



To: Special Rapporteur, United Nations Human Rights Council

From: Justice & Accountability Department,  
Northern Justice Watch,  
68 Spire Hillway,  
Toronto, ON, M2H 3A4

Date: October 29, 2023

**RE: Input of Northern Justice Watch, Advocacy of Hatred Based on Religion or Belief**

Dear Special Rapporteur,

Northern Justice Watch (“NJW”), a registered Not-for-profit corporation in accordance with the Canada Not-for-profit Corporations Act, appreciates the opportunity to submit the following inputs for your attention.

NJW is a Canada-based human rights organization fighting against crimes against humanity and advocating for the victims, with a specific focus on Ukraine, Syria, China, Afghanistan, Turkey, and Canada. We submit our input based on the hatred based on religion and beliefs we are observing in Turkey. Due to the word limit, we submit a very limited amount of our feedback. If given another chance, we are happy to provide more input and more study.

***NJW-Answer-Q1:*** Section 216 of the Turkish Criminal Code (“TCC”) numbered 5237 states that:

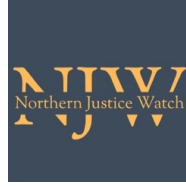
*“Section 216: Offenses Against Public Peace – Provoking hatred or humiliation of the public*

*(1) A person who publicly incites a segment of the population with different characteristics in terms of social class, race, religion, sect or region to hatred and enmity against another segment, is guilty of an offence punishable by imprisonment of from one year up to three years, in case a clear and imminent danger to public security arises due to person’s incitement.*

*(2) A person who publicly insults a section of the public on social class, race, religion, sect, gender, or region is punished with imprisonment from six months to one year.*

*(3) A person who publicly insults the religious values adopted by a section of the public shall be sentenced to imprisonment of from six months to one year if the act is conducive to disrupting public peace.”*

Despite this seemingly harsh provision, the actual implementation of it is very limited and this section is used as a tool to silence individuals having different political opinions. To illustrate, a famous singer well-known for her “non-conservative” lifestyle and her support for giving basic rights to *LGBTQIA2S+* individuals such as the right to adopt or to marriage, which she showed by



opening a Pride flag in one of her concerts, was arrested due to her jokes she made with one of her co-workers in the band who went to Islamic Divinity Students High Schools (“IDSHS”) due to his IDSHS history, which in turn, he replied her joke and laughed.

Turkey, although secular by law, is being ruled by highly conservative President Recep Tayyip Erdogan and its political party, *Adalet ve Kalkınma Partisi* (“AKP”), which takes great pride in IDSHS and showing their love by constantly increasing the number of IDSHS each year and arranging IDSHS students to political gatherings and meetings on regular basis.

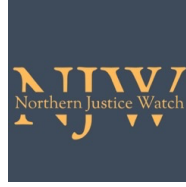
Gulsen’s footage from 4 months ago during a concert was released on social media and she got arrested 4 months later after the incident. After her arrest, she was imprisoned waiting for trial, which, normally, is a concept that only applies in exceptional and serious cases requiring multiple years of imprisonment, such as murder or arson, despite multiple legal professionals calling “do not”. During her sentencing, she was sentenced to 10 months in prison which in turn turned into a monetary fine and the announcement of the verdict was deferred, making her imprisonment waiting trial a complete waste of time.

***NJW-Answer-Q2&3:*** We observe a broad prejudice in Turkish society and Anti-Semitic, anti-Christian, anti-Atheist, and anti-Gülen Movement statements on a daily basis, exacerbated by State actors. We are very sad to observe that the freedom of religion or belief only exists in Turkey for conservative Muslims in support of the government, and any other diverse religions or beliefs are subject to hatred a lot. Per the Freedom of Religion Initiative, at least 29 big incidents in 2021;<sup>1</sup>

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<sup>1</sup> Tekin F., Turay A., Yildirim M. (2022). *Türkiye’de Din, İnanç veya İnançsızlık Temelli Nefret Suçları 2021 Raporu*. Norvec Helsinki Komitesi İnanç Özgürlüğü Girişimi. <https://inancozgurlugugirisimi.org/wp-content/uploads/2022/09/iog-din-inanc-veya-inancsizlik-temelli-nefret-suclari-2021.pdf> In this report titled, Hate Crimes Based on Religion, Belief or Lack of Belief in Turkey 2021 Report, at least 29 hatred incidents detected. We mentioned some of these 29 incidents below:

