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Ladies and gentlemen,

Cross Border Jurists is a non-governmental organization based in Germany. It carries out activities in areas such as fundamental human rights and freedoms, rule of law and judicial independence. This text has been prepared by our Association in order to contribute to the "Call for inputs on rights of the child and inclusive social protection" of the Office of the High Commissioner for Human Rights.

Children's rights are an area about which our association is particularly sensitive. In this context, in September 2022, our association prepared a report titled "Turkey Child Rights Report (Children with Emergency Decree Laws - Children of Those subjected to Emergency Decree Laws"¹ . In that report, there are striking findings on violations of children's rights.

I. Introduction-Overview

Following the shadowy coup attempt on July 15, 2016, a state of emergency (SoE) was declared in Turkey on July 21, 2016. The state of emergency ended on July 18, 2018. However, the effects of the State of Emergency still exist. Legislative amendments that constitute severe discrimination and rights violations are still in place.

During the State of Emergency, 37 Decree Laws (KHK) were issued. With these decrees, a disadvantaged group was created by the state. This group is referred to as "Victims of Emergency Decrees" or "People with Emergency Decrees" in Turkey. They were deprived of almost all rights guaranteed in the Constitution and international conventions. They have experienced severe discrimination. Undoubtedly, the biggest victims of this process were the children of the target group.

It is of great importance to determine the number of children who have been and are being victimized by the State of Emergency Decree Laws. In order to reach the number of these children, the number of emergency decrees must first be determined.

The most prominent characteristic of the State of Emergency period is that opposition groups are accused of being terrorists in mass. The Victims of Emergency Decrees constitute this group. Because the administrative proceedings, indictments and convictions against these people include dozens of accusations such as "having worked in institutions closed down by State of Emergency Decree Laws", "having attended schools closed down by State of Emergency Decree Laws or having sent their children there", "subscribing to newspapers closed down by State of Emergency Decree Laws", "being a member of associations and trade unions closed down by State of Emergency Decree Laws, helping these associations, participating in

¹ <https://www.crossborderjurists.org/tr/turkiye-cocuk-haklari-raporu-khkli-cocuklar-khklilarin-cocuklari/>



their activities". In other words, new crimes have been created on the grounds of State of Emergency Decree Laws.

II. The number of people affected by these practices

It is possible to reach this number based on the data of the Turkish Statistical Institute². According to the statement made by MP Mustafa Yeneroğlu, 1,056,000 people were investigated by prosecutors on terrorism charges between 2016-2018³. According to numbers given by the Lawyer Levent Mazılıgüney, 1,768,530 people were charged with terrorism from 2016 until the end of December 2021⁴. The magnitude of this number raises the question regarding the reality of terrorism in Turkey. According to an official statement made by the Ministry of Justice, as of December 2015, the number of people in Turkish prisons on terrorism charges was 7,469⁵. This number includes members of internationally recognized terrorist organizations such as the PKK, ISIS and al-Qaeda. This number also includes people like Abdullah Öcalan, who has been imprisoned for decades. According to the official statements of the Ministry of Interior, the number of terrorists assumed to be inside the country is around 2,475 - 2,780 in 2016, 1,835-1,995 in 2017, 1,100 - 1,200 in 2018⁶. As can be seen, at least 1,750,000 people have been accused of terrorism over a period of 5 years on the basis of State of Emergency decrees and on the grounds created with political motivations. These 1,750,000 people are the victims of emergency decrees. There have been many judgments by UN bodies and the ECtHR that the accusations against these people, their detention and other protection measures are arbitrary⁷. Not even a single judgment was rendered favoring the state's practices.

III. The Scope of the deprivation of rights

Data on these people has been entered into the state's registration system. These people have suffered severe discriminations in dozens of different fields such as health, social assistance, banking, insurance, land registry, etc.⁸.

