



**Input to the
Global Study on the Impact of Counter-Terrorism Measures on Civil Society
and Civic Space**

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Please provide any descriptions, examples, or assessments of the below issues:
<p>HUMAN RIGHTS IN THE FIGHT AGAINST TERRORISM IN TURKEY: TURKEY’S MISUSE OF INTERPOL</p> <p>The Turkish government has in recent years been abusing international cooperation mechanisms, including INTERPOL. This abuse has been the subject of international criticism^{1, 2}.</p> <p>This report specifically addresses the abuse of INTERPOL by the current Turkish government under the pretext of countering terrorism puts forward recommendations to INTERPOL.</p> <p>Background</p> <p>The military coup attempt of July 15, 2016 constituted a turning point in Turkey’s human rights record as the government’s response included draconian measures that had far-reaching human rights implications. The post-coup state of emergency that lasted until 2018 saw the summary dismissal of more than 100,000 public sector workers. The judiciary launched a widespread detention campaign against individuals affiliated with the faith-based Gülen movement³. Ministry of Justice statistics as of December</p>

¹ “EU criticizes Turkey over Interpol demands ‘abuse’,” Hürriyet Daily News, October 5, 2017, <https://www.hurriyetdailynews.com/eu-criticizes-turkey-over-interpol-demands-abuse-120425>

² “Merkel’den Türkiye’ye Interpol eleştirisi: Uluslararası teşkilatlar suistimal edilmemeli,” BBC Turkish service, August 21, 2017, <https://www.bbc.com/turkce/haberler-dunya-40995601>

³ The Turkish government accuses the Gülen movement of orchestrating the coup attempt in July 2016. The movement denies any involvement in the putsch and calls for an international investigation into it. Turkey’s

2021 showed that some 2,000,000 people were investigated on terrorism-related charges due to their links to the group. Hundreds of thousands were detained and arrested as part of these investigations. Executive decree-laws issued during the state of emergency also provided for the closure of some 3,000 educational institutions and 190 media outlets, the purge of some 6,000 academics, the disbarment of some 4,400 judges and prosecutors. These post-coup measures, which the Turkish government has presented as counterterrorism efforts, have been criticized as a thinly veiled pretext to crack down on dissent.

The trial of alleged members of the Gülen group typically consisted in defendants being charged with terrorism based solely on their affiliation with the group, lacking in any evidential basis that points to individual wrongdoing in compliance with the legal principle of individual criminal responsibility. The defendants' ties to the group are often proven on the basis of elements such as their union memberships, newspaper subscriptions, mobile communications with other members of the group that do not involve any violence or criminality. The country's anti-terror laws, which are often criticized by international observers for being overly broad and vague, are then used to charge the defendants with membership in a terrorist group which carries a prison sentence of at least six years, three months.

In addition, observers such as the International Commission of Jurists (ICJ) have since 2014 reported widely on the erosion of judicial independence amid the gradual intensification of executive control over the justice system.

Abuse of INTERPOL

The attempts at abusing INTERPOL mechanisms by countries with questionable human rights records have also been the subject of international criticism such as a Parliamentary Assembly of the Council of Europe (PACE) resolution⁴ in 2017. The same year, Members of the European Parliament requested⁵ a review of the Interpol system to prevent abuses.

Turkey's abuse of INTERPOL

Following the attempted coup, Turkey submitted numerous Red Notice requests to the INTERPOL Secretariat General (IPSG), the majority of which targeted members or sympathizers of the Gülen movement. Most of these requests filed after the coup were dismissed by INTERPOL's internal review mechanisms on the grounds that they were political in nature.

government deems the movement a terrorist group. A majority of the international community has refrained from adopting Turkey's views on the matter.

⁴ "Resolution 2161 (2017): Abusive recourse to the Interpol system: the need for more stringent legal safeguards," Parliamentary Assembly of the Council of Europe, April 26, 2017, <https://pace.coe.int/pdf/1cdf308806ea0387d7f86786ef46cd29fbc003e763b849193e9386e7cac809c6/resolution%20161.pdf>

⁵ "Interpol arrest orders: MEPs request a review of the system to prevent abuses," European Parliament, October 4, 2017, <https://www.europarl.europa.eu/news/en/press-room/20171002IPR85138/interpol-arrest-orders-meeps-request-a-review-of-the-system-to-prevent-abuses>

International media reports⁶ claimed that following the coup attempt, Turkey attempted to “batch” upload some 60,000 names onto the agency’s notification system.

