

## Written Submission

# USE OF ADMINISTRATIVE MEASURES IN COUNTER TERRORISM BY THE GOVERNMENT OF TÜRKİYE

By  
**Journalists and Writers Foundation**

JWF's Contribution to inform the High Commissioner's Report to  
the Human Rights Council, pursuant to Resolution A/HRC/51/24



April 5, 2024  
NEW YORK

## **Contribution to inform the High Commissioner's Report to the Human Rights Council, pursuant to Resolution A/HRC/51/24**

**Please provide information on the application of administrative measures in the context of countering terrorism. This includes, but is not limited to, the use of administrative - or security - detention, travel or entry-into-own country bans, movement restrictions, deportation orders, countering the financing of terrorism, terrorism listing of entities and individuals, surveillance, and deprivation of nationality.**

### Use of Administrative - or Security – Detention

1. During the State of Emergency (SoE) declared in the aftermath of the attempted coup,<sup>1</sup> the Government of Türkiye issued a total of thirty-two Decrees, leading to over one thousand legislative amendments. The amendments are unrelated to the reasons prompting the declaration of the SoE. They introduced critical changes revising the state's architecture, escalating government's crackdown on dissent.
2. Based on the decree laws, hundreds of individuals in Türkiye are detained every week since July 2016, for allegedly being members of the Hizmet Movement. According to official data,<sup>2</sup> at least 612,347 individuals (155,014 in 2016 and 457,423 during 2017) faced investigations on accusations of "*founding, leading or being a member of terror groups,*" as defined by the Turkish Criminal Code (TCK) Article 314. Almost all those detained were charged with membership of Hizmet Movement. It is estimated that 5,175 mass arrest operations were carried out in Türkiye between 2014 and November 2021, mostly targeting perceived Hizmet members. On average three mass-arrest operations were carried out daily, with approximately 70 individuals detained daily on bogus terrorism-related charges.<sup>3</sup>
3. Between 2014 and November 2021, Turkish public prosecutors filed more than 392,000 charges under Article 314 (membership in a terrorist organization) of the Criminal Code, with Türkiye's Interior Minister stating that "a total of 319,587 individuals were detained and 99,962 arrested in operations against supporters of the Hizmet Movement since the attempted coup of July 15, 2016." As of 2021, there were 22,340 imprisoned individuals with alleged links to Hizmet, while 25,026 other individuals were wanted on terrorism charges.<sup>4</sup>
4. In all cases brought before relevant international procedures of investigation or settlement, including the UN Working Group on Arbitrary Detention (WGAD) and the European Court of Human Rights (ECtHR), the latter have properly concluded that the detention of those accused of Hizmet ties has been arbitrary, and in violation of Türkiye's and other countries' obligations under applicable domestic and international law.
5. Between 2017 and 2023, the Working Group on Arbitrary Detention issued twenty-eight (28) opinions concerning fifty (50) victims, overwhelmingly alleged members of Hizmet

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<sup>1</sup> The State of Emergency lasted between July 2016 and July 2018,

<sup>2</sup> Turkish Ministry of Justice.

<sup>3</sup> See for more: <https://tr.solidaritywithothers.com/mass-detentions>.

<sup>4</sup> <https://www.turkishminute.com/2021/11/23/9587-people-detained-99962-arrested-in-terrorism-operations-against-the-gulen-movement/>

Movement. In all the cases the Working Group properly decided that the detention of the victims, both in Türkiye and in other countries had been arbitrary.

6. On September 26, 2023, the Grand Chamber of the European Court of Human Rights issued its final judgment in the case of *Yüksel Yalçınkaya v. Türkiye* (application no. 15669/20), concerning the conviction of a former teacher for membership of Hizmet Movement, designated [by the Turkish authorities] as an armed terrorist organization under the assigned names FETÖ/PDY, and considered by the same authorities to be behind the attempted coup d'état of July 15, 2016. In its judgment the ECtHR held, *inter alia*, that the expansive interpretation of the law had created an almost automatic presumption of guilt based on ByLock use alone, making it nearly impossible for the applicant to exonerate himself from the accusations against him, treating the applicant's offence as one of strict liability, clearly departing from the requirements laid down in domestic law. It further held that Yalçınkaya's conviction had been based decisively on his use of the encrypted messaging application called "ByLock", which the domestic courts held had been designed for the exclusive use of FETÖ/PDY members under the guise of a global application. Anyone who had used Bylock could, in principle, be convicted on that basis alone of membership of an armed terrorist organization.

