**TYPE OF STAKEHOLDER:**

Other (international NGO)

**NAME OF STAKEHOLDER:**

Solidarity with OTHERS AISBL (Association internationale sans but lucratif), Belgium

**E-MAIL:**

info@solidaritywithothers.com , a.dincer@solidaritywithothers.com

**CAN WE ATTRIBUTE RESPONSES TO THIS QUESTIONNAIRE TO YOUR STATE OR INSTITUTION PUBLICLY:**

Yes

**QUESTIONNAIRE:**

**Question 1**

Human rights defender and lawyer **Talip Nayır** was sentenced to 10 years in prison on the charge of "membership in an armed terrorist organization". He was arrested on 27/10/2016 and is still under arrest, as of the date of this application.

His work in the field of human rights: Attorney Talip Nayır worked as a lawyer affiliated to the Erzincan Bar Association for many years. As of the date of his arrest, he was a Board Member of Erzincan Bar Association. As a lawyer, he fought for ensuring access to fair trial and represented the victims of human rights violations. He has also promoted the filing of complaints against arbitrary arrest and torture. Within the scope of the activities of the bar association, he became involved in activities aimed at raising awareness on human rights and ending discrimination.

Date of detention: 25/10/2016. Date of arrest: 27/10/2016. Date of conviction: 30/05/2017.

Related Articles of Law:

**Article 1 of the Anti-Terror Law No. 3713;** Definition of Terror;

“Any criminal action conducted by one or more persons belonging to an Organization with the aim of changing the attributes of the Republic as specified in the Constitution, the political, legal, social, secular or economic system, damaging the indivisible unity of the State with its territory and nation, jeopardizing the existence of the Turkish State and the Republic, enfeebling, destroying or seizing the State authority, eliminating basic rights and freedoms, damaging the internal and external security of the State, the public order or general health”.

**Article 314 of the Turkish Penal Code No. 5237;** Armed Organization;

“(1) Any person who establishes or leads an armed organization in order to commit the crimes in the fourth and fifth sections of this chapter is punished with imprisonment from ten to fifteen years. (2) Those who become members of the organization defined in the first paragraph are sentenced to imprisonment from five to ten years.

**Article 5 of the Anti-Terror Law No. 3713;** Increasing the Penalties;

“The prison sentences or judicial fines to be determined in accordance with the relevant laws for those who commit the crimes written in Articles 3 and 4 are imposed by increasing them by half. In the penalties to be determined in this way, the upper limit of the penalty specified for that action or any kind of penalty may be exceeded. However, instead of life imprisonment, aggravated life imprisonment is imposed. If an increase in the penalty is stipulated in the relevant article due to the commission of the crime within the framework of the activities of the organization; the penalty can only be increased in accordance with the provisions of this article. However, the increase to be made cannot be less than two-thirds of the penalty."

Description of the case;

In the aftermath of the wake of a military coup attempt in Turkey in July 2016, the Erzincan Chief Public Prosecutor’s Office issued an instruction to the police, requesting identification and social media information on lawyers under investigation over alleged links to the Gülen movement. As a result of the investigation, Talip Nayır was taken into custody on 25/10/2016 and arrested on 27/10/2016, over his professional activities as an attorney and his social media commentary. He was sentenced to 10 years of imprisonment by the Erzincan 1st High Criminal Court on 30/05/2017. Talip Nayır is still being held in prison as a convict.

After the failed coup, the Turkish government declared a state of emergency during which lawyers across the country were detained and arrested for representing individuals and institutions affiliated with the Gülen movement. Some faced asset freezes and blocking of their bank accounts.

Media reports clearly indicated that the grounds for the lawyers’ detention and arrest was their professional activities such as attending hearings and filing lawsuits. The lawyers were detained in raids carried out into their offices and homes, during which the police seized as evidence the case files that they were following. In some provinces, lawyers were detained and arrested solely on the grounds that they were members of a certain professional association.