Ankara also repeatedly and deliberately made false entries into INTERPOL’s Stolen and Lost Travel Documents (SLTD) database. As opposed to the Red Notices, entries to this database are not subject to preliminary review. This practice aimed to locate dissidents living abroad and, once located, to seek their extradition if possible. Some reports have claimed that Turkey’s access to the system was temporarily restricted afterwards.

Name change in SLTD database

A recent decision by the INTERPOL General Secretariat seems to have facilitated the abuse of the SLTD database. The scope of the database was widened⁷ to include travel and identity documents that were “invalid” and “revoked.”

This new definition allows for the entry of travel documents onto the database without providing a justification as to why the documents were revoked or invalidated. It also leaves victims in the dark about the reason for their documents being entered onto the database.

An official memo⁸ sent to the Ankara Chief Public Prosecutor’s Office by the Ministry of Justice General Directorate of International Law and Foreign Relations in July 2018 constitutes a stark example of Turkey’s abusive recourse to INTERPOL mechanisms. A segment of the memo reads as follows:

“Within the framework of Turkey’s international efforts against FETÖ’s⁹ activities abroad, one of the most important elements of our struggle is the issuance of Red Notices about the members of the organization and the prevention of their free movement in other countries. [...] As a requirement of international practices, all INTERPOL Member States can view the information about persons whose passports have been annotated as lost/cancelled/stolen in the database. In this way, other countries where these persons are located can contact our Ministry of Interior and request information about these persons. This enables us to identify the whereabouts of individuals who are suspects/defendants/convicts of all terrorist crimes, in particular FETÖ. INTERPOL’s decision to suspend our country’s access to the database has allowed FETÖ members to freely move abroad.”

As the official letter clearly acknowledges, the intention of the Turkish government is to upload passports to the INTERPOL system as if they were lost or stolen in an attempt to intercept their holders at border crossings and thus locate their whereabouts.

The case of Selahaddin Gülen

⁶ “Turkey’s War on Dissent Goes Global,” Foreign Policy, May 1, 2018, <https://foreignpolicy.com/2018/05/01/turkeys-war-on-dissent-goes-global/>

⁷ “SLTD database,” INTERPOL, <https://www.interpol.int/en/How-we-work/Databases/SLTD-database-travel-and-identity-documents>

⁸ See Annex for the original text in Turkish

⁹ FETÖ is a derogatory term coined by the Turkish government to refer to the Gülen movement.

In some cases, the Turkish government, presumably cognizant of the fact that it cannot get INTERPOL to issue Red Notices on political charges, has been able to secure Red Notices against its political opponents by charging them with ordinary offenses and fabricating false evidence, and then abducting them to Turkey through its intelligence agency, the National Intelligence Organization (MİT).

An example of this practice is the abduction of Selahaddin Gülen, the nephew of Fethullah Gülen, the US-based leader of the Gülen movement. Selahaddin Gülen was detained in Nairobi after travelling to Kenya from the US. He had a Red Notice previously issued against him on the basis of an alleged ordinary offence that was concluded in 2008 with a decision of non-prosecution.

Despite the fact that the Kenyan court released him under judicial control, he was reported missing in May 2021 after being abducted by unidentified individuals. He later turned up¹⁰ in Ankara. One day after his forcible rendition to Turkey, the Kenyan court rejected the request for Gülen's extradition to Turkey. Turkey's state-owned TV also confirmed¹¹ that he was abducted by the MİT.

The pro-government media also reported that Gülen had become an "informant." In recent years, several human rights reports¹² said torture and ill-treatment was systematically used in police custody in order to coerce detainees to become informants and incriminate others.

Recommendations

Article 2 of INTERPOL's Constitution requires the organization to act in the spirit of the Universal Declaration of Human Rights. Article 3 strictly prohibits the organization from engaging in any intervention or activities of a political, military, religious or racist character.

Undoubtedly, certain measures continue to be taken by the General Secretariat to better deal with abuses and these are steps in the right direction. In this context, it is necessary to congratulate INTERPOL for its efforts to prevent abuse. The General Secretariat should however, continue to improve its mechanism.

