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SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE 132ND SESSION, 28 JUNE -23 JULY 2021, LIST OF ISSUES PRIOR TO REPORTING

Amnesty International provides the below information to the UN Human Rights Committee (the Committee) ahead of the adoption of the List of Issues Prior to Reporting for the third periodic report of Turkey at its 132nd session.

The bibliography set-out in Annex 1 lists recent publications of Amnesty International, covering its key concerns about violations of the International Covenant on Civil and Political Rights, and in particular with regard to violations of the right to life and the prohibition of torture and other ill-treatment, as well as prevailing impunity. In addition, this submission also raises concerns about arbitrary detentions, unfair trials and restrictions on freedoms of expression, association and peaceful assembly. Finally, it also addresses concerns with regard to non-discrimination and summary forced returns of asylum seekers and refugees to Syria.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment, and combating impunity (Articles 2, 6 & 7)

Amnesty International is concerned about the failure of the state party to comply with its obligations under Articles 6 and 7 of the Covenant. Credible allegations of torture and ill-treatment have seriously increased in recent years.¹

During armed clashes taking place between the state security forces and the Kurdistan Workers Party (PKK) in the east and south-east of the country, following the breakdown of a peace process in July 2015, operations by police and the military in these areas have been characterized by abusive use of force, including firing heavy weaponry in residential neighbourhoods.²

In the wake of the coup attempt in July 2016, Amnesty International gathered credible evidence that detainees were being subjected to beatings and torture, including rape, in official and unofficial detention centers in the country.³ Since then, also the practice of enforced disappearances, prevalent during the 1980s and '90s, has increasingly reappeared.⁴

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¹ Amnesty International, Turkey: Dozens at risk of torture in police detention, 24 May 2019,

https://www.amnesty.org/en/documents/eur44/0440/2019/en/; Amnesty International, Turkey: Little Progress in Investigation Van Torture Allegations, 7 December 2020, https://www.amnesty.org/en/documents/eur44/3405/2020/en/; Amnesty International, Turkey: investigate torture claims in Diyarbakir prison: Mehmet Siddik Meşe, 17 December 2020, https://www.amnesty.org/en/documents/eur44/3468/2020/en/

² Amnesty International, Turkey: Investigate recent nationalist attacks, 22 September 2015,

https://www.amnesty.org/en/documents/eur44/2493/2015/en/; Amnesty International, Turkey: Fresh evidence of casualties underscores need for impartial investigation into Turkish airstrikes in Kandil Mountains, 11 August 2015 https://www.amnesty.org/en/latest/news/2015/08/fresh-evidence-of-casualties-underscores-need-for-impartial-investigation-into-turkish-airstrikes-in-kandil-mountains/; Amnesty International, Turkey: End abusive operations under indefinite curfews https://www.amnesty.org/download/Documents/EUR4432302016ENGLISH.pdf

³ Amnesty International, Turkey: Media purge threatens freedom of expression, 20 July 2016 https://www.amnesty.org/en/latest/news/2016/07/turkeyhuman-rights-in-grave-danger-following-coup-attempt-and-subsequent-crackdown/; Amnesty International, Turkey: State of emergency must not roll back human rights, 21 July 2016, https://www.amnesty.org/en/latest/news/2016/07/turkey-state-of-emergency-must-not-roll-back-human-rights/

⁴ Amnesty International, Turkey: Investigate suspected enforced disappearance: Hüseyin Galip Küçüközyiğit, 1 February 2021, https://www.amnesty.org/en/documents/eur44/3603/2021/en/; Amnesty International, Turkey: Further Information: Two missing men "found" in police detention: Gökhan Türkmen and Mustafa Yilmaz, 22 November 2019, https://www.amnesty.org/en/documents/eur44/1455/2019/en/. Please also see Human Rights Watch report *In Custody - Police Torture and Abductions in Turkey*, 12 October 2017, https://www.hrw.org/report/2017/10/12/custody/police-torture-and-abductions-turkey.