Human rights defender and lawyer **Abidin Gursoy** was sentenced to 18 years in prison on the charge of “leading and armed terrorist organization.” He was arrested on 29/07/2016 and is still in prison as of the date of this application.

His work in the field of human rights: Lawyer Abidin Gursoy worked as a lawyer affiliated to the Konya Bar Association for many years. At the time of his arrest, he was practicing his profession in his law office. As a lawyer, he fought for ensuring access to fair trial and represented the victims of human rights violations. He has also promoted the filing of complaints against arbitrary arrest and torture.

Date of detention: 26/07/2016. Date of arrest: 29/07/2016. Date of conviction: 11/10/2018.

Related Articles of Law:

**Article 1 of the Anti-Terror Law No. 3713;** Definition of Terror;

“Any criminal action conducted by one or more persons belonging to an Organization with the aim of changing the attributes of the Republic as specified in the Constitution, the political, legal, social, secular or economic system, damaging the indivisible unity of the State with its territory and nation, jeopardizing the existence of the Turkish State and the Republic, enfeebling, destroying or seizing the State authority, eliminating basic rights and freedoms, damaging the internal and external security of the State, the public order or general health”.

**Article 314 of the Turkish Penal Code No. 5237;** Armed Organization;

“(1) Any person who establishes or leads an armed organization in order to commit the crimes in the fourth and fifth sections of this chapter is punished with imprisonment from ten to fifteen years.

**Article 5 of the Anti-Terror Law No. 3713;** Increasing the Penalties;

“The prison sentences or judicial fines to be determined in accordance with the relevant laws for those who commit the crimes written in Articles 3 and 4 are imposed by increasing them by half. And, Article 7; - Terrorist Organizations - “By using force and violence; those who establish, lead or become members of a terrorist organization to commit a crime for the purposes specified in Article 1 by means of pressure, intimidation, suppression or threat are punished according to the provisions of Article 314 of the Turkish Penal Code. Those who regulate the activities of the organization are also punished as leaders of the organization.”

Description of the case;

In the aftermath of the wake of a military coup attempt in Turkey in July 2016, the Konya Chief Public Prosecutor’s Office issued an instruction to the police, requesting identification and social media information on lawyers under investigation over alleged links to the Gülen movement. As a result of the investigation, Abidin Gursoy was taken into custody on 26/07/2016 and arrested on 29/07/2016, over his professional activities as an attorney. He was sentenced to 18 years of imprisonment by the Ankara 15th High Criminal Court on 11/10/2018. Abidin Gursoy is still being held in prison as a convict.

After the failed coup, the Turkish government declared a state of emergency during which lawyers across the country were detained and arrested for representing individuals and institutions affiliated with the Gülen movement. Some faced asset freezes and blocking of their bank accounts.

Media reports clearly indicated that the grounds for the lawyers’ detention and arrest was their professional activities such as attending hearings and filing lawsuits. The lawyers were detained in raids carried out into their offices and homes, during which the police seized as evidence the case files that they were following. In some provinces, lawyers were detained and arrested solely on the grounds that they were members of a certain professional association.

Reports on local and national media indicated that Abidin Gursoy was going to be arrested on account of his professional works. He was in fact arrested following the news and the charges leveled against him were related to his human rights advocacy, which he carried out as part of his profession as an attorney.

**Question 2:**

Lawyer Talip Nayır was sentenced to 10 years in prison on the charge of “being a member of an armed terrorist organization” in accordance with Article 314/2 of the Turkish Penal Code, No 5237. He has been under arrest since 27/10/2016.

Lawyer Abidin Gürsoy was sentenced to 18 years in prison on the charge of “leading an armed terrorist organization” in accordance with Article 314 of the Turkish Penal Code, No 5237. He has been under arrest since 29/07/2016.

**Question 3:**

N/A

**Question 4:**

N/A

**Question 5:**

Carry out a visit to Turkey and draw the authorities’ attention to the situation of these jailed human rights defenders.

Raise the issue at the Human Rights Council and inform the permanent delegations with regard to the situation of human rights defenders in Turkey.