do not need the approval of the association's members (see Law No. 7262 and Use of Law No. 7262).

2.4.9 Since the coup attempt, the environment for civil society has become more difficult, with dozens of human right defenders facing criminal investigation and prosecution. By 2020, more than 1,500 NGOs had been closed on terrorism-related grounds, mainly for alleged involvement with the Gulenist movement. In 2020, the Council of Europe's Commissioner for Human Rights expressed concern about politicians labelling human rights defenders as terrorists and the courts misusing criminal proceedings to silence them. In October 2020, Council of Europe's Parliamentary Assembly published a resolution which called for an end to the 'judicial harassment' of human rights defenders. In June 2021, the UN Special Rapporteur on the situation of human rights defenders stated that she had expressed her concern to the Turkish government regarding 14 human rights defenders serving prison sentences of 10 years or more, one of whom had died in custody in August 2020 while on hunger strike to demand fair trials for herself and her colleagues (see Civil society and human rights defenders and Charges and sentencing).

2.4.10 By July 2021, the government had removed more than 130,000 civil servants from their jobs since the coup attempt on the grounds of alleged links to the Gulenist movement. Dismissed civil servants are evicted from publicly-owned houses within 15 days and they will be unable to return to government service (see Civil servants and diplomats).

2.4.11 By May 2021, over 6,000 academics had been dismissed for perceived Gulenist, PKK or left-wing views. Over 3,000 schools and universities have been closed on the same grounds (see Education and academia and Introduction).

2.4.12 An estimated 37 to 79 journalists had been imprisoned by the end of 2020; the majority were charged with anti-government reporting or ties to the Gulenist movement or the PKK and viewed as terrorists, which led to limited access to them while in detention. 119 media outlets were closed under state of emergency decrees following the coup attempt; this number included newspapers, magazines, television channels, radio stations and news agencies. Some estimates suggest that the government has closed more than 200 media outlets since 2016. Those journalists suspected of ties to the Gulenist movement may be prevented from obtaining a press card, which means that their activities are limited (see Journalists and freedom of expression).

2.4.13 Following the coup attempt, nearly one-third of the judiciary was suspended, detained or dismissed by the government on the grounds of suspected involvement with the Gulenist movement. More than 1,500 lawyers have been prosecuted and 441 sentenced to imprisonment on terror-related charges. Some lawyers are reluctant to take the cases of suspected

Gulenists due to fear of government reprisal, such as prosecution. In 2020, the Council of Europe's Commissioner for Human Rights raised concerns about lawyers, finding that they had been targeted both in the exercising of their profession and as human rights defenders. In October 2020, the Council of Europe Parliamentary Assembly condemned arrests of lawyers and the criminalisation of their activities, expressing concern that lawyers detained on terrorism-related charges had resorted to hunger strikes to demand a fair trial (see Judges and lawyers).

2.4.14 By June 2020, approximately 6,000 former military personnel had been arrested on suspicion of involvement with the coup attempt. By July 2021, over 23,000 military officers had been dismissed due to alleged links with the Gulenist movement; this number included officers of all ranks (see Armed forces).

2.4.15 The police force is one of the 3 professions most likely to be targeted by the authorities for suspected involvement in the Gulenist movement. By December 2020, more than 31,000 police officers had been dismissed from their jobs since the coup attempt on the grounds of suspected involvement with the Gulenist movement (see Police).

2.4.16 An alleged involvement with the Gulenist movement may be used by the authorities to target dissidents. Some senior AKP members who had previously had connections with the Gulenist movement, were able to avoid prosecution due to their political connections (see Dissidents and AKP members).

2.4.17 By September 2020, the government had seized or appointed administrators for approximately 1,000 businesses accused of having ties to the Gulenist movement. Such businesses are worth an estimated $12 billion (see Closure of businesses).

2.4.18 A further factor which may attract the adverse attention of the authorities is having the ByLock app on a mobile 'phone as it is seen as having been used by Gulenists. In December 2017, it came to light that nearly 11,500 people had had the app downloaded onto their 'phones automatically after downloading a different app; this led to the release of nearly 1,000 detainees. By March 2019, 95,310 people had been charged with alleged use of the ByLock application, yet 34,837 defendants had not posted any message using the application. In July 2020, 2 courts confirmed in 2 separate rulings that having downloaded the ByLock app was evidence of links with the Gulenist movement. However, in July 2021, the European Court of Human Rights ruled that use of the ByLock application is not an offense in itself and does not constitute sufficient evidence for arrest. The ByLock copyright holder is currently detained, charged with terror-related offences (see Bylock users and those with other risk factors).

2.4.19 Other factors which may lead to suspicion of involvement in the Gulenist movement include using Asya Bank, which was closed by the government due to suspected links with the Gulenist movement; holding a subscription to Zaman newspaper; having books about the Gulenist movement; having attended, or sent children to, a Gulenist school; membership of a trade union or association linked to the movement; employment with a company or NGO

linked to the Gulenist movement; rapid promotion in the public service or military; having donated money to a Gulenist NGO; police or secret service reports (not made public); analysis of social media contacts and internet browsing history; frequent travel to Pennsylvania, where Fetullah Gulen lives, or information received from colleagues or neighbours (see Bylock users and those with other risk factors and Journalists and freedom of expression).

2.4.20 The government publishes lists of those persons dismissed from employment on the grounds of alleged involvement with the Gulenist movement and identifies them in the state social insurance system, which can make it much more difficult for some to find alternative employment in either the public or private sectors and can lead to be stigmatisation. Those dismissed may lose their income, social benefits, medical insurance and retirement benefits (see Dismissals and suspensions).

2.4.21 In July 2020, the Ministry of Justice announced that Turkey had asked 105 countries to extradite a total of 807 Gulenists. By March 2021, 116 persons had been extradited by 27 countries. 40 of these individuals were subjected to enforced disappearance. There are reports that those extradited on suspicion of involvement with the Gulenist movement may be subjected to long prison sentences, torture and ill treatment (see Suspected Gülenists outside Turkey).

2.4.22 Between 2016 and the end of 2020, there had been about 24 cases of enforced disappearance. 2 men who reappeared in police custody in Ankara testified to having been abduced, tortured and forced to sign statement confessing to links with the Gulenist movement. There have been no investigations into these cases and the police deny the claims (see Enforced disappearance).

2.4.23 The constitution provides for freedom of internal movement and foreign travel but the government restricts foreign travel for some citizens accused of links to the Gulenist movement. The authorities canceled more than 230,000 passports after the coup attempt and reported an unknown number of passports as lost or stolen. Alleged Gulenists did not necessarily have to be charged or convicted before having a passport invalidated; those with a legal investigation or lawsuit pending could find their passports invalidated. Relatives of suspected Gülenists have also had their passports cancelled. Suspected Gulenists abroad reported being unable to renew their passports or have passports issued for their children at Turkish Consulates, and so had to return to Turkey at the risk of arrest. In June 2020, passport restrictions were lifted for 28,075 persons, in addition to those lifted for 57,000 persons in 2019, but it is unclear how many people remain unable to travel (see Travel restrictions).

2.4.24 The government also uses anti-terrorism legislation to target family members of suspected Gulenists. For example, travel was restricted for extended family members of tens of thousands of persons accused of links to the Gulenist movement. There have been cases of the wives of suspected Gulenists being arrested when the husband cannot be found; however, it is not clear how common this may be. Relatives of high-ranking Gulenists are

at greatest risk of adverse attention (see Family members of suspected Gülenists).

2.4.25 Under anti-terrorism legislation, police may hold an individual for up to 12 days without charge. Pre-trial detention was used broadly and as a form of punishment, particularly for those suspected of terrorism. Following the passing of a law in 2018, in-person reviews took place every 90 days, rather than every 30 days, as had been the case previously. As of July 2020, 48,752 persons were in pre-trial detention. In February 2021, the Turkish Constitutional Court found that there had been no violations of human rights when a former news editor arrested under terrorism charges for membership in the Gülen movement was held in remand detention for four-and-a-half years. However, he was released promptly following a ruling by the European Court of Human Rights in April 2021. People under investigation risk being rearrested (see Incidences of re-arrest and Pre-trial detention).

2.4.26 Following a visit to Turkey in May 2019 by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the CPT had the impression that the severity of alleged ill-treatment of detainees had decreased compared with findings of 2017, but nevertheless, the frequency of allegations remained 'at a worrying level' (see Treatment in detention).

2.4.27 There were reports that those with alleged affiliation to the Gulenist movement were more likely to be subjected to mistreatment in detention, including long periods of solitary confinement, unnecessary strip searches, severe limitations on outdoor/out-of-cell activity, denial of access to prison libraries and slow/no access to medical treatment. Visitors of those accused of terror-related crimes were also subjected to abuse, including limited access to family and degrading treatment by prison guards, such as strip searches. There were credible reports of torture of former employees of the Ministry of Foreign Affairs, which the police denied (see Treatment in detention).

2.4.28 There were reports that Prosecutors do not always conduct meaningful investigations into allegations of torture and ill-treatment in detention and that there is a culture of impunity for members of the security forces and public officials involved. In 2019, the government opened 2,767 investigations into allegations of torture and mistreatment. Of those, 1,372 resulted in no action being taken by prosecutors, 933 resulted in criminal cases, and 462 in other decisions. The government did not release data on its investigations into alleged torture. The Human Rights Association received 573 complaints of torture from people while in police custody or in extracustodial locations from January to November 2020. In June 2020, the Minister of Interior reported that the ministry had received 396 complaints of torture and maltreatment since October 2019. CHP, an opposition party, alleged that 223 persons reported torture or inhuman treatment from May to August 2020 (see Action to address ill-treatment).

2.4.29 The Council of Europe's CPT found that police custody facilities were generally clean and in a good state of repair but were unsuitable for detention of longer than a few days. Many cells lacked natural light and there were not arrangements for detainees to access fresh air. In addition, cells

were cramped and many detainees claimed to have received no or insufficient food, water and hygiene products (see Detention facilities).

2.4.30 The constitution provides for the right to a fair public trial. However, in February 2020, the Human Rights Commissioner for the Council of Europe reported that the administration of justice and judicial independence had deteriorated 'significantly' in recent years, particularly as a result of the state of emergency. The Commissioner noted an increase in political influence and the erosion of judicial independence. Guarantees of fair trial have been diminished for particular groups, particularly those accused of involvement with the Gulenist movement. In October 2020, the Council of Europe Parliamentary Assembly published a resolution about these issues (see Independence of the judiciary).

2.4.31 Due process guarantees were largely eroded during the state of emergency and these rights have not been restored. Due process and evidentiary standards are particularly lacking in cases of suspected terrorism, with defendants held in lengthy pretrial detention for periods lasting up to seven years. In terrorism-related cases, the authorities often failed to inform lawyers of the details of detentions within the first 24 hours, as required by law. Lawyers also reported impeded access to clients' case files for weeks or months, which hindered their ability to defend their clients. The authorities used secret evidence or witnesses which the defence were unable to challenge, particularly in cases related to national security (see Due process, Access to lawyers and Trials).

2.4.32 The Gulenist movement is seen as a terrorist organisation in Turkey, and alleged members are therefore sentenced under anti-terrorism legislation. The government does not consider alleged Gulenists to be political prisoners. A very small number have been accused of actually participating in the attempted coup. Court decisions are generally based on alleged membership of the movement and, for public servants, inappropriately obtaining public office. Someone seen as having a lower profile in the Gulenist movement, such as using Asya Bank or holding a subscription to Zaman newspaper may receive a more lenient punishment than someone with a more active involvement, such as the director of a Gulenist news platform. However, some judges may not make a distinction concerning levels of involvement. By July 2021, more than 2,500 life sentences had been handed down to alleged Gulenists (see Charges and sentencing and Political prisoners).

2.4.33 In conclusion, the Turkish authorities have stated that a distinction is made according to a person's level of involvement with the Gulen movement, with those closest to Fetullah Gulen at greater risk of punishment than those with a lower level of involvement (see paragraph 2.2.1). The evidence suggests that those particularly at risk of the adverse attention of the authorities include firstly the military, police, judiciary and diplomats; and secondly, the media, teachers and academics, and human rights defenders. Simply having the ByLock app on a 'phone can be seen as sufficient evidence to prosecute. Accusations of Gulenism may also be used to target government critics in general, and therefore, a lack of involvement in the Gulenist movement cannot be seen as determinative of risk. Also, punishments handed out by

courts can appear arbitrary; the severity does not always vary according to a person's perceived level of involvement, and persons with the same/very similar profiles can be treated very differently by the authorities; it is therefore hard to predict how a person may be treated. Each case must be considered in its own facts and decision makers should consider that even an individual with a low profile in the Gulenist movement may face persecution as punishments can be arbitrary.

2.4.34 Perceived Gulenists are at risk of enforced disappearance, although this is relatively unlikely, with 24 such cases since 2016. Suspected Gulenists are at risk of pre-trial detention being used as a form of punishment. There has been a rise in allegations of ill-treatment in detention over the last 4 years, although the situation has improved since 2017; those suspected of Gulenism are one of the groups at risk. Perceived Gulenists are also at increased risk of due process guarantees not being followed in detention and a lack of judicial independence, due process and acceptable evidentiary standards during trials.

2.4.35 The Supreme Court has ruled that the Gulenist movement is an armed terrorist organisation. It is legitimate for the Turkish state to take action against those involved in, and those who actively supported, a coup attempt against the democratically-elected government and to use all lawful and proportionate means to do so. A definition given in July 2020 by the Criminal Chamber of the Constitutional Court indicated that those who support the aims and ideology of the organisation, including those who work in Gulen related organisations, but don't create policies or proselytise, would not be subject to criminal prosecution. The onus is on the person to show that on the particular facts of their case, they are at real risk of mistreatment and that this amounts to persecution on the basis of their actual or imputed political beliefs.

2.4.36 Those fleeing prosecution or punishment for a criminal offence are not normally refugees. However, prosecution may amount to persecution if it involves victimisation in its application by the authorities; for example, if it is the vehicle or excuse for persecution of a person or if only certain groups are prosecuted for a particular offence and the consequences of that discrimination are sufficiently severe. Punishment which is cruel, inhuman or degrading (including punishment which is out of all proportion to the offence committed) may also amount to persecution.

2.4.37 In order for the person to qualify on the basis of a breach of Article 6 of the European Convention on Human Rights (right to a fair trial), they need to demonstrate a real risk of a flagrant violation of that right. Decision makers should consider whether a person has demonstrated that the alleged treatment in the country of return would be so serious as to amount to a flagrant violation or a flagrant denial of the protected right. For further information, see the Asylum Instruction on Considering human rights claims.

2.4.38 Family members of perceived Gulenists may also be at risk of the adverse attention of the authorities, with arrest and the cancellation of passports being a possibility. The risk to a family member generally increases according to the relative's level of involvement with the Gulenist movement.

2.4.39 For further guidance on assessing risk, see the instruction on Assessing Credibility and Refugee Status.

### b. Societal treatment

2.4.40 The names of those accused of membership of the Gulenist movement are published, which may lead to considerable societal stigma and restrictions (see Stigma).

2.4.41 Many employees dismissed from the public sector on the grounds of involvement with the Gulenist movement have been unable to find employment in the private sector due to suspicions about their activities and stigma; employers are not always inclined to employ alleged Gülenists for fear of themselves being regarded as supporters or members of the Gülenist movement. However, others have been able to find private-sector employment. Dismissal from employment does not meet the threshold of persecution (see Dismissals and suspensions and Stigma).

2.4.42 Family members of Gulenists may need to explicitly distance themselves from their relative's involvement in the movement in order to avoid stigma (see Family members of suspected Gülenists).

2.4.43 For further guidance on assessing risk, see the instruction on Assessing Credibility and Refugee Status.

Back to Contents

## 2.5 Protection

2.5.1 Where the person has a well-founded fear of persecution from the state they will not, in general, be able to obtain protection from the authorities.

2.5.2 Detainees may apply to the Constitutional Court for redress in cases of alleged human rights violations. However, proceedings were slowed by a backlog at the Court and prosecutors and lower courts resisted complying with the judgments and caselaw of the Constitutional Court, which diminished its effectiveness. As of September 2020, the Constitutional Court had received 30,584 applications and found rights law violations in 20 percent of applications (see Constitutional Court).

2.5.3 Citizens who have exhausted all domestic remedies have the right to apply for redress to the European Court of Human Rights (ECtHR); following the coup attempt, applications from Turkey accounted for 36% of the caseload for the ECtHR. However, the government has not implemented 60% of ECtHR decisions in the last 10 years (see Constitutional Court).

2.5.4 In order to prevent the ECtHR from being overwhelmed, Turkey established an Inquiry Commission on the State of Emergency in order to provide a level of judicial review to those dismissed by decree during the state of emergency period. As at 3 July 2020, 126,300 applications had been made to the Commission, and decisions had been issued in 108,200 cases. Of those, 96,000 were rejected – meaning the original decree decision was upheld – and in 12,200 cases the application for appeal was accepted. There is no requirement for the Commission to provide reasoning for the decisions made. There is concern that the judiciary is too politicised to provide an effective remedy, and that the high rate of rejection of cases by

the Commission is proof of this. In addition, its members were appointed by the same authorities who adopted the emergency measures. Complainants cannot be reinstated in the same institutions in which they served before being dismissed, and will not receive compensation, regardless of the commission's decision. Those applications rejected by the Commission have the opportunity to proceed through the court system to the Constitutional Court, after which they could theoretically apply to the ECtHR (see Inquiry Commission on the State of Emergency Measures).

2.5.5 For further guidance on assessing the availability of state protection, see the instruction on Assessing Credibility and Refugee Status.

Back to Contents

## 2.6 Internal relocation

2.6.1 Where the person has a well-founded fear of persecution or serious harm from the state, they are unlikely to be able to relocate to escape that risk.

2.6.2 For further guidance on internal relocation see the instruction on Assessing Credibility and Refugee Status.

Back to Contents

## 2.7 Certification

2.7.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

2.7.2 For further guidance on certification, see Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 (clearly unfounded claims).

Back to Contents

# Country information

Section 3 updated: 7 October 2021

## 3. Gülenist movement

### 3.1 Fettulah Gülen and the history of the Gülenist movement

3.1.1 Deutsche Welle (DW) published an article in April 2018 which stated:

'Born in 1941, [Fetthulah] Gulen was a simple imam for the first half of his life. In an online bio published by the Gulen movement, it says that after retiring from preaching in 1981, his focus shifted from religious to social activities, many of which involved launching new enterprises, particularly media ventures and educational projects - areas which at the time were opening up to privatization.

'Gulen's influence in civil society grew steadily throughout the 1980s and 1990s - as did his following: Many of those whom Gulen promoted in his organizations or whose education he funded with his schools have reportedly come to feel a personal debt to the divisive preacher.

'In 1999, Gulen moved to the US state of Pennsylvania and has been living there ever since.

'While his supporters cite health reasons for the septuagenarian's residence in the US, others would classify Gulen's decision to move there as self-imposed exile: Gulen left Turkey at a time when he was under investigation for undermining the government - which at that point was still firmly under control of Turkey's secular elite and backed up by the military. In 2000, he was found guilty, in absentia, of scheming to overthrow the government by embedding civil servants in various governmental offices…'[1]

3.1.2 The article continued:

'After being re-elected in 2007 with a stronger mandate, the AKP under Erdogan's leadership grew more outspoken with its Islamist ideology. Within a year, it would reverse the charges against Gulen, signaling a willingness to cooperate with the cleric and his global movement:

'Gulen had built up an impressive business empire in the years since his self-imposed exile. His network of media outlets in Turkey and abroad had become increasingly powerful; his schools were grooming the next generation of pious yet entrepreneurially minded followers in Turkey; and his banks facilitated the movement and transfer of funds between the Western world and the Middle East, where some countries' financial affairs are governed by Islamic principles.

'Gulen's ties also extended to Central Asia, where former Soviet republics like Turkmenistan, Azerbaijan, Uzbekistan as well as other nations with Turkic languages welcomed any kind of aid, while feeling a particularly strong sense of kinship with Turkey. Anthropologist Kristina Dohrn, who has been studying the movement for almost ten years in Germany, told DW that

[1] DW, From ally to scapegoat: Fethullah Gulen, the man behind the myth, 6 April 2018

the movement evolved into “a global, conservative network with a strong focus on education.”

