

To the attention of:

Mr Josep Borrell Fontelles

EU High Representative for Foreign Affairs and Security Policy/ Vice-President
European External Action Service (EEAS)

Ministers of Foreign Affairs of EU Member States

Brussels, 8 July 2020

Dear High Representative,

Dear Ministers of Foreign Affairs,

We write to you ahead of the 13 July Foreign Affairs Council discussion on EU-Turkey relations. We welcome this opportunity and call upon the EU and its Member States to address the sharp decline in respect for fundamental rights and freedoms in Turkey and to urge the government to carry out genuine reforms.

The Foreign Affairs Council will take place against the backdrop of a protracted clampdown on human rights in Turkey as well as the government's continued control of the judiciary and willingness to weaponize it against perceived critics. Most recently, on 3 July 2020, a court in Istanbul dealt another crushing blow to independent civil society when it issued [convictions](#) against four out of the eleven human rights defenders on trial in the emblematic **Büyükada case**. The court sentenced **Taner Kılıç**, the honorary chair of Amnesty International Turkey, as well as rights defenders **Özlem Dalkıran**, **İdil Eser** and **Günel Kurşun** on terrorism related charges, despite the absence of any evidence of criminal activity. Indeed, over the course of 12 court hearings, the allegations made against all 11 defendants have been repeatedly and categorically disproven, including by the state's own evidence. Their convictions are subject to appeal and will require continued international scrutiny. On 6 July, after the court issued its verdict, two of the seven defenders who were acquitted – **Veli Acı** and **Nejat Taştan** – were informed that the prosecutor had appealed their acquittal.

In another emblematic case, on 19 February 2020 the Istanbul chief prosecutor's office requested the re-detention of prominent civil society leader and human rights defender, **Osman Kavala** hours after he and eight other defendants were acquitted on trumped-up charges related to the mass "Gezi Park" protests that swept the country in 2013. On 20 February, after President Erdogan publicly condemned Kavala's acquittal, a different court to the one who acquitted Kavala rapidly ruled he be detained again, this time ostensibly in connection to an ongoing investigation alleging he was involved in the July 2016 coup attempt. The Istanbul prosecutor moreover appealed the acquittal verdicts in the Gezi trial. To date, Osman Kavala remains in detention despite the European Court of Human Rights' (ECtHR) December 2019 judgement which found that there was no reasonable suspicion that he had committed a crime. His current detention on a charge of espionage is based on the same evidence the European Court found insufficient. The Court ruled that his detention had been carried out and prolonged in bad faith for unlawful purposes, in violation of the European Convention on Human Rights (ECHR), and that Kavala should be immediately released. This ruling became final when the ECtHR rejected Turkey's referral to the Grand Chamber on 12 May 2020, thus making it the first decision of the European Court finding a violation of Article 18 of the Convention, which prohibits abusive restrictions on the rights guaranteed by the Convention, against Turkey. By keeping Kavala in detention Turkey continues to prolong the

violations the Court found. On 3 July 2020, the Council of Europe's Commissioner for Human Rights also published her [submission to the Committee of Ministers](#) which concluded that Kavala's detention and the criminal proceedings against him constitute a seamless extension and continuation of the violations found by the Court.

These emblematic cases illustrate the extent of **executive control and political influence over the judiciary in Turkey**, leading courts to systematically accept bogus indictments and to detain and convict individuals and groups that the government regards as political opponents without compelling evidence of criminal activity. This has included journalists, academics, lawyers and human rights defenders. Prosecutions and **convictions of lawyers**, including some focused on human rights, exemplify the abusive use of terrorism charges. A new legal amendment due to be voted on in Turkey's parliament in the coming days aims to [diminish the power of the largest and leading bar associations](#) in Turkey who carry out most of the human rights monitoring and public reporting. The amendments will allow multiple, competing bar associations to be established and dramatically reduce the number of delegates that represent the larger bars within the Union of Turkish Bar Associations. Seventy-eight out of 80 bar associations in Turkey oppose the [amendment](#) which will hamper the role of the bar associations as human rights watchdogs, and they argue, appears calculated to divide the legal profession along political lines.

According to the Platform for Independent Journalism (P24), at least 93 **journalists and media workers** were in prison in Turkey as of 26 June 2020, either in pre-trial detention or serving sentences for offenses such as "making propaganda for a terrorist organization" and "membership of a terrorist organization." Hundreds more are on trial though not in prison pending prosecution.

The COVID-19 crisis has added a new layer to the **crackdown on media freedom** in Turkey with journalists being [targeted](#) across the country under the guise of combating misinformation. In recent months, Turkey has subjected journalists to criminal investigation and detention for reporting or even tweeting on COVID-19. In April, the Turkish parliament debated amendments to strong-arm social media platforms to submit to Turkish government control and censorship. Although the draft amendments were eventually withdrawn, President Erdoğan later in June pledged to increase the government's control over social media following tweets directed at members of his family.

A rise in allegations of **torture** or inhuman or degrading treatment in police custody and prison over the past four years has set back Turkey's earlier progress in this area. Those targeted include Kurds, leftists, and alleged followers of Fethullah Gülen whom the government accuses of masterminding the failed coup attempt in July 2016. Prosecutors do not conduct meaningful investigations into such allegations and there is a pervasive culture of impunity for members of the security forces and public officials implicated.