² <https://adlisicil.adalet.gov.tr/Home/SayfaDetay/adl-istatistikler-yayin-arsivi>

³ <https://www.gazeteduvar.com.tr/yazarlar/2020/02/13/yeneroglundan-silahliteror-orgutu-uyeligi-raporu>

⁴ https://twitter.com/AvLeventism/status/1602234657768181761?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1602245633238237184%7Ctwgr%5E28bbc4c5661aaf05d4f35f9e402d6b155df28e81%7Ctwcon%5Es2_&ref_url=https%3A%2F%2Fboldmedya.com%2F2022%2F12%2F13%2Fson-5-yilda-en-az-2-milyon-teror-sorusturmasi-acildi%2F See also. <https://www.boldmedya.com/2022/12/13/son-5-yilda-en-az-2-milyon-teror-sorusturmasi-acildi/>

⁵ https://www.rudaw.net/turkish/middleeast/turkey/121220151_, <https://www.milliyet.com.tr/gundem/ipek-271-isid-li-cezaevinde-2135220>.

⁶ <https://www.icisleri.gov.tr/kurumlar/icisleri.gov.tr/lcSite/strateji/%C5%9EEREF/Stratejik-Yonetim/Butce-Sunumu.pdf>. Here, the highest numbers from the data provided by the Ministry of Interior are taken. The estimated figures shared by the Ministry are as follows. 2016: 2.475 - 2.780, 2017: 1.835-1.995, 2018: 1.100 - 1.200

⁷ For UN Resolutions : <https://www.solidaritywithothers.com/un-documents>, for ECtHR judgments, ECtHR Some Precedent Judgments: <https://www.solidaritywithothers.com/ecthr-judgments>, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-207680%22%7D>, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-214483%22%7D>, <https://hudoc.echr.coe.int/fre?i=001-194102#%7B%22itemid%22:%5B%22001-194102%22%7D>

⁸ <https://tr.euronews.com/2020/01/14/video-khk-lilar-turkiye-sakin-calıvatandas-is-ve-saglik-hizmeti-yok-bankalar-hesap-acmiyor>



Two reports allow us to reach the number of children of the victims of the Emergency Decree Laws. These are the "Report on the Social Costs of the State of Emergency in its 3rd Year" prepared by the Justice for Victims Platform and the "Violations under the Power of Law: Violations of the Right to Work and Discrimination Research Report on Decree Law Victims" prepared by the Right to Life Association. According to both reports, it has been determined that the average number of children of the victims of emergency decrees is two. According to this assessment, the number of children who are victims of the ongoing State of Emergency period practices is around 3,500,000 (1,750,000 X 2).

3,500,000 children have been subjected to discriminatory practices, the most common examples of which are listed below.

1. Disqualification from Green Card Service:

People who have been dismissed from their jobs or subjected to investigations with the State of Emergency Decree Laws have also lost their social rights. They were suddenly became both unemployed and deprived of social support. They were not allowed to benefit from the service called "Green Card" by which the state provides assistance for the poor and people in need of social assistance⁹. Not only adults but all family members, including children, faced this deprivation of rights.

2. Cut of Their Social Assistance:

State subsidies provided for the education or development of children with disabilities such as autism, physical disabilities or mental disabilities have been cut. These benefits were cut because either parent was dismissed from their job by the State of Emergency Decrees or was subject to investigations.

Some examples can be given in this regard:

Rüveyda Tekgöz, who has a daughter with autism, was deprived of social assistance on the grounds that her father is a victim of state of emergency decree¹⁰.

Nurefşan Ketenci, who was born with Cat Meow Syndrome (Cri du Chat), which is seen in one in 50 thousand people in the world, was expelled from the rehabilitation center where she was being treated because her father was in the list of the state of emergency decree¹¹.

Burcu Aktaş is a girl with 70% Down syndrome. Her care allowance was cut off because her father was discharged by state of emergency decree.

3. Preventing Access to Treatment Means

MP Ömer Faruk Gergerlioğlu shared that, a victim of an emergency decree said the following to him: "The day before the coup, our disabled baby was born. When my husband was

⁹ [with a state of emergency decree Green card of the name](#)

¹⁰ <https://boldapp.de/2021/11/12/babasi-khkli-olan-otizmli-ruveydanin-engelli-ayligi-mucadelesi/>

¹¹ <https://boldmedya.com/2021/07/25/babasi-khk-ile-kapatilan-kurumda-calisti-diye-egitim-hakki-engellenen-nurefsan-vefat-etti/>



suspended in September, we moved in with his family. While I was in the hospital with my baby, I received an order that all our health rights were taken away. I asked for help from the district governor's office, I was repeatedly dismissed. All I wanted was to provide general health insurance for my baby, but they did not provide it. My baby did not receive the necessary treatment and died in June 2017."¹² .