‘All the while, Gulen already had thousands of devout followers working in government positions in Turkey itself - and that network was only growing. His opponents viewed this as a growing underground army, while his supporters stated they were merely trying to increase democracy and dialogue between various social groups through government channels…

‘Doing business with Gulen was not necessarily an optimal choice for Erdogan in his increasingly authoritarian ways, but in the face of the preacher's influence in Turkey and beyond, it was becoming an obvious marriage of convenience. Gulen had the right infrastructures in place for Erdogan's growing ambition. Meanwhile, many of Gulen's business dealings were seen as less than transparent, so a partnership to have the government protect his business interests likely seemed equally opportune to him.

‘Details of the extent of the collaboration between the two are somewhat imprecise; however, it has been noted that high-ranking Turkish government officials have visited the cleric at his compound in Saylorsburg, Pennsylvania, on multiple occasions after Gulen's official acquittal.

‘Gulen's publications and television stations were suddenly seen supporting Erdogan's 2011 election bid - despite the fact that his organization had always maintained that it didn't seek involvement in any political activities. With Gulen's support, the AKP managed to win yet again that year, with a result that was just shy of an absolute majority in terms of percentage…’[2]

3.1.3 DW went on to outline a split between Erdogan and Gulen:

‘Despite winning the greatest mandate yet in the 2011 elections, Erdogan's AKP suffered several setbacks just over a year into its third consecutive government. Having stamped out corruption in old government structures, the AKP itself was suddenly embroiled in a corruption affair all the way to the top, including Erdogan's own family.

‘The government claimed that this scandal, however, had allegedly been masterminded by Gulen, following Erdogan's decision to curb the preacher's boundless influence. Erdogan's government also closed down Gulen's network of university prep schools in Turkey at the same time, wanting to limit whatever power he had all the way in Pennsylvania.

‘The 2013 corruption revelations, one of the biggest scandals in modern Turkish history, in turn inspired the Gezi Park protests, which Erdogan quelled with an iron fist. Not only did he fight protesters with violence, resulting 22 deaths, but he also turned on his erstwhile ally Gulen in absolute terms, accusing him for the second time of trying to infiltrate and overthrow the government by supporting the protests. The image of Gulen as a subversive Islamist was thus cemented - an enemy of the state, whom Erdogan accused of fashioning a “state within a state” or “parallel state.”’[3]

[2] DW, From ally to scapegoat: Fethullah Gulen, the man behind the myth, 6 April 2018
[3] DW, From ally to scapegoat: Fethullah Gulen, the man behind the myth, 6 April 2018

3.1.4 The article continued to explain that by 2015:

'… Erdogan wanted to make sure that the government would flex its muscles against Gulen, whose news outlets had by now turned against the AKP government and were trying to undermine his leadership; several of Gulen's enterprises in Turkey were shut down at a rate that has exponentially increased in the last three years. Following the July 15 [2016] coup attempt, Erdogan closed down all of Gulen's media outlets and other businesses in Turkey.'[4]

Back to Contents

## 3.2 Aims of the Gülenist movement

3.2.1 The website Gulen Movement, which provides information about the Gulenist movement, explained:

'The Gülen movement (Hizmet in Turkish) is a worldwide civic initiative rooted in the spiritual and humanistic tradition of Islam and inspired by the ideas and activism of Mr. Fethullah Gülen.

'It is a faith-inspired, non-political, cultural and educational movement whose basic principles stem from Islam's universal values, such as love of the creation, sympathy for the fellow human, compassion, and altruism. The movement is not a governmental or state sponsored organization.'[5]

3.2.2 The website fgulen.com, which claims to be the official website of Fetullah Gulen, provided the following information, dated April 2010:

'Fethullah Gülen is an authoritative mainstream Turkish Muslim scholar, thinker, author, poet, opinion leader and educational activist who supports interfaith and intercultural dialogue, science, democracy and spirituality and opposes violence and turning religion into a political ideology. Fethullah Gülen promotes cooperation of civilizations toward a peaceful world, as opposed to a clash…

'We believe Mr. Fethullah Gülen and the civil society movement inspired by his views, which is known as the Fethullah Gülen movement, are significant and deserve attention for the following reasons:

- **Fethullah Gülen's Authority and Impact:** Mr. Fethullah Gülen is known and respected among Turkish Muslims as well as Muslims from around the world as an authoritative mainstream Muslim scholar of the Sunni tradition, to which 87–90% of the world's Muslim population belongs. He is also a thinker, a poet, a prolific author, an educational activist and an opinion leader. His readership in Turkey is estimated at several million. His influence outside Turkey is growing daily as his works are translated into many languages including English, Arabic, Russian, German, Spanish, Urdu, Bosnian, Albanian, Malay and Indonesian. In addition to printed publications, his ideas are accessible to an ever increasing world population through private radio and television networks sympathetic to his views.

[4] DW, From ally to scapegoat: Fethullah Gulen, the man behind the myth, 6 April 2018
[5] Gulen Movement, What is the Gülen Movement, no date

- **Public Stance against Violence, Terror and Suicide Attacks:** Fethullah Gülen has been recognized for his consistent stance against the combination of violence and religious rhetoric….
- **Pioneer in Interfaith Dialogue:** Fethullah Gülen has been actively promoting interfaith and intercultural dialogue for over a decade, starting long before the tragedy of 9/11. In Turkey, he has been credited with bringing about a positive atmosphere in relationships between the majority Muslim population and the various religious minorities …
- **For Cooperation of Civilizations:** Fethullah Gülen promotes the cooperation of civilizations as opposed to clash, through dialogue, mutual understanding and gathering around shared values. As a civil society opinion leader he supports Turkish efforts toward joining the European Union and says that this relationship will benefit both parties.
- **Emphasis on the Spiritual Dimension of Faith:** Owing in part to his early education in the spiritual discipline, Fethullah Gülen is known for his emphasis on Islamic spirituality (known in the West as Sufism), and the embracing attitude towards fellow human beings that this emphasis brings. …
- **Science and Faith in Harmony:** Fethullah Gülen sees science and faith as not only compatible but complementary. …
- **Intellectual Dimension:** He is well-versed in the leading thinkers of the Western tradition and can converse with them comfortably through his writings and addresses.
- **Pro-Democracy:** Fethullah Gülen recognizes democracy as the only viable political system of governance. He denounces turning religion into a political ideology, while encouraging all citizens to take an informed and responsible part in political life of their country. ….
- **Solutions to Social Problems Working on the Ground:** The most striking feature of Fethullah Gülen's life is the fact that his vision and ideas have not remained rhetorical but instead have been realized globally as civic projects. By some estimates, several hundred educational organizations such as K-12 schools, universities, and language schools have been established around the world inspired by Fethullah Gülen and sponsored by local entrepreneurs, altruistic educators and dedicated parents. Notable examples of such schools include those in southeast Turkey, Central Asia, several countries in Africa, the Far East and Eastern Europe. … Especially in conflict-ridden regions such as the Philippines, southeast Turkey and Afghanistan, these institutions help reduce poverty and increase educational opportunities, which in turn decrease the appeal of terrorist groups ….
- **Other Civil Society Projects:** Other civic projects inspired by Fethullah Gülen's ideas and encouragement include relief

organizations, sustainable development organizations, media organizations, professional associations, and medical institutions.[6]

3.2.3 Middle East Eye published an article in July 2016 which gave an overview of the Gulen movement:

'"The Gulen movement differentiates itself from other Islamic movements by stressing the importance of ethics in education, media, business, and public life," wrote Gurkan Celik, author of "The Gulen Movement: Building Social Cohesion through Dialogue and Education," which presents a very positive review of Gulen's ideology and activities.

'The Gulen movement says it opposes using Islam as a political ideology, and presents itself as a moderate force advocating cooperation and dialogue.

'It is active in the fields of education, dialogue, relief work and media in more than 160 countries around the world, according to the Centre for Hizmet Studies, a London-based non-profit organisation affiliated with Gulen.

'Several Gulen-affiliated non-profit groups, including the Journalists and Writers Foundation and the Alliance for Shared Values, have been established, while the movement also organises seminars and conferences.'[7]

3.2.4 The same article stated:

'But beyond establishing schools, charities and non-governmental organisations, Gulenist sympathisers also have a "dark side," Turkish columnist Mustafa Akyol recently wrote.

'Media reports and investigations have shown the Gulenist to be behind a "covert organisation within the state, a project that's been going on for decades with the aim of establishing bureaucratic control over the state," Akyol wrote.

'Last year, Ankara hired law firm Amsterdam & Partners LLP to investigate the global activities of the Gulen movement, and expose alleged unlawful acts.

'"The activities of the Gulen network, including its penetration of the Turkish judiciary and police, as well as its political lobbying abroad, should concern everyone who cares about the future of democracy in Turkey," founding partner Robert Amsterdam said at the time.'[8]

3.2.5 Middle East Eye added that 'A central way Gulen has extended his influence is by establishing schools inside Turkey and gradually setting up public and private academic institutions in other countries.' Further information about the Gulenist education network is available in the article.[9]

3.2.6 In June 2017 the New York Times stated:

[6] Fgulen.com, Introducing Fethullah Gülen, 8 April 2010
[7] Middle East Eye, Analysis: Dissecting Turkey's Gulen-Erdogan relationship, 21 & 26 July 2016
[8] Middle East Eye, Analysis: Dissecting Turkey's Gulen-Erdogan relationship, 21 & 26 July 2016
[9] Middle East Eye, Analysis: Dissecting Turkey's Gulen-Erdogan relationship, 21 & 26 July 2016

'Gulen and his followers have advocated a conservative Islamic lifestyle mixed with Turkish nationalism, high education standards and — unlike many Muslim brotherhoods — a selectively pro-Western worldview. Their proselytizing efforts, as well as the promise of education and career opportunities, enticed many Turks and Kurds among both the underprivileged and the elite to join the movement. Gulenists built schools abroad, including in the United States, in which followers worked as teachers. They also founded banks, nonprofit organizations, publishing houses, universities, newspapers, television stations and a profitable chain of tutoring centers that prepare students for the college entrance exam. Education, Gulenists said, was their priority.'[10]

3.2.7 In May 2021, the BBC stated that 'Fethullah Gulen is regarded by followers as a spiritual leader and sometimes described as Turkey's second most powerful man.'[11]

Back to Contents

## 3.3 Membership and number of adherents

3.3.1 In 2000, The Guardian stated that Gulen had 'hundreds of thousands' of supporters[12]. In July 2016, Middle East Eye stated that Gulen was said to have millions of followers worldwide, though the exact number was unknown[13]. The USSD International Religious Freedom report covering 2016 noted, 'The media estimate there may be from 200,000 to four million people influenced by the movement led by Muslim cleric Fethullah Gulen, which identifies itself as an Islam-inspired civic, cultural, and educational movement.'[14]

3.3.2 In the article of April 2018, DW noted that 'Estimates on the size of Gulen's fellowship vary, with conservative figures stating a following of 3 million people globally, while the international news website "Politico" assessed a support of 10 percent of Turkey's population alone, or roughly 7.5 million people.'[15]

3.3.3 The Australian Department of Foreign Affairs and Trade (DFAT) published a Country Information Report on Turkey in September in 2020 which stated:

'The Gulen movement has no visible, public formal structure, central hierarchy nor clear evidence of membership. The movement reportedly has an inner circle of activists and advisers to Fethullah Gulen and an outer circle of those who support Gulen's teachings and the movement's ideals, often graduates of Gulen's education programs. Even further from the core is a cohort who have used products and services affiliated with the movement – sometimes without their knowledge – and otherwise have no ideological or political connection with the group… Prior to the July 2016 attempted coup,

[10] New York Times, Inside Turkey's purge, 13 April 2017
[11] BBC, Nephew of Fethullah Gulen seized and brought back to Turkey, 31 May 2021
[12] The Guardian, Turkey accuses popular Islamist of plot against state, 1 September 2000
[13] Middle East Eye, Analysis: Dissecting Turkey's Gulen-Erdogan relationship, 21 & 26 July 2016
[14] USSD, International Religious Freedom Report 2016, Turkey, 15 August 2017
[15] DW, From ally to scapegoat: Fethullah Gulen, the man behind the myth, 6 April 2018

international observers estimated Gulenists in Turkey numbered in the millions.'[16]

Back to Contents

Section 4 updated: 7 October 2021

## 4. Coup attempt of 2016

### 4.1 Events of 15 July 2016

4.1.1 DW noted the events of the coup attempt of 2016, stating, 'On July 15, 2016, a group of about 10,000 renegade soldiers launched a coup attempt, claiming to fight the lack of leadership amid the ongoing state of crisis in Turkey. It was badly organized and executed, and failed within 12 hours. However, more than 250 people died that night, and many state infrastructures sustained considerable damage.'[17]

4.1.2 In July 2017, Anadolu Agency reported that nearly 2,200 people were injured, in addition to the 250 people who died, during the coup attempt[18].

4.1.3 The BBC provided further coverage of the coup attempt here[19].

Back to Contents

### 4.2 State of emergency

4.2.1 The Australian DFAT Country Information Report published in September 2020 reported:

'Following the attempted coup of 15 July 2016, the government declared a three-month nationwide state of emergency, endorsed by parliament on 20 July 2016. The stated purpose of the state of emergency was "to take required measures in the most speedy and effective manner in the fight against the Fethullah Gulen Terror Organisation (FETO) and to return to normalcy as soon as possible". The state of emergency concluded at midnight on 18 July 2018, after seven three-month extensions. Parliament has permanently adopted most of the 36 statutory decrees issued under the state of emergency. Under the presidential system, the President retains the ability to issue decrees.

'… The state of emergency also gave security forces extensive powers to crack down on alleged supporters of the Gulen movement from within state institutions. Authorities have launched legal proceedings against 441,195 people on a variety of terrorism charges, including for being alleged Gulen supporters, or members of the PKK or other organisations.'[20]

4.2.2 In the UN Human Rights Council (HRC) Report of the Working Group on the Universal Periodic Review published in March 2020, Turkey reported on the situation following the coup attempt:

'Faced with [the coup attempt], on 21 July 2016, the Turkish parliament had endorsed a state of emergency. As such, Turkey had resorted to the right to

[16] DFAT, Country Information Report - Turkey (para 3.35), 10 September 2020
[17] DW, From ally to scapegoat: Fethullah Gulen, the man behind the myth, 6 April 2018
[18] Anadolu Agency, Turkey marks first anniversary of defeated coup, 15 July 2017
[19] BBC, Turkey's coup attempt: what you need to know, 17 July 2016
[20] DFAT, Country Information Report - Turkey (para 2.61), 10 September 2020

derogate from its obligations under the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) and the International Covenant on Civil and Political Rights. However, throughout the state of emergency, Turkey had acted in line with its international human rights obligations and maintained its cooperation with international organizations. Several United Nations Special Rapporteurs and Council of Europe monitoring bodies had visited Turkey during that period. The state of emergency had been terminated on 19 July 2018 and all derogations had been revoked.'[21]

Back to Contents

## 4.3 Alleged involvement of the Gülenist movement

4.3.1 In the article of April 2018, DW noted that, 'The government claimed immediately that Gulen's movement was behind the failed putsch.

'Some of the soldiers captured after the coup attempt have allegedly confessed to taking orders from Gulen, though it is unknown under what conditions those confessions may have taken place, with allegations of torture amassing since the events…

'In the ensuing days after the coup, Turkey declared a state of emergency, which has since been extended … to "eradicate" any so-called FETO influence in the country. Ankara has also tried to have the cleric forcibly extradited from the US, and has asked a number of foreign governments to close down any Gulen organization active abroad. Some governments, like Pakistan, have complied with the latter request, while others, like Germany, have not….

'Gulen meanwhile has staunchly denied any involvement in the coup attempt. His followers claim that he is being made a scapegoat so that President Erdogan can unite extraordinary powers in his position to clamp down on dissidents. Furthermore, they claim they are the victims of a government ploy against freedom of speech and religion. Erdogan maintains that any supporter of Gulen is a terrorist, and has been incarcerating alleged Gulen movement followers at a spiraling rate.'[22]

4.3.2 The tenth report of session 2016-17 of the House of Commons Foreign Affairs Committee included a response by Sir Alan Duncan, Minister of State for Europe and the Americas, Foreign and Commonwealth Office, to the Committee:

'When asked specifically whether the Gülenist organisation were responsible for the coup he [Sir Alan Duncan] answered: I think the answer has to be, in large part, in terms of significant involvement, yes…. When pressed about the extent of Gülenist involvement in the coup attempt, he said: This is a very complicated phenomenon in Turkish government and society; it will probably take years to analyse this and to get to the bottom of it.'[23]

Back to Contents

[21] UN HRC, Report of the Working Group on the UPR; Turkey, 24 March 2020
[22] DW, From ally to scapegoat: Fethullah Gulen, the man behind the myth, 6 April 2018
[23] House of Commons, Foreign Affairs Committee, The UK's relations with Turkey, 25 March 2017

### 4.4 Gülenist movement declared a terrorist organisation

4.4.1 On 17 June 2017, Turkish media outlet, Sabah, published an article which reported that the Supreme Court of Appeal had ruled that the Gulenist movement is a terrorist organisation. This sets a precedent for further cases related to the movement. This is broadly equivalent to the UK's proscribing of terrorist organisations and Turkish courts are likely to rule accordingly. For further information, see Annex A.

4.4.2 In the Country Report on Terrorism covering the year 2016, the USSD noted: 'Turkey's National Security Council designated the religious movement of self-exiled Islamic cleric Fethullah Gulen a terrorist organization on May 26 [2016], referring to it as the "Fethullah Terrorist Organization" ("FETO")…The Gulf Cooperation Council designated "FETO" a terrorist organization on October 13 [2016]. The Organization of Islamic Cooperation did the same on October 19 [2016].'[24]

Back to Contents

Section 5 updated: 7 October 2021

## 5. Legislation

### 5.1 Freedom of political opinion, assembly and expression

5.1.1 The Australian DFAT Country Information Report published in September 2020 noted that:

'The Constitution contains numerous articles guaranteeing the freedoms of political opinion, assembly and expression, although most of these articles contain clauses to allow restrictions of these rights by law on national security grounds. Turkey remains a society with a wide range of political views and ideologies reflected and expressed in its parliament, at other levels of government and in the community. Restrictions on the ability of Turkish citizens to express dissent to the government, individually or collectively, have increased significantly, particularly under the state of emergency…'[25]

5.1.2 In the Turkey 2020 Report, published in October 2020, the European Commission noted:

'The damage caused by the state of emergency on the fundamental rights and the related legislation adopted was not remedied and there was further backsliding on the outstanding issues identified in previous [European Commission] reports, most notably on the right to a fair trial and procedural rights, freedom of expression, freedom of assembly and association, protection of human rights defenders, freedom from ill-treatment and torture, especially in prison.'[26]

5.1.3 See Civil society and human rights defenders, Judical processes and Treatment in detention for further information on these subjects.

Back to Contents

[24] USSD, Country Reports on Terrorism 2016, 19 July 2017
[25] DFAT, Country Information Report - Turkey (para 3.33), 10 September 2020
[26] European Commission, Turkey 2020 Report (p.21), 6 October 2020

## 5.2 Anti-terrorism legislation

5.2.1 The USSD Country Report on Terrorism 2019 stated:

'Turkey has a broad definition of terrorism that includes crimes against constitutional order and internal and external security of the state. The law criminalizes expression that justifies, praises, or incites persons to use coercion or violent methods used by a terrorist organization.

'Turkey has advanced law enforcement capacity to combat terrorism, and efforts continue to streamline interagency information sharing.'[27]

5.2.2 In August 2018, the website European Interest, an online news outlet, noted that Turkey's anti-terrorism legislation consists of two separate laws: the Turkish Penal Code (5237) and the Anti-Terrorism Law (3713)[28].

5.2.3 Article 314 of the Turkish Penal Code states:

'Armed Organisation Article 314

(1) Any person who establishes or commands an armed organisation with the purpose of committing the offences listed in parts four and five of this chapter, shall be sentenced to a penalty of imprisonment for a term of ten to fifteen years.

