**FROM GENDARMERIE GENERAL COMMAND**

***Question:*** ***Provide information on the implementation of administrative measures taken in the context of the fight against terrorism.*** ***This information includes, but is not limited to, the implementation of measures such as detention orders for administrative or security purposes, travel or entry bans, movement restrictions, deportation orders, combating the financing of terrorism, placing organizations and individuals on terrorist lists, surveillance and deprivation of citizenship.***

Answer: All activities carried out within the scope of Fight against Terrorism are implemented in line with the relevant legislation and laws. The provisions of the Anti-Terror Law No. 3713 set forth terrorist crimes and crimes committed with terrorism intentions and stipulate penal provisions. In order to redress the damages incurred by real or legal persons and public institutions and organizations due to the crimes covered by this Law, a criminal judge of peace upon the request of the public prosecutor during the investigation phase and the court during the prosecution phase may decide to place deed restrictions for preventing the transfer or assignment on immovable property or land, sea or air transportation vehicles belonging to suspects or defendants, or on the establishment of rights in relation thereto or for restricting the power of disposition and to impose a measure on the receivables of these persons from welfare institutions and funds. Law No. 6415 on the Prevention of the Financing of Terrorism regulates the offense of financing terrorism and sets out the procedures and principles regarding the implementation of the 1999 International Convention for the Suppression of the Financing of Terrorism and the resolutions of the United Nations Security Council on combating terrorism and the financing of it, and freezing of assets for the purpose of preventing the financing of terrorism.

*(Within the scope of financing of terrorism, based on the relevant articles of the Law No. 6415 on the Prevention of Financing of Terrorism, it may be decided to propose to the President the request to freeze the assets of persons, institutions or organizations in foreign countries pursuant to the existence of reasonable grounds for persons who collect or provide funds to terrorists or terrorist organizations.* *In addition, paragraph 3 of the relevant law (Annex: 27/12/2020-7262/Art. 38) regulates the freezing of the assets of such persons, institutions or organizations in Türkiye and the annulment of the freezing of assets in the event that reasonable grounds cease to exist. This decision is taken jointly by the Minister of Treasury and Finance and the Minister of Interior upon the recommendation of the Evaluation Commission. The freezing of assets order restricts the financial movements of the persons in question and takes preventive measures against the financing of terrorism. However, this administrative measure may push them out of official financial systems and encourage them to use alternative value systems such as hawala).*

***Question:*** ***Provide information on the regulatory framework for the implementation of administrative measures in the fight against terrorism and explain in detail the interrelationship between these measures and the use of the criminal justice system to prevent and fight terrorism.***

Answer: Measures in the fight against terrorism are implemented on the basis of the Provincial Administration Law No. 5442, the Anti-Terror Law No. 3713, the Law No. 6415 on the Prevention of Financing of Terrorism, the Law No. 2803 on the Organization, Duties and Powers of the Gendarmerie and the Regulation on the Duties and Powers of the Gendarmerie Organization.

***Question:*** ***Provide detailed information on the security measures, including surveillance mechanisms, put in practice to ensure that administrative measures do not infringe on human rights.*** ***These rights include, but are not limited to, the rights to privacy, freedom of religion, freedom of movement, due process of law and fair trial, non-discrimination, gender equality, right to liberty and security, and access to effective remedies.***

Answer: In order to prevent all kinds of human rights violations that may arise from the implementation of administrative measures in the fight against terrorism, primarily judicial instances, and the Committee on Human Rights Inquiry of the Grand National Assembly of Türkiye, the Human Rights and Equality Institution of Türkiye, the Provincial and District Human Rights Boards, and the Inspection Boards of the Institutions, are tasked and authorized to conduct examinations and investigations.

***Question:*** ***Please indicate whether periodic monitoring and evaluation are conducted prior to the plan and implementation of administrative measures in the fight against terrorism to determine whether human rights impact assessments are carried out and to examine the effectiveness of administrative measures in achieving the stated objectives.*** ***Please also provide information on how non-governmental organizations are involved in such monitoring and evaluation processes.***

Answer: Impact assessments are carried out in all activities performed within the scope of the fight against terrorism by giving particular importance to human rights.

***Question:*** ***Please provide information on specific measures taken to ensure accountability and access to remedies for human rights violations resulting from the implementation of administrative measures in the fight against terrorism.***

Answer: In order to prevent all kinds of human rights violations that may arise from the implementation of administrative measures in the fight against terrorism, primarily judicial instances, and the Committee on Human Rights Inquiry of the Grand National Assembly of Türkiye, the Human Rights and Equality Institution of Türkiye, the Provincial and District Human Rights Boards, and the Inspection Boards of the Institutions, are tasked and authorized to conduct examinations and investigations.

