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# NO END IN SIGHT

## PURGED PUBLIC SECTOR WORKERS DENIED A FUTURE IN TURKEY

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**Cover photo:** An executive decree published on 29 October 2016 and attached list of individuals dismissed from their jobs. © Amnesty International

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# EXECUTIVE SUMMARY

On 15 July 2016 elements within Turkey's armed forces staged a violent coup attempt, bombing the Parliament and other state and civilian infrastructure. At the end of a night of violence, more than 200 people were left dead and over 2,000 were injured. On 20 July 2016 the government enacted a state of emergency with the stated aim of countering threats to national security arising from the coup attempt. Following the initial three-month period, the government broadened its scope to "combatting terrorist organizations" and extended it three times. The state of emergency is currently due to expire on 19 July 2017, one year after it was first imposed. Under the state of emergency, the government has the power to issue executive decrees which have the force of law and are subject to little effective scrutiny by the Parliament or the courts. The government has used these executive decrees to enact everything from the permanent closure of NGOs and other organizations and the mass dismissal of public sector employees to the introduction of a legal requirement for vehicle owners to use snow tyres in winter.

This report focuses on the arbitrary dismissal of more than 100,000 public sector employees dismissed under the decrees. Those dismissed include members of the armed forces, police officers, teachers, doctors, academics and people working at all levels of central and local government. The main target of the purge is people perceived to be followers of Fethullah Gülen, the head of the Gülen movement, whom the government holds responsible for the coup attempt, referring to them as the "Fetullahist Terrorist Organization" (FETÖ). However, it is clear that a much wider group of people have been targeted. Dismissed persons who spoke to Amnesty International denied links to terrorism or any other wrongdoing. They allege that they have been targeted for their real or perceived opposition to the ruling Justice and Development Party (AK Party) government or for other illegitimate reasons. Assessing why individual dismissals took place is currently impossible, as none of those affected have been provided with any evidence of their alleged personal wrongdoing. The decrees simply offered the generalized justification that all the individuals listed in them were "...part of, connected to or in communication with a terrorist organization." Relevant public administrations have not presented any individualized justification for the dismissals nor have the dismissed individuals been able to obtain any, in the many months since their dismissal. The blanket nature of the dismissals, the fact that the dismissed include trade union, political or human rights activists and known critics of the government from conservative sections of society, and the broader crackdown on dissent that has included the jailing of more than 120 journalists awaiting trial since the 2016 coup attempt, increase concerns that a great many dismissals were arbitrary, unfair and/or politically motivated.

There can be no doubt about the devastating impact of the dismissals on those affected and their families. Public sector employees have not just lost their current jobs; they have been expelled from public service, and given the wide definition of public service, this means that many have been prevented from continuing their chosen professions. Due to the stigma of being branded "terrorists" under the decrees, many have not been able to find any work at all. Others, along with their families, have lost housing and health care benefits connected to their jobs. Unable to earn a living in Turkey, dismissed public sector employees have been prevented from seeking employment abroad, as the decrees also require the cancellation of their passports.

The highly uncertain future for dismissed public sector employees is heightened by the absence of any effective means for them to challenge their dismissal. Currently, no courts in Turkey have accepted jurisdiction to review the dismissals. A promised ad hoc commission to assess the dismissals and the closure of institutions under the state of emergency is yet to be set up but its seven yet to be appointed officials will lack either the independence or the capacity to make the mechanism effective. In order to process the caseload, the members would have to take hundreds of decisions per day during their proposed two-year mandate. The European Court of Human Rights has thus far rejected cases brought by dismissed individuals on the grounds that they have not exhausted domestic remedies against their dismissal.

This report is based on 61 interviews, including 33 with dismissed individuals, and meetings with the Turkish authorities, representatives of trade unions, NGOs and lawyers.

Amnesty International concludes that the dismissals and associated measures threaten a broad range of human rights (of a huge number of people) protected by international conventions to which Turkey is a party. Dismissals based on political affiliation, union membership or actions such as participation in demonstrations violate the rights to freedom of expression, association or assembly, in addition to the right to non-discrimination. Expelling people from all work in the public sector or their profession as a whole infringes on the right to work, and in the long term may threaten the right to an adequate standard of living. The routine cancellation of passports violates the right to freedom of movement, while the lack of an effective appeal procedure threatens the right to a fair trial and an effective remedy.

