



**JUSTICE**

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**ADMINISTRATIVE MEASURES,  
COUNTERTERRORISM, AND  
LAWLESSNESS**

**CONFRONTING THE  
TURMOIL IN TURKEY**

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**SOLIDARITY WITH OTHERS**

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# Administrative Measures, Counterterrorism, and Lawlessness: Confronting the Turmoil in Turkey

## 1. Introduction

In the past decade, particularly in the aftermath of the coup attempt in 2016, the focal point of administrative measures taken under the guise of counterterrorism in Turkey has been the elimination of what Turkey identifies as the "*Fethullahist Terrorist Organization (FETÖ)*," commonly and accurately known as the Gülen Movement<sup>1</sup>, through unlawful means. Thus, the fight against terrorism in Turkey over the last ten years essentially equates to first and foremost combating "FETÖ".<sup>2</sup> Therefore, this report will concentrate on the administrative measures targeting the Gülen movement within the scope of counter-terrorism efforts.

In 2015, Turkey administratively designated the Gülen movement as a terrorist organization through a National Security Council (MGK) decision, which was not publicly disclosed.<sup>3</sup> Turkey, therefore, exhibits a practice where 'legal entities' can be labelled as 'terrorist organizations' without judicial resolution, solely through administrative decisions.

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<sup>1</sup> The Gülen movement, subjected to widespread persecution by the Turkish government, has been defended by international human rights bodies for its legal and non-violent activities. Notably, the United Nations Working Group on Arbitrary Detention has issued multiple opinions condemning Turkey's actions against Gülen movement affiliates, suggesting that such relentless persecution could be tantamount to crimes against humanity. These opinions (No. 3/2023, No. 66/2020, No. 67/2020, No. 84/2020, and No. 66/2023) underline the severity of the human rights violations involved.

<sup>2</sup> According to the Turkish Ministry of Interior, between 2016 and 2023, operations against ISIS resulted in 23,157 individuals being detained and 6,631 being arrested. In contrast, operations targeting what the Turkish government designates as the "*Fethullahist Terrorist Organization (FETÖ)*", associated with the Gülen movement, led to 342,136 detentions and 102,579 arrests. For more detailed information, see [here](#).

<sup>3</sup> See [here](#).

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## 2. Abuse of Power: Decree Laws in Counterterrorism

Following the coup attempt on July 15, 2016, utilizing the authority granted by Article 120 of the Constitution of the Republic of Turkey, the government declared a nationwide State of Emergency starting from July 21, 2016, for three months, pursuant to the first paragraph of Article 3(b) of the Law No. 2935 on State of Emergency. After the initial three months, the State of Emergency was extended seven times, concluding on July 18, 2018. In this period, a series of Decrees with the Force of Law were issued by the Council of Ministers, which limited fundamental rights and freedoms.<sup>4</sup> Despite the lifting of the State of Emergency, these decrees were subsequently legislated into laws for application under normal conditions/circumstances through Laws No. 7145 and 7333.<sup>5</sup>

Throughout the state of emergency, the Turkish government, under the constitutional authority of Article 121, issued 32 emergency decrees. These decrees led to over 130,000 public officials being dismissed. Also, Articles 3 and 4 of Decree Law No. 667 allowed for the dismissal of judges and other public officials through decisions made by administrative institutions independently. Additionally, the passports of those dismissed from their positions, as well as those of their spouses and children, were revoked. Furthermore, an extensive array of institutions—ranging from media outlets to educational and civil society organizations—were shut down, with their assets seized, as part of measures against those allegedly connected to the coup attempt or terrorism.<sup>6</sup>

Decree Law No. 667 extended detention periods up to 30 days and introduced a ban on attorney visits during the first five days of detention, effective for six months. This period was later adjusted by Decree Law No. 682, reducing detention to 14 days and limiting the attorney visitation ban to the first day. Throughout the state of emergency, 135,147 public officials were dismissed, and 22,474 primarily teaching staff from closed private institutions lost their work

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<sup>4</sup> These decrees were made exempt from judicial review. In 2016, the Constitutional Court reversed its "previous" jurisprudence and ruled that these decrees were not subject to constitutional review. See [here](#).

<sup>5</sup> Human Rights Watch discusses the normalization of the state of emergency in Turkey and its implications in their 2018 article. Further details can be found [here](#).