(2) Any person who becomes a member of the organisation defined in paragraph one shall be sentenced to a penalty of imprisonment for a term of five to ten years.

(3) Other provisions relating to the forming of an organisation in order to commit offences shall also be applicable to this offence.'[29]

5.2.4 The text of the Law on the fight against terrorism is available here: Law on fight against terrorism of Turkey; Act Nr. 3713[30]. NB: many Articles have been rescinded[31].

5.2.5 See Use of anti-terrorism legislation for information about how this legislation is used in practice.

Back to Contents

## 5.3 Use of anti-terrorism legislation

5.3.1 In August 2018, the website European Interest published an article on the use of Turkey's anti-terrorism legislation:

'Sub-section 1 (Article 314/1) of Article 314 of the Turkish Penal Code criminalises the establishment and/or commanding an armed terrorist organisation, and the subsection 2 (Article 314/2) criminalises the membership to an armed organisation. Under the Turkish Penal Code, these two offences carry the penalty of 7.5 to 22.5 years imprisonment.

'The problem is that the Turkish Penal Code contains neither the definition of what constitutes armed organisations and armed groups nor the offence of

[27] USSD, Country Report on Terrorism 2019: Turkey, 24 June 2020
[28] European Interest, Turkey's Draconian Anti-Terror Laws, 23 August 2018
[29] Penal Code of Turkey, published by CoE on 15 February 2016 (Legislation Online website)
[30] Government of Turkey, Law on fight against terrorism (Legislation Online website)
[31] European Interest, Turkey's Draconian Anti-Terror Laws, 23 August 2018

membership. The lack of legal definitions and criteria of what constitutes an armed terrorist organisation and the offence of membership in the armed terrorist organization makes these articles prone to arbitrary application and abuse. Vague formulation of the criminal provisions on the security of the state and terrorism and their overly broad interpretation by Turkish judges and prosecutors make all critics, particularly lawyers, human rights defenders, journalists, and rival politicians, a potential victim of judicial harassment. This indistinct area under the Turkish Penal code is actively used by the Turkish government to investigate, prosecute and convict opponents. As it has become a common practice in after the 15th July Coup attempt, 402,000 individuals have been investigated, prosecuted and / or convicted for terrorism offences stipulated in article 314 of Turkish Penal Code.'[32]

5.3.2 The USSD Country Report on Terrorism 2019 stated:

'The government regularly invoked the law to criminalize the exercise of freedom of expression, freedom of assembly, and other human rights. According to the Ministry of Interior, authorities referred more than 10,000 social media accounts to judicial authorities for alleged terrorist-related propaganda in the first quarter of the year alone, with more than 3,600 users facing legal action for their social media activities.'[33]

5.3.3 In December 2020, DW published an article which noted:

'Terror charges in Turkey often target dissidents as a way to quash civil-society activists, journalists and politicians. Thousands of journalists, lawyers, opposition politicians and others remain in prison without any concrete evidence. Hundreds of NGOs were closed during emergency rule after the coup attempt.

'Ozturk Turkdogan, the president of Turkey's Human Rights Association, points out that on average 300,000 people a year are being sued for membership in a terror organization under Article 314/2 of the Turkish Penal Code (TCK).'[34]

5.3.4 On 9 June 2021, the UN HRC stated:

'A UN expert today urged Turkey to release imprisoned human rights defenders and to stop using vague terrorism charges to turn people who stand up for human rights into criminals.

'"I am greatly concerned that anti-terrorism laws are being used extensively to silence Turkish human rights defenders and disrupt their legitimate work defending human rights," said Mary Lawlor, UN Special Rapporteur on the situation of human rights defenders.

'Article 314 of the Turkish Penal Code and Article 7 of the Anti-Terror Law relating to leaders and members of armed organisations are being used to convict human rights defenders and sentence them to lengthy prison sentences, Lawlor said.

[32] European Interest, Turkey's Draconian Anti-Terror Laws, 23 August 2018
[33] USSD, Country Report on Terrorism 2019: Turkey, 24 June 2020
[34] DW, Turkey tightens control over NGOs to 'combat terrorism', 29 December 2020

'"In Turkey, human rights lawyers are particularly targeted for their work representing human rights defenders, victims of human rights violations, victims of police violence and torture, and many people who simply express dissenting opinions," she said.

'"Turkey is violating some of the pillars of international human rights law – freedom of expression, freedom of association and the right to lawfully practice one's own profession – by repeatedly depriving human rights defenders and lawyers of their freedom."…

'The expert's call has been endorsed by; Mr. Nils Melzer, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Mr. Diego García-Sayán, Special Rapporteur on the independence of judges and lawyers; Ms. Tlaleng Mofokeng, Special Rapporteur on the right to physical and mental health; Mr. Clément Nyaletsossi Voule, Special Rapporteur on the rights to freedom of peaceful assembly and of association.'[35]

5.3.5 See Anti-terrorism legislation for further information on this subject. See Civil society and human rights defenders, Journalists and freedom of expression and Judges and lawyers for further information about these groups.

Back to Contents

## 5.4 Use of Law No. 7262

5.4.1 In December 2020, DW published an article on Law 7262 which stated, '"The new legislation covers individuals who stand trial under the Law on the Prevention of the Financing of Terrorism and also refers to the Anti-Terror Law. The definition of terrorism in this law is quite ambiguous, problematic and far from international standards. Many rights defenders have been charged under this law," said Tarik Beyhan, a director for Amnesty International in Turkey.'[36]

5.4.2 In July 2021, the Council of Europe's Venice Commission prepared an opinion on the compatibility with international human rights standards of Turkey's Law No. 7262 on the 'Prevention of Financing of the Proliferation of Weapons of Mass Destruction,' which was passed in December 2020; the document stated:

'The Venice Commission is aware of the challenges faced by Turkey in connection with terrorism. Measures taken to fight terrorism must, however, be "necessary in a democratic society", and in compliance with human rights obligations and the Rule of Law. The Venice Commission observes with concern that in the wake of the failed coup d'état of July 2016, the frequent and broad application of anti-terrorism laws has had serious consequences for civil society in Turkey.'[37]

5.4.3 The document further stated:

'The Venice Commission has been informed that the intention of the legislator was to comply with the recommendations provided by the 2019

[35] UN HRC, Turkey: Stop mis-using the law to detain human rights defenders..., 9 June 2021
[36] DW, Turkey tightens control over NGOs to 'combat terrorism', 29 December 2020
[37] CoE, Venice Commission, Opinion on the compatibility... (para.7), 6 July 2021

FATF [Financial Action Task Force] report on Turkey, as well as with the relevant UNSC [UN Security Council] Resolutions cited in the law. However, the Venice Commission notes with concern that the solution chosen by the legislator in Articles 7-17 of Law No. 7262. goes beyond that scope, since the new provisions apply to all associations, irrespective of their goals and records of activities, and lead to far reaching consequences for basic human rights, in particular the right to freedom of association and expression and the right to a fair trial.

'The Venice Commission is of the opinion that the provisions relating to aid collection activities of associations could result in a serious restriction of their freedom of association. The Commission recognises that there is a risk of funds being used to finance terrorist activities. However, in their indiscriminate scope the new legal provisions on aid collection do not seem to meet the requirements of necessity and proportionality. On the other hand, the ambiguity in the wording of the amendments of the Law on Aid Collection, government control over online fundraising attempts in the absence of clear and objective criteria of permit applications, along with the authorities' wide scope to apply sanctions, may have a negative impact on legitimate fund-raising activities of NGOs and thus violate their right to freedom of association.

'The lack of transparency for risk-assessment and its indiscriminate application to the entire civil society sector, rather than to specific NGOs identified as being vulnerable to financing by terrorist entities, may result in misuse of the proposed audits for the purpose of deterring civil society activism under the pretext of conducting a "risk assessment". The proposed system of audits transgresses the boundary of what is necessary and proportional; measures introduced seem to be overly far-reaching and will have a chilling effect on NGOs, due also to the increased sanctions for breach of auditing obligations.

'The amendments to the Law on Associations enable the authorities to remove the board members without judicial review and to replace them with trustees who do not need the approval of the members of the association concerned. Consequently, the introduction into the bodies of the association of one or more persons without approval and without clear guarantees that they act in the best interest of the association and its members, constitutes a serious infringement of the right of associations to conduct their own affairs.'[38]

5.4.4 For further information about the potential impact of Law 7262, see Civil society and human rights defenders.

Back to Contents

Section 6 updated: 20 December 2021

[38] CoE, Venice Commission, Opinion on the compatibility... (paras. 83, 85-87), 6 July 2021

# 6. Government action against specific groups

## 6.1 Introductory information

6.1.1 The USSD Country Report on Terrorism 2019 reported on events in 2019, noting:

'The government continued to detain and arrest Turkish citizens, as well as foreign citizens resident in Turkey … for alleged "FETO" or terrorism-related links, often on the basis of scant evidence and minimal due process. The government also regularly sought to extradite Turkish citizens resident abroad on terrorism related charges to prosecute them at home for alleged links to "FETO." The government also continued to dismiss military, security, and civil servants from public office in 2019.'[39]

6.1.2 The United States Department of State's Country Report on Human Rights Practices for 2020 (USSD HR Report 2020) noted:

'On the four-year anniversary of the 2016 coup attempt in July, the government announced that authorities had opened legal proceedings against 597,783 individuals, detained 282,790, and arrested 94,975 since the coup attempt on grounds of alleged affiliation or connection with the Gulen movement. During the year the government started legal proceedings against 39,719 individuals, detained 21,000, and arrested 3,688. In July the Ministry of Justice reported that the government had conducted nearly 100,000 operations targeting Gulenists since the coup attempt. The government reportedly detained and investigated a majority of the individuals for alleged terror-related crimes, including membership in and propagandizing for the Gulen movement or the PKK.'[40]

6.1.3 In the 'Freedom in the World 2021' report, covering events of 2020, Freedom House stated that, 'According to the Justice Ministry, more than 130,000 people were under investigation for terrorism offenses related to the Gülen movement as of mid-2020, and nearly 60,000 were on trial.'[41]

6.1.4 On 4 December 2020, Michelle Bachelet, UN High Commissioner for Human Rights, wrote to the Turkish Minister for External Affairs, stating, '…I am seriously concerned about numerous consistent reports of intimidation and harassment of and violence against human rights defenders, journalists, academics, judges and the media. I urge Turkey to refrain from detaining and prosecuting them as a mean of discouraging them from freely commenting and reporting on human rights issues.'[42]

6.1.5 In May 2021, the BBC reported:

'In the years since [the coup attempt of 2016], President Recep Tayyip Erdogan has carried out a sweeping purge of state institutions, sacking or suspending more than 100,000 public sector employees, including teachers and judges, who were accused of links to Fethullah Gulen.

[39] USSD, Country Report on Terrorism 2019: Turkey, 24 June 2020
[40] USSD, HR Report 2020 (Section 1D), 30 March 2021
[41] Freedom House, Freedom in the World 2021, Turkey, 3 March 2021
[42] UN HRC, M Bachelet, OHCHR, to Turkish Minister of External Affairs, 4 December 2020

‘There have been many trials of alleged plotters and courts have issued more than 2,500 life sentences.

‘Turkey has also captured dozens of people accused of belonging to the Gulen movement abroad - particularly in Africa and the Balkans.’[43]

6.1.6 In March 2021, the Netherlands Ministry of Foreign Affairs published a General Country of Origin Information Report on Turkey (Netherlands MFA report of March 2021), which noted the groups most likely to attract the negative attention of the government, and the actions which may be taken by the government:

‘Past involvement in the Gülen movement can be a reason for negative treatment by the Turkish authorities in the present. This negative treatment by the Turkish government can take various forms, such as a criminal investigation, an exit ban, a sacking, an arrest and/or criminal prosecution, the freezing of assets, the cancellation of sickness benefits or the seizure of a passport…

‘The Turkish authorities say that, in the group of (alleged) Gülen supporters, they make a distinction based on the degree of involvement in the Gülen movement. In March 2020, the 16th Criminal Chamber of the Constitutional Court, which investigates the possibility to appeal in all Gülen cases, stated that there are seven levels of involvement:

‘1. The first layer consists of the people who provide the Gülen movement with (financial) support driven by good intentions.

‘2. The second layer consists of a loyal group of people who work in Gülen-related organisations and are familiar with the ideology of the Gülen movement.

‘3. The third layer consists of ideologues who embrace and propagate the Gülen ideology in their surroundings.

‘4. The fourth layer consists of inspectors who monitor the various forms of service provided by the Gülen movement.

‘5. The fifth layer consists of officials responsible for creating and implementing the policies of the Gülen movement.

‘6. The sixth layer consists of an elite group that facilitates contact between the different layers and dismisses people from their positions.

‘7. The seventh layer consists of seventeen people who were directly chosen by Gülen and are at the top of the Gülen movement.

‘According to the 16th Criminal Chamber of the Constitutional Court, members from the third layer should be criminally prosecuted. One confidential source questions the extent to which the above subdivision can be used when assessing a person's involvement in the Gülen movement, especially since the second and third layers seem to merge.

‘Information from confidential sources suggests that virtually anyone with a Gülen background, apart from a few senior AKP officials, can be prosecuted. However, it can be deduced that some professional groups in the Gülen

[43] BBC, Nephew of Fethullah Gulen seized and brought back to Turkey, 31 May 2021

movement receive more negative attention than others. One source states that Gülenist police officers, army officers and diplomats in particular are treated negatively by the Turkish authorities and that this is less the case for academics and students with a Gülenist background. Another source says that when (alleged) Gülenists are being criminally prosecuted, the Turkish authorities focus first on military personnel, then police officers, then people in the legal profession, followed by a residual category consisting of, among others, media workers and educators.

'The fact that particularly soldiers with an (alleged) Gülen background attract the negative attention of the authorities is evident from the examples … In November 2020, AA, the Turkish government's news agency, reported that since the 2018 state of emergency had been lifted, 5,587 soldiers had been reportedly sacked because of (alleged) links with the Gülen movement. This brought the total number of soldiers who had been sacked since the failed 2016 coup to 20,566.

'People who have been released but who are still under legal investigation can be hampered by the Turkish authorities in various ways. Sometimes the passports of these people are declared invalid and/or an exit ban is imposed on them. People under investigation lose their jobs or cannot get their jobs back. People under investigation also run the risk of being rearrested, according to a confidential source.'[44]

6.1.7 See AKP members, Armed forces, Civil servants, Civil society and human rights defenders, Education and academia, Journalists and freedom of expression, Judges and lawyers, and Police for further information about treatment of these groups. See Dismissals and suspensions and Travel restrictions for further information on these subjects.

Back to Contents

## 6.2 AKP members

6.2.1 The Netherlands MFA report of March 2021 stated that 'According to confidential sources, some high-ranking AKP members who had ties with the Gülen movement in the past were able to avoid criminal prosecution thanks to their political connections.'[45]

Back to Contents

## 6.3 Armed forces

6.3.1 In the Turkey 2020 Report, published in October 2020, the European Commission noted, 'By June 2020, a total of 19,583 military officers were dismissed from the service due to their alleged links to the Gülen movement, some 3,600 in 2019 alone. Some 6,000 former military personnel were arrested on grounds of their alleged involvement in the attempted coup.'[46]

6.3.2 In September 2020, the Australian DFAT noted, 'Throughout 2019 and 2020, dismissals from the public service continued as authorities found new

[44] Netherlands MFA, 'General Country of Origin Information Report', 18 March 2021
[45] Netherlands MFA, 'General Country of Origin Information Report', 18 March 2021
[46] European Commission, Turkey 2020 Report (p.15), 6 October 2020

"clusters" of alleged Gulen supporters, particularly in the military and Ministry of Foreign Affairs.'[47]

6.3.3 In November 2020, the BBC reported:

'A court in Turkey has given life sentences to 337 military officers and others, in one of the biggest trials linked to the 2016 coup attempt.

'Air force pilots and army commanders were among the nearly 500 defendants accused of trying to overthrow President Recep Tayyip Erdogan. They allegedly directed the plot from the Akinci air base near Ankara…

'The trial began in August 2017, and the charges included seeking to kill President Erdogan and seize key state institutions. Turkey's biggest court - in Sincan near Ankara - was packed for the verdicts.

'Officers who conspired against Mr Erdogan seized aircraft at the Akinci base, taking then chief of staff Gen Hulusi Akar and some other officers hostage.

'Former air force commander Akin Ozturk was jailed for life last year for his role in the plot.

'The indictment states that 25 pilots in F-16s bombed targets in Ankara, including parliament, which was hit three times, as well as key security buildings. The bombing killed 68 people in Ankara and injured more than 200.

'Twenty-five of those in the dock were generals and 10 were civilians.

'More than 10 of the military officers - including F-16 fighter pilots - and four civilians got 79 "aggravated" life sentences each. The "aggravated" sentence requires harsher prison terms than for a normal life sentence.

'Six were put on trial in absentia, including Mr Gulen and Adil Oksuz, a theology lecturer accused of being a key co-ordinator in the coup plot.

'Among those receiving "aggravated" life terms was businessman Kemal Batmaz, accused of assisting Adil Oksuz.'[48]

6.3.1 In March 2021, BAMF stated:

'According to media reports, arrest warrants were issued for 148 suspects, 103 of them soldiers on active duty, on 24.02.21 as part of an investigation conducted by the Izmir Chief Public Prosecutor's Office into previously undiscovered FETÖ structures in the armed forces, and 18 more suspects are being sought. In addition, raids were carried out in 47 provinces. The suspects are accused of communicating with undercover FETÖ imams - highranking FETÖ members - via payphones. Of the suspects, 12 are said to be from the land forces, 47 from the air force, 18 from the navy, 38 from the gendarmerie and 19 from the coast guard. According to the Chief Public Prosecutor's Office, there were far more Gülenists in the armed forces than those who took part in the failed coup attempt. They say the existence of

[47] DFAT, Country Information Report - Turkey (para 3.38), 10 September 2020
[48] BBC, Turkey court jails hundreds for life for 2016 coup plot..., 26 November 2020

undetected or inactive FETÖ cells in the armed forces still poses a great danger.'[49]

6.3.2 In April 2021, RT, a Russian news outlet in the English language, reported:

'Turkish prosecutors have ordered the arrest of 532 suspects, mostly serving military personnel, believed to have links to US-based Muslim cleric Fethullah Gulen, accused by Ankara of having staged the 2016 botched coup attempt.

'The arrests were ordered by Istanbul and Izmir prosecutors during a new, massive operation against Gulen sympathizers, state-owned Anadolu news agency reported on Monday. The operation took place in 62 provinces as well as in Turkish-controlled Northern Cyprus.

'Some 459 people among the total of 532 suspects are serving military personnel, including high-ranking officers, with at least four colonels and one lieutenant colonel among them. It was not immediately clear how many suspects have been detained already.'[50]

6.3.3 In an article dated July 2021, Turkish Minute, a news website established in Germany by exiled Turkish media professionals who mainly write anonymously, stated:

'As the fifth anniversary of a coup attempt in Turkey approaches, the country's defense minister has announced that 23,364 personnel from the Turkish Armed Forces (TSK) have been expelled over Gülen links since the failed coup, the state-run Anadolu news agency reported…

'Akar [Hulusi Akar, Defence Minister] did not specify how many of the 23,364 people were military and how many were civil servants working for the TSK, but they were primarily officers of all ranks.'[51]

6.3.4 The German Federal Office for Migration and Refugees (BAMF), published the following information on 8 November 2021:

'It has been reported in the media that raids in 40 different provinces on 02.11.21 led to the arrest of at least 43 people, after public prosecutors had issued arrest warrants against 100 individuals suspected of having links to the Gülenist terrorist group FETÖ. The suspects are said to be individuals who were part of FETÖ's efforts to infiltrate the general command of the Turkish gendarmerie. In further operations conducted in six Turkish provinces on 03.11.21 more than a dozen suspects were arrested for allegedly having links to FETÖ. Arrest warrants were issued against 17 suspects who are accused of having infiltrated the Turkish armed forces. The security forces were able to detain all but one of the suspects. Independently of these events, nine FETÖ terrorism suspects were arrested in an operation in the eastern province of Van on 06.11.21. According to information from the local security forces, two of the suspects have been remanded in custody and the other seven have been released on bail with travel restrictions.'[52]

[49] BAMF, Briefing Notes (p.11), 1 March 2021
[50] RT, Turkey orders 500+ arrests of suspects thought to be linked..., 26 April 2021
[51] Turkish Minute, 23,364 personnel expelled from military over Gülen links ..., 13 July 2021
[52] BAMF, Briefing Notes (p.19), 8 November 2021

6.3.5 For further information about sentences handed to suspected Gulenists, see Sentencing. See Introductory information for further information about the treatment of army members.