- ◆ The Protestant community in Artvin Arhavi was first targeted in the local press, in print and digital media, on the grounds of "missionary" activities. Then, some people put pressure on the community leader's homeowner and asked him to evict the community leader. The district chairman of a political party made provocative publications on social media. Although the person stopped reacting after the community leader met with the district president, threats continued on the street and on social media. While the community leader was walking, he was threatened with statements such as "*the Dead priest is walking.*"
- ◆ On January 25, 2021, crosses were drawn on 5 houses belonging to Alevis in Yalova and "Alevi" was written on the walls. Following the incident, an investigation was launched. However, Hacı Bektaş Veli Anatolian Culture Foundation, which brought the matter to the prosecutor's office to get information about the progress of the investigation, stated that there was no development regarding the ongoing investigation.
- ◆ On January 31, 2021 "Bastard Christian" was written on the door of the Surp Garabet Armenian Church in Üsküdar, Istanbul.
- ◆ On March 18, 2021, *Takvim* newspaper, known with its affinity to President Erdogan, targeted *Şalom* newspaper writer Karel Valansi in a news article and in its social media post because of her Jewish identity.
- ◆ On March 20, 2021, the door and some ruins of the historical Kasturya Synagogue in Fatih, Istanbul, were set on fire by unidentified people. There was no investigation or lawsuit regarding the incident.
- ◆ On May 13, 2021, the website of the Jewish community's newspaper *Shalom* was hacked in an anti-Semitic attack.
- ◆ Between June and July 2021, the clergyman of Aydın Kurtuluş Church and the church community were threatened in Facebook posts. People living in Aydın also participated in these broadcasts, and the church official filed a criminal complaint with the police because threatening messages such as killing Christians and beheading them were given in the broadcasts. One person involved in the incident was detained and released after a while.



and at least 36 incidents<sup>2</sup> occurred due to hatred of religion or belief, and most of these were not prosecuted. These numbers are only reported incidents, and we believe that the actual number is extremely higher, considering approximately every 9 of 10 hate incidents go unreported (Tekin & Yildirim, 2023, p. 5).

The broad hatred and prejudice in Turkish society are further execrated by State actors and law enforcement. Among at least 67 incidents happened in 2021 and 2022, the 90% of the incidents were either left uninvestigated or resulted in release of the suspects or not-conviction. In 2022, an Armenian found an asylum in Europe, because he was allegedly forced by the law enforcement to take back his complaints, he filed due to severe harassment, threats, and attacks from his neighbourhood due to his Armenian identity<sup>3</sup>.

We also observe that there is unfortunately not an effective monitor, recognition, and addressing the prejudices, and most of the time the perpetrators of hate crimes are left unpunished<sup>4</sup>. For

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- ◆ In July 2021, a person applied to the Diyarbakır Chief Public Prosecutor's Office, alleging that he was threatened and followed to his home on the grounds that he was an atheist. The prosecutor's office decided that there was no need to prosecute the death threats. The victim's objection dated November 17, 2021, was rejected.

<sup>2</sup> Tekin F., Turay A., Yildirim M. (2023). *Türkiye'de Din, İnanç veya İnançsızlık Temelli Nefret Suçları 2022 Raporu*. Norveç Helsinki Komitesi İnanç Özgürlüğü Girişimi. <https://inancozgurlugugirisimi.org/wp-content/uploads/2023/08/iog-nefret-sucu-raporu-2023-web.pdf> In this report titled, Hate Crimes Based on Religion, Belief or Lack of Belief in Turkey 2021 Report, at least 29 hatred incidents detected. We mentioned some of these 36 incidents below:

- ◆ Starting on January 4, 2022, human rights activist Fatma Yavuz was targeted by Takvim and Yeni Şafak newspapers, known for their affinity to President Erdogan, associating her with her Armenian identity and using expressions such as "Turkish enemy, Armenian lover". Although she filed a criminal complaint against, there was no development on the issue until June 27, 2023.
- ◆ On February 12, 2022, Tunceli Nazimiye District Governor went to the Cemevi with law enforcement forces and shared the photo he took with a gun in his hand on social media and threatened the Cemevi Leader.
- ◆ On March 18, 2022, a Yazidi's house in Mardin Nusaybin was burned down by his neighbours because they did not want Yazidis in the neighbourhood.
- ◆ On April 10, 2022, a Nazi symbol swastika was drawn by unidentified people on the door of the Armenian Catholic Primary and Secondary School in Istanbul.
- ◆ On June 9, 2022, in Mardin Midyat Anhil village, the tombstones in the Assyrian Chapel of Mor Peter and Mor Paul were broken and the bones of the Saints were thrown out.

