



# General Assembly

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## Human Rights Council

### Forty-fifth session

14 September–2 October 2020

Agenda items 4 and 6

### Human rights situations that require the Council's attention

### Universal periodic review

## **Written statement\* submitted by Mouvement contre le racisme et pour l'amitié entre les peuples, a non-governmental organization on the roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 August 2020]

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\* Issued as received, in the language(s) of submission only.

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## **Turkey: the repression against Kurdish elected people continues**

### **Introduction**

After the failed coup attempt of 15 July 2016, the Turkish government declared a state of emergency. It was renewed every three months for a total period of two years. The state of emergency has been applied without any legal framework and has been transformed into an instrument of authoritarian repression against opposition groups in society. Countless human rights violations with irreversible consequences have been committed, through decree-laws, in different areas: freedom of the press, the right to elect and be elected, economic and social rights, individual freedom and individual security. The authorities used the state of emergency to ignore the constitution and international agreements and to threaten opposition groups: to deprive them of their social and economic rights or to arrest them. All of this was done arbitrarily using anti-democratic measures. Although the state of emergency has been officially lifted, it continues to be applied in the South-East provinces (origin of the Kurdish people), where the Peoples Democratic Party (HDP) has its electoral strongholds.

### **The right to elect and to be elected**

One of the most repressed rights is the right to elect and be elected. This has resulted in the usurpation of town halls administered by the Democratic Regions Party (DBP, the regional component of the HDP). Acting by decree-law, the Turkish government seized, between 2016 and 2018, 95 of the 102 DBP mayor ships and arrested 93 of its mayors. 15 of those have now been convicted. The majority of them are still behind bars. In addition, former Co-Chairs Selahattin Demirtas and Figen Yuksekdag were arrested along with 11 other HDP Members of Parliament. Only four of them were later released. In total, nearly 15'000 HDP members and elected representatives have been arrested. 5'000 of them are still imprisoned. Their number has continued to grow in successive waves of arrests since July 2015. In a press conference on 7 January, the HDP stated that in 2019 alone there were 4567 arrests and 797 imprisonments.

Measures under the state of emergency continued to be implemented after the municipal elections of 31 March 2019. Following these elections, several newly elected mayors and municipal councilors were prevented from taking their seats on the grounds that they had been dismissed by decree-law during the state of emergency, even though their candidacies had been approved by the High Electoral Council (YSK). Most of them were members of the HDP. Their mandates were awarded to the losing candidates of President Erdogan's Justice and Development Party (AKP) or to government-appointed administrators. Since then, the purge has continued with impunity.

Since the local elections of 31 March 20, the Turkish government has appointed administrators in 46 of the 65 municipalities won by the HDP; 24 co-mayors have been arrested.

Following the elections of 31 March 2019, 6 officially elected HDP co-mayors were prevented from taking office following the invalidation of their election by the Supreme Electoral Council (YSK). The mandates that belonged to them were given to the AKP candidates who had lost the elections.

Additionally, 6 HDP mayors who won the elections were denied their election certificates with the excuse that they had previously been dismissed from their jobs by emergency rule decrees.

As of today, 20 HDP co-mayors elected in March 2019 and at least 27 Kurdish mayors elected at the 2014 local elections remain behind bars. Dozens of other mayors elected in 2014 and 2019 had spent years in prison before they were released:

- Zeyyat Ceylan, co-Mayor of Diyarbakır-Bağlar
- Leyla Atsak, co-Mayor of Van-Çaldıran

- Gülcan Kaçmaz Sağyiğit, co-Mayor of Van-Edremit
- Yılmaz Berki, co-mayor Van-Tuşba
- Müzahit Karakuş, co-mayor of Erzurum-Tekman
- Abubekir Erkmen, co-mayor of Kars-Digor-Dağpınar

Similarly, 8 of our co-mayors were deprived of their mandate by decision of the Turkish electoral authority:

