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STATEMENT

Political prisoners in Turkey in the face of the COVID-19 pandemic

The Bar Human Rights Committee of England and Wales (BHRC) expresses serious concern that draft legislation due to be put before the Turkish Parliament in the coming days, which aims to prevent the spread of COVID-19 across prisons and detention centres in Turkey by releasing prisoners on early parole, house arrest or other alternatives to detention, contains a blanket exclusion of political prisoners, including lawyers, judges, human rights defenders, journalists and academics.

BHRC welcomes legislation to reduce prison overcrowding in the current public health pandemic, but it expresses serious concerns about the following features of the draft legislation:

- The blanket exclusion of thousands of inmates convicted on terrorism charges, irrespective of their underlying health conditions or vulnerability to the COVID-19 infection;
- The failure to provide for measures for the release of detainees held in provisional or pretrial detention - whose numbers are currently estimated to be 43,000.¹

Turkey has detained, prosecuted and convicted thousands of civil servants, lawyers, politicians, activists, and journalists, in the period since the attempted coup in July 2016, for alleged links to outlawed armed groups and in particular the Gülen movement which has been deemed a terrorist group. BHRC has grave concerns that many of these individuals have been pursued by the authorities, and imprisoned (whether pre or post-trial) despite a fundamental and alarming lack of evidence.

¹ This figure has been provided by a rights group according to informal figures provided by the Ministry of Justice: <https://www.hrw.org/news/2020/04/03/turkey-covid-19-puts-sick-prisoners-grave-risk>

BHRC has repeatedly raised, in conducting observations of the trials of a number of these political prisoners², that many have been subjected to excessive and unlawful pre-trial detention (contrary to Article 5 (3) of the European Convention of Human Rights) and further that the detention of many of these individuals appears to have been pursued for an improper motive - namely to stifle dissent and limit the freedom of political debate, which is at the very core of the concept of a democratic society (contrary to Articles 10 and Article 18 of the ECHR). Such conclusions have been drawn similarly by the European Court of Human Rights in a number of cases. Further, a pattern has emerged of the improper pursuit by the authorities of many individuals who have been released or acquitted, such that there is no basis at all for them to be kept in detention.

Many such political prisoners remain in pre-trial detention conditions which are likely to be in violation of Turkey's international human rights obligations. Among these political prisoners are a number who are at specific risk due to their age or underlying health conditions.

The failure of the draft legislation to provide for any of these political prisoners, either on an individual or group basis and including those for whom COVID-19 poses a specific and lethal risk, to be considered for early release or alternatives to detention is discriminatory and arbitrary in circumstances where provisions have been made for other prisoners, including those convicted of serious and violent offences.

BHRC reiterates that Turkey continues to be bound by its international human rights obligations to prisoners and detainees in the current crisis. The provision of health care in prisons is a State obligation. Any failure to offer adequate health/medical care and conditions to prisoners is likely to constitute a violation of Articles 2 and 3 of the European Convention on Human Rights through constituting cruel, inhuman or degrading treatment or in violation of the right to life, standing alone or in conjunction with other provisions on dignity and non-discrimination. Turkey has obligations under Article 12 of the International Covenant on Economic, Social and Cultural Rights to guarantee the right to the highest attainable standard of physical and mental health as well as its duty to protect the health of prisoners and detainees under the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). The consequences of failing to provide adequate health care may be catastrophic and irreversible.

In underlining the importance for those who have been detained without any proper legal basis, BHRC supports the interim guidance of the OHCHR and WHO which specifically calls for the release of those whose detention is arbitrary or otherwise does not comply with domestic or international standards, as well as the release of those who may be particularly vulnerable to the virus, including children, persons

² BHRC has conducted trial observations of a number of these political prisoners, for example in the "Gezi Park" trials, including Open Society Foundation Board member **Osman Kavala**, former member of parliament and former co-leader of the People's Democratic Party, **Selahattin Demirtaş**,² and journalists and media workers including **Ahmet Altan**,² who are each held at Silivri Prison in Istanbul.

with underlying health conditions, persons with low risk profiles, persons with imminent release dates and those detained for offences not recognised under international law.

BHRC calls on the Government of Turkey to uphold its obligations under international law and to ensure that political prisoners, including those in provisional and pre-trial detention are immediately released, and that the principle of non-discrimination is applied in the application of such measures. Moreover, the early release or suitable alternatives to detention should be prioritised at the earliest juncture for those who are facing specific risks through the infection or transmission of COVID-19.

ENDS.

NOTES FOR EDITORS

1. For an interview with our spokesperson, please contact Josie Fathers, Project Coordinator on coordination@barhumanrights.org.uk or +44 (0)7854 197862
2. For more information on the Bar Human Rights Committee (BHRC), visit our website at <http://www.barhumanrights.org.uk>
3. 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. 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.