<sup>6</sup> See [here](#).

permits. Additionally, a total of 4,395 judges and prosecutors were dismissed through various council decisions, including those of the High Council of Judges and Prosecutors (HSK). The state of emergency also saw the closure of 15 private universities, 2,281 educational institutions, and 201 media outlets, affecting thousands of employees and creating significant concerns regarding rights and due process. During this period, a total of 985 companies were seized by the state and placed under trusteeship. These companies employed a total of 49,587 workers.<sup>7</sup>

## 2.1 The Derogation of Fundamental Rights: Impact of Emergency Measures

Upon the initiation of the state of emergency, Turkey swiftly proceeded to suspend its international and national obligations as extensively as possible. In this context, it was notified to the United Nations that restrictions would be imposed on a total of 13 articles within the International Covenant on Civil and Political Rights (ICCPR).<sup>8</sup> These articles include, but are not limited to, the right to an effective remedy in the event of violations (Article 2), the right to liberty and security (Article 9), the rights of detainees (Article 10), freedom of movement (Article 12), procedural guarantees against the expulsion of aliens (Article 13), the right to a fair trial (Article 14), the right to privacy (Article 17), freedom of expression (Article 19), freedom of assembly (Article 21), freedom of association (Article 22), political rights (Article 25), equality before the law (Article 26), and the protection of minority rights (Article 27).

Turkey has also submitted a formal notice of derogation to the European Convention on Human Rights (ECHR) as foreseen under Article 15 of the Convention.<sup>9</sup>

In the aftermath of the suspension, a systematic and widespread violation of the rights previously outlined has been observed, particularly under the guise of administrative measures. The emergency measures implemented by the government have led to significant

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<sup>7</sup> Ibid. Pp.24-25

<sup>8</sup> See the [official notification](#) of United Nations. (2016-CN.580.2016)

<sup>9</sup> See [here](#).

restrictions on a broad spectrum of fundamental rights and freedoms, ranging from the right to a fair trial to the freedoms of expression and assembly.

## **2.2 The Inadequacy of Monitoring Mechanisms**

Turkey established an administrative institution, the Inquiry Commission on the State of Emergency Measures, to review objections to the emergency decrees.<sup>10</sup> This move, aimed at examining the grievances of those affected by terror-related administrative measures, has itself been subject to scrutiny. As of December 31, 2022, the Inquiry Commission on the State of Emergency Measures in Turkey received a total of 127,292 applications. The Commission has resolved all of these applications, with 86% being rejected and 14% accepted.<sup>11</sup>

Ostensibly designed to serve as a bulwark against rights violations, the Commission's overwhelmingly high rejection rate of appeals—86% of cases dismissed—casts doubt on its role as an effective oversight body. The Commission functioned more as a ceremonial entity rather than an active protector of human rights, leaving substantial gaps in the protection framework intended to shield citizens from the overreach of emergency measures.<sup>12</sup>

## **2.3 Perpetual Emergency: Turkey's Unending Shadow**

Even after the state of emergency concluded on July 18, 2018, Law 7145, enacted on July 25 and approved on July 31, 2018, effectively made emergency measures permanent for three more years. This law extended detention periods up to 12 days, granted governors powers to limit movement and disperse assemblies—actions at odds with the Constitution—and

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<sup>10</sup> See the [information note](#) of Council of Europe.

<sup>11</sup> See [here](#).

<sup>12</sup> See [here](#).

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established commissions for ongoing dismissals in public service, continuing the emergency's reach into the future.<sup>13</sup>

Despite the official conclusion of the three-year period following the state of emergency, the impacts and certain practices initiated under the emergency conditions persist in Turkey. Measures that were meant to be temporary have become entrenched, continuing to affect legal and administrative processes.<sup>14</sup> Furthermore, no legislative amendments were adopted to eliminate the remaining elements of the 2016 state of emergency laws.<sup>15</sup>

## **2.4 Shield of Impunity for Rights Violators**

Statutory Decrees issued under Turkey's State of Emergency grant immunity to officials involved in suppressing coup attempts and terrorism, shielding them from legal, administrative, financial, and criminal repercussions. Decree No. 667 provides immunity for its enforcers, extended by Decree No. 668 to counter-terrorism efforts and Decree No. 690 for the Inquiry Commission. Decree No. 696 extends immunity to civilians involved in the 2016 coup attempt, creating retroactive amnesty. This broad exemption encompasses ambiguous "continuation" activities, posing risks and leaving unclear the criteria for terrorism or coup. Such impunity undermines the rule of law and Turkey's international obligations, contradicting efforts to investigate and prosecute violations against life and bodily integrity.<sup>16</sup>

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<sup>13</sup> See [here](#).