Back to Contents

## 6.4 Bylock users and those with other risk factors

6.4.1 In September 2020, the Australian DFAT reported:

'Human rights observers have expressed concerns the government has not published clear criteria to link individuals to the Gulen movement. In some cases, the only evidence of ties to the Gulen movement has been use of the Bylock messaging application... Authorities have based other arrests and dismissals on financial transactions with the Asya Bank (closed by the government for its alleged links with the Gulen movement); membership of a trade union or association linked to the movement; rapid promotion in the public service or military rank; having a child attend a school associated with the movement; police or secret service reports (not made public); analysis of social media contacts and internet browsing history; or information received from colleagues or neighbours. Many of those arrested have not had access to the evidence against them, nor the opportunity to defend themselves.'[53]

6.4.2 The Netherlands MFA report of March 2021 stated that sources identified the following as criteria used by the Turkish government to indict and prosecute suspected Gulenists:

- 'People who have a bank account with Bank Asya
- 'People who have an app called ByLock on their mobile phone
- 'People who have a subscription to the Zaman newspaper
- 'People who have been educated at a Gülen school
- 'People who have sent their children to a Gülen school
- 'People who have an employment contract with a company, news organisation or NGO affiliated with the Gülen movement
- 'People who have donated money to a Gülenist NGO
- 'People who have spoken positively about Gülen in public (such as posting positive messages about Gülen on social media, for example).'[54]

6.4.3 The same report noted that 'In late October 2019, pro-government newspaper Hürriyet announced that MIT [National Intelligence Organisation] had shared a list of one thousand ByLock users with Ankara's chief prosecutor. An arrest warrant was issued for 53 people. In July 2020, the Supreme Court and Constitutional Court confirmed in two separate rulings that the act of downloading the ByLock app was sufficient evidence of ties with Gülen.'[55]

[53] DFAT, Country Information Report - Turkey (para 3.39), 10 September 2020
[54] Netherlands MFA, 'General Country of Origin Information Report', 18 March 2021
[55] Netherlands MFA, 'General Country of Origin Information Report', 18 March 2021

6.4.4 In July 2021, Turkish Minute reported on the arrest of the copyright-holder for ByLock, the encrypted messaging app implicated in the coup attempt of 2016:

'Turkish state media reported Wednesday that a Turkish-American holding the copyright to ByLock, an encrypted messaging app banned by Turkey, was arrested in June after surrendering to Turkish authorities …

'Alpaslan Demir, who took the name David Keynes after acquiring US citizenship, was put in jail after appearing court on June 9, the state-run Anadolu news agency reported, citing an official.

'Turkey considers ByLock, once widely available online, a secret tool of communication among supporters of the faith-based Gülen movement since a coup attempt on July 15, 2016 despite the lack of any evidence that ByLock messages were related to the abortive putsch, leading to the arrest of thousands who were using it…

'According to a statement from the interior ministry in March 2019, 95,310 people were charged over alleged use of the ByLock application. In its technical report, which courts use as basis for their decisions, the Turkish intelligence agency stated that 60,473 defendants had at least one message posted using ByLock while 34,837 defendants had not posted any message using the application…

'Anadolu said [Keynes] was put in pre-trial detention and charged with terror-related offenses that could see him jailed for up to 15 years. Keynes turned himself in to the police under a "repentance law" that grants more lenient treatment to people who confess to crimes, according to Anadolu…'[56]

6.4.5 In September 2020, the Australian DFAT report further noted, 'In December 2017, the Ankara prosecutor's office found nearly 11,500 people had been wrongly accused of using the Bylock application due to their mobile phones being directed to the Bylock servers without their knowledge after they downloaded a separate application written by a Gulenist. The finding paved the way for the release of nearly 1,000 detainees who had been arrested for alleged terrorism links.'[57]

6.4.6 The article published by Turkish Minute in July 2021 continued:

'The European Court of Human Rights (ECtHR) ruled last week [July 2021] in the case of a former police officer that use of the ByLock application is not an offense in itself and does not constitute sufficient evidence for arrest. The Strasbourg court's ruling has come as a source of hope for thousands of people who were arrested or sentenced on terrorism charges based mainly on a National Intelligence Organization (MİT) report that detailed users of ByLock.

'In former police officer Tekin Akgün's case, the ECtHR ruled that Turkey violated Article 5 § 1 (right to liberty and security) of the European Convention on Human Rights as well as Article 5 § 3 (entitlement to trial within a reasonable time or to release pending trial) and Article 5 § 4 (right to a speedy decision on the lawfulness of detention) in the pre-trial detention of

[56] Turkish Minute, Questions linger over Turkey's arrest of man behind ByLock, 28 July 2021
[57] DFAT, Country Information Report - Turkey (para 3.70), 10 September 2020

Akgün, who was put in pre-trial detention in October 2016 as part of a massive crackdown launched by Turkey's Justice and Development Party (AKP) government on alleged and real followers of the Gülen movement.

'"In the absence of other evidence or information, the document in question, stating merely that the applicant was a user of ByLock, could not, in itself, indicate that there were reasonable suspicions that could satisfy an objective observer that he indeed used ByLock in a manner that could amount to the alleged offences," said the court.

'The UN Human Rights Council's Working Group on Arbitrary Detention also stated in October 2018 that detention, arrest and conviction based on ByLock use in Turkey violated of Articles 19, 21 and 22 of the International Covenant on Civil and Political Rights.'[58]

6.4.7 The Netherlands MFA report of March 2021 further noted that 'If someone has travelled back and forth many times between Turkey and Pennsylvania, where Gülen resides, it could be seen by the Turkish government as evidence that this person was involved in the failed 2016 coup attempt.'[59]

Back to Contents

## 6.5 Civil servants and diplomats

6.5.1 The Council of Europe's Commissioner for Human Rights, Dunja Mijatović, carried out a visit to Turkey from 1 to 5 July 2019; the resulting report was published in February 2020 (Council of Europe Report 2020) and stated:

'As regards measures taken through emergency decrees, the Commissioner separates the issue of terminations of employment of civil servants from ensuing automatic consequences which amount to disguised criminal sanctions, as well as from measures affecting moral persons. While she has concerns in general about the effectiveness of the remedies put in place by the Turkish authorities in connection with emergency decrees, she considers that these remedies are inappropriate for these criminal-law consequences and for moral persons.'[60]

6.5.2 In September 2020, Australian DFAT noted, 'Throughout 2019 and 2020, dismissals from the public service continued as authorities found new "clusters" of alleged Gulen supporters, particularly in the military and Ministry of Foreign Affairs.'[61] The same report noted that 'Various decrees specifically state dismissed civil servants "shall be evicted from publicly-owned houses within 15 days".'[62]

6.5.3 In May 2021, the Turkish Human Rights Association and World Organisation Against Torture reported, 'Law no. 7145 enables the dismissal of civil servants by the relevant administrative authorities, without a court decision, on the basis of their alleged "membership, affiliation, connection or contact"

[58] Turkish Minute, Questions linger over Turkey's arrest of man behind ByLock, 28 July 2021
[59] Netherlands MFA, 'General Country of Origin Information Report', 18 March 2021
[60] CoE, Council of Europe Report 2020 (p.4), 19 February 2020
[61] DFAT, Country Information Report - Turkey (para 3.38), 10 September 2020
[62] DFAT, Country Information Report - Turkey (para 3.40), 10 September 2020

with terrorist organisations, for an additional period of three years as of the publication of the Law no. 7145, that is until July 2021.'[63]

6.5.4 In July 2021, Turkish Minute stated that 'The government removed more than 130,000 civil servants from their jobs on alleged Gülen links following the coup attempt.'[64]

6.5.5 The Netherlands MFA report of March 2021 noted that Gulenists who have been dismissed from the civil service cannot return to government service[65].

6.5.6 See Enforced disappearance, Treatment in detention and Introductory information for further information about the treatment of personnel from the Ministry of Foreign Affairs.

Back to Contents

## 6.6 Civil society and human rights defenders

6.6.1 The Council of Europe Report 2020, which was based on a visit to Turkey carried out by the Commissioner for Human Rights in July 2019, stated:

'Stressing the importance of civil society organisations and human rights defenders in a democratic society, the Commissioner observes that a series of negative developments, and in particular measures taken during and after the state of emergency, have created a chilling effect and contributed to an increasingly hostile environment for human rights defenders in Turkey. The Commissioner identifies a number of legislative, regulatory, administrative and procedural obstacles affecting civil society organisations, which should be addressed. She also points to the absence of transparent and objective criteria and procedures regarding public funding, consultation of and collaboration with civil society organisations, as well as for inspections and audits.

'The Commissioner is concerned about an increasingly virulent and negative political discourse targeting and labelling human rights defenders as terrorists, which frequently leads to biased actions being taken by administrative authorities and by the judiciary. In particular with regard to the latter, the Commissioner notes a widespread pattern of judicial actions targeting human rights defenders, which amount to a misuse of criminal proceedings to silence them and to discourage civil society engagement.'[66]

6.6.2 In October 2020, the Council of Europe Parliamentary Assembly published a resolution which stated:

'…the Assembly remains deeply concerned by the situation of human rights defenders, as well as the situation facing academics, journalists and lawyers, whose fundamental rights have been infringed, especially after the failed coup d'état. It calls on the Turkish authorities to put an end to the judicial harassment of human rights defenders. It remains particularly concerned after the conviction of four human rights defenders, including Mr Taner Kılıç, former Head of Amnesty International Turkey, in the "Büyükada trial". These prison sentences are yet another blow to civil society

[63] IHD, OMCT, Turkey Part II: Turkey's Civil Society on the Line: ... (p.36), May 2021
[64] Turkish Minute, 23,364 personnel expelled from military over Gülen links ..., 13 July 2021
[65] Netherlands MFA, 'General Country of Origin Information Report', 18 March 2021
[66] CoE, Council of Europe Report 2020, 19 February 2020

and seriously undermine, if not contradict, the stated intention of the authorities to expand freedom of expression…'[67]

6.6.3 In the annual report covering 2020, Amnesty International stated:

'Dozens of human rights defenders faced criminal investigations and prosecutions for their human rights work.

'In July, the Büyükada trial of 11 human rights defenders concluded with the court convicting Taner Kılıç of "membership of the Fethullah Gülen Terrorist Organization (FETÖ)", sentencing him to six years and three months' imprisonment; İdil Eser, Günal Kurşun and Özlem Dalkıran were sentenced to "one year and 13 months" for "knowingly and willingly supporting FETÖ". The remaining seven defendants were acquitted. On 1 December, a regional appeals court upheld the convictions of the four defenders, who appealed to the Court of Cassation.'[68]

6.6.4 On 7 September 2020, Human Rights Watch (HRW) reported on the case of Osman Kavala, stating:

'Kavala has been held in detention since November 2017, initially on bogus allegations that he used the 2013 Istanbul Gezi Park protests as a pretext for an attempt to overthrow the government, and that he was involved in the July 15, 2016 attempted military coup. On February 18, 2020, Kavala and his eight co-defendants were acquitted on charges of "attempting to overthrow the government by force and violence" in the Gezi Park trial.

'But Kavala was not released, and a court ordered his detention again immediately on one of the grounds for his initial detention on November 1, 2017, namely the charge of "attempting to overthrow the constitution by force and violence" because of the ongoing July 15, 2016 coup attempt-related investigation against him. Turkey's President Recep Tayyip Erdoğan had publicly criticized his acquittal just before he was detained again. Weeks later a court ordered his detention a second time on another charge, "espionage", but under the same investigation file on the coup attempt and relying on the same evidence.'[69]

6.6.5 In the annual report covering the year 2020, Amnesty International also reported on the case of Osman Kavala:

'In May, the Grand Chamber of the ECtHR [European Court of Human Rights] confirmed its December 2019 decision calling for [Kavala's] immediate release, having found his prolonged pre-trial detention to be unlawful and serving an "ulterior purpose". In its examinations of the case in September and October and its interim resolution in December, the Council of Europe's Committee of Ministers urged Turkey to comply with the ECtHR's ruling.

'… In December, the General Assembly of the Constitutional Court found no violation in relation to his ongoing pre-trial detention. Osman Kavala remained in prison at the end of the year.'[70]

[67] CoE, Parliamentary Assembly, New crackdown on political opposition..., 23 October 2020
[68] Amnesty International, The State of the World's Human Rights, 2020/21, Turkey, 7 April 2021
[69] HRW, Turkey: Release Osman Kavala, 7 September 2020
[70] Amnesty International, The State of the World's Human Rights, 2020/21, Turkey, 7 April 2021

6.6.6 In May 2021, The International Observatory of Human Rights (Observatory ihr) noted that Kavala had been held for 3 and a half years without conviction[71].

6.6.7 In December 2020, DW published an article on Law 7262, which became law in April 2021:

'The new legislation, entitled "Preventing Financing of Proliferation of Weapons of Mass Destruction" … is being sharply criticized for expanding government control over civil-society groups in the name of "combating terrorism financing."

'It was passed by the Turkish parliament on December 27 [2020] and submitted to President Tayyip Erdogan for approval.

'The controversial legislation [will] allow the Interior Ministry to replace board members of associations with trustees as well as suspending their operations if members are being prosecuted on terrorism charges.

'NGOs and opposition parties see the new act as an obstacle to the running of civil-society organizations and warn it may throttle democracy…

'Numerous NGOs including the Human Rights Association, Amnesty International Turkey and the Federation of Women Associations of Turkey warn that human rights activists are frequently accused of terrorism in Turkey, and the new legislation relies on ambiguous definitions of terrorism….

'Beyhan [Tarik Beyhan, a director for Amnesty International in Turkey] remarks that the new legislation will make the running of civil-society groups nigh on impossible, and it will create a chilling effect on the right to freedom of association.

'He adds that all nongovernmental organizations will have to act with the belief that the association's activities may be terminated because people may be charged when conducting non-criminal activities or conducting a speech or inviting a person from outside the NGO to an event…

'According to the new act, civil servants will have the power to carry out annual inspections of nongovernmental organizations. The international organizations based in Turkey will also fall under the auspices of the Interior Ministry.

'… the bill will allow for the assets and online donation campaigns to be blocked by the government to "prevent terrorist financing and money laundering." The size of potential fines has also gone up; according to NGOs, these higher fines could lead to the closure of many associations.

'Canan Gullu, the president of Federation of Women's Associations of Turkey states that the new act targets many associations and foundations, especially associations in the fields of human rights, women, LGBTI+ and refugee rights. … According to Güllü, one of the critical issue is that the new

[71] Observatory ihr, Osman Kavala: Prominent Turkish philanthropist's retrial begins, 21 May 2021

law give the power to the Interior Ministry to suspend civil society group's activities with a court order without a chance of appeal.'[72]

6.6.8 The UN HRC's Report of the Working Group on the Universal Periodic Review, dated March 2020, reported the following statements made by the Turkish delegation: 'Freedom of assembly and association was safeguarded by the Constitution. Everyone had the right to hold peaceful demonstrations without any prior permission. In line with the case law of the European Court of Human Rights, restrictions on those rights could be foreseen in law. Between 2015 and 2019, the number of associations had increased by 39 per cent, while their revenues had grown by 107 per cent.'[73]

6.6.9 In May 2021, the Association européenne pour la défense des droits et des libertés (Assedel) submitted a report to the UN Human Rights Committee which stated:

'The State of Emergency Decree-Law No. 667 shut down hundreds of associations, foundations and trade unions and confiscated their assets by announcing their names in the lists attached thereto. Many other civil society organizations have been shut down by other decree-laws issued during the state of emergency. Thus, 1,597 associations, 122 foundations and 24 trade unions have been closed down in total during the two-year period. These institutions have been shut down on the grounds that they "belong, connected or linked to the Gulenist Terror Organization (FETÖ/PDY) which is found to pose a threat to the national security of the state" or they "belong, connected or linked to the terrorist organizations or the structures, formations and groups which are defined by the National Security Council as acting against the national security of the state." No court decision has ever been issued against them, and even no investigation has ever been launched against them. These civil organizations had been operating legally under the supervision of the public authorities. Even after they were closed down, no evidence could be obtained showing that they had been engaging in unlawful activities. Furthermore, the founders and members of these civil society organizations had been charged with membership to a terrorist organization, and many people have been sentenced to various prison terms.'[74]

6.6.10 See Introductory information for further information about state treatment. For further information on Law 7262, see Law No. 7262 on the 'Prevention of Financing of the Proliferation of Weapons of Mass Destruction'. See Use of anti-terrorism legislation for further information about the use of anti-terrorism legislation with regard to human rights defenders. See Sentencing for information about sentences passed down to human rights defenders. See Inquiry Commission on the State of Emergency Measures for information about the closure of NGOs.

Back to Contents

[72] DW, Turkey tightens control over NGOs to 'combat terrorism', 29 December 2020
[73] UN HRC, Report of the Working Group on the UPR; Turkey (para 18), 24 March 2020
[74] ASSEDEL, Submission of the Assedel... (p.11), 21 May 2021

## 6.7 Dissidents

6.7.1 Assedel, the European Association for the Defence of Rights and Freedoms, made a submission to the UN Human Rights Committee in May 2021 which noted, 'Dissident individuals who are tagged as Gulen movement supporters are being targeted on the basis of their political or other opinions, and they are subjected to systematic discrimination on the basis of their political opinion…'[75]

Back to Contents

## 6.8 Education and academia

6.8.1 In the 'Freedom in the World 2021' report, which covered events of 2020, Freedom House reported:

'Academic freedom, never well respected in Turkey, was weakened further by the AKP's purge of government and civil society after the 2016 coup attempt. Schools tied to Fethullah Gülen—the Islamic scholar whose movement was blamed for the coup attempt and deemed a terrorist organization in Turkey—have been closed. Thousands of academics have been summarily dismissed for perceived leftist, Gülenist, or PKK sympathies.'[76]

6.8.2 The Australian DFAT Country Information Report stated that 'During the course of the two-year state of emergency, authorities …removed 5,705 academics from their positions.'[77]

6.8.3 See Introductory information for further information about state treatment.

Back to Contents

## 6.9 Family members of suspected Gülenists

6.9.1 The USSD HR Report 2020 stated:

'Using antiterror legislation, the government targeted family members to exert pressure on wanted suspects. Government measures included cancelling the passports of family members of civil servants suspended or dismissed from state institutions, as well as of those who had fled authorities. In some cases the government cancelled or refused to issue passports for the minor children of individuals outside the country who were wanted for or accused of ties to the Gulen movement. In June the Ministry of Interior announced it would lift restrictions on the passports of 28,075 persons in addition to the 57,000 reported in 2019.'[78]

6.9.2 The same report noted that the government restricted foreign travel for extended family members of tens of thousands of citizens accused of links to the Gulen movement or the failed coup attempt[79].

6.9.3 On 9 July 2020, Pakistan Point reported that a niece of Fethullah Gulen, Zeynep Gulen, was sentenced to two years and seven months'

[75] Assedel, Submission; 132nd Session of the UN Human Rights Committee (p.22), 21 May 2021
[76] Freedom House, Freedom in the World 2021, Turkey, 3 March 2021
[77] DFAT, Country Information Report - Turkey (para 3.38), 10 September 2020
[78] USSD, HR Report 2020 (Section 1F), 30 March 2021
[79] USSD, HR Report 2020 (Section 2D), 30 March 2021

imprisonment. She was accused of opening an account in the Turkish Bank Asya and transferring the equivalent of $35,000 (approximately £25,270) to it in 2014 at her uncle's request[80].

6.9.4 On 31 May 2021, Middle East Eye reported:

'Turkish spies have captured the nephew of Fethullah Gulen in Kenya and brought him back to Turkey … Turkish state news agency Anadolu reported on Monday that Selahaddin Gulen had been brought back to Turkey by agents from Turkey's National Intelligence Organisation (MIT) after he had "fled" abroad, quoting unnamed security sources.