**FROM CIVIL INSPECTION BOARD**

***Question:*** ***Please provide information on specific measures taken to ensure accountability and access to remedies for human rights violations resulting from the implementation of administrative measures in the fight against terrorism.***

Answer: The Law Enforcement Surveillance Commission, which was established by Law No. 6713 on the Establishment of the Law Enforcement Surveillance Commission and whose secretariat is assumed by the Civil Inspection Board, carries out duties in relation to complaints of any nature about law enforcement officials. Within this framework, complaints against law enforcement officials regarding human rights violations arising from the implementation of administrative measures taken in the fight against terrorism are also dealt with by the surveillance mechanism of this commission. The Commission is composed of civilians and the mechanism operates under civilian supervision.

As stated in Article 1, purpose of the aforementioned law is “to determine the procedures and principles regarding the establishment of the Law Enforcement Surveillance Commission, Commission’s duties, powers and working method and other administrative measures regarding the complaint system about law enforcement officials in order to ensure more effective and accelerated functioning of the law enforcement complaint system and to improve its transparency and reliability with a view to recording and monitoring the actions and proceedings carried out or required to be carried out by the administrative authorities in a centralized system on account of the alleged crimes committed by law enforcement officials or their actions, attitudes or behaviours requiring disciplinary punishment.”

The Secretariat of the Law Enforcement Surveillance Commission of the Civil Inspection Board fulfils its duties through 1,007 Law Enforcement Complaint Offices established within the Governorships, District Governorships, Directorate General of Security, Gendarmerie General Command, Coast Guard Command and the Gendarmerie and Coast Guard Academy.

**FROM DIRECTORATE GENERAL OF SECURITY**

***Information note on the fight against terrorism and human rights:***

For decades, Türkiye has been effectively and resolutely fighting against terrorist organizations such as PKK/KCK/PYD/YPG, DAESH, FETÖ and DHKP/C, which threaten national security and public order and target the safety of life and property of security forces and citizens, by respecting fundamental rights and freedoms.

Members of a terrorist organization for whom a warrant of arrest and/or detention is issued under the Anti-Terrorism Law No. 3713 are wanted by announcement on the website named “Terör Arananlar (Wanted Terrorists) *(*[*www.terorarananlar.pol.tr*](http://www.terorarananlar.pol.tr)*)”.*

The procedures related to arrest, detention, questioning, and access to an attorney, to medical examination and to relatives are carried out in line with the relevant legislation mentioned below, and the legal procedures are carried out in line with the instructions of the judicial authorities, under paragraph 2 of Article 164 of the Code of Criminal Procedure No. 5271, in accordance with the international legislation within the framework of human rights.

*Measures Taken Against Torture and Ill-treatment*

The issues regarding the use of force by the police in order to suppress resistance and the extent necessary for supressing it in the event that they encounter resistance while performing their duties are regulated on Article 16 of the Law on Powers and Duties of the Police No. 2559.

In addition, the issues regarding the personal liberty and security are regulated on Article 19 titled “Personal Liberty and Security” of the Constitution of the Republic of Türkiye No. 2709, and torture and ill-treatment are prohibited in the Constitution and legally subjected to deterrent sanctions under the relevant legislation. The crime of torture is regulated on Article 94 of the Turkish Criminal Code No. 5237, the first paragraph of which stipulates that *“Any public officer who executes actions which are incompatible with human dignity and which incur physical or mental pain, affect perception or will power, or humiliate a person shall be sentenced to imprisonment from three years to twelve years.”*

Furthermore, Article 9 of the Law on Making Amendments on Certain Laws within the Context of Human Rights and Freedom of Speech No. 6459 and paragraph 6 added to Article 94 regulating the crime of “Torture” of the Turkish Criminal Code No. 5237 stipulate as the mandatory provision of the law that the provisions on the statute of limitations are not applied to the crime of torture.

In the general procedure, upon learning that a crime has been committed, an investigation into the perpetrator and the act is initiated by the public prosecutors and the law enforcement officers according to the Code of Criminal Procedure No. 5271; however, based on the provision *“…Criminal prosecution of public servants and other public officials for alleged offenses shall be subject to the permission of the administrative authority designated by law, except in cases prescribed by law…”* which is on the last paragraph of Article 129 of the Constitution, the criminal investigation is subject to the permission of the competent authorities, independently from the general procedure, in the event that the crimes deemed to be under the scope of the Law on the Prosecution of Public Servants and Other Public Officers No. 4483 are committed by public servants.