1. INTERPOL needs to treat each request from countries with a track record of database abuse much more carefully than requests from other countries, asking for concrete evidence/justification and focusing on whether the action against the persons in question is politically motivated. In this context, the General Secretariat should continue to improve the Red Notice and Wanted Persons

¹⁰ "Turkish secret agents snatch Fethullah Gülen's nephew in Kenya," France24, May 31, 2021, <https://www.france24.com/en/middle-east/20210531-turkish-secret-agents-snatch-fethullah-gulen-s-nephew-in-kenya>

¹¹ "Turkish intelligence nabs FETO terror group member abroad, brings back home," TRT World, May 31, 2021, <https://www.trtworld.com/turkey/turkish-intelligence-nabs-feto-terror-group-member-abroad-brings-back-home-47146>

¹² "Turkey: UN expert says deeply concerned by rise in torture allegations," United Nations Office of the High Commissioner for Human Rights, February 27, 2018, <https://www.ohchr.org/en/press-releases/2018/02/turkey-un-expert-says-deeply-concerned-rise-torture-allegations>

Diffusions procedures in order to more effectively prevent and remedy violations, as recognized by the Parliamentary Assembly of the Council of Europe in its resolution 2315 of 2019¹³.

2. The Stolen and Lost Travel Documents (SLTD) database is arguably the most frequently abused database of INTERPOL. Since the General Secretariat started to use the database as a repository for all stolen, lost, revoked and invalidated travel documents and encouraged Member States to use it in this way, governments with poor human rights records have been entering passports onto it without specifying which of these words is the reason for the annotation in the passport. Whereas, as stated by the Commission for the Control of INTERPOL's Files (CCF), in which cases passports will be deemed invalid should be specified in clear criteria. If specified, they should be published by the General Secretariat. In our opinion, there is no difference between requesting a Red Notice for a person because he/she is a political opponent and entering the passports of persons subject to political trials into the system as stolen/lost/revoked or invalidated. Therefore, the General Secretariat should either stop using the SLTD as a repository for all passport cases, or request more details from the source of information on why a passport was revoked or invalidated. Given that even red notices can be deleted from the INTERPOL Information System when they are found to be politically motivated, data entered onto the SLTD database based on political accusations should also be deleted.
3. The General Secretariat may create a database for officially recognized refugees and asylum seekers that can only be accessed and viewed by the General Secretariat. The General Secretariat requests member countries to inform it when they grant refugee status or subsidiary protection to a person in order not to process a red notice or diffusion request made against that person. However, it is not known whether countries report to INTERPOL the names of persons to whom they grant or refuse to grant refugee status. Creation of such a database would facilitate the work of the General Secretariat, and speed up the decision-making process regarding the acceptance or rejection of the request, provided that other criteria are in conformity with the regulations in place.
4. Given that thousands of new Red Notices and Diffusions are issued each year, the General Secretariat could increase the number of staff working on the Notices and Diffusions Task Force. This would allow the Task Force to focus more intensively and carefully on countries that have previously submitted a high number of abuse requests.
5. As with the red notice, diffusions also must be checked for compliance by the task force prior to issuance. Alternatively, the requested country(s) may be asked not to take any action on the request until the Secretariat General confirms that the issuance of a diffusion in question complies with the rules.

¹³ "Resolution 2315: Interpol reform and extradition proceedings: building trust by fighting abuse," Parliamentary Assembly of the Council of Europe, November 29, 2019, <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=28303&lang=en>

6. Ask National Central Bureaus (NCB) to immediately delete an information, which has been deleted from INTERPOL databases, from their own national databases too, and setting a deadline for them to confirm that the deletion has been completed.
7. Remove the CCF's obligation to obtain the consent of an NCB that provided the information to INTERPOL. It should be borne in mind that countries that abuse INTERPOL do not want to share the information they send to the INTERPOL in order to put the people they seek in a difficult situation.

Adopting policies that clearly define the conditions necessary to prevent abuse, or even making these rules binding on all Member States and consequently sanctioning countries that do not implement them, would enhance INTERPOL's credibility.