<sup>14</sup> See [here](#).

<sup>15</sup> See [here](#). European Commission Turkey 2023 Report

<sup>16</sup> See [here](#), pp.66-6.

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## 2.5 Criticism by the Venice Commission and UN OHCHR

The Venice Commission criticized Turkey for employing administrative measures in counter-terrorism efforts during the state of emergency, urging adherence to ordinary laws instead. The Commission's December 2016 opinion advocates for the limited use of emergency powers, recommending that responses to threats should be pursued through regular legislative processes.<sup>17</sup>

The Office of the United Nations High Commissioner for Human Rights (OHCHR) issued a report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East, covering the period from January to December 2017, published in March 2018. In the report, OHCHR recommended that Turkey revise and repeal all legislation that is not compliant with its international human rights obligations, including the emergency decrees.<sup>18</sup>

## 3. Circular Logic of Administrative and Judicial Measures

In Turkey, the interplay between administrative actions in counter-terrorism efforts and the criminal justice system has grown increasingly intricate, particularly affecting those purportedly associated with the Gülen movement. This complexity arises from a cycle where judicial and administrative measures mutually reinforce each other, despite both being fundamentally unlawful. For instance, the mere dismissal from public service via administrative decisions is often deemed sufficient evidence for criminal prosecutions alleging terrorist organization membership.<sup>19</sup> Conversely, any appeals against these administrative decisions are dismissed if there's an ongoing investigation or prosecution, creating a self-perpetuating loop

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<sup>17</sup> See paragraph 68 of the [opinion](#).

<sup>18</sup> See [here](#).

<sup>19</sup> Through the Emergency Statutory Decrees, individuals who have been dismissed for being "identified as posing a threat to national security due to their affiliation, connection, or contact with the Fethullahist Terrorist Organization (FETÖ/PDY)" have been accused of having ties to the alleged terrorist organization, paving the way for criminal prosecutions against them.

of legal actions.<sup>20</sup> This reciprocal validation between administrative and judicial processes results in significant rights violations, illustrating a system where each serves both as the reason for and the result of the other.

## 4. Other Administrative Measures Misused to Silence Dissent

### 4.1 Politically Motivated Sanctions: Financially Targeting Dissent

Turkey's sanctions regime includes individuals who are not known to be connected to terrorism or criminal activities, with the process lacking in transparency and without clear options for removal from the list. The focus of these sanctions primarily targets individuals identified as "Gülenists," despite no public evidence linking them to terrorism or criminal conduct.<sup>21</sup>

Since 2018, Turkey has intensified efforts to financially isolate dissidents abroad, especially those associated with the Gülen Movement, by leveraging administrative decisions to disrupt their financial freedoms under the pretext of counter-terrorism financing.<sup>22</sup> Notably, the Ministry of Treasury and Finance and the Ministry of Interior issued asset freeze orders on April 6, 2021, and December 20, 2021, targeting 659 individuals linked to the movement.<sup>23</sup> These measures have significantly impacted the affected persons, hindering their financial transactions, including delays in financial services, unjustified rejection of loan applications, issues with money transfers, and difficulties in opening or maintaining bank accounts, thereby exacerbating their financial exclusion, both in Turkey and abroad.

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<sup>20</sup> The State of Emergency Commission has rejected 94% of the appeals on the grounds that there are judicial proceedings (investigations and/or prosecutions) against the appellant. For more details, see [here](#), page 179.

<sup>21</sup> See [here](#).

<sup>22</sup> See [here](#).

<sup>23</sup> See [here](#) for Asset Freezing Order of the Republic of Turkey Ministry of Treasury and Finance dated 06/04/2021 numbered 2021/1, and see [here](#) for the Order dated 20/12/2021 and numbered 2021/5,



The financial difficulties of Turkish dissidents highlight a key human rights issue, as international frameworks like the UN Global Counter-Terrorism Strategy and Security Council resolutions require that counter-terrorism actions, including financial sanctions, respect international human rights laws. Article 17 of the UN Convention against Terrorism Financing further underscores this protection.

