

**UN
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TURKEY REPORT**

**BREACH AND VIOLATION OF
FREEDOM OF THOUGHT AND FAITH
BY STATE OF EMERGENCY DECREES**

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Abstract

In the report, the freedom of religion and conscience issues were examined, which were actually taken away by State of Emergency Decrees, issued after July 15, 2016 by the Republic of Turkey, breaches and violations in the rights to freedom of religion and conscience were examined. After the Gulen Movement faith group was shown responsible for the coup by the public authorities and also in front of the public and was declared as "terrorist organization"; by closing down all organizations known as close to Gulen Movement and by converting their ownership to the State; dismissing thousands of people, causing them to be unemployed and leaving them to civil death.

1- LEGAL REGULATIONS ON FREEDOM OF THOUGHT, RELIGION OR BELIEF

1.1 National Regulations

The Constitution of the Republic of Turkey¹ is the basic national legislation on freedom of religion and conscience² and Article 24 reads as follows:

“Everyone has the right to freedom of conscience, religious belief and conviction. Worship, religious rituals and ceremonies are free, provided that they are not contrary to the provisions of Article 14. No one can be compelled to worship, to attend religious rituals or ceremonies, or to express his religious beliefs and convictions; no one can be condemned and accused because of religious beliefs and convictions. Religious and moral education and training is carried out under the supervision and control of the State. Religious culture and moral education are among the compulsory courses taught in primary and secondary schools. Religious education and training other than this only depends on the will of the individual and the request of the legal representative of the minors. No one can exploit or abuse religion or religious feelings, or any religious things that is considered sacred, in any form, in order to base social, economic, political or legal order of the State to religious rules even if in a partly form or to create political or personal interests or influence. ”

Article 10 of the Constitution provides that everyone is equal without discrimination on the basis of language, race, color, gender, political thought, philosophical belief, religion, sect and similar reasons and requires equal treatment to all citizens in government agencies according to these principles.

1.2. International Regulations

Freedom of thought, conscience, religion or belief - freedom that regulates many international human rights and can be counted among fundamental human rights. In article 9 of the European Convention on Human Rights³ (ECHR), this right is defined as follows:

“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

The freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others. ”

¹ See. Constitution of the Republic of Turkey, 1982, <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.2709.pdf>

² For other relevant national regulations other than the Turkish Constitution, see:

- Turkish Civil Code, <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.4721.pdf>
- Turkish Penal Code, <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf>
- Basic Law of National Education <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.1739.pdf>
- Private Education Institutions Law <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.5580.pdf>
- Construction law <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.3194.pdf>
- Associations Law <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.5253.pdf>
- Foundations Law <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.5737.pdf>
- Law on Meetings and Demonstrations <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.2911.pdf>

³ European Convention on Human Rights https://www.echr.coe.int/Documents/Convention_TUR.pdf

According to Article 18 of The Universal Declaration of Human Rights (UDHR)⁴ "Everyone has the right for freedom of thought, conscience and religion. This right includes the freedom to learn, to practice and to manifest religion in public or in private."

In article 18 of The United Nations International Covenant on Civil and Political Rights (CCPR)⁵ this freedom is emphasized:

“1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion, which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions."

-The United Nations Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief

2- VIOLATIONS IN FREEDOM OF RELIGION AND CONSCIENCE RIGHTS IN TURKEY AFTER JULY 15

Turkey is the country which is the most violating in regards of freedom of expression. According to statistics released by the ECHR for violations between 1959 and 2015, 258 breach-of-Article-10 verdicts of the total 619 verdicts delivered by the Court are about Turkey. This clearly highlights Turkey among all other member states (this amount is 34 for the next member state with the highest number of violations).⁶

In Turkey, after the 17/25 corruption operation in 2014 about the Justice and Development Party Government, there have been many constraints and pressures implemented on the Gulen movement, its members and institutions and especially on private education institutions. Afterwards, the Gulen movement was shown responsible for the coup attempt on July 15, 2016, by both public authorities and the public, and was declared a "terrorist organization". With the

⁴ Universal Declaration of Human Rights <https://www.tbmm.gov.tr/komisyon/insanhaklari/pdf01/203-208.pdf>

⁵ Draft Law on the Approval of the Approval of the International Convention on Civil and Political Rights and the Report of the Foreign Commission <https://www.tbmm.gov.tr/tutanaklar/TUTANAK/TBMM/d22/c016/tbmm22016089ss0150.pdf>

⁶ Memorandum relating to freedom of expression and media freedom in Turkey, Strasbourg February 15, 2017 CommDH (2017) 5 <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=58c68af74>

declaration of state of emergency on 21 July 2016, 22 statutory decrees (Decree Laws) were issued within the scope of the state of emergency.