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Investigations into alleged human rights abuses such as allegations of torture and ill-treatment, including during enforced disappearances, and deaths in custody, often remain ineffective.⁵ In cases where criminal investigations are carried out, the chances of bringing those responsible to justice often remain remote.⁶

Liberty and security of person, treatment of persons deprived of their liberty, independence of the judiciary and fair trial (Articles 9, 10 & 14)

Since the coup attempt in 2016, the Turkish authorities have engaged in a relentless crackdown on human rights, enabled by the widespread executive control and political influence over the judiciary.⁷ During the two year-long state of emergency, legislation has been amended by 32 state of emergency executive decrees that had the force of law. More than 300 amendments by state of emergency executive decrees were made to more than 150 separate laws many of which with human rights implications. The measures taken have infringed upon many rights, for example those relating to freedom of peaceful assembly, freedom of expression, fair trial, the right to an effective remedy, and the right to work, and have also entailed confiscation of property, without being subject to effective parliamentary scrutiny. They have, to date, not been reviewed by the courts, leaving the government's powers effectively unchecked. Courts have systematically accepted bogus indictments and have ruled to detain and convict individuals who advocate different political ideas or represent dissenting voices, in the absence of any criminal activity or wrongdoing.⁸

The extension of executive control over the judiciary and prosecution has been facilitated by dismissing over 4,000 judges and prosecutors during the state of emergency between July 2016 – July 2018 through extraordinary procedures for alleged links to "terrorist" organizations. Law 7145, adopted in July 2018 with the stated aim of enabling an effective fight against "terrorist" organizations after the end of the emergency rule, extended the possibility for dismissal for a further three years on the same vague grounds with a continuing risk for judges and prosecutors to be dismissed arbitrarily.⁹

Structural changes brought to the composition and the procedure for appointing members of the Council of Judges and Prosecutors (HSK), through 2017 constitutional changes further continue to enable the executive to exert political influence over the Council and interfere with criminal proceedings: Judges and prosecutors face undue pressure as they risk being transferred, dismissed or subjected to disciplinary investigations if they make decisions considered to be adverse by the government. A prominent example could be observed in the case of Osman Kavala and others in the 'Gezi trial', as the HSK gave permission for the launch of an investigation into the panel of judges who acquitted the defendants on 18 February 2020, after the President publicly criticized the court's acquittal decision.¹⁰ The European Court of Human Rights ruling that the pre-trial detention and other measures taken against Osman Kavala pursued "an ulterior purpose" under Article 18 of the ECHR, which the Turkish authorities have failed to implement by releasing him from pre-trial detention, further reveal the flaws in the judicial system, and the judicial practice of targeting critical voices to silence them through politically motivated prosecutions. Indeed, the Council of Europe Committee of Ministers in its latest

⁵ Amnesty International, Turkey: Prison release law leaves innocent and vulnerable prisoners at risk of COVID-19, 13 April 2020, https://www.amnesty.org/en/latest/news/2020/04/prison-release-law-leaves-prisoners-at-risk-of-covid/; Council of Europe, Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), reports based on a 2017 periodic visit and 2019 ad hoc visit, 5 August 2020,.https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-two-reports-on-turkey

⁶ Please see US State Department report 2020 https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/turkey/ which states that "[a]ccording to Ministry of Justice 2019 statistics, the government opened 2,767 investigations into allegations of torture and mistreatment. Of those, 1,372 resulted in no action being taken by prosecutors, 933 resulted in criminal cases, and 462 in other decisions. The government did not release data on its investigations into alleged torture."

⁷ Amnesty International, Turkey: Amnesty International's Brief on the human rights situation - Turkey's State of Emergency ended but the crackdown on human rights continues, 1 February 2019, https://www.amnesty.org/en/documents/eur44/9747/2019/en/

⁸ See for example Amnesty International, Turkey: The case of Kavala v Turkey and the need for infringement proceedings under Article 46.4 ECHR, 23 February 2021, https://www.amnesty.org/en/documents/eur44/3742/2021/en/; Amnesty International, Turkey: Court deals crushing blow for human rights and for justice as four activists convicted, 3 July 2020, https://www.amnesty.org/en/latest/news/2020/07/turkey-court-deals-crushing-blow-forhuman-rights-and-for-justice-as-four-activists-convicted/; Amnesty International, Turkey: Update on Human Rights for PACE spring session, 16 April 2021, https://www.amnesty.org/en/documents/eur44/4000/2021/en/

⁹ Amnesty International, Turkey: No end in sight: Purged public sector workers denied a future in Turkey, 22 May 2017, https://www.amnesty.org/en/documents/eur44/6272/2017/en/; Amnesty International, Turkey: Purged Beyond Return? No Remedy For Turkey's Dismissed Public Sector Workers, 25 October 2018, https://www.amnesty.org/en/documents/eur44/9210/2018/en/

¹⁰ Turkey: the new action plan is a missed opportunity to reverse deep erosion of human rights 25 March 2021 https://www.amnesty.org/en/documents/eur44/3883/2021/en/; Turkey: "Judicial reform" package is a lost opportunity to address deep flaws in the justice system, 8 October 2019, https://www.amnesty.org/en/documents/eur44/1161/2019/en/

decision in the case of Osman Kavala confirmed that the findings of the Court under Article 18 of the Convention and the "presumption that this violation is continuing [...] reveal pervasive problems regarding the independence and impartiality of the Turkish judiciary" and "invited the authorities to take adequate legislative and other measures to protect the judiciary and ensure that it is robust enough to resist any undue influence, including from the executive branch".