*However, with the amendment made in 2003 to Article 2 of the aforementioned Law regarding the offenses to which the Law No. 4483 on* the Trial of Public Servants and Other Public Officials *applies, the provision has been added:* "...The provisions of this Law shall not apply to the investigations and prosecutions to be started within the scope of Articles 243 and 245 of the Turkish Criminal Code No. 765 and the fourth paragraph of Article 154 of the Code of Criminal Procedure No. 1412..." *Within the framework of the principle of “zero tolerance to torture and ill-treatment”,* “the crime of torture and ill-treatment” *is removed from the scope of the Law No. 4483 by that regulation and it is decreed that its investigation and prosecution shall be carried out ex officio without permission from any authority.*

In addition to judicial proceedings, administrative investigations are also envisaged for the personnel against whom torture and ill-treatment allegations are made. Article 9 of the Law No. 7068 on General Law Enforcement Disciplinary Provisions stipulates that if the personnel commit the crime of torture, they are punished with "dismissal from civil service". In order for people to receive security services in safety and peace, to protect the internal discipline, especially in the General Directorate of Security, sanctions proportionate to the action of the personnel who exhibit ill-treatment, insult and disrespectful words and behaviour are foreseen by the relevant laws.

In addition, the Law Enforcement Surveillance Commission was established in order to ensure more effective and accelerated functioning of the law enforcement complaint system, to improve its transparency and reliability, and to record and monitor in a centralized system, the actions and proceedings carried out or required to be carried out by administrative authorities relating to the alleged crimes committed by law enforcement officials or their actions, attitudes or behaviours that call for disciplinary punishment.

*Health Check, Informing Relatives, Appointment of a Defence Counsel, Meeting with a Defence Counsel and Detention Period*

Article 9 regulating "Health Check" of the Regulation on Arrest, Detention and Statement Taking which regulates the procedures and principles to be followed in the execution of the arrest, detention, custody and statement taking procedures implemented by the law enforcement during the judicial investigation to be carried out in line with the information and orders of the Public Prosecutors, stipulates that in cases where the detained person is to be taken into custody or detained by force, the health status of the detained person shall be determined by a doctor's report before the procedures of relocating them for any reason, extending the detention period, releasing them or referring them to the judicial authorities are applied. In addition, Article 8 of the aforementioned Regulation and Article 95 of the Code of Criminal Procedure No. 5271 regulate how the detained person notify the legal relatives of their choice and Article 91 of the Code of Criminal Procedure No. 5271 regulates the duration of detention. The appointment of a defence counsel and meeting with a defence counsel are regulated in Articles 20 and 21 of the aforementioned regulation and in Articles 150, 154 and 156 of the Code of Criminal Procedure No. 5271. In addition, Articles 25 and 26 of the Regulation on Arrest, Detention and Statement Taking prescribe the minimum standards for detention and statement taking rooms and the issues regarding the inspections to be carried out in these places.

"General Directorate of Security, Detention Centre Instructions", which was issued based on the aforementioned Regulation and entered into force with the approval of the General Director dated 24/06/2014, is available on POL-NET Legislation Information System. The aforementioned instructions set out the procedures to be applied to persons detained by the police when they are taken into custody, throughout their stay in custody and during their release. In addition, pursuant to Article 92 of the Code of Criminal Procedure No. 5271 and Article 26 of the Regulation on Arrest, Detention and Statement Taking, the chief public prosecutors or public prosecutors to be assigned by them inspect as a requirement of their judicial duties the custody rooms, where detained persons are kept, the statement taking rooms, if any, the conditions of these persons, the reasons and duration of their detention, and all records and transactions related to arrest and detention.

Article 100 of the Code of Criminal Procedure No. 5271 titled 'Grounds for arrest with a warrant' states the provision “(1) If there are concrete evidences that tend to show the existence of a strong suspicion of a crime and an existing ground for arrest, an arrest warrant against the suspect or accused may be rendered. There shall be no arrest warrant rendered if arrest is not proportionate to the importance of the case, expected punishment or security measure. (2) At the below mentioned instances, a ground for arrest may be substantiated: a) If the suspect or accused has fled, eluded or if there are perceptible facts which arouse the suspicion that they are going to flee...”