With 22 Decree Laws issued after the coup attempt on 15 July and after the Turkish Government notified the Secretary-General of the United Nations on 21 July 2016 that it had suspended some of its obligations under the International Covenant on Civil and Political Rights, the freedom of religion and conscience was effectively abolished.

At least 152,000 civil servants were expelled by the Decree Law. Some people, including 107,944 civil servants were part of these export lists of the Decree Law on the State of Emergency, and were arrested for alleged involvement at the coup attempt. With the decision of the High Council of Judges and Prosecutors, more than 4,200 judges and prosecutors were expelled. With the closure of private institutions such as foundations, trade unions and media companies, 22,474 people were also dismissed. The number of lawyers arrested was 570 and 1,480 lawyers were prosecuted.⁷ The private educational institutions known to be close to the Gulen movement were closed and all of their movable properties, all buildings and facilities, and all their assets were confiscated and their properties were transferred to the State. Totally 2,274 institutions, which consist of 1,065 private schools, 361 private education institutions and 848 private student dormitories were shut down and all of its assets and properties were transferred to the state free of charge.⁸

Following the closure of special education institutions operating with the permission provided by the Ministry of National Education General Directorate of Private Education Institutions, the working licenses of people working in these institutions (kindergarten, elementary school, secondary school and high school, courses and student dormitories) have been revoked by a circular, and their employment in another educational institute have been prohibited. The number of people affected by this regulation is 22,474.⁹

Freedom of religion and conscience can be described as: everyone can freely choose the religion they want, everyone can easily meet the obligations imposed by the religion of their choice without any obstacles, everyone can receive the necessary education in order to live what they believe in and everyone can describe to other people this system in which they believe and they are practicing. In this context, the Gulen movement and other communities and other religions individually are secured under national and international guarantees. The Gulen movement, which came together within the scope of freedom of belief, was shown as the responsible of the July 15 coup according to State of Emergency Decree no: 667 article 2. The right to freedom of religion and conscience of hundreds of thousands of members of the Gulen movement has been violated. Conscientious convictions and beliefs of individuals have been defined as crime by being excluded from the scope of freedom. Freedom of belief of the Gulen movement members, which came

⁷ Reports of Office of the United Nations High Commissioner for Human Rights Office about effects of the state of emergency in Turkey on people and updated report on the status of southeast region of Turkey January-December 2017

⁸ Decree Law No. 667 ARTICLE 2 - (1)... which was found as belonging, connected or linked to the Fethullah Terrorist Organization (FETÖ / PDY), which was found to pose a threat to national security, has been closed.

(2) All kinds of movable and immovables and all kinds of assets, receivables and rights, documents and papers of the closed foundations are deemed to have been transferred to the General Directorate of Foundations free of charge. <http://www.resmigazete.gov.tr/eskiler/2016/07/20160723-8.htm>

⁹ In the response letter by the Ministry of the National Education Directorate of Strategy Development to Gergerlioglu from People's Democracy Party, " As of September 5, 2018, the work permit of 19 thousand 962 employess who worked in the institutions closed within the scope of the Decree Law has been canceled and the work permits of the persons acquitted by the court decision have returned"

together within the scope of freedom of belief, was shown as a crime element according to State of Emergency Decree no:667 article 2. Article 2 of the Decree Law no. 667 by expressing "belonging, coherence or connection to the Fethullah Terrorist Organization (FETO/ PDY), which is determined to pose a threat to national security" defines that belonging, connection, link to a religious community is a crime. Their freedom of religion and conscience has been violated and a belief group has been subjected to hate speech.