In order to comply with the human rights standards that they profess to uphold, Amnesty International urges the Turkish government to end the arbitrary dismissal of public sector employees; only impose disciplinary sanctions for legitimate reasons and after due procedure guarantees have been followed, including the right to mount an effective defence against the allegations; ensure that all dismissed public sector employees have access to a fair and effective independent appeal mechanism; and ensure that all those wrongfully dismissed are reinstated in their jobs and/or provided with appropriate compensation.

# 1. BACKGROUND: A COUP ATTEMPT, AN UNPRECEDENTED CRACKDOWN AND MASS DISMISSALS

On 15 July 2016 elements within Turkey's armed forces launched a violent coup attempt against the elected government. The coup attempt was resisted, in part due to ordinary citizens taking to the streets to face down armed soldiers and tanks, but only after a night of violence that, according to the authorities, left 234 people, including 34 coup plotters, dead and 2,191 people injured. Forces carrying out the coup attempt bombed the Parliament building, took media off the air and attacked other state and civilian infrastructure. In response to these events, on 20 July Turkey's government declared a state of emergency in order to counter the coup attempt, for which they hold Fethullah Gülen responsible, referring to the coup plotters as the "Fetullahist Terrorist Organization" (FETÖ). Fethullah Gülen is an Islamic preacher and Turkish citizen, who currently lives in the United States. He is the head of the Gülen movement, and is linked to an international network of business, education and other institutions. He is a former ally of the AK Party government. He denies the accusation that he is responsible for the coup attempt.

Following the coup attempt, the authorities have carried out an unprecedented crackdown. After the initial three-month period of the state of emergency they have extended it three times and widened its scope from countering the coup attempt to "combating terrorist organizations". It is currently due to run until 19 July 2017. The authorities have remanded more than 47,000 people in pre-trial detention and closed down hundreds of associations, foundations and other institutions. These include the permanent closure of at least 156 media outlets and in one decree alone, 375 NGOs.<sup>1</sup>

While these widely reported arrests and closures were taking place, the government has dismissed public sector workers on a massive scale. More than 100,000 public servants have been dismissed from their jobs and banned from public service under emergency decrees with the force of law (*kanun hükmünde kararname*) on the generalized grounds found in the decrees, that those dismissed are "members of, connected to, or in communication with a terrorist organization", without any individualized justification or evidence being provided. Of this number, more than 33,000 are teachers and other employees of the Ministry of Education, more than 24,000 are police officers and other employees of the Ministry of Interior, more than 8,000 are members of the armed forces, more than 6,000 are doctors and other employees of the Ministry of Health, more than 5,000 are academics and other higher education employees, more than 4,000

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<sup>1</sup> See Amnesty International, *Journalism is not a crime: Crackdown on media freedom in Turkey*. 3 May 2017, EUR 44/6055/2017. Available at <https://www.amnesty.org/en/documents/eur44/6055/2017/en/>

are judges, prosecutors and other employees of the Ministry of Justice and more than 3,000 are employees of the office of the Prime Minister and connected institutions.<sup>2</sup> Yet more people suddenly lost their jobs through the closure of the institutions employing them, including universities, hospitals, schools, by emergency decree.