<sup>3</sup> Nalci, A. (2022, July). Kitlesele çökme ve gasp Ruhü - Aris Nalci. Artı Gerçek. <https://artigercek.com/makale/kitlesele-cokme-ve-gasp-ruhu-219501>

<sup>4</sup>General Directorate of Judicial Record and Statistics. (2015). *Judicial Statistics 2014* (Publication No: 9). Republic of Turkey, Ministry of Justice.

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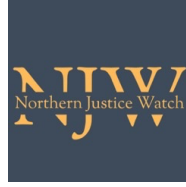
General Directorate of Judicial Record and Statistics. (2016). *Judicial Statistics 2015* (Publication No: 10). Republic of Turkey, Ministry of Justice. [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/2082019114113Adalet\\_ist\\_2015.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/2082019114113Adalet_ist_2015.pdf);

General Directorate of Judicial Record and Statistics. (2017). *Judicial Statistics 2016* (Publication No: 11). Republic of Turkey, Ministry of Justice. [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/2082019114041Adalet\\_ist\\_2016.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/2082019114041Adalet_ist_2016.pdf);

General Directorate of Judicial Record and Statistics. (2018). *Judicial Statistics 2017* (Publication No: 12). Republic of Turkey, Ministry of Justice. [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/2082019114010Adalet\\_ist\\_2017.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/2082019114010Adalet_ist_2017.pdf);

General Directorate of Judicial Record and Statistics. (2019). *Judicial Statistics 2018* (Publication No: 13). Republic of Turkey, Ministry of Justice. [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1792019103654adalet\\_ist\\_2018.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1792019103654adalet_ist_2018.pdf);

General Directorate of Judicial Record and Statistics. (2020). *Judicial Statistics 2019* (Publication No: 14). Republic of Turkey, Ministry of Justice. [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1092020162733adalet\\_ist-2019.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1092020162733adalet_ist-2019.pdf);



instance, section 122 of the TCC regulates “hate crime”. Since the year 2014 ~ when the term “hatred” was included in TCC section 122 ~ there has been a total of 9 convictions out of 107 tried cases until December 31, 2021, in accordance with the Statistics of the Ministry of Justice of Turkey (2014-2022). The number of people prosecuted or convicted in 2022 could not be found in Statistics released in March 2023. Moreover, in the Turkish doctrine, a hate crime is accepted as a “crime that cannot be committed” since proving a “special motive of hatred” is very hard. For example, in 2018, out of 205 investigations, only 23 of them are proceeded to trial and only 7 of them were convicted (Istanbul Bar Association, 2020).<sup>5</sup>

**NJW-Answer-Q4&5:** We refer to our answers above. We also observed that in Turkey hatred based on religion or belief overlaps with hatred based on race and ethnicity (in the case of *Armenian Jews* or *Alevi Kurds*); and with hatred based on membership in a social group (in the case of the *Gulen-Movement*).

**NJW-Answer-Q6:** We observe that Turkey’s leading party’s political strategy is based on “hatred”, and many individuals in Turkey are being subjected to hate speech daily by Government actors. Anti-Semitic, anti-Christian, anti-Atheist, and anti-Gulen Movement statements are used very often by President Erdogan and AKP; and polarization based on religion or belief is at all times high.

This hatred is further increased especially during recession, crisis, and election times. President Erdogan blames and insults regularly to other political opponents for being, including, but not limited to, “Atheist, Alevi, Non-Muslim, Unbeliever, and Jewish” and insults non-conservative Turkish protesters as “Rottens and Sluts” with the allegation of dirtying mosque with beer bottles during one of the biggest Anti-Erdogan protests, although these allegations were never proven, and Imam of the mosque later said to the press that this incident never happened<sup>6</sup>.

For example, during Erdogan’s 2023 presidential election campaign, upon a media post of opposition leader, Kemal Kilicdaroglu, supporting Alevi, Erdogan targeted Kilicdaroglu and said “We do not have a religion called Alevism, we do not have a religion called Shiism, our only religion is Islam.”<sup>7</sup>

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General Directorate of Judicial Record and Statistics. (2021). *Judicial Statistics 2020* (Publication No: 15). Republic of Turkey, Ministry of Justice. [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1692021162011adalet\\_ist-2020.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1692021162011adalet_ist-2020.pdf);

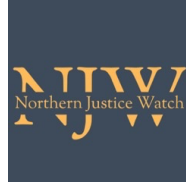
General Directorate of Judicial Record and Statistics. (2022). *Judicial Statistics 2021* (Publication No: 16). Republic of Turkey, Ministry of Justice. [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/9092022143819adalet\\_ist-2021.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/9092022143819adalet_ist-2021.pdf);

General Directorate of Judicial Record and Statistics. (2023). *Judicial Statistics 2022* (Publication No: 17). Republic of Turkey, Ministry of Justice. [https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/29032023141410adalet\\_ist-2022calisma100kapakli.pdf](https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/29032023141410adalet_ist-2022calisma100kapakli.pdf).