As will be seen below, along with the hate speech against the Gulen movement based on religion or belief in Turkey, hundreds of thousands of people suffered tagging, claims to be a member of terrorist organization, detention, arrest, dismissal, confiscation of their bank account, unfair practices such as torture.¹⁰ This as much as possible hard and intolerant attitude has been adopted towards members of the Gulen movement. The Justice and Development Party government has shaken the peace and stability with State of Emergency Decree practices, exerted pressure on the people by different reasons, intimidated the society with pressures and dragged the people into hatred and hostility towards the Gulen movement. Within society, it has made it almost mandatory to declare hate speech against the Gulen movement and its members. Society moved from personal conviction to forced conviction. Those who did not express forced-conviction in the press, social media and the public at all times were accused of being supporters of the Gulen movement.¹¹

In the political sphere, in the period of hostility to freedom of conscience, those who did not express their opinion in the form of blame and hate speech against Gulen movement were subjected to the label of praising and protecting that community.¹²

Freedom of conscience by brute force by the government was not limited to the people, the countries were pressured in the diplomatic field and the countries that did not make a statement against the Gulen movement were launched as supporters of the terrorist organization.

The period of struggle against freedom of conscience by brute force has started. In fact, such an attitude has led to the victimization and oppression of others. According to the latest statistics of the Ministry of Justice on January 18, 2019, the number of judicial proceedings against the alleged membership of FETO increased to 500 thousand 650. Seventeen reports from the office of the United Nations High Commissioner for Human Rights Office about effects of the state of emergency in Turkey on people and updated report on the status of the southeast region of Turkey "... [P]rosecutions are worrisome. The fact that public officials do not see this as a problem and because multi-dimensional measures are not taken, this continues to be an aggravating factor" has been reported."

¹⁰ Report of the office of the United Nations High Commissioner for Human Rights Office about effects of the state of emergency in Turkey on people and updated report on the status of the southeast region of Turkey

¹¹ His son, whom he reported as FETO-member was arrested "Yasar K, complained about his son S.K. , a teacher, to police because of his words defending FETO. S.K. was arrested" <http://www.hurriyet.com.tr/gundem/fetocu-diye-ihbar-ettigi-oglu-tutuklandi-40206580>

¹² "Kilicdaroglu did not take an attitude against FETO: In the Arka Plan Programme aired in A Haber, Zeki Cetin, Republican People's Party Assembly Member in Bagcilar Municipality and having served for many years in different levels of the party, made striking statements. Cetin said that Republican People's Party leader Kilicdaroglu did not take an attitude against FETO and the party base is uncomfortable about this.

<https://www.takvim.com.tr/webtv/video-haber/video/kilicdaroglu-fetoye-karsi-tavir-koymadi>

3-RECOMMENDATIONS

- 1- Turkey must perform urgent action in order to comply with its obligations under international human rights in the field of freedom of expression, freedom of religion and conscience.¹³
- 2- Although freedom of religion and conscience is guaranteed in the Constitution (articles 10, 24, 90), because laws and regulations, which are the local legislation, do not have legal regulations that guarantee the freedom of religion and conscience in practical life, legal regulations must be made urgently.
- 3- Turkey has to bring an educational legislation into line with freedom of religion and freedom of conscience within the context of international conventions.¹⁴
- 4- Closed press organizations must be re-opened and their assets must be returned.¹⁵
- 5- Legal regulations to ensure the independence of the Legislation and Judiciary are extremely important.¹⁶
6. Restrictions on freedom of expression in the period of state of emergency shall only be made to the extent required by the circumstances; all measures necessary for independent media and non-governmental organizations to work safely and freely must be taken.
- 7- Anti-terrorism legislation should be brought in line with European Union criteria.
- 8- The Council of Europe Committee of Ministers' recommendations on the protection of journalism and the security of journalists and other media members, adopted on the 13th of April 2016, must be implemented.

¹³ Recommendation 2097 (2017) by the Parliamentary Assembly of the Council of Europe, (<http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23403&lang=en>); Memorandum on freedom of expression and media freedom in Turkey, by Nils Muižnieks, Council of Europe Commissioner for Human Rights; Statements by the OSCE Representative on freedom of the media

¹⁴ Norwegian Helsinki Committee for Religious Freedom Initiative, "Monitoring Report on the Right to Freedom of Religion in Turkey"

¹⁵ JRW December 15, 2016 Turkey To-stop-the-Press Report,

Whim of the government of Turkey to erode the freedom of the press and to restrict freedom of expression, damages Turkey's democratic credentials and the international reputation and means violation of obligations under human rights law.

<https://www.hrw.org/tr/report/2016/12/15/297659>

¹⁶ Report on the impact of the state of emergency on the situation of human rights in Turkey and update on Turkey's southeast region January -December 2017

http://www.un.org.tr/humanrights/images/OHCHR_Turkiye_Rapor_2018_TR.pdf