Many of Turkey's **prisons are overcrowded**, with tens of thousands of individuals on remand or convicted of terrorism-related charges. Although a law adopted in April 2020 allowed for the early and conditional release of up to 90,000 prisoners in the face of the COVID-19 pandemic, it [excluded](#) the thousands of inmates convicted on trumped-up terrorism charges, including journalists, politicians, rights defenders and people held in pre-trial detention. Among them are people over the age of 60, including rights defender, Osman Kavala and novelist and former newspaper editor, **Ahmet Altan**. Politicians in prison include **Selahattin Demirtaş**, who is taking medication for a heart condition, and **Gültan Kışanak**.

Finally, in light of ongoing discussions about the implementation of the 2016 **EU-Turkey Statement**, it is important to note that Turkey does not [meet the EU's criteria for a safe third country](#) to which an asylum seeker can be returned. This includes respect for the principle of non-refoulement. Based on research by Human Rights Watch and [Amnesty International](#), it is likely that in 2019 Turkish authorities arrested and forcibly [deported](#) to Syria hundreds of Syrians from its cities, putting Syrians living in Turkey at risks of serious human rights violations. This practice also potentially exposes those Syrians who are forcibly returned to Turkey from Greece, on the basis of the EU-Turkey deal of 2016, to the risk of onward refoulement to Syria. In late May 2020, further cases of forcible deportations to Syria were [reported](#) by Amnesty International.

Since 2016, Turkish border guards patrolling Turkey's closed border with Syria have [killed and injured](#) Syrian asylum seekers and have carried out mass summary pushbacks. Most have been returned to Idlib governorate, where the Syrian government and Russian forces have recently carried out a new round of [indiscriminate bombings](#), striking civilians, hospitals, and schools, forcing a million people to flee. In 2018, Turkey also summarily deported [thousands of Afghans](#) to their country.

In light of these developments we call on the EU and its member states to put respect for human rights and civil society at the centre of EU-Turkey relations, including by:

- 1) **Addressing the sharp decline in respect for fundamental rights and freedoms in Turkey during the 13 July Foreign Affairs Council and any public communications around the meeting.** This includes addressing the government's deliberate and widespread attempt to dismantle civil society using national security as a pretext; the government's continued control of the judiciary and willingness to weaponize it against perceived critics including journalists, academics, lawyers and human rights defenders; the deepening restrictions on media freedom in Turkey including in the context of COVID-19; the rise in allegations of torture and ill-treatment in police custody and prisons; the situation in Turkey's prisons in the face of the COVID-19 pandemic.
- 2) **Publicly reaffirming that respect for human rights and a thriving, independent civil society are essential to EU-Turkey relations at all levels and remains a prerequisite to progress in areas where Turkey seeks normalization:** Including, that an upgrade of the EU-Turkey Customs Union will depend on improvements in the human rights situation and Turkey's fulfilment of EU established benchmarks.
- 3) **Using all upcoming exchanges with the Turkish authorities to seek tangible human rights commitments and genuine reforms including towards:**
 - Ending the arbitrary and prolonged detention and conviction of activists, politicians, human rights defenders, journalists, writers, and ending prosecutions based on their non-violent activities instead of credible evidence of criminal activities;
 - Ensuring an impartial judiciary, removing political pressure on judges and prosecutors, and ending abusive prosecutions that fall foul of Turkey's obligations under European Convention of Human Rights;
 - Enforcing the European Court of Human Rights' rulings that Osman Kavala and Selahattin Demirtas should be immediately released from their prolonged and arbitrary detention;
 - Ending the use of blanket bans to impose arbitrary and disproportionate restrictions on the right to peaceful assembly;
 - Reviewing all articles of the Turkish Penal Code, the Anti-Terror Law, the Law on Meetings and Demonstrations and other laws that are used to restrict the rights to freedom of expression, association, and assembly, and the right to access to information, with a view to repealing or amending them to comply with international human rights standards.
 - Respecting the principle of non-refoulement. Ensure that "voluntary return" procedures comply with international law and standards protecting against refoulement and guarantee free and informed consent of the potential returnee. Allowing UNHCR and other international bodies to monitor these procedures. Stopping the forced returns of asylum seekers to Syria and other countries and ensuring that anyone forcibly returned is able to safely and legally re-enter Turkey.
 - Keeping the borders open to people fleeing conflict and persecution in Syria.
- 4) **Ensuring that the human rights of refugees, asylum seekers and migrants are central to the negotiation and implementation of any formal or informal migration cooperation agreement with Turkey, including by:**
 - Assuming responsibility for the protection of refugees and asylum seekers by committing to resettle a substantial number of refugees from Turkey.
 - Ending returns of asylum seekers crossing from Turkey to the Greek islands under safe third country provisions.
 - Renewing commitment to substantively increase support for refugees in Turkey including to address further displacement from Idlib. Any funding in this field must be equipped with the necessary safeguards to ensure that no EU funding benefits government bodies or institutions involved in or contributing to human rights violations.

The grave deterioration of the human rights situation in Turkey since 2016 has shown no sign of respite. Even at times of heightened political tensions, the strongest message the European Union can offer to the many people in Turkey who continue to courageously call for the respect of their human rights is to clearly and loudly put human rights at the top of its agenda with Turkey's leadership.

We remain at your disposal should you require any further information.

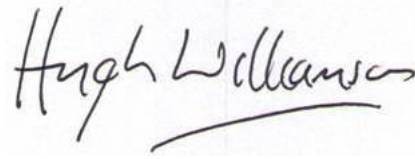
Yours sincerely,



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