'While Anadolu did not say where Selahaddin had been detained, his wife confirmed in a video posted on social media on 20 May that the couple lived in Kenya and that she had not heard from her husband, who taught at a school in Nairobi, since 3 May. "We got married recently and my husband was kidnapped on 3 May by a group of anonymous people and taken to an unknown place," she said. "I believed he was kidnapped and taken to Turkey on 5 May. I reckon he is facing an abduction only because his surname is Gulen," she said.

'According to Anadolu, Selahaddin was sought for being a member of "an armed terror group".'[81]

6.9.5 On 27 June 2020, Ahval News reported:

'The father of NBA player Enes Kanter, a fierce critic of Turkish President Recep Tayyip Erdoğan, has been acquitted of terrorism charges…Mehmet Kanter, a biology professor in Turkey, was alleged to have supported U.S.-based Islamist preacher Fethullah Gülen…

'Kanter… was fired from his job and initially jailed for five days…

'An investigation against Kanter had revealed a photograph of Gülen on the professor's mobile phone. Kanter claimed he had no relation with FETÖ and said his children may have accidentally downloaded the photo while browsing online, the news site said.

'Enes Kanter, who has lived mainly in the United States for more than a decade, describes himself as a close ally of Gülen. The NBA player's parents publicly disowned him in 2016, shortly after the coup attempt.

'Turkey revoked Enes Kanter's passport in 2017 and issued a warrant for his arrest on terrorism charges. He is awaiting U.S. citizenship.'[82]

6.9.6 On 19 January 2021, Turkish Minute reported:

'The father of Turkey's best-known footballer, ex-international Hakan Şükür, has been given a prison sentence of three years, 45 days on charges of aiding a terrorist organization due to his alleged links to the Gülen movement…

'Şükür's lawyers said there was no element of crime in Sermet Şükür's file and that a secret witness who made the claims about his alleged links to the

[80] Pakistan Point, Islamist Leader Gulens Niece Gets Nearly 3 Years In Prison ..., 9 July 2020
[81] Middle East Eye, Turkey spies detain Fethullah Gulen's nephew in Kenya, 31 May 2021
[82] Ahval News, Father of Turkish NBA player Kanter acquitted of Gülen links, 19 June 2021

Gülen movement, … could not be brought to court and was even taken out of a witness protection program. The lawyers said the only reason Selmet Şükür was standing trial was his son and his affiliation with the Gülen movement.…

'The court said in its ruling that although a case was launched against Selmet Şükür on charges of terrorist organization membership, his activities constituted the aiding of a terrorist organization. The court also decided to remove a freeze on his assets as well as ruling against a demand from prosecutors to seize them…

'Selmet Şükür was detained on Aug. 12, 2016 in Sakarya province and released pending trial on Nov. 25, 2016. The court also imposed a travel ban. Then 75-year-old Şükür, who suffers from a number of chronic diseases, was subjected to maltreatment and lost 40 kilograms during his time in prison, according to his lawyers.

'Hakan Şükür, one of Turkey's most successful football players and a former deputy from the ruling Justice and Development Party (AKP), has been living in self-exile in the US because of his affiliation with the Gülen movement.'[83]

6.9.7 The Netherlands MFA report of March 2021 stated:

'There is no unambiguous answer to the question of how the Turkish government deals with the relatives of (alleged) Gülenists. Particularly relatives of high-ranking Gülenists are at risk of attracting the negative attention of the Turkish authorities.

'The way relatives of (alleged) Gülenists are treated by non-Gülenist citizens depends on the specific situation. One source notes that relatives of (alleged) Gülenists must explicitly distance themselves from the Gülen movement and their Gülenist relative in order to survive socially.'[84]

6.9.8 The International Association for Human Rights Advocacy Geneva (IAHRAG) was created in 2017 with the purpose to '… assist, support, guide and sustain victims of human rights violations. One of the main concerns of its interest is the violation of human rights in Turkey. It particularly provides support and guidance to supporters, men and women, of the [Gulenist movement]…' In June 2021, the IAHRAG made a submission to the UN Committee on the Elimination of Discrimination against Women (CEDAW) and reported that 'disturbing pattern of violations from the Turkish government targeting women of the [Gulenist movement] (but not only) is the arrest of wives of suspects when they are not found. A well-known case is that of journalist the police could not find him at home: they arrested his wife, housewife and mother of five, and kept her under arrest for eight months.'[85]

6.9.9 See Gulenists outside Turkey and Enforced disappearance for further information on these subjects.

Back to Contents

[83] Turkish Minute, Ex-footballer Hakan Şükür's father given jail sentence ..., 19 January 2021
[84] Netherlands MFA, 'General Country of Origin Information Report', 18 March 2021
[85] IAHRAG, published by CEDAW, Submission to the Committee... (p.7 and 8), June 2021

## 6.10 Journalists and freedom of expression

6.10.1 The USSD HR Report 2020 noted that, 'Estimates of the number of imprisoned journalists varied, ranging from at least 37 according to the Committee to Protect Journalists to 79 according to the International Press Institute. The majority faced charges related to antigovernment reporting or alleged ties to the PKK or Gulen movement.'[86]

6.10.2 The same report continued:

'The government often categorized imprisoned journalists from Kurdish-language outlets or alleged pro-Gulen publications as "terrorists," claiming ties to or support for the PKK and the Gulen movement. Information about and access to the imprisoned staff of some of these outlets was therefore limited, further contributing to disparities in tallies of jailed journalists.

'An unknown number of journalists were outside the country and did not return due to fear of arrest, according to the Journalists Association. In June in response to a parliamentary question submitted six months earlier by an HDP MP, Vice President Fuat Oktay stated, the government shut down a total of 119 media outlets under state of emergency decrees following the 2016 failed coup attempt, including a total of 53 newspapers, 20 magazines, 16 television channels, 24 radio stations, and six news agencies. Independent reports estimated the government has closed more than 200 media companies since 2016.'[87]

6.10.3 The report added, 'The government routinely filed terrorism-related charges against individuals or publications in response to reporting on sensitive topics, particularly government efforts against PKK terrorism and the Gulen movement. Human rights groups and journalists asserted the government did this to target and intimidate journalists and the public for speech critical of the state.'[88]

6.10.4 The same report noted that 'In some cases prosecutors considered the possession of some Kurdish-language, pro-Kurdish, or Gulen movement books to be credible evidence of membership in a terror organization. In other cases authorities banned books because of objectionable content.'[89]

6.10.5 The report further stated:

'Authorities regularly used the counterterrorism law and the penal code to limit free expression on grounds of national security. Organizations, including the Committee to Protect Journalists and Freedom House, reported that authorities used the counterterrorism law and criminal code to prosecute journalists, writers, editors, publishers, filmmakers, translators, rights activists, lawyers, elected officials, and students accused of supporting a terrorist organization–generally either the PKK or the Gulen movement.'[90]

[86] USSD, HR Report 2020 (Section 2A), 30 March 2021
[87] USSD, HR Report 2020 (Section 2A), 30 March 2021
[88] USSD, HR Report 2020 (Section 2A), 30 March 2021
[89] USSD, HR Report 2020 (Section 2A), 30 March 2021
[90] USSD, HR Report 2020 (Section 2A), 30 March 2021

6.10.6 The same report noted that journalists accused of publicizing corruption allegations against government officials also faced criminal charges[91].

6.10.7 In March 2021, the Netherlands MFA stated:

'On 23 December 2020, a court sentenced journalist Can Dündar in absentia to 27.5 years in prison for spying and for supporting a terrorist organisation. Dündar was the former editor of Cumhuriyet, a left-wing, secular-oriented opposition newspaper… In 2015, the newspaper released video footage that showed the Millî Istihbarat Teşkilâtı (MIT), or Turkey's National Security Service, supplying weapons to Syrian rebels. According to the prosecutors, Gülen supporters reportedly passed on the footage to Cumhuriyet. Dündar, who had been living in Germany since 2016, dismissed the verdict as "politically motivated". In view of Dündar's status as a fugitive, the Turkish authorities confiscated all his property in Turkey…'[92]

6.10.8 In June 2021, Reporters Without Borders (RSF) noted:

'For years, the Presidency Communications Directorate (CIB) has been using its press cards to restrict the freedom to inform. Pro-government journalists have no trouble obtaining CIB press cards, even those guilty of hate speech, disinformation or hounding human rights defenders. But in recent years leading critical journalists have had their CIB press cards withdrawn or their renewal requests have gone unanswered.

'Journalists without this press card cannot cover the activities of the president or government ministers and are even liable to be prevented from covering street protests. A directive issued by the national police on 27 April bans them from filming or recording police interventions during demonstrations…'[93]

6.10.9 RSF referred to '… the battle over press cards waged between journalists and the authorities, who have taken a tougher stance since the 2016 coup attempt. In the past five years, they have rescinded around 2,000 press cards held by journalists close to pro-Gülen circles or by journalists of other political colours, including Islamists critical of the government, republicans, secularists and those who support the Kurds.

'In the three years that the CIB [Presidency Communications Directorate] has been in charge of press cards, it has rejected 1,371 of the 10,486 applications submitted by journalists and is still processing 220 applications. It has also rescinded 1,238 press cards since 2019. Gökhan Durmus, the head of the Journalists Union of Turkey (TGS), estimates that only a quarter of Turkey's 25,000 journalists have the press card.'[94]

6.10.10 See Introductory information for further information about state treatment.

Back to Contents

[91] USSD, HR Report 2020 (Section 4), 30 March 2021
[92] Netherlands MFA, General Country of Origin Information Report (p.25 and 27), 18 March 2021
[93] RSF, Turkey using press accreditation to pressure journalists, 29 June 2021
[94] RSF, Turkey using press accreditation to pressure journalists, 29 June 2021

## 6.11 Judges and lawyers

6.11.1 The Council of Europe Report 2020, based on a visit to Turkey carried out by the Commissioner for Human Rights in July 2019, stated:

'The Commissioner raises specific concerns regarding lawyers, who have been affected by … negative developments both as human rights defenders, and as an integral part of the judicial process guaranteeing the right to a fair trial. In addition to restrictions hampering them in the exercise of their duties, a large number of judicial actions target them directly. The Commissioner urges the authorities to acknowledge the danger posed by this state of affairs and address the underlying problems.'[95]

6.11.2 The USSD HR Report 2020 reported:

'Following the 2016 coup attempt, the government suspended, detained, or fired nearly one-third of the judiciary accused of affiliation with the Gulen movement. The government in the intervening years filled the vacancies, but the judiciary continued to experience the effects of the purges. A Reuters international news organization analysis of Ministry of Justice data showed that at least 45 percent of the country's prosecutors and judges have three years of legal professional experience or less.'[96]

6.11.3 The same report stated:

'Some lawyers stated they were hesitant to take cases, particularly those of suspects accused of PKK or Gulen movement ties, because of fear of government reprisal, including prosecution. Government intimidation of defense lawyers also at times involved nonterror cases. … According to human rights organizations, since 2016 authorities prosecuted more than 1,500 lawyers, arrested 605, and sentenced 441 to lengthy prison terms on terrorism-related charges. Of the arrested lawyers, 14 were presidents of provincial bar associations. This practice disproportionately affected access to legal representation in the southeast, where accusations of affiliation with the PKK were frequent and the ratio of lawyers to citizens was low. In a September speech, the president suggested that lawyers who are "intimate" with terrorist organizations should be disbarred.'[97]

6.11.4 The report continued:

'The government … targeted some defense attorneys representing a number of high-profile clients. In September authorities issued detention orders for 48 lawyers and seven legal trainees in Ankara on charges related to terrorism due to alleged links to the Gulen movement. Prominent bar associations, including those of Ankara, Istanbul, Izmir, and Gaziantep, condemned the arrests and reported that investigators' questions to the lawyers, as well as presented evidence, were related to their professional activities.'[98]

6.11.5 In the annual report covering 2020, Amnesty International stated, 'In September, police detained 47 lawyers on suspicion of "membership of a

[95] CoE, Council of Europe Report 2020, 19 February 2020
[96] USSD, HR Report 2020 (Section 1D), 30 March 2021
[97] USSD, HR Report 2020 (Section 1D), 30 March 2021
[98] USSD, HR Report 2020 (Section 1D), 30 March 2021

terrorist organization", based solely on their work. At least 15 lawyers were remanded in pre-trial detention. Also in September, the Court of Cassation upheld the prison sentences of 14 lawyers from the Progressive Lawyers Association, prosecuted under terrorism-related legislation.'[99]

6.11.6 The USSD HR Report 2020 added that 'During the year the government continued prosecutions against law enforcement officers, judges, and prosecutors who initiated corruption-related investigations or cases against government officials, alleging the defendants did so at the behest of the Gulen movement.'[100]

6.11.7 In a resolution published in October 2020, the Council of Europe Parliamentary Assembly stated:

'…the Assembly condemns the recent arrests of lawyers and the criminalisation of their activities. The Assembly underlines that lawyers play a key role in the implementation of rule of law standards and the effective administration of justice. They must therefore be able to exercise their profession independently and safely. The Assembly deplores that lawyers detained on terrorism-related charges felt forced to resort to hunger strikes, at the cost of their lives, to demand a fair trial. In this context, the Assembly is concerned by the adoption of the amendments to the Attorneyship Law of 1969 in July 2020, without proper consultation, which do not comply with Council of Europe standards and undermine the independence of the bar associations…'[101]

6.11.8 In March 2021, the Netherlands MFA report stated that Judges, prosecutors and lawyers cannot practice their profession independently of the Turkish authorities. The report added that, according to a confidential source, lawyers whose client base consists largely of (alleged) Gülenists, in particular, run the risk of themselves being prosecuted as Gülenists [102].

6.11.9 The European Commission, Turkey 2021 report stated that 'In May 2021, the Council of Judges and Prosecutors transferred 3 070 judges and prosecutors, just before the end of the Council's mandate. Overall, 3 968 judges and public prosecutors were dismissed for alleged links to the Gülen movement since the attempted coup.'[103]

6.11.10 See Introductory information for further information about state treatment. See Use of anti-terrorism legislation for information about the use of anti-terrorism legislation with regard to lawyers. See Sentencing for information about sentences passed to lawyers. See Independence of the judiciary for further information on this subject.

Back to Contents

[99] Amnesty International, The State of the World's Human Rights, 2020/21, Turkey, 7 April 2021
[100] USSD, HR Report 2020 (Section 4), 30 March 2021
[101] CoE, Parliamentary Assembly, New crackdown on political opposition..., 23 October 2020
[102] Netherlands MFA, 'General Country of Origin Information Report', 18 March 2021
[103] EC, Turkey 2021 Report (p.23), 19 October 2021

## 6.12 Police

6.12.1 In December 2020, Balkan Insight reported that, according to the Turkish interior ministry, since the failed coup more than 31,000 police officers had lost their jobs due to alleged links to the Gulenist movement[104].

6.12.2 The Netherlands MFA report of March 2021 noted that Gulenists in some professions are more likely to receive the negative attention of the authorities than those in other professions. Three sources believed that Gulenists in the police force are in one of the top 3 professions most likely to be targeted by the authorities[105].

6.12.3 In September 2021, Turkish Minute noted:

'Turkish prosecutors have issued detention warrants for 143 people including former public officials due to their alleged links to the Gülen movement, accused by the Turkish government of masterminding a failed coup in 2016… The detention warrants, issued by the Ankara Chief Public Prosecutor's Office, target 86 former public servants including police chiefs who were fired following the coup attempt, among others. Police were conducting raids across 43 provinces to detain the suspects.'[106]

Back to Contents

## 6.13 Suspected Gülenists outside Turkey

6.13.1 The USSD HR Report 2020 reported:

'The government engaged in a worldwide effort to apprehend suspected members of the Gulen movement. There were credible reports that the government exerted bilateral pressure on other countries to take adverse action against specific individuals, at times without due process. According to a report by several UN special rapporteurs in May, the government reportedly coordinated with other states to transfer more … than 100 Turkish nationals to Turkey since the 2016 coup attempt, of which 40 individuals were subjected to enforced disappearance…

'There were also credible reports that the government attempted to use INTERPOL red notices to target specific individuals located outside the country, alleging ties to terrorism connected to the 2016 coup attempt or to the PKK, based on little evidence. … There were also reports that individuals faced complications related to erroneous lost or stolen passport reports the government filed against suspected Gulen movement supporters in the years directly following the coup attempt. Targeted individuals often had no clearly identified role in the attempted coup but were associated with the Gulen movement or had spoken in favor of it. The reports to INTERPOL could lead to individuals' detention or prevent them from traveling…

'The government used property seizure orders to pressure individuals living in exile abroad…

'The government continued to refuse to renew the passports of some citizens with temporary residency permits in other countries on political

[104] Balkan Insight, Turkey Detains 116 Police and Army Officers..., 1 December 2020
[105] Netherlands MFA, 'General Country of Origin Information Report', 18 March 2021
[106] Turkish Minute, 143 people face detention over alleged Gülen links, 14 September 2021

grounds, claiming they were members of “Gulenist” organizations; these individuals were unable to travel outside of their countries of residence.’[107]

6.13.2 The Netherlands MFA report of March 2021 stated:

‘In July 2020, the Turkish Ministry of Justice announced that Turkey had asked 105 countries to extradite a total of 807 Gülenists. So far, 116 Gülenists had been reportedly extradited from 27 countries, according to the same Ministry. There is no complete list of the 27 countries that responded to Turkey's extradition requests. One confidential source says that extradited Gülenists are put on trial after their return and face long prison terms. Another source reports that (extradited) Gülenists can be subjected to torture and ill-treatment in prison.’[108]

6.13.3 In July 2021, Radio Free Europe/Radio Liberty (RFE/RL) published an article which stated:

‘Kyrgyz-Turkish educator Orhan Inandi, who is currently in Turkish custody, says he was abducted in Bishkek [Kyrgyzstan] in late May by three Kyrgyz men, who may be part of the country's security services, before he was transferred to Turkey, where he is accused of involvement in terrorist activities.

‘… lawyer Halil Ibrahim Yilmaz told RFE/RL on July 13 that his client told him that three men speaking fluent Kyrgyz, possibly officers of the Kyrgyz police, security services, or another Kyrgyz state entity, kidnapped him…

‘According to Yilmaz, the abductors blindfolded Inandi and transported him by car for several hours before he was placed on a plane and brought to Turkey…

‘Turkish President Recep Tayyip Erdogan on July 5 said agents from Turkish intelligence abducted Inandi and brought him to Turkey, describing Inandi as “a top Central Asian leader” of the movement led by U.S.-based Turkish cleric Fethullah Gulen…

‘Yilmaz told RFE/RL that his client has rejected accusations of being a member of a terrorist group…

‘Erbol Sultanbaev, a spokesman for Kyrgyz President Sadyr Japarov, denied the authorities were involved in the abduction, calling the charges “completely absurd." In a statement, the president’s office said they had issued a formal complaint to the Turkish ambassador about the issue. It added that there had been three prior attempts to kidnap the educator and all had been thwarted.’[109]

6.13.4 See Family members of suspected Gulenists for further information about the treatment of suspected Gulenists abroad.

Back to Contents

Section 7 updated: 20 December 2021

[107] USSD, HR Report 2020 (Section 1E), 30 March 2021
[108] Netherlands MFA, 'General Country of Origin Information Report', 18 March 2021
[109] RFE/RL, Kyrgyz-Turkish Educator In Custody Says He Was Abducted..., 14 July 2021

## 7. Other government action

### 7.1 Dismissals and suspensions

7.1.1 The USSD HR Report 2020 stated:

'Under broad antiterror legislation passed in 2018 the government continued to restrict fundamental freedoms and compromised the rule of law. Since the 2016 coup attempt, authorities have dismissed or suspended more than 60,000 police and military personnel and approximately 125,000 civil servants, dismissed one-third of the judiciary, arrested or imprisoned more than 90,000 citizens, and closed more than 1,500 nongovernmental organizations on terrorism-related grounds, primarily for alleged ties to the movement of cleric Fethullah Gulen, whom the government accused of masterminding the coup attempt and designated as the leader of the "Fethullah Terrorist Organization."'[110]

7.1.2 In the 'Freedom in the World 2021' report, covering events of 2020, Freedom House stated that 'More than 125,000 public-sector workers have been fired in the purges that followed the 2016 coup attempt, and those who were suspended or dismissed have no effective avenue for appeal. Many purge victims were unable to find new employment in the private sector, due to an atmosphere of guilt by association.'[111]

7.1.3 In September 2020, the Australian DFAT reported:

'Authorities have published lists of those dismissed and put markers against them in the registration system of the state social insurance system (SGK), significantly reducing their chances of finding alternative employment in either the public or private sectors, and stigmatising them socially. Those dismissed lose their income and social benefits, including access to medical insurance and retirement benefits, and many have had their passports cancelled… The experiences of those purged has not been universal – some purged officials have subsequently been re-appointed to senior positions, others have thrived in the private sector.'[112]

7.1.4 See Inquiry Commission on the State of Emergency Measures for information about appeals against dismissals. See Travel restrictions for further information on this subject.