### Movement Restrictions

7. With the amendments to the Turkish Constitution in 2010, the restriction to travel abroad was narrowed down as follows: "A citizen's freedom to leave the country may only be restricted on account of criminal investigation or prosecution depending on judicial decision," thus prohibiting arbitrary restrictions.<sup>5</sup> Article 22 of the Passport Law<sup>6</sup> enumerates a closed list of conditions, in which cases passports shall not be issued, as follows: "No passport or travel document shall be issued to those persons travelling abroad who are banned by the courts and to the persons whose departure from the country is ascertained as prejudicial in terms of general security by the Ministry of Internal Affairs."

8. Turkish courts have unambiguously interpreted Article 23 of the Constitution and Article 22 of the Passport Law, ruling that "the right of a citizen to leave the country may be restricted only by the decision of a judge, based on a criminal investigation or prosecution." Relevant provisions in domestic law concerning the restriction of the freedom of movement do not intend and do not provide for any restriction or cancellation of passports for individuals residing abroad, covered by other cooperation mechanism, including INTERPOL notices and diffusions, which must in any case comply with INTERPOL's Constitution and the Rules on the Processing of Data.<sup>7</sup>

9. Decree No. 667<sup>8</sup> however, provided for the cancellation of passports of all those subjected to administrative acts, criminal investigation and prosecution, without any court order and in clear violation of Article 23 of the Constitution of Türkiye and international law. On September 1, 2016,

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<sup>5</sup> See for example: <http://newyork.cg.mfa.gov.tr/Mission/ShowAnnouncement/118412>

<sup>6</sup> Law No. 5682 of July 15, 1950

<sup>7</sup> See for example Decision No. 2013/314 of the Council of State relative to case No. 2008/921, Plenary Session of Administrative Chambers, February 31, 2013

<sup>8</sup> Article 5 of Decree 667, the first decree under the State of Emergency, published in the Official Gazette on July 23, 2016.

an amendment to the decree extended this power, enabling the authorities to cancel or confiscate the passports of spouses and partners of those under investigation.<sup>9</sup>

10. Under the state of emergency and continuing with the implementation of antiterror legislation, the government targeted family members to exert pressure on wanted suspects.<sup>10</sup> From July 23, 2016, to December 2017 Turkish authorities cancelled 234,419 passports,<sup>11</sup> in absence of any individual review and without providing any explanation on why that was necessary or proportionate. It is estimated that the number of arbitrarily cancelled passports by September 2021 was around 650,000.

11. Accurately estimating the number of travel bans imposed on Turkish nationals remains difficult, if not impossible. Periodically however, the government has announced lifting travel bans in the past. On July 25 [2018], the Ministry of Interior announced it would lift travel bans on 155,000 individuals whose family members had alleged connections with “terror organizations.”<sup>12</sup>

### Deportation Orders

12. Since the attempted coup of July 15, 2016, the Turkish government pursues a consistent policy of pursuing amongst others anyone allegedly related to the Hizmet Movement, relying on renditions, abuse of extradition proceedings, Interpol Red Notices, anti-terror financing measures, and **co-opting other States to deport or transfer persons unlawfully.**<sup>13</sup>

13. In its regular report<sup>14</sup> (A/HRC/48/57) presented during the 48<sup>th</sup> session of the UN Human Rights Council, the Working Group on Enforced and Involuntary Disappearances (WGEID) focused on the issue of enforced disappearances in the context of transnational transfers.<sup>15</sup> More than half of the enforced disappearances in the context of transnational transfers analyzed by the Working Group however,<sup>16</sup> directly implicate the Government of Türkiye.