The fact that one of the parents was discharge by a state of emergency decree was deemed sufficient to cancel the passports of the whole family and ban them from traveling abroad. This has also prevented sick children from receiving medical treatment abroad.

Furkan Dizdar was 12 years old. He was diagnosed with brain cancer. It was reported that there was no possibility of treatment in Turkey. A treatment center was found in Cuba. Necessary communication was established, and an appointment was arranged. However, all family members were banned from traveling abroad, on the grounds that one of the parents was discharged by Decree. Furkan's passport was also confiscated. The child was not allowed to go abroad even with a companion. Thus, they were arbitrarily prevented from traveling abroad¹³ . Furkan was left hopelessly to die due to the prevention of his treatment and he died of the disease.

Ahmet Burhan Ataç, 8 years old, who had cancer and needed treatment abroad, was not allowed to travel abroad with his mother¹⁴ . After the disease progressed, permission was granted, but this time it was too late and he died due to the disease.

4. Discontinuation or Withholding of State Scholarships

Many students have had their education scholarships cut or denied on the grounds that one of their parents was discharged by a state of emergency decree. This practice has been applied to both central scholarships provided by the state and private scholarships provided by foundation universities¹⁵ .

5. Deprivation of Corona Aid

Already struggling to find a job and get an income, the emergency decree victims found themselves in a much more difficult situation during the corona pandemic. They applied for themselves and their children to benefit from the aid provided to everyone. However, their applications were rejected because they are KHK subjects¹⁶ .

6. Deprivation of State Aids in Earthquakes and Natural Disasters

¹² [in TurkeyPeople with emergency decrees : They treat us like plague - DW - 20.09.2019](#)

¹³ <https://boldmedya.com/2019/02/07/ohalin-12-yasindaki-kurbani-furkanin-olum-yildonumu/>

¹⁴ <https://www.tr724.com/pasaportu-verilmeyen-zekiye-atac-ne-olur-bu-cocugu-olume-mahkum-etmeyin/#:~:text=Babas%C4%B1%20cezaevinde%20olan%20ve%20kanser,verilmedi%C4%9Fi%20i%C3%A7in%20yurt%20d%C4%B1%C5%9F%C4%B1na%20C3%A7%C4%B1kam%C4%B1yor.>

¹⁵ <http://m.haberdar.com/genel/ysk-da-ilk-100-e-giren-ogrenciyi-vakif-universitesi-babasi-khk-li-diye-burslu-kaydetmedi-h211132.html>

¹⁶ <https://www.gazeteduvar.com.tr/gundem/2020/04/22/khkliye-bin-liralik-yardim-da-yok> , Report on the Social Costs of the State of Emergency in its 3rd Year, p.46.



Families subjected to emergency decrees who lost their homes in natural disasters such as earthquakes were left stranded with their children but were not benefited from the aid provided to everyone¹⁷ .

7. Prevention from benefiting Insurance System

Deprived of the social and health support provided by the state on the grounds of the emergency decrees, they were also prevented from benefiting from private insurance companies¹⁸ .

8. Prevention of Foster Family and Adoption Rights

Hundreds of families have had their foster family status revoked on the grounds that they were subject to a state of emergency decree. This practice victimized both parents and orphaned children. Children who had stayed with a foster family for years and adopted them suddenly became orphans again¹⁹ . The source of this practice is a circular of the Ministry of Family and Social Policies. With a letter dated August 23, 2016, the Ministry sent a circular to 81 provinces with an urgent code, ordering them to conduct research on families providing foster care and adoption services. The Ministry circular is dated 19/08/2016 and is on "Measures to be taken within the scope of Fethullahist Terrorist Organization (FETÖ/PDY)". This circular is still in force.