Back to Contents

### 7.2 Closure of businesses

7.2.1 In September 2020, the Australia DFAT noted, 'Since July 2016, the government has seized or appointed administrators for approximately 1,000 businesses accused of having links to the Gulen movement. The businesses, which range from small shops to publicly traded companies, are worth an estimated USD12 billion.'[113]

7.2.2 The USSD HR Report 2020 noted, 'Government seizure and closure during the previous three years of hundreds of businesses accused of links to the

[110] USSD, HR Report 2020, 30 March 2021
[111] Freedom House, Freedom in the World 2021, Turkey, 3 March 2021
[112] DFAT, Country Information Report - Turkey (para 3.40), 10 September 2020
[113] DFAT, Country Information Report - Turkey (para 3.40), 10 September 2020

Gulen movement created ambiguous situations for the privacy of client information.'[114]

7.2.3 In the 'Freedom in the World 2021' report, which covered events of 2020, Freedom House stated, 'In the aftermath of the 2016 coup attempt, the assets of companies, NGOs, foundations, individuals, media outlets, and other entities deemed to be associated with terrorist groups have been confiscated. According to a survey published in 2018, at least $11 billion in private business assets, ranging from corner stores to large conglomerates, had been seized.'[115]

7.2.4 In April 2021, the German Federal Office for Migration and Refugees (BAMF) stated: 'Media reports say that on 04.04.21, a 12-page list with 377 names of individuals whose assets have been frozen in Turkey was published in the Turkish Official Gazette (Resmî Gazete) with reference to the law on the prevention of Terrorist financing. Apparently, the list includes 205 FETÖ members…'[116]

Back to Contents

## 7.3 Enforced disappearance

7.3.1 The HRW World Report 2021, which covered events of 2020, noted, 'There have been no effective investigations into the around two dozen reported cases of enforced disappearance over the past four years. In February and June 2020, two men out of six who resurfaced in police custody in Ankara months after disappearing in February 2019, stated in court hearings that they had been abducted, tortured, and forced to sign statements confessing to links with the Gülen movement.'[117]

7.3.2 In the annual report covering the year 2020, Amnesty International stated that, 'In February, Gökhan Türkmen, one of seven men accused of links with the Fethullah Gülen movement who went missing in 2019, recounted in court the torture and other ill-treatment he had been subjected to during the 271 days of his enforced disappearance. The court requested a criminal investigation to be launched into his allegations.'[118]

7.3.3 In September 2020, the Australian DFAT noted, 'In 2019, there were credible reports of disappearances … while in police custody of Gulen suspects who were former employees of the Ministry of Foreign Affairs. The Turkish National Police deny the claims.'[119]

7.3.4 In May 2021, the Association européenne pour la défense des droits et des libertés (Assedel) submitted a report to the UN Human Rights Committee which stated: 'Almost all of the enforced disappearance cases target the suspected members of the Gulen movement.'[120]

7.3.5 See Civil servants and Treatment in detention for further information about former employees of the Civil Service, including the Ministry of Foreign

[114] USSD, HR Report 2020 (Section 1F), 30 March 2021
[115] Freedom House, Freedom in the World 2021, Turkey, 3 March 2021
[116] BAMF, Briefing Notes (p.13), 19 April 2021
[117] HRW, World Report 2021: Turkey, 13 January 2021
[118] Amnesty International, The State of the World's Human Rights, 2020/21, Turkey, 7 April 2021
[119] DFAT, Country Information Report - Turkey (para 3.38), 10 September 2020
[120] ASSEDEL, Submission of the Assedel ... (p.7), 21 May 2021

Affairs. See Gulenists outside Turkey and Family members of suspected Gulenists for further information about enforced disappearance.

Back to Contents

## 7.4 Travel restrictions

7.4.1 The USSD HR Report 2020 stated:

'The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, but the government limited these rights. The government continued to restrict foreign travel for some citizens accused of links to the Gulen movement or the failed 2016 coup attempt. In June authorities lifted passport restrictions for 28,075 individuals, in addition to the 57,000 lifted in 2019, although it remained unclear how many more remained unable to travel.'[121]

7.4.2 The same report continued:

'The government placed restrictions on foreign travel for tens of thousands of citizens accused of links to the Gulen movement or the failed coup attempt, as well as on their extended family members. Authorities also restricted some foreign citizens with dual Turkish citizenship from leaving the country due to alleged terrorism concerns. The government maintained the travel restrictions were necessary to preserve security. Some persons whom the government barred from travel chose to leave the country illegally.'[122]

7.4.3 In the 'Freedom in the World 2021' report, covering events of 2020, Freedom House noted that 'The government stated in 2019 that it was working to reinstate passports after the Constitutional Court overturned the regulation that allowed their original revocation.'[123]

7.4.4 In its Special Report 2021, Freedom House stated:

'Aside from renditions, the most important tool of Turkish transnational repression has been mobility controls. The authorities canceled more than 230,000 passports after the coup attempt in a bid to confine suspected opponents within Turkey and limit mobility for those already outside the country. The government also reported as lost or stolen an unknown number of passports. Gülen movement members abroad reported being unable to renew passports or have passports issued for children at Turkish consulates, meaning they would have to return to Turkey and face the risk of arrest.

'Although tens of thousands of passport cancelations were later officially rescinded, the process was marred with errors, and some of the affected individuals continued to encounter problems when using passports to travel. Canceled passports in turn created opportunities for detention during travel, and the detainees could then be extradited or rendered back to Turkey. The Turkish government has tried to exploit Interpol to target exiles. Following the coup attempt, it allegedly tried to "batch" upload some 60,000 names onto the agency's notification system.'[124]

[121] USSD, HR Report 2020 (Section 2D), 30 March 2021
[122] USSD, HR Report 2020 (Section 2D), 30 March 2021
[123] Freedom House, Freedom in the World 2021, Turkey, 3 March 2021
[124] Freedom House, Special Report 2021: Turkey: Transnational Repression Case Study, 2021

7.4.5 The same report further noted:

'A passport can be invalidated in a number of ways. A judge can issue an exit ban as an alternative to an arrest, after which the passport is invalidated... A passport can also be invalidated in the context of an administrative measure under Article 22 of the Passport Act. Such a measure can be taken by the Ministry of the Interior against founders, executive directors and employees of educational and health institutions, foundations, associations and cooperatives associated with terrorist organisations…

'Although an exit ban and an administrative measure under Section 22 of the Passport Act are two different legal matters, the effect is the same, namely the invalidation of a passport. A person does not necessarily have to be charged or convicted before his or her passport can be invalidated… (alleged) Gülenists … and opposition politicians…with a legal investigation or lawsuit pending have their passports invalidated. It is also known that the Turkish authorities have invalidated the passports of relatives of (alleged) Gülenists...'[125]

7.4.6 See Family members of suspected Gülenists for further information on this subject.

Back to Contents

Section 8 updated: 20 December 2021

# 8. Arrests and detention

## 8.1 Introduction

8.1.1 In September 2020, the Australian DFAT noted that 80,000 people had been arrested or detained on suspicion of involvement in the Gulenist movement[126].

8.1.2 In their submission to the UN Human Rights Committee in May 2021, Assedel noted:

'Among more than half a million investigated and detained people, 96,885 have been arrested and jailed because of their alleged links to the Gülen movement. In addition to this, after the massive crackdown subjected by the Gulen movement after the coup attempt, 3,003 schools, dormitories and universities were shut down, 150,348 public servants were dismissed; 6,021 academics lost their jobs; 4,463 judges, prosecutors were dismissed; 189 media outlets were shut down 319 journalists were arrested.'[127]

8.1.3 In September 2021, Turkish Minute reported that 'Turkey's Interior Minister Süleyman Soylu announced in February that a total of 622,646 people have been the subject of investigation and 301,932 have been detained, while 96,000 others have been jailed due to alleged links to the Gülen movement since the failed coup. The minister said there are currently 25,467 people in Turkey's prisons who were jailed on alleged links to the movement.'[128]

[125] Netherlands MFA, 'General Country of Origin Information Report' (p.15), 18 March 2021
[126] DFAT, Country Information Report - Turkey (para 3.38), 10 September 2020
[127] Assedel, Submission; 132nd Session of the UN Human Rights Committee, 21 May 2021
[128] Turkish Minute, 143 people face detention over alleged Gülen links, 14 September 2021

Back to Contents

## 8.2 Incidences of re-arrest

8.2.1 The Netherlands MFA report of March 2021 noted that people under investigation risk being rearrested[129].

8.2.2 See Independence of the judiciary for information about Osman Kavala, who was re-arrested after being released.

Back to Contents

## 8.3 Pre-trial detention

8.3.1 The USSD HR Report 2020 stated:

'Under antiterror legislation adopted in 2018, the government may detain without charge (or appearance before a judge) a suspect for 48 hours for "individual" offenses and 96 hours for "collective" offenses. These periods may be extended twice with the approval of a judge, amounting to six days for "individual" and 12 days for "collective" offenses. Human rights organizations raised concerns that police authority to hold individuals for up to 12 days without charge increased the risk of mistreatment and torture. According to a statement by Minister of Justice Gul, 48,752 persons were in pretrial detention in the country as of July.'[130]

8.3.2 The same report further noted:

'The maximum time an arrestee can be held pending trial with an indictment is seven years, including for crimes against the security of the state, national defense, constitutional order, state secrets and espionage, organized crime, and terrorism-related offenses. Pretrial detention during the investigation phase of a case (before an indictment) is limited to six months for cases that do not fall under the purview of the heavy criminal court–referred to by the International Criminal Police Organization (INTERPOL) as the central criminal court–and one year for cases that fall under the heavy criminal court. The length of pretrial detention generally did not exceed the maximum sentence for the alleged crimes. For other major criminal offenses tried by high criminal courts, the maximum detention period remained two years with the possibility of three one-year extensions, for a total of five years.

'For terror-related cases, the maximum period of pretrial detention during the investigation phase is 18 months, with the possibility of a six-month extension.

'Rule of law advocates noted that broad use of pretrial detention had become a form of summary punishment, particularly in cases that involved politically motivated terrorism charges.'[131]

8.3.3 The report added, 'Detainees' lawyers may appeal pretrial detention, although antiterror legislation imposed limits on their ability to do so.'[132]

8.3.4 The same report continued:

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[129] Netherlands MFA, 'General Country of Origin Information Report' (page 39), 18 March 2021
[130] USSD, HR Report 2020 (Section 1D), 30 March 2021
[131] USSD, HR Report 2020 (Section 1D), 30 March 2021
[132] USSD, HR Report 2020 (Section 1D), 30 March 2021

'Detainees awaiting or undergoing trial prior to the 2016-18 state of emergency had the right to a review in person with a lawyer before a judge every 30 days to determine if they should be released pending trial. Under a law passed in 2018, in-person review occurs once every 90 days with the 30-day reviews replaced by a judge's evaluation of the case file only. Bar associations noted this element of the law was contrary to the principle of habeas corpus and increased the risk of abuse, since the detainee would not be seen by a judge on a periodic basis.'[133]

8.3.5 In the annual report covering 2020, Amnesty International stated that, 'In April, as COVID-19 spread in the country, the government amended the law on the execution of sentences, enabling the early release of up to 90,000 prisoners. Specifically excluded were prisoners in pre-trial detention and those convicted under terrorism laws.'[134]

8.3.6 In April 2021, the Council of Europe's Parliamentary Assembly stated:

'…the Assembly welcomes two Chamber's rulings (not final) of the European Court of Human Rights of 13 April 2021 related to the cases Ahmet Hüsrev Altan v. Turkey and Murat Aksoy v. Turkey, concerning two journalists arrested after the failed coup due to their publications, their alleged membership to the Gülen Movement and their alleged preparation of a coup. While Murat Aksoy has been released from pre-trial detention in 2017, renowned journalist and novelist, Ahmet Altan, has been in jail since 2016. The Court found, notably, a violation of their rights to freedom of expression, liberty and security of the two plaintiffs due to lack of evidence, lack of reasonable suspicion and lack of access to their files. …

'… Mr Altan had been arrested in 2016 after the failed coup on terrorism charges, for his alleged ties to the Gülen Movement and was sentenced to 10 years and 6 months in prison for "attempting to overthrow the Government of Turkey", then "knowingly and willingly aiding a terrorist organisation despite not being included in its hierarchical structure". The Court assessed that the incriminated articles were written "as part of journalistic activity and cannot be construed as grounding a reasonable suspicion that the applicant had committed the offences in question. The applicant's criticisms of the president's political approach cannot be seen as an indication that he had prior knowledge of the attempted coup of 15 July 2016"…

'On 14 April 2021, the Supreme Court of Cassation ruled that Mr Altan should be released based on his prolonged imprisonment of over four-and-a-half years. We welcome this swift move and verdict of the Supreme Court of Cassation to redress Mr Altan's rights violations and release him. However, this should not obliterate neither the many years he spent in prison after the failed coup – for his alleged membership to the Gülenist Movement and for articles he had written – nor the fact that many journalists remain detained.'[135]

8.3.7 In March 2021, the Danish Immigration Service reported:

[133] USSD, HR Report 2020 (Section 1D), 30 March 2021
[134] Amnesty International, The State of the World's Human Rights, 2020/21, Turkey, 7 April 2021
[135] CoE Parliamentary Assembly, The functioning of democratic institutions in Turkey, 21 April 2021

'In February 2021, the Turkish Constitutional Court found that there was no rights violations when a former news editor arrested under terrorism charges for membership in the Hizmet movement (also known as the Gülen movement)…was held in remand detention for four-and-a-half years. The decision was, among others, justified with comparison to previous rulings, including one ruling that found detention of five years and eleven months reasonable…'[136]

Back to Contents

## 8.4 Treatment in detention

8.4.1 From 6 to 17 May 2019, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CoE CPT) visited police and gendarmerie establishments and prisons in Turkey and spoke to hundreds of persons who were being held, or had recently been held, in police custody. They subsequently published a report dated 5 August 2020 which stated:

'As was the case during the CPT's 2017 visit, the delegation received a considerable number of allegations of excessive use of force and/or physical ill-treatment by police/gendarmerie officers from persons who had recently been taken into custody (including women and juveniles). These allegations mainly consisted of slaps, kicks, punches (including to the head and/or face) and truncheon blows after the persons concerned had been handcuffed or otherwise brought under control. A significant proportion of the allegations related to beatings during transport or inside law enforcement establishments, apparently with the aim of securing confessions or obtaining other information, or as a punishment. Further, numerous detained persons claimed to have been subjected to threats and/or severe verbal abuse. Moreover, a number of allegations were once again received of excessive use of force and/or physical ill-treatment by members of the mobile motorcycle intervention teams (so-called "Yunus") in Istanbul. In a number of cases, the allegations of physical ill-treatment were supported by medical evidence, such as bodily injuries documented in medical records or directly observed by medical members of the delegation. Overall, the CPT has gained the impression that, compared to the findings of the 2017 visit, the severity of alleged police ill-treatment has diminished. However, the frequency of allegations remains at a worrying level. The Committee stresses once again the need for more decisive action by all relevant authorities in order to combat the phenomenon of police ill-treatment in Turkey and reiterates its recommendation that a clear and firm message of "zero tolerance" of ill-treatment be delivered to all law enforcement officials, from the highest political level, namely the President of the Republic.'[137]

8.4.2 The same report continued:

'As concerns fundamental safeguards against ill-treatment, it transpired from the information gathered during the visit that notification of custody to a relative (or another trusted person) was generally performed soon after apprehension and that detained persons usually had access to a lawyer

[136] Danish Immigration Service, Turkey: Prison conditions (p.13 and 14), March 2021
[137] CoE, CPT, Report on the visit to Turkey, 6 to 17 May 2019 (Executive summary), 5 August 2020

whilst in police custody. However, as during previous visits to Turkey, a number of detained persons claimed that the police had granted their request for an ex officio lawyer only after a considerable delay, in order to be able to informally question them about the suspected offence without the presence of a lawyer (prior to the taking of a formal statement). The CPT also remains concerned about the existence of legal restrictions regarding access to a lawyer during the initial phase of police custody for certain serious crimes, and it emphasises the importance for the prevention of ill-treatment of guaranteeing such access from the very outset of police custody.

'Further, despite the specific recommendations repeatedly made by the Committee after previous visits, the system of mandatory medical controls at the outset and end of police/gendarmerie custody remained fundamentally flawed. In particular, in the vast majority of cases, law enforcement officials continued to be present during medical controls and such controls were often carried out without any physical examination. Moreover, several persons claimed that they had been threatened not to show their injuries by police officers present during medical controls.'[138]

8.4.3 Further information about the findings of the CoE CPT delegation can be found in the Report on the visit to Turkey, 6 to 17 May 2019.

8.4.4 The USSD HR Report 2020 noted, 'In August a 44-year-old man convicted of having ties to the Gulen movement died in a quarantine cell in Gumushane Prison after displaying COVID-19 symptoms. Press reports alleged the prisoner had requested medical treatment multiple times, but the prison failed to provide it.'[139]

8.4.5 The same report stated that 'Human rights groups asserted that individuals with alleged affiliation with the PKK or the Gulen movement were more likely to be subjected to mistreatment or abuse.'[140]

8.4.6 In September 2020, the Australian DFAT stated, 'In 2019, there were credible reports of … torture while in police custody of Gulen suspects who were former employees of the Ministry of Foreign Affairs. The Turkish National Police deny the claims.'[141]

8.4.7 In its World Report 2021, Human Rights Watch stated, 'A rise in allegations of torture, ill-treatment, and cruel and inhuman or degrading treatment in police and military custody and prison over the past four years has set back Turkey's earlier progress in this area. Those targeted include people accused of political and common crimes.'[142]

8.4.8 The USSD HR Report 2020 further stated:

'In 2019 public reports alleged that as many as 100 persons, including former members of the Ministry of Foreign Affairs dismissed under the 2016-18 state of emergency decrees due to suspected ties to the Gulen movement, were mistreated or tortured while in police custody. The Ankara

[138] CoE, CPT, Report on the visit to Turkey, 6 to 17 May 2019 (Executive summary), 5 August 2020
[139] USSD, HR Report 2020 (Section 1A), 30 March 2021
[140] USSD, HR Report 2020 (Section 1C), 30 March 2021
[141] DFAT, Country Information Report - Turkey (para 3.38), 10 September 2020
[142] HRW, World Report 2021: Turkey, 13 January 2021

Bar Association released a report that detailed its interviews with alleged victims. Of the six detainees the association interviewed, five reported police authorities tortured them. In August the Ankara Prosecution Office decided not to pursue prosecution based on the allegations, citing insufficient evidence.