14. In almost all the instances reported to the Working Group, the arrests [in other countries] seem to have been carried out without any legal basis; the arresting officers did not identify themselves; no arrest warrants were presented; no explanations were provided to clarify or justify the arrests; the persons were taken by force from their home or in the street; and in a number of

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<sup>9</sup> Human Rights Watch, Turkey, *State of emergency provisions violate human rights and should be revoked*, - Joint NGO Letter, October 20, 2016. Article 10(2) of KHK 673 reads as follows: “The following Paragraph has been added to Article 5 of the Decree-Law 667:“(2) The passports held by the spouses of persons, whose names are notified to the relevant passport unit under Paragraph 1, may also be cancelled by the Ministry of Interior on the same date where it is considered as detrimental in terms of general safety.”<sup>9</sup> No legal grounds however, including Constitutional provisions or the 1950 Passport Law justify the cancellation of passports of family members

<sup>10</sup> See also: U.S. State Department Turkey 2018 Human Rights Report

<sup>11</sup> Turkish interior minister: 55,665 jailed, 234,419 passports revoked since coup attempt, available at:

<https://turkeypurge.com/turkish-interior-minister-55665-jailed-234419-passports-revoked-since-coup-attempt>

<sup>12</sup> U.S. State Department Turkey 2018 Human Rights Report

<sup>13</sup> See also the report of the Parliamentary Assembly of the Council of Europe (PACE), *Transnational repression as a growing threat to the rule of law and human rights*, May 23, 2023, para 6.

<sup>14</sup> The report is available here: <https://undocs.org/en/A/HRC/48/57>

<sup>15</sup> Chapter 6, page 14 of the report.

<sup>16</sup> Paragraph 40 of the report. Transfers from Afghanistan, Albania, Azerbaijan, Cambodia, Gabon, Kazakhstan, Kenya, Lebanon, Malaysia, Pakistan, Panama, Uzbekistan and Kosovo

cases, they were blindfolded, hooded and handcuffed.<sup>17</sup> In several of the cases examined by the Working Group in the report, the targeted individuals remained forcibly disappeared for a period of between 24 hours and three weeks in secret detention prior to **deportation**.<sup>18</sup>

### Countering the Financing of Terrorism

15. Measures by the Government of Türkiye related to national security, counterterrorism, anti-money laundering, maintaining social order and countering foreign influence are largely used as an additional tool of transnational repression. Türkiye first adopted Law No. 6415,<sup>19</sup> to reportedly address legal deficiencies and its practices in relation to money laundering and anti-terrorism financing, properly identified earlier in 2011 by the Financial Action Task Force (FATF).<sup>20</sup> Under Law No. 6415, individuals and organizations are accused on the existence of reasonable grounds that they have committed the offense of collecting or providing funds to finance terrorism. In December 2019, FATF warned that unless it improved its “serious shortcomings,” Türkiye ran the risk of being added to the grey list<sup>21</sup> again. In Türkiye’s mutual evaluation report in 2019, the FATF highlighted Türkiye’s “need to improve measures for freezing assets linked to terrorism and proliferation of weapons of mass destruction.”<sup>22</sup>

16. With the view of avoiding being included again in the Grey List, in January 2021 Türkiye amended its Law on the Prevention of the Financing of Terrorism. In October 2021 however, the FATF placed Türkiye into its list of countries subject to increased monitoring, the so-called “grey list”, for strategic deficiencies in its regime to counter money laundering, terrorist financing, and proliferation financing.<sup>23</sup>

17. The need for amendments to Law No. 6415 however was used as a justification by the Turkish Government to add additional tools to its “inventory” of transnational repression. The European Commission in particular expressed concern that, “[...] the law - also based on FATF recommendations - imperiled civil society organizations, which now face penalties and undue

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<sup>17</sup> Paragraph 44 of the report. For example, A/HRC/WGEID/114/1, para 145. See also “*Opinion No. 11/2018 of the Working Group on Arbitrary Detention in the case of Meral Kaçmaz, Mesut Kaçmaz and their minor children.*” Available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/139/81/PDF/G1813981.pdf?OpenElement>

<sup>18</sup> For example, Mustafa Ceyhan and Mehmet Gelen illegally transferred from Azerbaijan to Turkey. See Allegation Letter to Azerbaijan” Ref. AL AZE 1/2019, available at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24375>.