Article 102 of the Code of Criminal Procedure No. 5271 titled 'the duration of detention' states the provision "(1) Where the crime is not within the jurisdiction of the court of assizes, the maximum period of detention shall be one year. However, in compulsory cases, this period may be extended, for six more months, by explaining the reasons. (2) Where the crime is under the jurisdiction of the court of assize, the maximum period of detention is two years. This period may be extended by explaining the reasons in the required cases; however, the extension shall not exceed 3 years in total, and for the crimes defined in the Fourth, Fifth, Sixth and Seventh Chapters of the Fourth, Fifth, Sixth and Seventh Parts of the Fourth Section of the Second Book of the Turkish Penal Code No. 5237 and for the crimes falling within the scope of the Anti-Terror Law No. 3713 dated 12/4/1991, it shall not exceed five years."

*Detention and Interrogation Rooms*

In accordance with the provisions of the legislation in force and within the framework of the "zero tolerance against torture" policy; efforts are exerted to equip the detention and/or interrogation rooms of the Provincial Security Directorate TEM Branch Directorates with digital video and audio recording systems

a) to prevent detainees from committing suicide or harming themselves,

b) to eliminate allegations of human rights violations for various reasons in order to implicate personnel,

c) to prevent allegations against the country and our Organization from both national and international institutions and organizations in the field of human rights.

In order to prevent foreign terrorist fighters (FTFs) from crossing into conflict zones and transiting through these zones to Türkiye and other countries, risk analysis units working on a 24/7 basis operate at airports, bus stations, land and sea border gates and train stations. Required actions are taken against the persons apprehended as a result of these activities in line with the instructions of Chief Public Prosecutor. Those who are prosecuted by Public Prosecutors for the crime of "Being a Member of a Terrorist Organization" are subjected to judicial proceedings, and those who are not subjected to judicial proceedings by Public Prosecutors or who are released as a result of judicial proceedings are delivered to Provincial Directorates of Migration Management under the Directorate of Migration Management in order to carry out administrative procedures such as deportation.

Persons about whom there are notifications from origin countries, notifications from other countries, findings by the intelligence units, information obtained from investigation documents and information obtained from the applications of FTF relatives indicating that they are FTFs are prevented from entering Türkiye and are considered as foreign inadmissible passengers.

It is considered that it would be appropriate to obtain the opinions of the Directorate of Migration Management and the Department of Combating Migrant Smuggling and Border Gates regarding the details of the administrative actions taken in relation to the terrorist offenses with which the suspects are implicated.

However, as stated in the preambular provisions of our Constitution, "The State of Türkiye is a Republic. The Republic of Türkiye is a democratic, secular and social state of law, based on the fundamental principles set out in the preamble, respectful of human rights, loyal to Atatürk's nationalism, upholding the tranquillity of society, national solidarity and sense of justice."

On 15.07.2016, the Fethullahist terrorist organization, through its members infiltrated into the Turkish Armed Forces, attempted to disrupt the independence and unity of the State of the Republic of Türkiye, to abolish the Government of the Republic of Türkiye, to partially or completely prevent it from performing its duties, and attempted to overthrow the order stipulated by the Constitution of the Republic of Türkiye by using force and violence, to replace this order with another order or to prevent the actual implementation of this order..

During the heinous coup attempt, the Chief of Staff and some force commanders were taken hostage; several strategic State buildings, especially GNAT, The Presidential Compound, MIT, Ankara Provincial Police Directorate buildings and Police Special Operations Department buildings in Gölbaşı district were attacked by the putschists As a result of these attacks, 253 citizens including policemen, soldiers and innocent civilians were martyred and 2740 security officers and civilians were wounded.

In Turkey, all actions of law enforcement agencies regarding judicial and administrative proceedings are carried out in accordance with the procedures and principles set out in the relevant laws, and they are inspected by judicial authorities and national/international competent institutions.

**FROM THE DIRECTORATE OF MIGRATION MANAGEMENT**

***Information note on counter-terrorism and human rights:***

In Anti-Terror Law Nr. 3713, Terrorism is defined as follows: “Terrorism is any kind of act attempted by one or more persons belonging to an organization with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation, endangering the existence of the Turkish State and Republic, weakening or destroying or seizing the authority of the State, eliminating fundamental rights and freedoms, or damaging the internal and external security of the State, public order or general health by using pressure, force and violence with one of the methods such as terror, intimidation, oppression or threat.”.

On the other hand, United Nations Security Council Resolution 2178 adopted in 2014, defines Foreign Terrorist Fighters as follows: “Foreign Terrorist Fighters, namely individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict.”