On the other hand, the Financial Action Task Force (FATF) has raised issues with how Turkey implements its anti-money laundering and counter-terrorist financing (AML/CFT) measures, particularly underscoring the importance of targeting UN-designated terrorist groups such as ISIL and al Qaeda.<sup>24</sup> This stance is reinforced by the FATF's Mutual Evaluation Report on Turkey from December 2019, which critiques the political motivations behind Turkey's actions against what it domestically labels as the 'Fethullah Terrorist Organization-FETÖ'.<sup>25</sup> As of June 2023, the FATF continues to recommend that Turkey intensify its financial investigations against UN-listed terrorist organizations<sup>26</sup>, signalling an international call for Turkey to recalibrate its AML/CFT strategies away from groups like the Gülen movement towards a more globally aligned approach.

Another example of the misuse of administrative measures against the financing of terrorism is a law amendment targeting civil society. The Turkish government has exploited the FATF's 2019 assessment report by incorporating it into other counter-terrorism laws routinely used to target and instrumentalize civil society organizations. In response to FATF's critique of not fully adhering to the recommendations regarding the non-profit sector's potential risks and financing of terrorism, Turkey hastily passed the Law on Preventing Financing of Proliferation of Weapons of Mass Destruction (Law No. 7262) without consulting civil society, just days before the end of 2020. Effective from December 31, 2020, this new legislation exceeds the measures deemed necessary by FATF, employing broad and vague terms that neglect the principle of legality and pose a risk of further weakening freedoms of association and expression, along with other human rights routinely violated under current Turkish laws.<sup>27</sup>

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<sup>24</sup> See [here](#).

<sup>25</sup> See FATF's Mutual Evaluation Report Turkey, December 2019, p.155, para.482

<sup>26</sup> See FATF's, Jurisdictions under Increased Monitoring - 23 June 2023

<sup>27</sup> See [here](#).

## 4.2 The Hunt for Dissidents: Wanted Lists as a Tool

Turkey has modified its anti-terrorism laws to incentivize information on dissidents through financial rewards<sup>28</sup>. Established in 2015, a "Reward Commission" within the Ministry of Interior, later supported by legislative amendments in 2018 and a new regulation in 2019, offers monetary rewards for tips leading to the capture or identification of individuals involved in terrorism.<sup>29</sup> These measures, broadening the scope to include non-Turkish citizens and ensuring informant anonymity, highlight the government's approach to targeting dissidents, raising significant human rights and legal concerns.

In this regard, the Turkish government has established a website<sup>30</sup>, listing individuals suspected of terrorist activities and offering rewards for information leading to their capture. The suspects are categorized into five colours, with rewards ranging from 500,000 TL for the Gray List to 10,000,000 TL for the Red List. Since a 2016 press release post-coup attempt, the number of individuals associated with the Gülen Movement on these lists has significantly increased. Initially, 37 people from the movement were added, including 8 in the red category. By February 2019, the numbers rose to 345, with varying individuals across the color categories. A December 2022 update showed a total of 971 people linked to the Gülen Movement on the list, distributed across the five colour categories with increased numbers in each.

This official website, alongside others, by marking individuals as "neutralized" or indicating a "Pending closed death record," breaches several international human rights norms. Such actions compromise the rights to life, liberty, security, and a fair trial—rights safeguarded by global treaties like the ICCPR and ECHR. They may also result in torture, invasions of privacy, and violations of freedom of expression and movement. Furthermore, offering rewards for information leading to the apprehension or demise of listed individuals raises serious concerns about extrajudicial killings, undermining fundamental human rights and justice principles.

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<sup>28</sup> 'The Regulation Regarding The Reward To Be Given to Those Who Help in Capturing The Perpetrators of Crimes Within The Scope of the Law on Fighting Terrorism' can be found [here](#).

<sup>29</sup> Information about the legislation and regulations regarding the website can be found [here](#).