See the case of Osman Karaca transmitted to Cambodia through urgent action under Article 30 of the UN Committee on Enforced Disappearances. See also Opinion of the Working Group on Arbitrary Detention in the matter of Osman Karaca:

<https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session89/AHRCWGAD202084.pdf>

<sup>19</sup> Law No. 6415 “On the Prevention of the Financing of Terrorism” adopted in February 2013

<sup>20</sup> The FATF first put Turkey on its grey list in 2011. See <https://iclg.com/briefing/17468-turkey-added-to-global-financial-watchdog-s-grey-list#:~:text=The%20FATF%20first%20put%20Turkey,to%20the%20grey%20list%20again.>

<sup>21</sup> The Grey List identifies countries that are actively working with the FATF to address strategic deficiencies in their regimes to counter money laundering, terrorist financing, and proliferation financing. When the FATF places a jurisdiction under increased monitoring, it means the country has committed to resolve swiftly the identified strategic deficiencies within agreed timeframes and is subject to increased monitoring. Please see: <https://www.fatf-gafi.org/en/countries/black-and-grey-lists.html>.

<sup>22</sup> <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mer-turkey-2019.html>

<sup>23</sup> <https://www.reuters.com/business/finance-watchdog-grey-lists-turkey-threat-investment-2021-10-21/>

monitoring of fundraising.” Amnesty International stated that Türkiye's government will “almost certainly” use the law to target non-profit organizations. It is an “unintended consequence” of FATF policies “which are all too often misused by repressive governments” to restrict rights, Amnesty International stated, calling on the FATF to push Turkish authorities to adjust the law.<sup>24</sup>

### Terrorism Listing of Entities and Individuals

18. Pursuant to the provisions of the amendments introduced to the Law No. 6415 on the Prevention of the Financing of Terrorism in January 2021, the Government of Türkiye in April 2021 adopted an asset-freezing decree concerning 377 individuals, 205 of them allegedly linked to the Hizmet Movement.

19. A second wave of “asset-freezing” materialized on December 24, 2021, as the Turkish Ministry of Treasury and Finance froze the assets of over 770 individuals and organizations<sup>25</sup> on grounds that they were providing terrorist financing.<sup>26</sup> Among the individuals sanctioned were 454 members of the Hizmet Movement, 108 members of the Kurdistan Workers’ Party (PKK), 119 individuals accused of being part of terrorist organizations that exploit religion, and 89 people accused of being part of left-wing terrorist organizations. The list also included the US-based Hizmet Movement-affiliated Niagara Foundation, a non-profit organization.

20. In principle those whose assets have been frozen can appeal the decision before the Ankara Serious Crimes Court; given the practical restrictions however, it is almost impossible for any dissident residing abroad to establish effective access to the Turkish legal system. Most of the individuals whose accounts have been closed, if not all, appear to have been listed on the “Terrorist Wanted List”,<sup>27</sup> a database of the Turkish Interior Ministry that identifies alleged terrorists. The list is updated periodically and was expanded significantly on December 30, 2022. The updated list of December 30, 2022, included world-renowned academics, human rights defenders, former civil servants, and individuals from all walks of life, offering considerable rewards for their capture.<sup>28</sup>

### Surveillance

21. According to multiple reports, the long arm of the Turkish government has created a global intelligence network to spy on its own citizens, monitoring the activities of Hizmet participants abroad. The Government of Türkiye has stated that it is actively monitoring dissidents abroad, at least since the attempted coup of July 2016.

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<sup>24</sup> <https://www.reuters.com/business/finance-watchdog-grey-lists-turkey-threat-investment-2021-10-21/>

<sup>25</sup> See for example: <https://www.jurist.org/news/2021/12/turkey-freezes-assets-of-individuals-and-organizations-accused-of-funding-terrorism/>

<sup>26</sup> The decision was published in Turkey’s official gazette and signed by Treasury and Finance Minister Nureddin Nebati and Interior Minister Suleyman Soylu. <https://www.resmigazete.gov.tr/eskiler/2021/12/20211224-16.pdf? x tr sl=auto& x tr tl=en& x tr hl=en-US>

<sup>27</sup> <http://en.teroraranlar.pol.tr>

<sup>28</sup> The list also includes 15 Turkish journalists living in exile, including Can Dündar, Bülent Keneş, Abdullah Bozkurt, Ahmet Dönmez, Cevheri Güven, Tarik Toros, Adem Yavuz Arslan, Said Sefa, Arzu Yıldız, Levent Kenez, Hasan Cücük, Sevgi Akarçesme, Erhan Başyurt, Bülent Korucu and Hamit Bilici. See for more: <https://cpj.org/2023/01/turkey-adds-journalist-can-dundar-to-list-of-wanted-terrorists-at-least-14-other-journalists-also-listed/>