'Reports from human rights groups indicated that police abused detainees outside police station premises and that mistreatment and alleged torture was more prevalent in some police facilities in parts of the southeast.'[143]

8.4.9 The USSD HR Report 2020 further noted:

'Credible reports claimed that authorities subjected some persons jailed on terrorism-related charges to abuses, including long solitary confinement, unnecessary strip and cavity searches, severe limitations on outdoor exercise and out-of-cell activity, denial of access to prison library and media, slow medical attention, and in some cases the denial of medical treatment. Reports also alleged that authorities subjected visitors of prisoners accused of terrorism-related crimes to abuse, including limited access to family and degrading treatment by prison guards, including strip searches.'[144]

8.4.10 In June 2021, the International Association for Human Rights Advocacy Geneva's submission to the UN CEDAW reported that:

'Unlawful strip-search have been frequently put into practice in Turkey's prisons and detention centers in particular against women from the HM [Gulenist Movement], Kurdish women and government opponents. The women subjected to such strip-searches appear to be broadly those detained or arrested on charges of terrorism due to their alleged affiliation with the HM, but also visiting female relatives of inmates. Following the denial of the claims about strip-searches by AKP deputy group…

'the women subjected to such practices have shared videos on social media in which they related their experiences of unlawful and humiliating strip-searches conducted during detention or imprisonment since the coup attempt in July 2016 and how difficult it was for them to live with the trauma they inflicted. Among those women are journalists, lawyers, former teachers, housewives and students. The Turkish authorities and the AKP deputies have been trying to cover up reports of harassment and strip-searches conducted Turkey's prisons and detention centers.

'There are also many concurring testimonies of women from the HM being raped in prisons and detention centers, notably in the aftermath of the 15 July 2016 coup attempt. A medical doctor, assigned to conduct physical examination in a gymnasium turned into a detention center, run by the Ankara Police Department, made public for the first time what he saw: harsh methods of torture such as rape, sexual assault, severe beatings… Male detainees also claimed they heard women being raped in detention centers….

'Those elements are totally covered by Decree-law n° 667 that provides blanket immunity for State agents involved in the Coup investigation.

[143] USSD, HR Report 2020 (Section 1C), 30 March 2021
[144] USSD, HR Report 2020 (Section 1E), 30 March 2021

Although women were subjected to abuse in detention and prison on a large scale in Turkey, there appears to be no accountability for the perpetrators, either in the form of disciplinary or criminal action.'[145]

8.4.11 See Action to address ill-treatment and Judical processes for further information on these subjects. See Civil servants and Enforced disappearance for further information about former members of the Civil Service, particularly the Ministry of Foreign Affairs.

Back to Contents

## 8.5 Action to address ill-treatment

8.5.1 The Turkish government issued a Response to the report of the CoE CPT on its visit of May 2019 in which it stated:

'On this occasion, Turkey, honouring its resolute and long-established commitment to the policy of zero tolerance against torture, reaffirms its determination for cooperation with the CPT. Turkey gives due consideration to the recommendations and comments of the CPT and, on their basis, will continue to take necessary measures as appropriate in the field of prevention and punishment of torture and inhuman or degrading treatment.'[146]

8.5.2 In the UN HRC's Report of the Working Group on the Universal Periodic Review, dated March 2020, the Turkish delegation reported:

'Turkey remained committed to a zero-tolerance policy on torture. Even during the state of emergency, Turkey had taken further measures to broaden the legislative and institutional framework to prevent, investigate, prosecute and punish all acts of torture and ill-treatment. For example, under an amendment adopted in 2017, torture had become a ground for dismissal from public service for law enforcement officials. The statute of limitations with regard to the crime of torture had been abolished in 2013.'[147]

8.5.3 The same report further stated:

'The representative from the Ministry of the Interior said that the procedural safeguards to prevent torture and ill-treatment in the context of the fight against terrorist organizations included medical examinations at every stage of judicial proceedings, immediate notification of detainees' relatives, free access to a lawyer and video monitoring of detention rooms. In order to increase the effectiveness of investigations and to prevent impunity, Turkey had established a law enforcement supervision commission in September 2019. It was an independent mechanism, which had received 19 applications to date.'[148]

8.5.4 The USSD HR Report 2020 stated:

'The HRA [Human Rights Association] reported receiving complaints from 573 individuals alleging they were subjected to torture and other forms of mistreatment while in custody or at extracustodial locations from January

[145] IAHRAG, Submission to the Committee... (p.8 and 9), June 2021
[146] Government of Turkey, Response to the report of the CoE CPT, 5 August 2020
[147] UN HRC, Report of the Working Group on the UPR; Turkey (para 17), 24 March 2020
[148] UN HRC, Report of the Working Group on the UPR; Turkey (para 26), 24 March 2020

through November. The HRA reported that intimidation and shaming of detainees by police were common and that victims hesitated to report police abuse due to fear of reprisal. In June, responding to a parliamentary inquiry, the minister of interior reported the ministry had received 396 complaints of torture and maltreatment since October 2019. Opposition Republican People's Party (CHP) human rights reports alleged that from May to August, 223 individuals reported torture or inhuman treatment.

'… According to Ministry of Justice 2019 statistics, the government opened 2,767 investigations into allegations of torture and mistreatment. Of those, 1,372 resulted in no action being taken by prosecutors, 933 resulted in criminal cases, and 462 in other decisions. The government did not release data on its investigations into alleged torture.'[149]

8.5.5 In its World Report 2021, Human Rights Watch stated, 'Prosecutors do not conduct meaningful investigations into [allegations of ill-treatment in police and military custody] and there is a pervasive culture of impunity for members of the security forces and public officials implicated.'[150]

Back to Contents

## 8.6 Detention facilities

8.6.1 In the report of August 2020, based on a visit to Turkey in May 2019, the Council of Europe's CPT reported on detention facilities, stating:

'As regards conditions of detention, in all the law enforcement establishments visited, detention facilities were in a good state of repair and generally clean. That said, due to major structural deficiencies, the CPT considers these facilities to be unsuitable for detention lasting more than a few days. In particular, many cells did not have access to natural light, and in none of the establishments visited had arrangements been made to enable detained persons to have access to the open air. The situation was further exacerbated by the fact that detained persons were often held under very cramped conditions (e.g. up to four persons in cells of some 9 m²). It is also a matter of concern that persons held overnight in police custody were still often not provided with a mattress (in addition to blankets). In addition, many detained persons claimed that they had received no or insufficient food and, on occasion, no drinking water and that they had not been provided with personal hygiene products during their stay in police custody. The CPT recommends that these shortcomings be remedied.'[151]

8.6.2 Further information about the findings of the CoE CPT delegation can be found in the Report on the visit to Turkey, 6 to 17 May 2019.

Back to Contents

Section 9 updated: 21 December 2021

[149] USSD, HR Report 2020 (Section 1C), 30 March 2021
[150] HRW, World Report 2021: Turkey, 13 January 2021
[151] CoE, CPT, Report on the visit to Turkey, 6 to 17 May 2019 (Executive summary), 5 August 2020

## 9. Judical processes

### 9.1 Independence of the judiciary

9.1.1 The Council of Europe Report 2020 stated:

'While the administration of justice and judicial independence have been long-standing concerns for the Commissioner's Office, the [Human Rights Commissioner for the Council of Europe] observes that the situation has deteriorated significantly in recent years, in particular in the aftermath of the state of emergency effective from July 2016 to July 2018. In addition to the erosion of constitutional and structural guarantees to uphold the independence of judges, and measures which have directly impacted this independence, such as summary dismissals and recruitments, the Commissioner takes note of evidence pointing to an increased partiality of the judiciary to political interests, as recognised in recent judgments of the European Court of Human Rights.

'The effect of this situation on the criminal justice system is particularly noteworthy, with numerous long-standing problems such as the misuse of detentions on remand having worsened, and the addition of new concerns. Especially for terrorism-related and organised crime cases, the Commissioner finds that the disregard by the Turkish judiciary of basic fair-trial guarantees and the very loose application of criminal laws to lawful acts result in a level of legal uncertainty and arbitrariness which endangers the very essence of the rule of law…'[152]

9.1.2 The same report continued:

'Stressing the seriousness of the situation the Turkish judiciary is in and the urgency to act, the Commissioner calls on the Turkish authorities, as a first step, to revert to the situation before the state of emergency, in terms of constitutional and structural guarantees for the independence of judges, as well as procedural fair-trial guarantees, and then to reinforce them progressively. She also recommends a complete review of criminal legislation in the light of the clear guidance already provided to Turkey by Council of Europe bodies over the years. Considering that the prevailing attitude within the judiciary represents one of the main problems concerning the administration of justice today, she urges the Turkish authorities to change course and start respecting the independence of the judiciary both in their discourse and their actions, in particular when imperatives of human rights require judicial actions against the authorities' expressed or perceived interests. While welcoming the authorities' Judicial Reform Strategy, the Commissioner considers that the measures taken so far do not correspond to current and future needs, which require a more comprehensive and resolute response.'[153]

9.1.3 In a resolution published in October 2020, the Council of Europe Parliamentary Assembly stated:

'…as highlighted again in the February 2020 report of the Council of Europe Commissioner for Human Rights, the functioning of the justice system is a

[152] CoE, Council of Europe Report 2020 (p.4), 19 February 2020
[153] CoE, Council of Europe Report 2020 (p.4), 19 February 2020

serious area of concern and many issues remain to be addressed, including the lack of independence of the judiciary and the insufficient procedural safeguards and guarantees to ensure fair trials… the Assembly calls for the revision of the composition of the Council of Judges and Prosecutors and the constitutional framework, which does not secure the separation of powers, as indicated by the Venice Commission in its 2017 opinion.'[154]

9.1.4 In the World Report 2021, which covered events of 2020, Human Rights Watch reported:

'Executive interference in the judiciary and in prosecutorial decisions are entrenched problems, reflected in the authorities' systematic practice of detaining, prosecuting, and convicting on bogus and overbroad terrorism and other charges, individuals the Erdoğan government regards as critics or political opponents. … The largest targeted group consists of those alleged to have links with the movement headed by US-based Sunni cleric Fethullah Gülen which Turkey deems a terrorist organization and calls FETÖ and holds responsible for the July 2016 coup attempt.'[155]

9.1.5 The USSD HR Report 2020 stated:

'The courts in some cases applied the law unevenly, with legal critics and rights activists asserting court and prosecutor decisions were sometimes subject to executive interference. In January an Ankara court of appeals reversed a lower court ruling for life imprisonment of a former three-star general, Metin Iyidil, accused of participation in the coup attempt. Two days after Iyidil's release, another court reordered his detention. After President Erdogan publicly criticized the Ankara appeals court decision to acquit, the court ruled for Iyidil to be rearrested. The Council of Judges and Prosecutors opened an investigation into the acquittal decision, suspending the three judges who ruled for acquittal from their posts.'[156]

9.1.6 The same report continued:

'Broad leeway granted to prosecutors and judges challenges the requirement to remain impartial, and judges' inclination to give precedence to the state's interests contributed to inconsistent application of laws. Bar associations, lawyers, and scholars expressed concern regarding application procedures for prosecutors and judges described as highly subjective, which they warned opened the door to political litmus tests in the hiring process.

'The judiciary faced a number of problems that limited judicial independence, including intimidation and reassignment of judges and allegations of interference by the executive branch…

'Observers raised concerns that the outcome of some trials appeared predetermined or pointed to judicial interference. In February an Istanbul court ruled to acquit philanthropist Osman Kavala and eight others on charges of attempting to use the 2013 Gezi Park protests to overthrow the state. Kavala, the founder of Anadolu Kultur, an organization dedicated to cross-cultural and religious dialogue, had been in pretrial detention since

[154] CoE, Parliamentary Assembly, New crackdown on political opposition..., 23 October 2020
[155] HRW, World Report 2021: Turkey, 13 January 2021
[156] USSD, HR Report 2020 (Section 1D), 30 March 2021

2017. The presiding judge permitted Kavala's lawyer to argue on his client's behalf but refused to allow any other defendant's lawyers to do likewise. Without pausing for deliberation following final statements from the defendants, the presiding judge produced a paper that appeared to have the verdict already written. The court acquitted Kavala of the charges and ordered him released immediately, but authorities detained Kavala the same day upon exit from prison on new charges of espionage and attempting to overthrow the state order in connection with the 2016 failed coup. … In December the Constitutional Court found that the government did not violate Kavala's rights when he was re-arrested following acquittal in February. Kavala remained in detention at year's end.'[157]

9.1.7 See Constitutional Court for further information on this subject.

Back to Contents

## 9.2 Due process

9.2.1 In the 'Freedom in the World 2021' report, covering events of 2020, Freedom House noted that, 'Due process guarantees were largely eroded during the state of emergency between 2016 and 2018, and these rights have not been restored in practice since the emergency was lifted. Due process and evidentiary standards are particularly weak in cases involving terrorism charges, with defendants held in lengthy pretrial detention for periods lasting up to seven years.'[158]

9.2.2 The USSD HR Report 2020 stated, 'Human rights groups noted that, following the 2016 coup attempt, authorities continued to detain, arrest, and try hundreds of thousands of individuals for alleged ties to the Gulen movement or the PKK, often with questionable evidentiary standards and without the full due process provided for under law.'[159]

9.2.3 The same report stated, 'Domestic and international legal and human rights experts questioned the quality of evidence presented by prosecutors in such cases [cases involving persons suspected of involvement with the Gulenist movement or the PKK], criticized the judicial process, asserted that the judiciary lacked impartiality, and that defendants were sometimes denied access to the evidence underlying the accusations against them.'[160]

9.2.4 See Pre-trial detention for further information on this subject. See Treatment in detention for information about action taken to prevent torture during judicial processes.

Back to Contents

## 9.3 Access to lawyers

9.3.1 The USSD HR Report 2020 stated:

'The law gives prosecutors the right to suspend lawyer-client privilege and to observe and record conversations between accused persons and their legal counsel. Bar associations reported that detainees occasionally had difficulty

[157] USSD, HR Report 2020 (Section 1D), 30 March 2021
[158] Freedom House, Freedom in the World 2021, Turkey, 3 March 2021
[159] USSD, HR Report 2020 (Section 1D), 30 March 2021
[160] USSD, HR Report 2020 (Section 1D), 30 March 2021

gaining immediate access to lawyers, both because government decrees restricted lawyers' access to detainees and prisons–especially for those attorneys not appointed by the state–and because many lawyers were reluctant to defend individuals the government accused of ties to the 2016 coup attempt. Human rights organizations reported the 24-hour attorney access restriction was arbitrarily applied and that in terrorism-related cases, authorities often did not inform defense attorneys of the details of detentions within the first 24 hours, as stipulated by law. In such cases rights organizations and lawyers groups reported attorneys' access to the case files for their clients was limited for weeks or months pending preparations of indictments, hampering their ability to defend their clients.'[161]

Back to Contents

## 9.4 Trials

9.4.1 The Australian DFAT report published in September 2020 noted that approximately 5,370 people had been tried in cases specifically related to the coup attempt[162].

9.4.2 The USSD HR Report 2020 noted:

'The constitution provides for the right to a fair public trial, although bar associations and rights groups asserted that increasing executive interference with the judiciary and actions taken by the government through state of emergency provisions jeopardized this right.

'The law provides defendants a presumption of innocence and the right to be present at their trials, although in a number of high-profile cases, defendants increasingly appeared via video link from prison, rather than in person. Judges may restrict defense lawyers' access to their clients' court files for a specific catalogue of crimes (including crimes against state security, organized crime, …) until the client is indicted.

'A single judge or a panel of judges decides all cases. Courtroom proceedings were generally public except for cases involving minors as defendants. The state increasingly used a clause allowing closed courtrooms for hearings and trials related to security matters, such as those related to "crimes against the state." Court files, which contain indictments, case summaries, judgments, and other court pleadings, were closed except to the parties to a case, making it difficult for the public, including journalists and watchdog groups, to obtain information on the progress or results of a case. In some politically sensitive cases, judges restricted access to Turkish lawyers only, limiting the ability of domestic or international groups to observe some trials.

'Defendants have the right to be present at trial and to consult an attorney of their choice in a timely manner, although legal advocates have asserted the government coerced defendants to choose government-appointed lawyers. Observers and human rights groups noted that in some high-profile cases, these rights were not afforded to defendants….

[161] USSD, HR Report 2020 (Section 1D), 30 March 2021
[162] DFAT, Country Information Report - Turkey (para 3.38), 10 September 2020

'Defendants have the right to legal representation in criminal cases and, if indigent, to have representation provided at public expense…. The law provides for court-provided language interpretation when needed. Human rights groups alleged interpretation was not always provided free of charge, leaving some poor, non-Turkish-speaking defendants disadvantaged by the need to pay for interpretation.

'Observers noted the prosecutors and courts often failed to establish evidence to sustain indictments and convictions in cases related to supporting terrorism, highlighting concerns regarding respect for due process and adherence to credible evidentiary thresholds. In numerous cases authorities used secret evidence or witnesses to which defense attorneys and the accused had no access or ability to cross-examine and challenge in court, particularly in cases related to national security. The government occasionally refused to acknowledge secret witnesses.'[163]

9.4.3 In a resolution published in October 2020, the Council of Europe Parliamentary Assembly stated, 'The Assembly deplores that lawyers detained on terrorism-related charges felt forced to resort to hunger strikes, at the cost of their lives, to demand a fair trial.'[164]

Back to Contents

## 9.5 Charges and sentencing

9.5.1 The Australian DFAT report published in September 2020 noted that 'A very small number of those dismissed or arrested [on suspicion of involvement in the Gulenist movement] have been accused of actually participating in the attempted coup: the decisions are instead based on alleged membership of the movement and, for public servants, inappropriately obtaining public office.'[165]

9.5.2 The USSD HR Report 2020 noted:

'In April court authorities released from judicial control (parole) Turkish dual national Serkan Golge. In 2018 a court sentenced Golge to seven-and-a-half years in prison on charges of "membership in a terrorist organization," referring to the Gulen movement. An appeals court later reduced the charges and sentence to "support of a terrorist organization" and five years' imprisonment. Authorities arrested Golge in 2016 based on specious evidence, including witness testimony that was later recanted. Golge served nearly three years in prison before he was released; he was permitted to leave the country in June.'[166]

9.5.3 On 9 June 2021, the UN HRC published an article which included comments made by Mary Lawlor, UN Special Rapporteur on the situation of human rights defenders, who said that:

'… she has told the Turkish Government of her concerns for 14 human rights defenders serving prison sentences of 10 years or more, including nine lawyers and members of the Progressive Lawyers' Association (Çağdaş

[163] USSD, HR Report 2020 (Section 1E), 30 March 2021
[164] CoE, Parliamentary Assembly, New crackdown on political opposition..., 23 October 2020
[165] DFAT, Country Information Report - Turkey (para 3.38), 10 September 2020
[166] USSD, HR Report 2020 (Section 1E), 30 March 2021

Hukukçular Derneği - ÇHD). One of them, Ebru Timtik, died in custody in August 2020 while on hunger strike to demand fair trials for her and her colleagues. Lawlor said she continues to discuss these cases with the Turkish authorities…

'Several human rights defenders and civil society members are on trial for terrorism-related charges and face up to 14 years imprisonment if convicted. These include members of the NGO Human Rights Association İnsan Haklari Derneği (İHD) such as Eren Keskin, as well as civil society actors and human rights defenders Erol Önderoğlu and Şebnem Korur Fincancı.'[167]

9.5.4 The Netherlands MFA report of March 2021 stated:

'With respect to the judicial process related to (alleged) Gülenists, a confidential source noted the following. Moderate judges tend to differentiate between "passive" and "active" Gülenists, according to the source. In this regard, a Gülenist who has only a bank account with Asya Bank and/or a subscription to the Gülenist newspaper Zaman will receive less punishment than an executive director of a Gülenist news platform. Hardline judges, on the other hand, do not make this distinction, according to the same source.'[168]

9.5.5 The same report noted:

'Based on the available information, it is difficult to determine the extent to which there is arbitrariness with regard to whether or not to prosecute (alleged) Gülenists criminally. One confidential source says that the decision of the Turkish authorities to prosecute or not prosecute (alleged) Gülenists seems to be very arbitrary. This source adds that the Turkish authorities may have the will to prosecute all Gülenists and other dissidents but not the means. Two other sources, on the other hand, state that the Turkish government consistently decides to prosecute people who meet one or more of the criteria specified at the start of this section [see Bylock and other risk factors]. The outcome of these criminal cases is arbitrary, according to both sources, with moderate judges giving lower sentences to passive Gülenists than hardline judges.'[169]

9.5.6 The same report explained:

'… the Turkish government regards the Gülen movement as a terrorist organisation. Because of this, (alleged) Gülenists are often sentenced to imprisonment on the basis of:

• 'Being a member of a terrorist organisation (Article 220 (2) of the TPC)

• 'Being a leader of a terrorist organisation (Article 220 (5) of the TPC)

• 'Supporting a terrorist organisation (Article 220 (7) of the TPC)

• 'Spreading propaganda for a terrorist organisation (Article 220 (8) of the TPC).