The first decree, no. 667, issued on 22 July 2016 gave authority to judicial bodies and to specified ministries to dismiss staff “who were part of, connected to or in communication with the Fethullahist Terrorist Organization/ Parallel State Structure which has been proved to be a threat to national security”.<sup>3</sup> The next decree, no 668 of 25 July 2016, listed more than 1,600 members of the armed forces, dismissed on these grounds.<sup>4</sup> Similar grounds are found in the nine further decrees directly dismissing from employment and expelling from public service employees whose names appear in annexes to the decrees. Later decrees include similarly vague and non-individualized references to their connection to (unspecified) terrorist organizations or threat to national security.<sup>5</sup> Nor has any individualized evidence been presented in the few examples of written decisions carried out under the authority of the decrees. For example, the Constitutional Court, in its decision to dismiss two Constitutional Court judges, did not refer to any evidence against the two and ruled that it was sufficient simply for the Court to be subjectively persuaded of the link between the judges and Gülen movement structures.<sup>6</sup> Likewise, the High Council of Judges and Prosecutors (HSYK), in its decision to dismiss 543 judges and prosecutors, presented a detailed report of Gülen networks within the judiciary but no specific evidence against any of the judges and prosecutors dismissed and excluded from public office.<sup>7</sup> Members of the judiciary were simply notified of their dismissal through their names appearing on lists in the administrative decisions of judicial bodies authorized to dismiss them under the decrees. Employees of other ministries have been notified of dismissal by way of lists in the decrees themselves. Public sector employees would, in normal circumstances, be provided with far greater protections against dismissal than private sector employees. The Law on Civil Servants requires that disciplinary sanctions, including dismissal and expulsion from public service, must be recommended by committee, after the employee has been able to make a defence against the accusations. They must be approved by a higher body within the ministry, and can be challenged within the administrative court system.<sup>8</sup>

Many people chose employment within the public sector for the security it brought. Others sought employment in the public sector because of discrimination in the private sector. Cemile Kocaman, a local government employee before she was dismissed, told Amnesty International: “As a woman wearing a headscarf I was not able to get a job in the private sector, my industry is still dominated by the secular elite. After two years of unemployment after I graduated I applied for a job within the municipality in 2011, then one of the few institutions that would accept a woman with a headscarf.”<sup>9</sup> The impact of these dismissals goes well beyond people losing their jobs and being expelled from employment in the public sector generally. The government decrees also require their passports to be cancelled, preventing them from leaving the country. Others, along with their families, have lost housing and health care benefits provided through their jobs. Many have lost not only their jobs but the ability to carry on their professions, even in the private sector. After being tainted as “terrorists” through their dismissal, many have not been able to find work at all, inhibiting their right to work and their right to an adequate standard of living in the long term.

A small number of dismissed public sector workers across the country have publically demonstrated against their dismissal, risking police harassment, detention and ill-treatment. Nuriye Gülmén, an academic and Semih Özakça, a teacher, have been on hunger strike as part of their protest in Ankara, since 9 March 2017. Betül Celep, a worker at a regional development agency before she was dismissed, has been protesting daily in the Kadıköy district of Istanbul since January 2017. She told Amnesty International: “People come up to me and say that they have been unfairly dismissed like me, but they are afraid to protest. They are afraid of the reaction from their families, or making their situation worse, being detained, or losing the chance to ever get their job back.”<sup>10</sup>

None of the individuals interviewed by Amnesty International, as many as ten months after they were dismissed, have been provided with any explanation of the reason for their dismissal beyond the generalized allegation contained in the decrees. Nor do they currently have any effective means of challenging their

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<sup>2</sup> See IHOP Human Rights Joint Platform report *Oğlanüstü hal uygulamaları* 23 February 2017, page 15. Available at <http://www.ihop.org.tr/wp-content/uploads/2017/02/OHAL-%C5%9Eubat2017-raporu.pdf>

<sup>3</sup> See Decree no 667, Articles 3 and 4 Available at <http://www.resmigazete.gov.tr/eskiler/2016/07/20160723.pdf>

<sup>4</sup> See Decree 668, Article 2. Available at <http://www.resmigazete.gov.tr/eskiler/2016/07/20160727M2-1.pdf>

<sup>5</sup> See for example Decree 675, Article 1, 29 October 2016. Available at <http://www.resmigazete.gov.tr/eskiler/2016/10/20161029-4.htm>

<sup>6</sup> As noted by the Venice Commission, *Opinion on emergency decree laws 667-676 following the failed coup of 15 July 2016*, para. 136. Available at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)037-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)037-e)

<sup>7</sup> Ibid. para 140

<sup>8</sup> See Section 7 of Public Servants Law no. 657, entry into force 23.07.65

<sup>9</sup> Interview February 2017

<sup>10</sup> Interview February 2017

dismissal or forcing the disclosure of the grounds for their inclusion on relevant lists. In the absence of the disclosure of any individualized evidence of wrongdoing, it is impossible to assess the reasons for – and the justification of the tens of thousands of dismissals. What is clear, however, is that not all have been dismissed because of alleged links to the Gülen movement, referred to by the government as the “Fetullahist Terrorist Organization” (FETÖ). Large numbers of people from different political perspectives, including trade unionists, people who have publically criticized the government, and activists whose profiles suggest that they are politically opposed to the ruling AK Party government, have been dismissed. These dismissals are highly suggestive of an attempt to cleanse the public sector not just of individuals who have used their positions in a way that could undermine the state itself but to ensure that public sector workers are loyal to the ruling AK Party government.