Freedom of expression, association and peaceful assembly (Articles 19, 21 & 22)

Overly broad and vague anti-terrorism legislation is abused against individuals in the absence of any compelling evidence of criminal acts for a range of activities protected by the rights to freedom of expression, association and political participation.¹¹ Among others, Article 7/2 of the Anti-Terrorism Law, which criminalizes 'making propaganda for an armed terrorist organization' and the provisions of the Turkish Penal Code criminalizing "terrorism" related offenses such as Article 314 (membership of a terrorist organization) are routinely used to prosecute those who express their dissenting opinions and Articles 220/6 (committing a crime in the name of a [terrorist] organization) and 220/7 (knowingly and willingly assisting a [terrorist] organization) allow individuals to be punished as if they are members of a "terrorist" organization.¹²

Among those are dozens of human rights defenders who face criminal investigations and prosecutions for their human rights work. An emblematic case of Turkey's wider practice of targeting human rights defenders and independent civil society using anti-terrorism laws can be seen in the Büyükada trial, which concluded in July 2020 with the court convicting four out of 11 human rights defenders, in the absence of any evidence of criminal acts. Honorary chair of Amnesty Turkey, Taner Kılıç, was sentenced to six years and three months' imprisonment for "membership of the Fethullah Gülen Terrorist Organization (FETÖ)"; and İdil Eser, Günal Kurşun and Özlem Dalkıran were sentenced to one year 13 months for "knowingly and willingly supporting FETÖ".¹³ The remaining seven defendants were acquitted and their acquittals became final when the prosecution did not appeal. In November 2020, the Istanbul regional appeals court upheld the four defenders' unjust convictions. On 12 March, just over three months after the decision of the regional appeals court, the prosecutor at the Court of Cassation issued his opinion asking for the conviction of Taner Kılıç, to be upheld without providing any legal reasoning, while requesting that the convictions of the other three human rights defenders to be overturned based on the lack of sufficient or credible evidence supporting the charges against them. A possibility that the convictions of all four could be confirmed or overturned remains as the ruling of the Court of Cassation is still pending.

A total of 1,727 associations and foundations and over 170 media outlets were closed during the state of emergency through executive decrees, and the majority remain closed even after the state of emergency ended. These organizations and media outlets are not able to seek permission to re-open via the courts but have first to apply to the ineffective State of Emergency Inquiry Commission. Many have had considerable assets seized by the government.¹⁴

Several provisions of Turkey's Penal Code directly limit the right to freedom of expression in a manner that is not permitted under international human rights standards. Other legal provisions are so broadly worded that they lend themselves to abuse, impermissibly limiting the exercise of the right to freedom of expression through their implementation.

Almost 70 journalists and other media workers remain in prison either in pre-trial detention or serving a custodial sentence, including under anti-terrorism laws, with their peaceful journalistic work presented as if it were a criminal offence.¹⁵

Over the last six years, the authorities have also systematically violated the right to peaceful assembly through blanket bans, and police routinely breaking up peaceful demonstrations through the excessive use of force and detentions.

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¹¹ Amnesty International, Turkey: "We can't complain": Turkey's continuing crackdown on dissent over its military operation "peace spring" in northeast Syria, 1 November 2019, https://www.amnesty.org/en/documents/eur44/1335/2019/en/; Amnesty International Turkey: End post-election crackdown on peaceful dissent, 23 August 2019, https://www.amnesty.org/en/documents/eur44/0933/2019/en/

¹² Amnesty International, Turkey Decriminalize Dissent: Time to Deliver on the Right to Freedom of Expression, 27 March 2013, https://www.amnesty.org/en/documents/EUR44/001/2013/en/

¹³ Amnesty International, The Büyükada story is far from over - We stand with Taner, Idil, Özlem and Günal, https://www.amnesty.org/en/latest/campaigns/2020/12/turkey-buyukada-is-far-from-over/

¹⁴ Amnesty International, Turkey: Weathering the storm: defending human rights in Turkey's climate of fear, 26 April 2018, https://www.amnesty.org/en/documents/eur44/8200/2018/en/

¹⁵ Amnesty International, State of the World's Human Rights 2020/21, Turkey, 7 April 2021, https://www.amnesty.org/en/countries/europe-and-centralasia/turkey/report-turkey/