Annex

T.C.
ADALET BAKANLIĞI
Uluslararası Hukuk ve Dış İlişkiler Genel Müdürlüğü
Suçluların İadesi ve Hükümlü Nakli Bürosu

Sayı : 81016607-4-1-TTR-671-2017-E.12923/78565 13/07/2018
Konu : Ahmet KIRMIÇ

ANKARA CUMHURİYET BAŞSAVCILIĞINA

İlgi : a) Ankara Cumhuriyet Başsavcılığının 27/12/2017 tarihli ve 2017/39036 B.M. sayılı yazısı.
b) İçişleri Bakanlığının hitaplı 26/01/2018 tarihli ve E.2064/10679 sayılı yazısı.
c) İçişleri Bakanlığının 04/05/2018 tarihli ve 239/92771 sayılı yazısı.
d) İçişleri Bakanlığının 08/05/2018 tarihli ve 239/94387 sayılı yazısı.

"Silahlı Terör Örgütü Kurup Yönetmek, Hükümeti Yıkıma Teşebbüs Etmek, Anayasayı İhlal Etmeye Teşebbüs Etmek, Siyasi ve Askeri Casusluk" suçlarından Ankara 4. Ağır Ceza Mahkemesinin 26/07/2016 tarihli ve 2016/238 Esas sayılı,

"Nitelikli Zimmet, Resmî Belgede Sahtecilik, Suç Getirlerini Aklamak, Nitelikli Dolandırıcılık ve Hukuka Aykırı Olarak Kişisel Verileri Kaydetmek, Ele Geçirmek, Başkasına Vermek" suçlarından Ankara 4. Ağır Ceza Mahkemesinin 30/01/2017 tarihli ve 2016/238 Esas sayılı,

Yakalama kararlarına istinaden ulusal seviyede aranan, Erzurum İli, Yakutiye İlçesi, Rabia Ana nüfusuna kayıtlı, Fıran ve Nadide oğlu, 01/04/1962 Erzurum doğumlu, 21949842346 T.C. kimlik numaralı Ahmet KIRMIÇ'ın uluslararası seviyede aranması maksadıyla düzenlenen kırmızı bülten talep formu ve ekleri ilgi (a) yazı ilişkilinde Bakanlığımıza sunulmuş, mezkur evrak gereğinin ifası için ilgi (b) yazımız ekinde İçişleri Bakanlığımıza iletilmiştir.

Konuya ilişkin ilgi (c) ve (d) yazılar ile İçişleri Genel Sekreterliğinden alınan 04/05/2018 tarihli iki mesajda özetle:

-İnterpol veri tabanına 15 Temmuz Darbe Girişimi ve FETÖ/PDY İhtisaklı 115 şahısla ilgili veri girişi yapıldığı.

-Söz konusu taleplerimizin karşılanmayacağı ve bu şahıslarla ilgili İnterpol kanalının kullanılmaması gerektiği.

-İnterpol Tüzüğü'nün 3 üncü maddesinde yer alan; "Teşkilatın siyasi, askeri, dini veya ırkçı özellikler taşıyan faaliyetlerde bulunması ya da aracılık işlenmesi kesinlikle yasaktır." hükmüne adı geçenler hakkında yapılan veri girişlerinin İnterpol veri tabanından silineceği ve bundan sonrası için de İnterpol veri tabanına 15 Temmuz terörist darbe girişimine ilişkin veri girişi yapılmaması hususunu aktarıldığı belirtilerek konuya ilişkin görüşlerinizi bildirdiğimizi istemiştir.

Ayrıca ilgi (c) ve (d) yazılarında iletilen listeler incelendiğinde, adı geçen hakkındaki kırmızı bülten düzenlenmesine ilişkin talebinizin İnterpol Genel Sekreterliğine iletilmediği, ancak talebinizin reddedildiği anlaşılmaktadır.

Bilindiği üzere "Kırmızı Bülten" bir ülkenin adli makamlarına aranan hükümlü, şüpheli veya sanıkların ilgili ülkeye iadesi amacıyla görüldüğü yerde yakalanması için İnterpol Genel Sekreterliği'nce çıkarılan, aranan şahısların açık kimliği ve isnat edilen suçla ilişkin adli bilgiler, ilgililerin bulunduğu yer tespit edildiğinde alınması gereken tedbirler ile mevcutsa fotoğraf ve parmak izi fotoğraflarını içeren bir bültenidir.