The purges have not just had a negative impact on the individuals and families directly concerned, but on the public sector as a whole. The number of dismissals is so high that interviewees reported gaps in the provision of essential health and education services as a result, while some of Turkey’s most prestigious university faculties have been decimated through the dismissals. As one dismissed public sector worker put it: “There was a real intellectual culture within the institution before, there were many good, intelligent, hardworking people, attempting to change, make things better. Now there are just yes men, people who are afraid.”<sup>11</sup>

## 1.1 METHODOLOGY

Amnesty International conducted a total of 61 interviews in Ankara, Diyarbakır and Istanbul for this report between December 2016 and April 2017. Of those 33 interviewees were dismissed public servants themselves, 17 men and 16 women who represent a cross-section of professions subjected to dismissal under state of emergency decrees. Interviewees formerly worked as teachers, academics, in local or central government or regional agencies, as doctors or other health care professionals, police officers, and in child protection services, the judiciary and the military. Amnesty International also met with lawyers, NGOs, trade unions representatives and the Turkish authorities. Amnesty International met with representatives of the Ministry of Justice and the Ministry of Health, and their views are reflected in this report. Amnesty International also requested meetings with the Ministry of Interior and the Ministry of Education but they were not granted.

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<sup>11</sup> Interview February 2017



# 2. ARBITRARY DISMISSALS

**“This isn't to do with me, the list came from above.”**

A dismissed local government worker reports the response from a manager following her attempt to obtain a reason for her dismissal.<sup>12</sup>

No individualized justification or evidence for the dismissal of public sector employees has been provided in the decrees or in subsequent administrative decisions made under the authority of the decrees. Neither have dismissed public sector employees been able to obtain information about the grounds for their dismissal either before or following their dismissal, beyond the vague generalized criteria of links to a terrorist organization or threat to national security. The lack of any specific evidence being presented, if indeed any exists, has cast significant doubt over the justification of many of the dismissals. Among the reasons advanced by dismissed public sector employees and their supporters, are people's actual or perceived opposition to the ruling AK Party government, union activism, and local score-settling. The authorities maintain that dismissals are based on individualized evidence of wrongdoing.

All the dismissed public sector workers whom Amnesty International interviewed said that they discovered that they had been dismissed when they read their names in the decrees published on the internet or when friends or relatives called them to inform them that they had seen their names after the decrees had been published. In some cases employees had been suspended from their positions before being dismissed, but were not provided with reasons for their suspension either.<sup>13</sup> One dismissed police officer, who had been working for the police force for eight years, told Amnesty International: “I was called in for an interview by my manager, he told me that the intelligence report had come back negative, and that was it. I got no further information.”<sup>14</sup> Other dismissed employees told Amnesty International that when they sought reasons from their employer, none were given. One woman formerly working in the President's office, who gave her name as Deniz, told Amnesty International: “I asked them why I had been dismissed but they told me that they couldn't say, just that all the investigations were different.”<sup>15</sup> Other managers claimed to have no knowledge, telling a local government employee: “This isn't to do with me, the list came from above.”<sup>16</sup>

## 2.1 OFFICIAL JUSTIFICATIONS FOR DISMISSALS

Amnesty International sought explanations for these dismissals from the Turkish government in meetings with the authorities.