- Hülya Alökmen Uyanık, co-mayor of Diyarbakır (metropole)
- İbrahim Çiçek, co-mayor of Diyarbakır-Yenişehir
- Necati Pirinçcioğlu, co-mayor of Diyarbakır-Kayapınar
- Seher Kadiroğlu Ataş, co-mayor of Hakkari
- Salih Kудay, co-Mayor of Mardin-Kızıltepe
- Mehmet Yasin Kalkan, co-Mayor of Mardin-Savur
- Resul Kaçar, co-mayor of Siirt
- Mahmut Pala, co-mayor of Van-Ercis

Article 127/4 of the Turkish Constitution stipulates: "The mandate of local elected officials may only be attributed or withdrawn by judicial means. However, if the persons concerned are investigated, the Ministry of the Interior may suspend them from their duties until a final decision is taken by the courts". However, none of the mayors or municipal councillors concerned had been prosecuted, which once again demonstrates the arbitrary and illegal nature of these usurpations. Even more absurd, some of the accusations made against elected officials who have been dismissed date back to before the date on which they took office. The example of Selcuk Mizrakli, co-mayor from the Greater City of Diyarbakır, is striking: elected on 31 March 2019, he was dismissed the next day, although he had not yet had time to exercise his mandate. By usurpation, the management of town halls has been assigned to the State, via its territorial administration.

Article 47 of Law 5393 stipulates that if an elected representative is suspended from office, it is the responsibility of the municipal council of the town hall concerned to replace the elected representative with one of its own. However, all HDP Mayors dismissed in recent years have been systematically and automatically replaced by a prefect or sub-prefect.

The government has used several decree-laws, notably those of 15 August 2016 and 10 November 2016, to seize the town halls as it pleased. However, these decree-laws, issued under the state of emergency regime, were no longer valid after that period. To extend their application, the government was supposed to submit them to a vote in parliament, which was not done. Thus, the said dismissals are based on obsolete provisions and, consequently, constitute unconstitutional practices. A municipal council usurped and emptied of its members, is not a body representative of the popular will, it is a serious violation of democratic principles.

These systematic violations of fundamental rights and freedoms constitute serious breaches of the rule of law and increase the polarization of society. Illegal practices against elected representatives of Kurdish origin undermine the credibility of the elections in the eyes of the population. The nonsense of the elections is a real danger to democracy. Such arbitrary decisions ignore all the foundations of democracy, with irreversible consequences.

### **Freedom of the press**

There are currently 150 journalists imprisoned in Turkey, which makes Turkey one of the largest prisons for journalists in the world. Furthermore, the Turkish Vice President, Fuat Oktay, has said that the press cards of 685 journalists were cancelled over "national security." The renowned exiled journalist Can Dündar, who had to flee Turkey because of its lack of democracy and press freedom, stated in an event at the European Parliament on 20

November, that the 17 years of AKP rule has resulted in the concentration of power in president Erdogan's hands.

Last 17 April, the Organization for Security and Co-operation in Europe Representative on Freedom of the Media, Harlem Désir, expressed his concerns about the fact that journalists in Turkey will in effect not benefit from a new law releasing inmates from prison, amid public health concerns related to the COVID-19 pandemic. The Representative emphasized that there are many imprisoned journalists with certain health or age-related issues, which would put them at particular risk of contracting the virus.

On 5th May, Mr. Harlem Desir expressed his concern about the ban that Turkey's Radio and Television Supreme Council (RTÜK) has imposed on several media outlets in recent weeks, which are an additional form of pressure on journalists, and can seriously harm media pluralism and journalists' ability to report on issues of public interest. It is of utmost importance to ensure that RTÜK, as a regulatory agency, is independent, impartial and works free from any kind of political influence in line with the best international practices.

## **Recommendations**

MRAP invites:

- the Special Rapporteur on the independence of judges and lawyers
- the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
- the Special Rapporteur on the situation of human rights defenders
- the members of the Working Group on Arbitrary Detention
- the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism
- the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
- the Special Rapporteur on the rights to freedom of peaceful assembly and of association
- the Special Rapporteur in the field of cultural rights
- the Special Rapporteur on minority issues
- the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
- the Special Rapporteur on the right to privacy

to pay particular attention, each within his or her mandate, to the situation of human rights defenders, lawyers and members of the media in Turkey

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