Among others, this includes a ban on Istanbul Pride since 2015;¹⁶ the case of the Saturday mothers/people, in which 46 individuals including human rights defenders, political activists, journalists, and relatives of victims of enforced disappearances have been charged with 'refusal to disperse despite warning and use of force' under Article 32/1 of Turkey's Law on Meetings and Demonstrations (Law No. 2911) during the 700th weekly vigil of the Saturday Mothers/People on 25 August 2018;¹⁷ the detention of over 700 protestors participating in peaceful demonstrations since January 2021, following the appointment of Professor Melih Bulu as rector of Istanbul's Bogaziçi University.¹⁸

In December 2020, the Parliament passed a new law ostensibly on the Prevention the Financing of the Proliferation of Weapons of Mass Destruction which grants the Ministry of Interior wide discretionary powers to restrict the activities of independent groups including enabling the Ministry to audit associations every year "based on risk assessments" without identifying the criteria that would be applied and the institution that would be carrying out the risk assessment, leading to concerns of potential arbitrary application; it also allows the Ministry to suspend board members of an association or its relevant employees from office if a prosecution is launched against them in relation to activities of that association under the overly broad anti-terrorism laws of Turkey.¹⁹ If the measures are not found sufficient, the Ministry of Interior is entitled to suspend the activities of that organization which may pave the way for its closure. The new law could serve as a means to silence associations for their human rights work by enabling state takeover of and intervention in independent civil society organizations, particularly in the context of the widespread and routine misuse of anti-terrorism laws to clamp down on dissent.²⁰

Non-discrimination, equality between men and women (arts. 2, 3 and 26)

Amnesty International is concerned that the Turkish authorities continue to fail to address ongoing discrimination on the grounds of sexual orientation and gender identity in both law and practice. LGBTI+ rights activists face harassment by the authorities and multiple violations of their rights under the ICCPR, including through discriminatory statements by high-level government officials.²¹

On 20 March 2021, Turkey announced its withdrawal from the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) by presidential decision, subsequently justifying the decision claiming that the Istanbul Convention was being used to 'normalize homosexuality' claiming it to be 'incompatible with Turkey's social and family values'.²²

Amnesty International considers the decision to withdraw from the Convention a retrogressive measure, contrary to international human rights law. It deprives women and girls of a vital instrument of protection from all forms of violence, including domestic violence, with internationally agreed actions that governments who ratify it must take to achieve this.

¹⁹ UN Special Rapporteurs raise concerns about new counterterrorism law in Turkey,

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¹⁶ Amnesty International, Turkey: Police use unwarranted and excessive force against Istanbul Pride, 30 June 2019, https://www.amnesty.org/en/latest/news/2019/06/turkey-police-use-unwarranted-and-excessive-force-against-istanbul-pride/

¹⁷ Turkey: joint statement: authorities should seek acquittal of all in the Saturday mothers/people trial, 24 March 2021, https://www.amnesty.org/en/documents/eur44/3890/2021/en/

¹⁸ Turkey: Further information: release detained Boğaziçi protesters, 26 February 2021, https://www.amnesty.org/en/documents/eur44/3758/2021/en/

https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gld=26004; Council of Europe Human Rights Commissioner, Turkey: Authorities should refrain from further restricting NGOs activities and freedom of association in the name of counter-terrorism, 25 February 2021, https://www.coe.int/en/web/commissioner/-/turkey-authorities-should-refrain-from-further-restricting-ngos-activities-and-freedom-of-association-inthe-name-of-counter-terrorism;

²⁰ Please see analysis by TÜSEV, *An Analysis of the Application of Financial Action Tas Force Recommendations and Its Implication on Civil Society in Turkey*, 26 February 2021, https://www.tusev.org.tr/usrfiles/images/MaliEylemGorevGucuSivilToplumEN_26022021.pdf. A briefing by Amnesty International on the law and its impact on civil society in Turkey will be published in June 2021.

