

Check against delivery

Organization: Lawyers' Rights Watch Canada

Item: Item 3: Interactive Dialogue with the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Date: 4 March 2021

Speaker: Gavin Magrath

Joint Oral Statement to the 46th Session of the UN Human Rights Council from Lawyers' Rights Watch Canada (LRWC) and Lawyer for Lawyers, NGOs in special consultative status with UN ECOSOC

Mme. President,

Lawyers' Rights Watch Canada and Lawyers for Lawyers thank the Special Rapporteur for her report.¹ We appreciate her August 2020 communication² to Turkey with other mandate holders raising "serious concern" about Turkey's vague and overbroad anti-terrorism laws. This legislation is being used to violate freedoms of opinion, expression, and association, along with fair trial rights, the right of access to legal representation, and the right to liberty.³

Corrosion of the rule of law in Turkey has escalated dramatically since the attempted coup of July 2016.⁴ Numerous lawyers have been arbitrarily detained⁵ for representing clients in politically sensitive cases, and many have been charged with the same terrorism-related offences as their clients, in violation of the UN *Basic Principles on the Role of Lawyers*.⁶ Turkey currently imprisons more lawyers, including women lawyers, than any other country.⁷

We share the dismay of the Special Rapporteur and other mandate holders about the "preventable" September 2020 death in custody of woman lawyer Ebru Timtik, who died while on hunger strike to demand fair trial rights in Turkey.⁸

Turkey's ongoing failure to heed recommendations of Special Procedures and treaty bodies is disturbing. We call⁹ upon the Council:

1. To urge Turkey to immediately implement all recommendations of Special Procedures and Treaty Bodies and to immediately accept the requests¹⁰ for country visits by the Special Rapporteur and other mandate holders; and¹¹
2. To undertake Council measures for enhanced monitoring of human rights in Turkey.

Thank you, Mme. President.

References

¹ Human rights impact of counter-terrorism and countering (violent) extremism policies and practices on the rights of women, girls and the family. Report of the Special Rapporteur on the promotion and

protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin, A/HRC/46/36, 22 January 2021, <https://undocs.org/A/HRC/46/36>.

² Communication to Turkey from the Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the independence of judges and lawyers, TUR 13/2020m 26 August 2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25482>. The communication referenced several previous concerns raised by Special Procedures about Turkey's anti-terrorism legal framework in 2017 and 2018.

³ Similar concerns were raised by the Special Rapporteur in 2006 who pointed out that all persons charged with offences are entitled to access to a lawyer. See the Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism Addendum: Mission to Turkey, A/HRC/4/26/Add.2, 16 November 2006, Para 20, also see Summary, paras. 16, 30, 76, <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/4/26/Add.2&Lang=E>; Preliminary note by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin. Addendum: Visit to Turkey (16 to 23 February 2006), E/CN.4/2006/98/Add.2, 24 March 2006, para 6, available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=E/CN.4/2006/98/Add.2&Lang=E>.

⁴ The joint written statement of LRWC and Lawyers for Lawyers to this session of the Council elaborates concerns about defenders, including lawyers and journalists, who face far reaching consequences as Turkey's government stifles dissent and opposition, largely through abuse of vague and overbroad anti-terrorism legislation that violates the international law principle of legality. Turkey: Continued Deterioration of the Rule of Law and Persecution of Lawyers and Human Rights Defenders. Joint written statement submitted by Lawyers' Rights Watch Canada and Lawyers for Lawyers, non-governmental organizations in special consultative status, A/HRC/46/NGO/56, 24 February 2021, available at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/46/NGO/56&Lang=E>

⁵ Lawyers for Lawyers, "Joint letter on arrest of 55 lawyers from Ankara," 17 September 2020, <https://lawyersforlawyers.org/joint-letter-on-arrest-55-lawyers-from-ankara/>.

⁶ *Basic Principles on the Role of Lawyers*, 7 September 1990, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RoleOfLawyers.aspx>.

⁷ The Arrested Lawyers Initiative, "Bar Associations of Turkey: Turkey has become the largest prisoner of lawyers," 24 February 2020, <https://arrestedlawyers.org/2020/02/24/turkey-has-become-the-largest-prisoner-of-lawyers/>.

⁸ Turkish human rights lawyer dies after hunger strike, 2 September 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26203&LangID=E>.

⁹ *Supra*, note 4. Other LRWC and L4L recommendations include that Turkey be urged to:

- Unconditionally release and drop charges against all legal professionals and other defenders who have been arbitrarily arrested, illegitimately charged, subjected to unfair trials, or sentenced under State of Emergency decrees or successor legislation or overbroad anti-terrorism laws;
- Reinstate all legal professionals arbitrarily dismissed under the State of Emergency decrees or successor legislation and compensate them for loss of earnings and other harms;
- Ensure the independence of all bodies with decision-making powers to appoint, discipline, or dismiss judges or prosecutors;
- Put an end to torture and ill-treatment; and
- Amend all laws and procedures that unlawfully restrict internationally protected rights.

¹⁰ See <https://spinternet.ohchr.org/ViewMandatesVisit.aspx?visitType=all&lang=en>

¹¹ The Special Rapporteurs on human rights defenders, independence of judges and lawyers, and human rights and counter terrorism have all issued requests for country visits.