22. On February 16, 2020, the Turkish Foreign Minister Mevlüt Çavuşoğlu confirmed that Turkish diplomatic and consular missions around the world have systematically spied on critics of President Recep Tayyip Erdoğan and collected information on Turks living abroad. "... *Espionage activities. Everyone is doing what they want [in other countries]. Intelligence gathering is the duty of diplomats,*" Çavuşoğlu told Turkish journalists on February 16, 2020 following the Munich Security Conference.<sup>29</sup>

23. In the above context, surveillance activities appear to have become part of "terms of reference" for Turkish diplomatic missions and Turkish diplomatic and consular missions around the world have collected extensive information on Turkish nationals perceived close to the Hizmet/Gülen Movement. According to police correspondence<sup>30</sup> of July 2018 addressed to the Ankara Chief Public Prosecutor's Office, the Turkish National Police investigated 4,386 critics who have been profiled and kept in files at Turkish consulates and embassies. The police transmitted the results of its investigations to the Public Prosecutor in two separate CDs in accordance with lists that were previously transmitted by the Foreign Ministry.

24. In addition to "traditional" surveillance entities, or state agencies, there are probably hundreds of organizations and other entities funded by the Government of Türkiye, whose "unofficial duties" many times also include monitoring activities. Apart of the Ministry of Foreign Affairs and Türkiye's Intelligence Organization, among the most important entities involved in monitoring activities are the Turkish Development and Cooperation Agency (TİKA), the Presidency for Turks Abroad and Related Communities (YTB) diaspora agency, Yunus Emre Institute, and the Maarif Foundation.<sup>31</sup>

25. Finally, documents presented in Turkish courts until the end of 2018, also reveal<sup>32</sup> the list of 92 countries and territories where Turkish embassies engaged in systematic monitoring of government critics in other countries.<sup>33</sup>

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<sup>29</sup> See here for more: <https://www.nordicmonitor.com/2020/02/erdogans-top-diplomat-cavusoglu-confirms-systematic-spying-on-turkish-government-critics-on-foreign-soil/>.

<sup>30</sup> See here for more: <https://www.nordicmonitor.com/2020/07/turkish-diplomatic-missions-profiled-4386-erdogan-critics-as-terror-suspects-in-2016-2017-time-period/>

<sup>31</sup> See here for more: <https://www.nordicmonitor.com/2020/09/turkish-intelligence-runs-covert-recruitment-programs-in-diaspora-in-europe/>

<sup>32</sup> See here: <https://www.nordicmonitor.com/2019/01/turkish-embassies-spied-on-critics-in-92-countries-a-new-document-reveals/>

<sup>33</sup> According to papers released by the Ankara 4<sup>th</sup> High Criminal Court on January 16, 2019, in case No. 2016/238, the Turkish Foreign Ministry had compiled a long list of foreign entities that were owned and/or operated by people who are seen close to the Hizmet Movement. In document numbered 8211250, the Ministry of Foreign Affairs acknowledged it had collected information on Government critics in countries across the Americas, Europe, Asia and Oceania. The following African countries were listed: Burkina Faso, Equatorial Guinea, Ethiopia, Morocco, Gabon, Ghana, Guinea-Bissau, South Africa, Cameroon, Kenya, Democratic Republic of the Congo, Libya, Madagascar, Mali, Egypt, Mauritania, Mozambique, Niger, Nigeria, Central African Republic, Senegal, Somalia, Sudan, Tanzania, Tunisia and Uganda. In the Americas: Argentina, Ecuador, Canada, Mexico, Panama, Peru, Chile, and Venezuela. In the United States: Alabama, Arizona, Arkansas, Boston, California, Colorado, Florida, Georgia, Houston, Indiana, Louisiana, Las Vegas, Los Angeles, Minnesota, Missouri, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, San Antonio, Chicago, Tennessee, Texas, Utah, Washington and San Diego. In Asia: Afghanistan, Bangladesh, the United Arab Emirates, China, Indonesia, Philippines, South Korea, Georgia, India, Iraq, Japan, Cambodia, Kazakhstan, Kyrgyzstan, Malaysia, Mongolia, Myanmar, Pakistan, Russia, Singapore, Sri Lanka, Saudi Arabia, Tajikistan, Thailand, Jordan and Vietnam. In Europe: Germany, Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Czech Republic, Denmark, France, Finland, Croatia, Netherlands, the United Kingdom, Sweden, Kosovo, Latvia, Lithuania, Luxembourg,