Türkiye'nin FETÖ terör örgütünün yurtdışı yapılanmasına yönelik uluslararası yürütüldüğü çalışmalarla örgüt üyeleri hakkında kırmızı bülten çıkarılması ve örgüt üyelerinin diğer ülkelerde serbestçe seyahat etmelerinin önlenmesi, mücahedelemizin en önemli unsurlarından birisini teşkil etmektedir. İnterpol Genel Sekreterliği'nin olumsuz tavı nedeniyle, 15 Temmuz 2016 terörist darbe

teşebbüsünden sonra, FETÖ terör örgütünün amaçlarının gerçekleştirilebilmesi için etkin rol oynadıkları iddiasıyla haklarındaki soruşturma ve kovuşturmalara devam olunan kaçak durumundaki şüpheli şahıslar hakkındaki kırmızı bülten düzenlenmesi taleplerimizde uzunca bir süredir mesafeli alınmamaktadır.

Uluslararası uygulama gereği, pasaportlarında kayıp/iptal/çalıntı şerhi bulunan kişilerle ilgili bilgi, tüm İnterpol üyeleri tarafından görülebilmektedir. Bu sayede, veri tabanına hakkında bu yönde bir bilgi girilen kişiyle ilgili olarak, bu kişinin bulunduğu devlet makamları, İçişleri Bakanlığımızla temasa geçerek, kişi hakkındaki bilgileri sorabildiğinden, başta FETÖ olmak üzere, tüm terör suçlarından şüpheli/sanık/hükümlü olan kişilerin bulunduğu yerler tespit edilebilmektedir. İnterpol'ün ülkemizin bu imkânı askıya alması sonucunda, FETÖ mensupları yurt dışında daha rahat hareket edebilmektedirler.

15 Temmuz 2016 terörist darbe teşebbüsünden sonra, FETÖ üyeleri hakkında yürütülen tüm soruşturma ve kovuşturmalar, milli güvenliğimize tehdit oluşturan unsurların cezalandırılmaları ve devlet otoritesinin devamının sağlanmasına yönelik olup, bu kapsamda yapılmış olduğumuz talepler, İnterpol'ün red gerekçesinde belirtmiş olduğu "Teşkilatın siyasi, askeri, dini veya ırkçı özellikler taşıyan faaliyetlerde bulunması ya da aracılık işlenmesi kesinlikle yasaktır" hükmü içerisinde değerlendirilemeyeceği düşülmektedir.

Bu nedenle, İnterpol Veri Tabanına 15 Temmuz terörist darbe girişimi ve FETÖ terör örgütü İhtisaklı 115 şahısla ilgili yapılan veri girişlerinin İnterpol veri tabanından silinmesi ve bundan sonraki süreçte söz konusu taleplerin İnterpol Tüzüğü'nün 3. maddesi uyarınca karşılanmayacağı kabul edilebilecek bir tutum değildir.

Öte yandan, İnterpol Veri İşleme Kurallarının 135 inci maddesinde; "Kuralların uygulanmasıyla bağlantılı olarak ortaya çıkan uygunsuzlukların ortak istişare ile çözülmesi gerekmektedir. Bunun mümkün olamaması halinde, komite lerü Komitesi ve gerekirse Genel Kurul'a sunulabilir." hükmü yer almaktadır.

Bu itibarla; İnterpol Veri İşleme Kurallarının 135 inci maddesinde yer alan düzenleme gözönüne alınarak, İnterpol Genel Sekreterliğinin, veri tabanı girişi ve kırmızı bülten taleplerimize karşı haksız olarak takındığı tutum ve yukarıda izah edilen diğer hususlara karşılık haklılığımızın savunulması amacıyla görüş oluşturulmaması, İnterpol Genel Sekreterliği nezdinde İcra Kurulu ve gerek olması halinde Genel Kurul'da gerekli girişimlerin yapılması ve talebinizin dile getirilmesinin faydalı olacağı değerlendirilmektedir.

Gereğini İçişleri Bakanlığınızdan,
Bilgilerinizi Ankara Cumhuriyet Başsavcılığınızdan,
Arz ve rica ederim.

Murat ERDEM

Hâkim

Bakan a.

Daire Başkanı

 e-imzalıdır

DAĞITIM:
İçişleri Bakanlığı (Emniyet Genel Müdürlüğü)
Ankara Cumhuriyet Başsavcılığı

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