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STATEMENT

Bar Human Rights Committee expresses grave concerns over arrest of Turkish judges and prosecutors

The Bar Human Rights Committee of England and Wales (BHRC) expresses its grave concern over the arrest of judges and prosecutors, torture allegations and reported considerations of the death penalty in Turkey, following the recent failed coup attempt against President Recep Tayyip Erdogan.

Kirsty Brimelow QC, Chairwoman of the Bar Human Rights Committee of England and Wales said:

“Turkey’s actions in rounding up Judiciary and Prosecutors, at a speed which gives the lie to any conceivable grounds for such action, undermines the independence of the Judiciary and strikes at the rule of law.

Reports of torture and support for the death penalty are in breach of Turkey’s international law obligations. BHRC calls on the Turkish Government to respect its own justice system, and avoid joining a race to the bottom in competition with the failed coup.”

Judiciary and Prosecutors

According to news reports 2,745 judges were removed from office on 16 July, with arrest warrants issued for 140 members of the Constitutional Court and 48 members of the Council of State, following a meeting of Turkey’s High Council of Judges and Prosecutors (HSYK).

BHRC notes that these actions follow a sustained programme of harassment and violence targeting Turkish lawyers, judges and human rights defenders over several years.

BHRC is concerned that these latest arrests represent an attempt to purge any remaining judges willing to criticise President Erdogan – or even afford due scrutiny to arrests and charges - rather than a necessary or proportionate response to

genuine security threats. Intimidation and persecution of judges and lawyers is condemned in the strongest possible terms.

Torture

The arrests and removals follow an attempt on 15 July by the Turkish Army to depose President Erdogan. The military surrendered on 16 July, with, to date, 7,500 people subsequently arrested by Turkish police forces.

Multiple media sources have indicated that those detained are being subjected to violent abuse and torture by the police, and are being held in inhumane conditions, in violation of both Turkish and international law.

The prohibition against torture and inhuman and degrading treatment is absolute and BHRC calls upon the Turkish Government to ensure that fundamental rights are upheld in accordance with their obligations.

Relevant Legal Framework

BHRC expresses alarm at the speed with which the Turkish government has retaliated against the country's judiciary and prosecutors. This speaks for itself in relation to lack of grounds for the actions. The Turkish authorities have failed to state the grounds for the orders to arrest and remove those targeted from office.

Turkish domestic law prohibits arbitrary prosecution and deprivation of liberty: Article 19, paragraph 3 of the Turkish Constitution¹ requires the presence of strong evidence of the commission of a crime in order for an arrest to be lawful.

Under Article 100 of the Turkish Code of Criminal Procedure² an arrest can be carried out only if facts show the existence of a strong suspicion of a crime, and specific facts supporting the suspicion that the suspect or accused is going to flee, that s/he will attempt to destroy, hide or alter the evidence, or that s/he will attempt to put pressure on witnesses, victims or other individuals.

As a party to both the International Covenant on Civil and Political Rights (ICCPR) and European Convention on Human Rights (ECHR), Turkey is legally obliged to ensure that individuals under its jurisdiction enjoy their rights without discrimination. This includes the right to be presumed innocent until proved guilty; the right not to be arbitrarily arrested or detained; the right to pre-trial release and to be brought to trial within a reasonable time; and the right to obtain a remedy in relation to any violation of these rights.

¹ http://www.hri.org/docs/turkey/part_ii_2.html

² http://www.legislationline.org/download/action/download/id/4257/file/Turkey_CPC_2009_en.pdf

Remedy

BHRC calls on the Turkish Government to immediately justify the removal from office and arrest of judges and prosecutors, or rectify what appear to be flagrant breaches of its domestic and international obligations.

All judges and lawyers who have been arrested or removed without sustainable evidence of their involvement in criminal activity should be immediately released and / or reinstated.

Should evidence of criminal activity exist for any of those arrested, BHRC calls on Turkey to publish the charges, disclose the evidence, and ensure that the fair trial rights of their citizens are fully observed and protected.

Ill- treatment of those detained must cease and allegations of ill-treatment must be subject to impartial, independent investigation.

Abolition of Death Penalty

BHRC reminds Turkey of its commitment to Protocol 13 of the ECHR, which abolishes the death penalty for all crimes, and without derogation, recalling its preamble that “everyone’s right to life is a basic value in a democratic society and that the abolition of the death penalty is essential for the protection of this right and for the full recognition of the inherent dignity of all human beings.”

Conclusion

BHRC urges the Turkish Government to respond to the attempted coup in a manner that complies with due process, domestic and international law and ultimately with the rule of law.

Notes to editors:

For an interview with a spokesperson please contact Ed Gillett (coordination@barhumanrights.org.uk / +44 (0)7854 197862)

The Bar Human Rights Committee of England and Wales (BHRC) is the international human rights arm of the Bar of England and Wales, working to protect the rights of advocates, judges and human rights defenders around the world. The BHRC is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. It is independent of the Bar Council.