²¹ Turkey: Targeting of LGBTI people to justify quitting convention on combating violence against women is dangerous. 22 March 2021, https://www.amnesty.org/en/latest/news/2021/03/turkey-targeting-of-lgbti-people-to-justify-quitting-convention-on-combating-violence-against-women-isdangerous/; Turkey: Drop charges against university Pride participants, 12 August 2019, https://www.amnesty.org/en/documents/eur44/0869/2019/en/; Turkey: further information: students' trial ongoing, despite apology to Erdogan: middle east technical university (ODTU) students, 28 October 2018, https://www.amnesty.org/en/documents/eur44/9306/2018/en/

²² Amnesty International, Turkey: Women across the world demand reversal of decision to quit gender-based violence treaty, 10 May 2021, https://www.amnesty.org/en/latest/news/2021/05/turkey-women-across-the-world-demand-reversal-of-decision-to-quit-genderbased-violence-treaty/; Amnesty International, Turkey: Rights groups warn "The world is watching" as women mobilize this weekend, 26 March 2021, https://www.amnesty.org/en/latest/news/2021/03/turkey-rights-groups-warn-the-world-is-watching-as-women-mobilize-this-weekend/

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The decision especially dangerous at a time when violence against women continues unabated and there has been a surge of domestic violence cases during the COVID pandemic. In 2020 alone, according to the Minister of Interior, 266 women were killed by men in acts of gender-based violence, although the numbers provided by women's organizations were much higher.²³

Refugees and asylum seekers - Article 13

Amnesty International is concerned about continued allegations of summary forced returns of refugees and migrants at the Greece/Turkey borders, including in the form of pushbacks and collective expulsions. After announcing the opening of the EU borders on 27 February 2020, Turkey recklessly encouraged and facilitated the movement of asylum-seekers and migrants to the Greek land border, where violent pushbacks led to deaths and injuries.²⁴

Amnesty International documented more incidents, occurred between June-December 2020, indicating that Greece continues to push people back at both land and sea borders. While in some of these incidents people who were pushed back to Turkey reported that Turkish officers provided rescue and support, in some cases facilitating medical treatment for severely injured persons, the organization received credible allegations of Turkish officers committing human rights violations against migrants and refugees at the Evros borer, including beatings, excessive use of force, threats, intimidation and use of firearms as well as attempted or effected pushbacks of people back to Greece. Amnesty International's latest research also suggests that Turkish authorities have failed to promptly rescue individuals, including children, from islets in the Evros river after learning of their presence.²⁵

In 2020, NGOs reported that Turkey deported more than 16,000 Syrians to Syria.²⁶ In May 2020, Amnesty documented the case of a group of Syrians who were forcibly returned to Syria and reported that they had been pressured into signing documents stating that they wanted to return.²⁷ Turkey also continued to deport people to Afghanistan despite the situation in the country not allowing safe and dignified returns.

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²³ Official twitter account of the Turkish Minister of Interior, Süleyman Soylu: https://twitter.com/suleymansoylu/status/1345321325825503232; compared to for example the Turkish advocacy platform "We Will Stop Femicide" which refer to at least 300 cases in 2020 http://www.kadincinayetlerinidurduracagiz.net/for-english, and the digital monument for women dying from violence, which counted over 400 in 2020 http://anitsayac.com/?year=2020

²⁴ Amnesty International, Europe: Caught in a political game: asylum-seekers and migrants on the Greece/Turkey border pay the price for Europe's failures, 3 April 2020, https://www.amnesty.org/en/documents/eur01/2077/2020/en/

²⁵ A report by Amnesty International documenting these incidents will be published in June 2021.

²⁶ Syria Justice and Accountability Centre, State of Justice in Syria, 2021, https://syriaaccountability.org/library/state-of-justice-2021-english/, p.9

²⁷ Amnesty International, Turkey: Sent to a war zone - Turkey's illegal deportations of Syrian refugees, 25 October 2019,

https://www.amnesty.org/en/documents/eur44/1102/2019/en/; Amnesty International, Turkey: Syrians still risk deportation from Turkey, 20 November 2019, https://www.amnesty.org/en/documents/eur44/1436/2019/en/

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ANNEX 1: ADDITIONAL AMNESTY INTERNATIONAL DOCUMENTATION

Amnesty International Turkey: Investigate recent nationalist attacks, 22 September 2015, https://www.amnesty.org/en/documents/eur44/2493/2015/en/; Turkey:

Amnesty International Turkey: End abusive operations under indefinite curfews, 21 January 2016, https://www.amnesty.org/download/Documents/EUR4432302016ENGLISH.pdf

Amnesty International, Turkey: Amnesty International's Brief on the human rights situation - Turkey's State of Emergency ended but the crackdown on human rights continues, 1 February 2019, https://www.amnesty.org/en/documents/eur44/9747/2019/en/

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Amnesty International, Turkey: the new action plan is a missed opportunity to reverse deep erosion of human rights 25 March 2021 https://www.amnesty.org/en/documents/eur44/3883/2021/en/;

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Amnesty International, Turkey: Syrians still risk deportation from Turkey, 20 November 2019, https://www.amnesty.org/en/documents/eur44/1436/2019/en/