## Deprivation of Nationality

26. Since the attempted coup of July 2016, the Government of Türkiye has taken consistent steps to arbitrarily deprive of their nationality hundreds of Turkish nationals living abroad, including hundreds of newborn children. Human rights and other organizations have also documented a clear pattern of the denial of consular services and related deprivations for individuals critical to government's policies, including cancellation and confiscation of passports, refusal to extend the validity of passports, and refusal to provide identity cards or passports to children born to Turkish citizens.

27. On January 6, 2017, the Turkish Government adopted three decree-laws pursuant to Türkiye's state of emergency, among which Decree-Law 680, which introduced a particularly chilling measure of revoking the citizenship of individuals abroad, who do not respond to judicial summons issued by courts or prosecutors within 90 days.

28. According to Decree No. 680, individuals who face administrative, judicial investigation or prosecution over [read: fabricated] charges of "*crimes against the government*," "*armed rebellion against the government*," "*armed attack and assassination of the president*" or "*membership in an armed terror organization*" will be summoned by prosecutors to testify. If they cannot be reached, the public prosecutor will refer the case to the Justice Ministry within a month. The Justice Ministry will then issue a "return home" notice in the Official Gazette for those who are overseas. If they don't respond to the call within three months, their citizenship will be revoked through a Government decision, upon proposal from the Justice Ministry.

29. Pursuant to Decree 680, the Turkish Justice Ministry has twice published a "return home" notice; on June 5, 2017, concerning 130 (one hundred thirty) individuals and on September 10, 2017, concerning 99 (ninety-nine) individuals - who were believed to be abroad. Because of the lack of data on this matter, it is impossible to accurately map the impact of these ongoing measures on members of the Turkish dissent in exile.

**Please provide information on the regulatory framework used for implementing administrative measures in countering terrorism and elaborate on the interrelationship between these measures and the use of the criminal justice system to prevent and counter terrorism.**

30. Counterterrorism laws enacted by the Government of Türkiye and their compatibility with Türkiye's international and human rights law obligations have been a source of constant concern for the international community. See for example the letter of August 26, 2020 (Ref. OL TUR 13/2020), addressed to the Government of Türkiye by relevant Special Procedure mandate-holders.<sup>34</sup> Special Procedures of the Human Rights Council concluded that Türkiye's anti-terror

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Hungary, Macedonia, Moldova, Norway, Poland, Portugal, Romania, Slovenia, Serbia and Ukraine. Australia and New Zealand were also added to the long list of countries.

<sup>34</sup> Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the independence of judges and lawyers. Available at:



legal framework in its current form does not conform to international counterterrorism nor human rights standards, and that the Anti-Terror Law<sup>35</sup> - as well as other provisions, may lead to practices that violate the rights to freedom of expression, freedom of association, freedom of peaceful assembly, and the right to freedom from arbitrary detention.

31. The Government of Türkiye has ever since not reviewed or reconsidered its counterterrorism legislation to ensure its compliance with Türkiye's international human rights obligations, and to ensure that persons subjected to charges of terrorism are granted all procedural guarantees set out in Article 14 of the ICCPR.

32. The Turkish Parliament passed the Law No. 7145 on July 25, 2018, with the stated aim of enabling an effective fight against terrorist organizations after the end of the emergency rule. The law however provided for new restrictions on the freedom of movement and right to peaceful assembly into Turkish legislation, effectively extending the state of emergency introduced after the 2016 attempted coup.

**With respect to the administrative measures used and referred to above, please provide information on the challenges and benefits of the use of these administrative measures as well as good practices and lessons learned. In doing so, please elaborate how administrative measures used effectively address the threat posed by terrorism.**

33. Executive Decrees issued during the state of emergency (2016-2018) and the measures in its aftermath were only designed to target members of the Turkish dissent, who have not been involved in any terrorist incident, before or after the attempted coup of July 2016.<sup>36</sup> As such, these measures have had no impact and did not address any threats posed by terrorism.