<sup>5</sup> Istanbul Bar Association. (2020). *AYRIMCILIK VE NEFRET SUÇU*. <https://www.istanbulbarosu.org.tr/HaberDetay.aspx?ID=15822>

<sup>6</sup> Erdoğan, “gezi” eylemcilerine “sürtük” dedi, art arda suç duyuruları geldi. (Erdoğan called “gezi” protesters “sluts”, criminal complaints came one after another). (2022, June 2). *Cumhuriyet Newspaper*: Retrieved September 21, 2023, from <https://www.cumhuriyet.com.tr/turkiye/erdogan-gezi-eylemcilerine-surtuk-dedi-art-arda-suc-duyurulari-geldi-1942714>.

<sup>7</sup> Erdoğan Kılıçdaroğlu’nu yine “Alevilik” üzerinden hedef aldı. “Bizim alevilik diye bir dinimiz yok”. (Erdoğan targeted Kılıçdaroğlu again over “Alevism”. “We do not have a religion called Alevism.”) (2023, April 25). *Yeni Çağ Newspaper*, Retrieved September 21, 2023, from <https://www.yenicaggazetesi.com.tr/binlerce-besiktas-taraftarini-brugge-sokaklarini-dolmabahceye-cevirdi-711574h.htm>



**NJW-Answer-Q7** We believe that Turkey uses the advocacy of hatred against silencing tools, and this often results in limitations on “freedom of expression, freedom of life, liberty, and security”. For example, during the 2023 Turkey earthquake, where at least 50,783 died and ~1.5 million people were left homeless, Geophysical Engineer Prof. Dr. Övgün Ahmet Ercan was arrested due to his social media post on lack of resources under TCC 216, *Provoking hatred or humiliation of the public*<sup>8</sup>. Again, in 2021, Deniz Gümüşel was detained for the same reason because she protested against the thermal power plant company in Milas, but later released due to the public reaction<sup>9</sup>.

**NJW Answer-Q14:** Turkey must be brought into compliance with the relevant international (and regional) laws on this topic. Turkey is a state party to numerous international human rights treaties, including the International Covenant on Civil and Political Rights, which enshrines the right to freedom of religion and belief (see Article 4, Article 18, and Article 26; Article 4 (1) is particularly pertinent as it deals with freedom of religion and belief in the context of public emergencies). Yet, Turkey is systematically breaching these rights. Turkey is also a state party to the European Convention on Human Rights, which enshrines the right to freedom of religion and belief in Article 9. Turkey regularly breaches this Convention as well, as the European Court of Human Rights has itself held on numerous occasions. Turkey has continued its noncompliance under the Convention despite these numerous rulings.

Turkey must ensure compliance with these international laws. For instance, Turkey should have a policy in place to immediately release anyone whom the European Court of Human Rights concludes is detained arbitrarily based on their religion or belief. Turkey should also take effective measures to support accountability in the international arena, including but not limited to, acceding to the Rome Statute of the International Criminal Court.

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<sup>8</sup> “Halkı kin ve düşmanlığa tahrik” suçundan hakkında soruşturma başlatılan jeofizik yüksek mühendisi prof. dr. övgün ahmet ercan, gözaltına alındı. (2023, February 28). *Sol Newspaper*: Retrieved September 21, 2023, from <https://haber.sol.org.tr/haber/deprem-bilimci-ahmet-ercan-halki-kin-ve-dusmanliga-tahrik-suclamasıyla-gozaltına-alındı>.

<sup>9</sup> HUKUKÇULARDAN çağrı “deniz gümüşel’i gözaltına aldırana soruşturma açılsın.” (2021, November 16). *Bianet Bagimsiz İletişim Ağı*. Retrieved September 21, 2023, from <https://m.bianet.org/bianet/cevre/253415-deniz-gumusel-i-gozaltına-aldırana-sorusturma-acılsın>.