9. Practices Preventing the Right to Education

With the State of Emergency Decree Laws in Turkey, 1034 private schools²⁰ , 301 university preparation courses and 4 military high schools²¹ , which provide education services for children under the age of 18, including kindergartens, primary, secondary, and high schools, were closed down. Children who were students of these closed schools were directed to public schools or other private schools. These children were subjected to severe discrimination in the schools they were sent. The children who are the subject of this report became depressed and suffered severe depressions due to their inability to express themselves, being ignored, and being subjected to constant mobbing and peer bullying on the grounds of their family and school background. In many of them, negative externalizations such as quitting sports, gaining excessive weight, becoming withdrawn, distancing themselves from their friends, and starting smoking were observed. They suffered from psychiatric illnesses and were in need of medication and psychological support²² .

Some children were denied admission to public schools on the grounds that their parents were subjected to emergency decrees. In this context, Harun Atayün, the son of former Police Chief

¹⁷ <https://kronos35.news/tr/deprem-yardimini-khkliya-sakincali-diye-vermeyen-vakifbank-pandemi-yardimi-da-bloke-etti/>

¹⁸ <https://tr.euronews.com/2020/01/14/video-khk-lilar-turkiye-sakincali-vatandas-is-ve-saglik-hizmeti-yok-bankalar-hesap-acmiyor> , <https://www.meridyenhaber.com/guncel/khk-lilara-garanti-bankasindan-kotu-haber-var-h48411.html>

¹⁹ [Emergency decree changes foster family's life: Disqualified, their adopted child taken away | Euronews](https://tr.euronews.com/2020/01/14/video-khk-lilar-turkiye-sakincali-vatandas-is-ve-saglik-hizmeti-yok-bankalar-hesap-acmiyor)

²⁰ <https://tr.solidaritywithothers.com/closed-institutions>

²¹ https://tr.wikipedia.org/wiki/T%C3%BCrkiye%27deki_asker%C3%AE_e%C4%9Fitim_kurumlar%C4%B1_listesi

²² 3rd Year of the State of Emergency's Social Costs Report, June 2020, pp. 164, 165, 283.



Anadolu Atayün, was not admitted to public schools because his father and mother were arrested and imprisoned on the grounds of criteria created by the emergency decrees²³.

Some of the children of emergency decree subjects were discriminated against in schools and given low grades by their teachers. It was even reported that a teacher said to a primary school-age child, to whom she gave an unfair low grade, "I am not giving this grade to you, I am giving it to your mother."²⁴.

The equivalence of schools outside Turkey with supposed links to the Hizmet Movement was revoked and students who graduated from these schools were prevented from continuing their university education. In this context, the daughters of the Kaçmaz family, who were abducted from Pakistan and forcibly brought to Turkey, were denied recognition and prevented from continuing their education.

10. Discriminatory Execution Law Practices Concerning Children's Rights

According to Article 17 of the Law on the Execution of Sentences and Security Measures, if a parent who has a child in need of care due to illness or disability is convicted of a criminal offense, the execution of the sentence can be postponed so that he or she can provide care for the child. However, if the same person is convicted of political offenses, he/she is not entitled to this right. This amounts to severe discrimination.

IV. CONCLUSION

These findings, which are largely based on official state records, clearly point to the arbitrary use of the concept of "terrorism". These sanctions, which were intended to push political opposition out of the system, have unfortunately harmed vulnerable children the most. Our work shows that this damage is deep enough to affect not only today but also tomorrow.

On this occasion, we would like you to know that we greatly appreciate the work you have done. On the other hand, we are happy to share that our members and working group specialized in this field are ready to support you in your work on children's rights.

Kind Regards,

CrossBorder Jurist Association
Board of Directors

Mehmet Bakır ÖZKAN

CBJ Co-Chair

²³ <https://kronos35.news/tr/birsen-atayun-anadolu-beyin-gelmeyecegine-inansam-ben-de-yasamak-istemem-tabi-ki-gelecek/>

²⁴ 3rd Year of the State of Emergency's Social Costs Report, June 2020, 164.