34. Relevant data from the U.S. Department of State country (Türkiye) reports on terrorism<sup>37</sup> (see below) confirm that the number of incidents and victims (killed and wounded) were mostly related to the rise and fall of terrorist organizations, such as the so-called ISIS, and there have not been any terrorist attacks committed by members of Turkish dissent, including members of the Hizmet Movement.

- 2014 Terrorist Incidents: Four significant incidents with 66 victims.<sup>38</sup>
- 2015 Terrorist Incidents: Seven significant incidents with 751 victims.<sup>39</sup>
- 2016 Terrorist Incidents: Nine significant incidents with 963 victims.<sup>40</sup>
- 2017 Terrorist Incidents: Four significant incidents with 125 victims.<sup>41</sup>
- 2018 Terrorist Incidents: Four significant incidents with 31 victims.<sup>42</sup>
- 2019 Terrorist Incidents: Four significant incidents with 41 victims.<sup>43</sup>

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<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25482>

<sup>35</sup> Law No. 7145 on July 25, 2018.

<sup>36</sup> Please see: <https://www.state.gov/country-reports-on-terrorism-2/>

<sup>37</sup> Id.

<sup>38</sup> <https://2009-2017.state.gov/j/ct/rls/crt/2014/239406.htm>

<sup>39</sup> <https://2009-2017.state.gov/j/ct/rls/crt/2015/257516.htm>

<sup>40</sup> <https://www.state.gov/reports/country-reports-on-terrorism-2016/>

<sup>41</sup> <https://www.state.gov/reports/country-reports-on-terrorism-2017/>

<sup>42</sup> <https://www.state.gov/reports/country-reports-on-terrorism-2018/#Turkey>

<sup>43</sup> <https://www.state.gov/reports/country-reports-on-terrorism-2019/turkey/>

- 2020 Terrorist Incidents: Three significant incidents with 2 victims.<sup>44</sup>
- 2021 Terrorist Incidents: Four significant incidents with 19 victims.<sup>45</sup>
- 2022 Terrorist Incidents: Three significant incidents with 94 victims.<sup>46</sup>

**Please provide details regarding the safeguards put in place, including oversight mechanisms, to guarantee that administrative measures do not encroach upon human rights. These rights include, but not limited to, privacy, freedom of religion, freedom of movement, due process and fair trial, non-discrimination, gender equality, liberty and security of person, and access to effective remedies.**

35. The measures introduced under the State of Emergency (July 2016 – July 2018) and in its aftermath in Türkiye achieved exactly what they were designed for: they removed the few remaining legal safety nets and brought arbitrary government decision-making to unprecedented new heights.

**Please indicate whether human rights impact assessments are undertaken prior to the design and implementation of administrative measures in counter terrorism, and whether monitoring and evaluation are periodically undertaken to assess the effectiveness of administrative measures to meet their stated objectives. Please also provide information on how civil society organizations are involved in such monitoring and evaluation processes.**

36. No human rights impact assessments have taken place in Türkiye prior to the design and implementation of the administrative measures listed above in counter terrorism, or any other measures undertaken in this context since 2016.

**Please provide information about specific measures that have been taken to ensure accountability and access to remedies for violation of human rights resulting from the use of administrative measures in countering terrorism.**

37. There have been no specific measures taken to ensure accountability and access to remedies for violations of human rights resulting from the use of administrative measures in countering terrorism. Lower courts and administrative organs etc., in particular as concerns those accused of Hizmet ties, have completely ignored the rulings of higher courts, including many of the binding rulings of the European Court of Human Rights,<sup>47</sup> and decisions of UN human rights bodies.

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<sup>44</sup> <https://www.state.gov/reports/country-reports-on-terrorism-2020/turkey/>

<sup>45</sup> <https://www.state.gov/reports/country-reports-on-terrorism-2021/turkiye>

<sup>46</sup> <https://www.state.gov/reports/country-reports-on-terrorism-2022/>

<sup>47</sup> See for example the case of Osman Kavala. <https://www.coe.int/en/web/portal/-/implementing-echr-judgments-council-of-europe-urges-turkey-to-release-osman-kavala>.