<sup>30</sup> <http://www.terorarananlar.pol.tr>

### 4.3 Travel Clampdown: The Wide Net of Passport Cancellations

According to the Interior Minister's 2017 statement, over 230,000 passports were cancelled<sup>31</sup>, and more than 130,000 public officials were dismissed via Statutory Decrees, leading to the direct invalidation of their travel documents. Additionally, thousands of other public employees were dismissed by administrative decisions. The Interior Ministry also requested lists from state institutions to cancel passports of those dismissed. Notably, not only individuals charged with terrorist affiliations but also their spouses could have their passports cancelled at the administration's discretion, extending to children and close relatives.<sup>32</sup>

In 2022, the highest court in Turkey ruled that the administrative cancellation of passports for dismissed officials was unconstitutional. However, despite this ruling, the Ministry of Interior continues to violate the Constitution by issuing passport cancellation orders for thousands of individuals.<sup>33</sup>

### 4.4 Comprehensive Administrative Counterterrorism Measures as a Tool for Widespread Suppression

In the context of counter-terrorism, administrative decisions coordinated by ministries, especially during and following the State of Emergency (OHAL), have frequently applied a range of administrative measures against individuals dismissed through Statutory Decrees (KHK) or those processed during the OHAL period. Reported measures include denial of legal licenses, withholding scholarships and dormitory services from students, revocation and blocking of teachers' licenses and their employment in private schools, barred entry to former workplaces, denial of unemployment benefits, registration blocks at certain universities, restrictions on graduate studies, and hindrances in property transactions and inheritance

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<sup>31</sup> See [here](#).

<sup>32</sup> After the State of Emergency ended, it was reported on July 25, 2018, that cancellation remarks on the passports of 155,000 individuals due to their spouses were lifted, but no details were provided regarding ongoing cancellations.

<sup>33</sup> See [here](#).

rights. Discrimination through social security records, denial of health benefits, retirement bonuses, maternity and caregiver allowances, tax relief exclusions, traffic insurance payments, notary transactions, removal of adopted children, restrictions on academic and professional advancements, and exclusion from social welfare programs like disaster relief and COVID-19 aid have also been reported. Additional restrictions include denial or cancellation of business licenses and electoral certificates, psychological support, witness credibility, disability allowances, professional exams, and access to public and healthcare employment, significantly impacting the lives and rights of affected individuals.<sup>34</sup>

## 5. Echoes of Injustice: The Yalçinkaya Decision and Its Aftermath

In the landmark case of Yalçinkaya v. Turkey, the Grand Chamber of the European Court of Human Rights (ECtHR) delivered a pivotal ruling, highlighting systemic issues and calling for general measures to address widespread human rights violations in Turkey. This decision, rendered on September 26, 2023, under the case no. 15669/20, has profound implications for over 100,000 individuals affected by the Turkish government's crackdown following the attempted coup in 2016.

Central to the Court's findings was the misuse of the ByLock messaging application as a basis for mass prosecutions on terrorism charges. The ECtHR scrutinized the reliability of claims regarding ByLock, deeming its usage as insufficient evidence of terrorism affiliation. The Court noted that the evidence derived from ByLock, primarily obtained, and presented by intelligence units performing administrative duties, did not meet the threshold of fair and reliable evidence as required by law.

On the other hand, following the Yalçinkaya Judgment of the ECtHR, which eliminated the legal basis for terrorism charges against members of the Gülen movement, the Turkish Police force continues to employ administrative measures and conduct planned operations. Despite the ECtHR ruling stating a violation of Article 7 of the Convention and the clear demonstration that certain lawful acts (such as using a communication application called Bylock, depositing

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<sup>34</sup> See [here](#).

money into a specific bank, attending certain meetings, etc.) did not constitute a crime, in the approximately six months since the Yalçinkaya decision to the present day, over 200 operations have been carried out, resulting in the detention of over 2,000 individuals.<sup>35</sup>

## **6. Conclusion: Upholding Rights Amidst Unchecked Power**

The preceding sections highlight Turkey's erosion of fundamental rights and authoritarian practices within its administrative counterterrorism measures. From the perpetual state of emergency to impunity for rights violators and the Yalçinkaya decision's echoes of injustice, a troubling pattern emerges. Utilizing administrative measures to target dissent, such as the Gülen movement, reflects governmental overreach and counterterrorism's politicization. Manipulating legal frameworks like the Reward Commission and passport cancellations illustrates a disregard for due process. Imposing sanctions and stifling financial freedoms suppress dissent, intensifying fear. The continued defiance of international standards post-Yalçinkaya underscores the urgent need for action.

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<sup>35</sup> See [here](#).



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