QUESTIONNAIRE RELATED TO THE RIGHT OF ANYONE DEPRIVED OF HIS OR HER LIBERTY BY ARREST OR DETENTION TO BRING PROCEEDINGS BEFORE COURT, IN ORDER THAT THE COURT MAY DECIDE WITHOUT DELAY ON THE LAWFULNESS OF HIS OR HER DETENTION AND ORDER HIS OR HER RELEASE IF THE DETENTION IS NOT LAWFUL

1. Please describe your organization’s concern with the right of anyone deprived of his or her liberty by arrest or detention to bring proceedings before court?

In 10th article of [the prevention of terrorism act](http://www2.zargan.com/tr/page/search?Text=the%20prevention%20of%20terrorism%20act) a special procedure is set. According to this, 10. article is implemented in prosecutions about 3. And 4. articles of [the prevention of terrorism act](http://www2.zargan.com/tr/page/search?Text=the%20prevention%20of%20terrorism%20act). This means, the right of someone in detention to access to lawyers could be restrained by authorities. This is the most common problem because people in detention are enforced to converse by the name of chatting to police. Thus police is trying to take the statements without a lawyer.

In these cases if the suspect is only one person, detention should last in 48 hours and 96 hours if suspects are more than one. But in execution, detention goes on for 3 days and in 4th day detainees are handed over to public prosecutor’s office and if arrested investigating magistrate continues investigation all night long. This means in the last 24 hours of detention they depose without sleeping. During deposition and investigation humanitarian conditions are not respected.

Especially in the cases of prevention of terrorism act, lawyers encounter police or gendarme about right to silence. When lawyer remind the suspects about their right to silence police reacts them.

The other very important point is by justifying the secrecy of the case, the iawyers’ access is denied to the report of interrogation. This distinctly restrains the right to defense.

In the cases of prevention of terrorism act, suspects can deliberate only one lawyer in detention and at most 3 lawyers in prosecutor’s office and investigating magistrate’s investigations. This is an important problem and restrains the right to defense.

In the cases of prevention of terrorism act, suspects are interned especially between 04.00-06.00 o’clock in the morning by tipping over and by exaggerated safety measures suspects are shown as dangerous criminals.This situation is a violent attack to personal rights.

One of the biggest problems inTurkey is, in investigations (especially about defomatory offenses), videos of detainees are serviced to press and thier personal rights are attacked by police. There is not any forceful investigations about these police and prosecutor’s officers.

Also there are lots of examples about frequent decisions of detention, detention without detailed explanation, patting down undressed, isolating in prison in the first 24 hours of detention etc.

2) In your organizations international/regional focus, how far is the right of anyone deprived of his or her liberty to seek proceedings before court part of national laws?

İt takes 6 months to 18 months to put a suit to a detainee. The maximum limit of detention time is 5 years except some special cases. In 10th article of [the prevention of terrorism act](http://www2.zargan.com/tr/page/search?Text=the%20prevention%20of%20terrorism%20act) this limit is increased to 10 years. But we think this detention time is too long and it must be limited in 2 years.

3) Please describe the most common problems individuals face in their realization of the right?

Judgement system is not united in Turkey. There are military and civil judiciaries. Also there are two different high criminal courts. One of them is authorized and charged by 10th article of [the prevention of terrorism act](http://www2.zargan.com/tr/page/search?Text=the%20prevention%20of%20terrorism%20act). As human rights defenders, we think these courts are like provost courts. Because of this, anticipation of justice by these courts is in minimum degree and people don’t want to realize of their rights in effective ways.

4) How do you assist individuals who do not enjoy the right to bring proceedings before the court?

These people are mostly aggrieved by government. We especially help them by forwarding their complains to judicial authorities. Or we apply to judicial authorities in their names.

5) In your organization’s opinion, how would you advise the Working Group on Arbitrary Detention to draft the “draft basic principles and guidelines on remedies and procedures on the right of anyone deprived of his or her liberty […]”. What should be key points of these basic principles and guidelines?

In addition to the answers above, we must say the judgment culture in Turkey is founded on protecting the state. Thus, we need a mechanism which doesn’t advice but an effectively diclaiming one.