[167] UN HRC, Turkey: Stop mis-using the law to detain human rights defenders..., 9 June 2021
[168] Netherlands MFA, General Country of Origin Information Report, 18 March 2021
[169] Netherlands MFA, General Country of Origin Information Report, 18 March 2021

'Those found guilty of direct involvement in the failed 2016 coup are often sentenced to imprisonment on the grounds of:

• 'Attempting to abolish, replace or prevent the implementation of the constitutional order through the use of force (Article 309 (1) of the TPC)

• 'Attempting to assassinate the President (Article 310 (1) of the TPC)

• 'Attempting to abolish the Turkish government or prevent it from carrying out its duties through the use of force (Article 312 (1) of the TPC).'[170]

9.5.7 In July 2021, BBC reported that 'There have been many trials of alleged [coup] plotters and courts have issued more than 2,500 life sentences.'[171]

9.5.8 See Armed forces for information about sentences handed down to members of the armed forces. See Judges and lawyers and Civil society and human rights defenders for further information on these groups.

Back to Contents

## 9.6 Political prisoners

9.6.1 The USSD HR Report 2020 noted:

'The number of political prisoners remained a subject of debate at year's end. In July the Ministry of Interior reported the government had detained 282,790 persons in connection with the coup attempt since 2016. Of those, 25,912 were in prison awaiting trial. NGOs estimated there were 50,000 individuals in prison for terror-related crimes. Some observers considered some of these individuals political prisoners, a charge the government disputed.

'Prosecutors used a broad definition of terrorism and threats to national security and in some cases, according to defense lawyers and opposition groups, used what appeared to be legally questionable evidence to file criminal charges against and prosecute a broad range of individuals, including journalists, opposition politicians (primarily of the HDP), activists, and others critical of the government…

'Authorities used antiterror laws broadly against … alleged Gulen movement members or groups affiliated with the Gulen movement, among others, including to seize assets of companies, charities, or businesses. Human rights groups alleged many detainees had no substantial link to terrorism and were detained to silence critical voices or weaken political opposition…

'Students, artists, and association members faced criminal investigations for alleged terror-related activities, primarily due to their social media posts. The government did not consider those in custody for alleged … Gulen movement ties to be political prisoners and did not permit access to them by human rights or humanitarian organizations.'[172]

Back to Contents

[170] Netherlands MFA, General Country of Origin Information Report, 18 March 2021
[171] BBC, Turkey court jails hundreds for life for 2016 coup plot..., 26 November 2020
[172] USSD, HR Report 2020 (Section 1E), 30 March 2021

## 9.7 E-Devlet and UYAP

9.7.1 e-Devlet is an online e-government gateway website that provides access to all public services from a single point. The aim is to provide public services to citizens, businesses, public institutions effectively and efficiently with information and communication technologies[173]. Among other information, the e-Devlet System contains social security, as well as personal information on private insurance, taxes, mortgages, and criminal records[174].

9.7.2 UYAP is an eJustice platform developed in order to ensure a fast, reliable and accurate judicial system in Turkey. As a central information system it covers all the judicial institutions and other governmental departments, which have been equipped with computers and given access to all legislation, jurisprudence and judicial records. All judiciary processes and transactions are now transmitted into an electronic environment. UYAP has been maintained by the Ministry of Justice since 2000[175].

9.7.3 An undated report on the European Commission website noted, 'Citizens can reach and examine their case information via [UYAP] and learn the day fixed for the trial without going courts. They can be informed via web site about their cases or hearing dates. They can submit their claims to court by using their electronic signature and examine their files through internet.'[176]

9.7.4 The Immigration and Refugee Board of Canada (Canadian IRB) published a report on 10 December 2018, quoting various sources, which stated, 'A Consultative Council of European Judges … document indicates that, according to Turkish authorities, parties in a trial and their lawyers cannot access "protected documents or information" related to their cases, but rather can only see those documents to which they are permitted access.'[177]

9.7.5 The same report noted:

'According to the UYAP website, the SMS Information System sends notifications in a text message format to citizens and lawyers related to their cases, such as regarding "ongoing cases, dates of court hearings, the [latest] change in the case and suits or dept [*sic*] claims against them" … The source states that the subscription fee for the SMS service is lower than the cost to take public transportation to go to a court in person …

'According to answers submitted by Turkish authorities for the pilot phase of e-CODEX, all users, including officials, judges and prosecutors, access the UYAP by using an e-signature and "[u]nauthorized access is not permitted"…

'According to the UYAP website, "[a]ll documents, processes and files are standardised" ... The same source explains that judiciary documents are generated from a template, without staff having to write them one by one, and that data is added automatically into documents, such as instructions, indictments, hearing minutes, and decisions…

[173] Government of Turkey, About us, no date
[174] Government of Turkey, no date
[175] JoinUp, Turkey's eJustice system (UYAP), 11 June 2007
[176] European Commission, Turkish e-Justice Project: 'UYAP', no date
[177] Canadian IRB, Responses to Information Requests..., 10 December 2018

'Access to an arrest warrant in the UYAP depends on the phase of the prosecution. If a confidentiality order is given by the prosecutor during the investigation phase, then parties to the case and their lawyers cannot access the arrest warrant. However, it is sometimes possible for lawyers to verify if there is an arrest warrant for a specific person by asking court clerks about new documents being uploaded to the UYAP during the investigation phase of a case…

'Court decisions are issued by first instance courts for "verdict[s]/conviction[s]." In the case of "terrorism charges, the competent court[s] [are the] High Criminal Courts."

'A court decision is accessible to a Turkish citizen on the following conditions:

- The person has an "e-devlet" account and a password;
- The person is party to the case.

'A lawyer can access any court decision related to a case he or she is working on, regardless of "whether it pertains to his/her client" because "all judicial documents related to a case are uploaded to the same interface"…

'Court decisions and arrest warrants "compl[y] with certain templates. The appearance of each document does not vary according to the region, the police station, or the court of justice." At the top of UYAP documents, "there is a sign resembling a ribbon signifying that the document is signed electronically." At the bottom of every page, there is an indication that the document is an UYAP document, as well as the applicable codes for the document. At the end of the document, the judicial IDs and e-signature of judges involved in the case are found…'[178]

Back to Contents

Section 10 updated: 20 December 2021

## 10. Avenues of redress

### 10.1 Constitutional Court

10.1.1 The Council of Europe Report 2020, based on a visit to Turkey made in July 2019, reported that the Commissioner for Human Rights raised '… concerns about recent developments jeopardising the effectiveness of individual applications to the Constitutional Court as a domestic remedy for human rights violations, mainly because of a systematic resistance by prosecutors and lower courts to comply with the spirit of the judgments and the clear case-law of the Constitutional Court.'[179]

10.1.2 The USSD HR Report 2020 noted that, 'In cases of alleged human rights violations, detainees have the right to apply directly to the Constitutional Court for redress while their criminal cases are proceeding. Nevertheless, a backlog of cases at the Constitutional Court slowed proceedings, preventing expeditious redress.'[180]

[178] Canadian IRB, Responses to Information Requests..., 10 December 2018
[179] CoE, Council of Europe Report 2020 (p.4), 19 February 2020
[180] USSD, HR Report 2020 (Section 1D), 30 March 2021

10.1.3 The same report stated:

'On constitutional and human rights issues, the law also provides for individuals to appeal their cases directly to the Constitutional Court, theoretically allowing for faster and simpler high-level review of alleged human rights violations within contested court decisions. Critics complained that, despite this mechanism, the large volume of appeals of dismissals under the state of emergency and decreased judicial capacity caused by purges in the judiciary resulted in slow proceedings.'[181]

10.1.4 The report continued:

'As of September 30, the Constitutional Court has received 30,584 applications and found rights law violations in 20 percent of applications, according to official statistics. Of the 2019 applications, 30 percent remained pending. Citizens who have exhausted all domestic remedies have the right to apply for redress to the ECHR; however, the government rarely implemented ECHR decisions. According to the NGO European Implementation Network, Turkey has not implemented 60 percent of ECHR decisions from the last 10 years. For example, the country has not implemented the ECHR decision on the illegality of pretrial detention of former Constitutional Court judge Alparslan Altan, arrested and convicted following the coup attempt in 2016. Altan was serving an 11-year prison sentence at year's end.'[182]

10.1.5 See Independence of the judiciary for further information regarding concerns about the Constitutional Court.

Back to Contents

## 10.2 Inquiry Commission on the State of Emergency Measures

10.2.1 The Australian DFAT report of September 2020 stated:

'Turkey has ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and additional protocols to both conventions. These conventions give Turkish citizens the right to appeal to the European Court of Human Rights (ECHR). In the wake of the July 2016 attempted coup, the ECHR received a large number of applications from Turkish citizens who had been detained for perceived links to the Gulen movement. Turkish applications accounted for 31,054 of the ECHR's total 2017 caseload of 85,951 (36 per cent). The ECHR's requirement that applicants exhaust domestic remedies before bringing their application resulted in 30,063 (96.8 per cent) of the Turkish applications being declared inadmissible or struck out.

'In order to stop the court being overwhelmed, Turkey and European authorities agreed in January 2017 that Turkey would establish an Inquiry Commission on the State of Emergency in order to provide a level of judicial review to those dismissed by decree during the state of emergency period. It is mandated to "carry out an assessment of, and render a decision on" state

[181] USSD, HR Report 2020 (Section 1E), 30 March 2021
[182] USSD, HR Report 2020 (Section 1E), 30 March 2021

of emergency measures that fall into one or more of four listed categories: dismissal or discharge from public service, profession or organisation; dismissal from studentship; closure of associations, foundations, trade unions, media outlets, schools and higher education institutions and publishing houses; and annulment of ranks of retired personnel.

'The commission has seven members, of whom five were appointed directly by the government, and two by the High Council of Judges and Prosecutors.

'As at 3 July 2020, 126,300 applications had been made to the Commission, and decisions had been issued in 108,200 cases. Of those, 96,000 were rejected – meaning the original decree decision was upheld – and in 12,200 cases the application for appeal was accepted. Those rejected now have the opportunity to proceed through the court system to the constitutional court, after which they could theoretically apply to the ECHR.

'Critics of the ECHR's position argue the Turkish judiciary has become too politicised and dysfunctional to be an effective domestic remedy, and further cite the high percentage of cases rejected by the Commission as proof.

'The March 2018 OHCHR report criticised the commission for: the narrow scope of its mandate; its perceived lack of independence and impartiality given its members were appointed by the same authorities who adopted the emergency measures; a lack of transparency given it is not required to justify or publish its reasoning; and an unrealistic workload. OHCHR criticised a lack of fairness to applicants, who must submit complaints through the institution that dismissed them, and have no opportunity to testify or present witnesses. Complainants cannot be reinstated in the same institutions in which they served before being dismissed, and will not receive compensation regardless of the commission's decision.'[183]

10.2.2 The same report noted, 'The Commission of Inquiry for State of Emergency Practices… was established to review the dismissals [of those suspected of involvement in the Gulenist movement], but has mostly upheld the original dismissal decisions.'[184]

10.2.3 In the Turkey 2020 Report, published in October 2020, the European Commission noted:

'The Inquiry Commission on the State of Emergency Measures … continued to state that it individually reviewed all complaints related to more than 150,000 dismissals through emergency decrees. As of the end of March 2020, 126,300 applications had been made. Of these, the Inquiry Commission had reviewed 105,100 and only 11,200 had led to a reinstatement, while 93,600 complaints had been rejected. 57 reinstatement decisions were linked to the re-opening of organisations that were closed after the coup attempt. There were 21,200 applications pending. The rate of processing of applications raises concerns as to whether each case is being examined individually. There are strong concerns with regard to a lack of respect for the rights of defence of those dismissed and an assessment procedure in line with international standards. Since there were no hearings, there was a general lack of procedural rights for applicants and decisions

[183] DFAT, Country Information Report - Turkey (para 2.48), 10 September 2020
[184] DFAT, Country Information Report - Turkey (para 3.39), 10 September 2020

were taken on the basis of the written files related to the original dismissal, all of which called into question the extent to which the Inquiry Commission is an effective judicial remedy.'[185]

10.2.4 The USSD HR Report 2020 stated:

'While the law provides for freedom of association, the government continued to restrict this right. The government used provisions of the antiterror law to prevent associations and foundations it had previously closed due to alleged threats to national security from reopening. In its 2019 end-of-year report, the Inquiry Commission on the State of Emergency Measures reported that 208 of the 1,727 associations and foundations closed following the 2016 coup attempt have been allowed to reopen. Observers widely reported the appeals process for institutions seeking redress through the Inquiry Commission on the State of Emergency Measures remained opaque and ineffective.'[186]

10.2.5 In May 2021, the Turkish Human Rights Association and World Organisation Against Torture reported on the Inquiry Commission:

'The potential applicants, who were dismissed from their posts in the public service or whose organisations were shut down by emergency decrees, were not informed of any individualised reasoning for their dismissal or the closure of their organisations. When they were challenging the emergency measures before the Inquiry Commission, they had to guess at why they were considered to have "a connection or contact with a terrorist organisation"… (iltisak ve irtibat), and yet defend themselves based on those potential grounds… In the absence of adequate information relating to the accusations and concrete evidence on which the accusations were based, the rights of defence of the applicants were violated from the very beginning of this process.

'The Inquiry Commission reviews the applications on file without conducting a hearing… According to the Inquiry Commission's activity reports, the Commission considers the following factors, among others, while reviewing the applications and deciding whether the applicant has a connection or contact with a terrorist organisation: use of the messaging app Bylock, which is alleged to be used by the so-called FETO/PDY…; a history of transactions with or accounts opened at Bank Asya, alleged to be connected to FETO/PDY; membership in associations/foundations/trade unions shut down by emergency decrees; a relationship with and/or employment history in organisations with connections to the FETO/PDY; and administrative and criminal investigations/prosecutions…Those factors are indeed theoretically relevant to the assessment concerning individuals who were dismissed by emergency decrees. Yet while it is unclear how this analysis can be applied to organisations shut down by emergency decrees, no further information is provided in that respect…

'The decisions are not published, and there is no formal requirement for the Commission to support its decisions by evidence and individualised reasoning…Thus it is incredibly challenging for civil society actors to make a

[185] European Commission, Turkey 2020 Report (p.20), 6 October 2020
[186] USSD, HR Report 2020 (Section 2B), 30 March 2021

comprehensive analysis of the assessments made by the Commission. According to the reports of international initiatives…in many cases the Inquiry Commission's assessments were based on the information acquired from the intelligence agencies, confidential witness statements, allegations by the applicant's colleagues/employers, and even their social network. None of these documents or information are shared with the applicant during the procedure, and the latter is only informed of their existence to the extent that they are mentioned in the Commission's decision…

'in its decisions, the Inquiry Commission does not even make an in-depth or individualised analysis based on the above-mentioned criteria, or so reported an international initiative that had collected and analysed some of the decisions… Accordingly, often times the "analysis" goes no further than stating that "the messaging app used by FETO/PDY was downloaded from the applicant's phone number," without assessing whether it was indeed downloaded by the applicant or whether the app was used at all, let alone for the purposes of communicating with the members of a terrorist organisation...

'…it is unclear to civil society actors to date in which order the applications are reviewed by the Inquiry Commission. It does not seem like priority is given to any specific individuals or organisations, such as media and/or human rights organisations, the closure of which adversely affects individuals well beyond their members and/or staff… The applications do not seem to be reviewed in chronological order either, because the applications of many academics who were dismissed from their posts by the first emergency decrees are still pending, more than four years after their dismissals…No decision has been issued yet, to the knowledge of civil society actors, concerning the cases of human rights organisations shut down by emergency decrees…

'Judicial proceedings may only be initiated after the Inquiry Commission's decision.' [187]

10.2.6 See Civil society and human rights defenders for further information on this subject.

Back to Contents

Section 11 updated: 7 October 2021

## 11. Societal difficulties

### 11.1 Stigma

11.1.1 In September 2020, the Australian DFAT noted, 'Those accused of membership of the Gulen movement where no credible evidence exists face considerable societal stigma and restrictions, particularly through the publication of their names.'[188]

11.1.2 The Netherlands MFA report of March 2021 stated:

'Gülenists find themselves in a difficult social position. There is no unambiguous answer to the question of how they are treated by non-

[187] IHD, OMCT, Turkey Part II: Turkey's Civil Society on the Line... (p.29-31), May 2021
[188] DFAT, Country Information Report - Turkey (para 3.41), 10 September 2020

Gülenist fellow citizens. The treatment of (alleged) Gülenists by non-Gülenist fellow citizens can range from solidarity to hostility. Gülenists should take into account that a large part of Turkish society, consisting of both pro-government citizens and secularists, harbours feelings of resentment and antipathy towards the Gülen movement. In addition, there is a social stigma attached to being a Gülenist. Many non-Gülenist citizens distance themselves from (alleged) Gülenists. This attitude is not always based on hatred and aversion but is a form of self-protection. Non-Gülenist citizens are afraid that they will be criminally prosecuted if they are associated with Gülenists.

'As a result of the hostility and the stigma, (alleged) Gülenists have difficulty surviving in Turkish society. Employers are not inclined to employ (alleged) Gülenists for fear of themselves being regarded as supporters or members of the Gülen movement. If an employer finds out that an employee has a Gülen background, there is a good chance that the Gülenist employee will be sacked. There are stories that some unemployed Gülenists have been condemned to the informal economy on the street or to a life as a self-sufficient farmer in the village of their ancestors.

'Gülenists who have been dismissed from government service cannot rebuild a career in government. During the two-year period of the state of emergency in Turkey (July 2016 to July 2018), 125,678 civil servants were dismissed from their positions. …

'There is less information available about the level of access to education, medical care and housing for Gülenists, and the little available information is fragmented. One source says that (alleged) Gülenists released from prison do have access to housing, education and health care. Another source says that landlords sometimes evict tenants with an (alleged) Gülen background and that doctors refuse medical care to a patient with an (alleged) Gülen history. According to the same source, such practices are particularly prevalent in small communities in which people know each other.'[189]

Back to Contents

[189] Netherlands MFA, General Country of Origin Information Report, 18 March 2021

# Annex A

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On 17 June 2017, Turkish media outlet Sabah published an article[190] in Turkish to report the Supreme Court of Appeal's decision that effectively makes "FETO" a terrorist organisation, and sets precedent for further cases related to the organisation. In legal terms, this is broadly the equivalent of the UK's process of proscribing terrorist organisations.

The translation of the relevant parts of the article is as follows:

**"The definition of 'armed terrorist organization' was registered with the decision of the Supreme Court**

With the Supreme Court of Appeals' historical ruling, FETÖ has been branded as an armed terrorist organisation by the senior judiciary for the first time. This ruling has also defined the criteria of being a member to this organisation. Since this ruling will be a precedent, it will pave the way for the judges of FETO cases to give more rapid rulings. When Turkey asked some countries to extradite FETO members, they were using the excuse that "the judiciary did not have any final ruling on this being an organisation".

Back to Contents

[190] https://www.sabah.com.tr/gundem/2017/06/17/silahli-teror-orgutu-tanimi-yargitay-karariyla-tescillendi

# Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the country information section. The Home Office's Country Policy and Information Team uses some standardised ToR, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Gulenism
    - History
    - Aims/beliefs
    - Members: numbers, roles
    - Suspected involvement in coup attempt of 2016
- Relevant law, e.g. anti-terrorism law
- State treatment
    - Groups most likely to be targeted
    - Suspensions from jobs and reinstatment
    - Arrest
    - Detention, including detention conditions, treatment
    - Judicial procedures, including fair trial and due process
    - Prison sentences
    - Travel and other restrictions
- Avenues of redress
- Societal treatment
    - Stigma
    - Other issues, e.g. loss of employment

Back to Contents

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Back to Contents

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Back to Contents

# Version control

## Clearance

Below is information on when this note was cleared:

- version **3.0**
- valid from **2 February 2022**

**Official – sensitive: Start of section**

The information on this page has been removed as it is restricted for internal Home Office use.

**Official – sensitive: End of section**

## Changes from last version of this note

Updated country information and assessment.

Back to Contents