Resolutions 2170 and 2178 and the obligations to be fulfilled by Member States in order to combat Foreign Terrorist Fighters on a global scale are summarized as follows:

1. Member States are obliged to take the necessary measures to prevent the financing, travelling, listing and elimination of FTFs.
2. Member States are obliged to take national measures in accordance with international law to prevent the flow of FTFs into conflict zones, to bring them to justice, and to prevent them from being supplied with weapons and financed.
3. Member States are obliged to prevent, directly or indirectly, the sending, selling or supplying of ships, aircraft, weapons, ammunition, military vehicles and equipment, technical assistance, military training from within or outside their territory.

Within the scope of Law No. 6458 on Foreigners and International Protection, those who are subjected to administrative proceedings with the suspicion of "Foreign Terrorist Fighter" are subjected to the provisions of paragraph 1 of Article 54 of the aforementioned Law; and specifically, in the following subparagraphs,

* Those who are the leaders, members or supporters of a terrorist organisation or a benefit oriented criminal organisation; (6458 Art. 54/1-b)
* Those who pose a public order or public security or public health threat; (6458 Art. 54/1-d)
* Those who are considered to be associated with terrorist organisations defined by international institutions or organisations (6458 Art. 54/1-k).

In the evaluations carried out within the scope of the above-mentioned definitions and obligations, in order to deal with foreigners who are members of terrorist organisations, associated with terrorist organisations and participating / will participate in terrorist activities, our Presidency (within the framework of information sharing carried out jointly with relevant public institutions and organisations) takes decisions to prohibit entry into the country in accordance with Article 9 of the aforementioned Law,

Those who arrive at the border gates despite the prohibition of entry to the country are deported to the country of departure as Inadmissible Passengers. Those entering the country by illegal means are deported to their country, to a transit country or to a third country by decision of deportation and administrative detention after they are caught by the security forces or detected by our provincial migration administration directorates.

Before the deportation of foreigners who are Foreign Terrorist Fighters or suspected Foreign Terrorist Fighters from Türkiye, the determined deportation program is notified to the Ministry of Foreign Affairs, and the Ministry of Foreign Affairs informs the Embassies of the relevant countries.

The deportation order is notified to the foreigner or his/her legal representative or lawyer, along with the grounds for deportation. In case that the foreigner against whom a deportation has been ruled is not represented by a lawyer, he/she or his/her legal representative is informed of the outcome of the decision, the procedures and deadlines for appeal.

The foreigner or his/her legal representative or lawyer may appeal against the deportation decision to the administrative court within seven days of the notification of the decision. The person who applies to the court should also notify the authority that issued the deportation decision of his/her application. Applications to the court shall be finalized within fifteen days. The court's decision on this matter is final. Without prejudice to the consent of the foreigner, he/she shall not be deported within the period of filing a lawsuit or until the conclusion of the proceedings in case of legal action.

Foreigners against whom an administrative detention order has been issued are taken to removal centres within forty-eight hours by the law enforcement unit making the detention.

The administrative detention period in removal centres cannot exceed six months. However, this period may be extended for a maximum of six months if the deportation proceedings cannot be completed due to the foreigner's non-cooperation or failure to provide accurate information or documents concerning his/her country of origin.

The administrative detention order, the extension of the administrative detention period and the results of the assessments carried out regularly every month are notified to the foreigner or his/her legal representative or lawyer together with the reasons thereof. At the same time, if the person under administrative detention is not represented by a lawyer, he/she or his/her legal representative are informed of the outcome of the decision, the procedures and deadlines for appeal.

The person under administrative detention or his/her legal representative or lawyer may appeal against the administrative detention order to a criminal judge of peace. The application shall not stop administrative detention. If the petition is submitted to the administration, it shall be immediately forwarded to the competent criminal judge of peace. The criminal judge of peace concludes the investigation within five days. The decision of the criminal judge of peace is final. The person placed under administrative detention or his/her legal representative or lawyer may apply to the criminal judge of peace again claiming that the conditions of administrative detention have eliminated or changed.

Of those who apply for judicial remedy against the administrative detention procedure, those who do not have the means to cover the attorney fees shall, upon their request, be provided with attorney services in accordance with the provisions of the Legal Profession Act dated 19/3/1969 and numbered 1136.

On the other hand, such foreigners have the right to apply to the Constitutional Court.

Representatives of relevant non-governmental organizations with expertise in the field of migration may visit removal centres with the permission of the Presidency.

The Presidency may cooperate with international organizations, authorities of the relevant country and non-governmental organizations regarding deportation procedures.