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<sup>12</sup> Interview December 2016

<sup>13</sup> Interviews December 2016 to February 2017

<sup>14</sup> Interview February 2017

<sup>15</sup> Interview February 2017

<sup>16</sup> Interview December 2016

Ministry of Justice officials told Amnesty International that dismissals were carried out on the basis of conduct which, while not necessarily constituting a criminal act, did involve a concrete “incriminating” action by an individual evidencing a link to a “terrorist” organization. The Ministry of Justice officials provided Amnesty International with the following two examples of why individuals were dismissed: firstly, if they cancelled a Digitürk satellite television provider subscription following a call for cancellations from what the authorities refer to as “FETÖ” via the [www.herkul.org](http://www.herkul.org) website due to the removal of Gülen linked channels from the network in October 2015.<sup>17</sup> Secondly, following a call to do so on the herkul website, putting money into Bank Asya, after sanctions were imposed against it as part of an investigation into its links with the Gülen movement.<sup>18</sup> The Ministry of Justice did not provide any other justifications based on the actions of individuals for the thousands of dismissals to Amnesty International and has not done so publicly, or even to any of those affected.

Approximately a third of the dismissals, at around 37,000 have been of members of the police, army officials, members of the judiciary or others engaged in law enforcement; but the remaining two thirds, are public sector service providers such as teachers or doctors, who have no such responsibilities. During a meeting with Amnesty International, Ministry of Health officials said that 6,383 of their employees that had been dismissed. The officials were not able provide criteria according to which their employees were dismissed, but they offered the example of doctors who they said did not provide treatment to people injured during the coup events on 15 July 2016. They did not provide figures as to how many Ministry of Health employees were dismissed for this reason, or how many dismissed employees were engaged in providing emergency care, or why such cases were not subjected to proceedings under existing administrative or criminal law.<sup>19</sup>

## 2.2 EVIDENCE OF WRONGFUL OR DISCRIMINATORY DISMISSALS

This failure to set out any clear criteria for the dismissals and the absence of individualized evidence has facilitated arbitrary dismissals on the grounds of score-settling, political affiliations or even personal conflicts. Even the government has been forced to concede the potential for score-settling that the process has opened up and it has announced that investigations would look into such abuses.<sup>20</sup> In the absence of individually motivated decisions, it is impossible to verify the intent of employers while firing their employees, but information provided by those dismissed who spoke to Amnesty International indicates that their dismissal may have been motivated by their real or perceived political opposition to the AK Party government, trade union or other activism.

Günal Kurşun, a dismissed academic, told Amnesty International “I’m very lucky, all these people don’t know why they were dismissed, at least I have the reason” after his appeal against his initial suspension was unexpectedly declared admissible by an administrative court, enabling him to see the file. Documents seen by Amnesty International show that he was suspended for “being in connection with the Parallel State Structure and helping or supporting the organization” and “putting the government in a difficult position by writing disparaging articles in FETÖ’s domestic and international media organs”. The evidence against him consisted of two articles he had written for the opposition Gülen-linked English language newspaper *Today’s Zaman*, two statements he had given to the media in his capacity as a human rights defender and spokesperson for the NGO Human Rights Agenda Association, and a photograph of himself shared on social media showing him sitting with other Zaman Group journalists after a government trustee had been appointed to run the newspaper in 2016.<sup>21</sup> A separate administrative case he brought against his dismissal was declared inadmissible by the court.

A worker dismissed from her job at a regional development agency told Amnesty International that the Istanbul Deputy Governor, Ahmet Önal, brought in temporarily to head the agency after the attempted coup, questioned employees on their views on the December 2013 corruption investigation against senior AK Party figures (viewed by the government as a “Gülenist plot” to overthrow them), as well as asking them to identify

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<sup>17</sup> See BBC Türkçe, Samanyolu: *Digitürk’ten çıkarıldığımızı internette öğrendik*, 8 October 2015 Available at [http://www.bbc.com/turkce/haberler/2015/10/151008\\_digiturk\\_renginarslan](http://www.bbc.com/turkce/haberler/2015/10/151008_digiturk_renginarslan)

<sup>18</sup> Meeting with Ministry of Justice officials February 2017

<sup>19</sup> Meeting with Ministry of Health officials February 2017

<sup>20</sup> See [www.ogretmenlericin.com](http://www.ogretmenlericin.com), *FETÖ soruşturmasını fırsata çeviren, FETÖ sepetine suçsuzları koyanlar atılmalıdır*, 21 December 2016. Available at <http://www.ogretmenlericin.com/meb/kamudan-haber/feto-sorusturmasini-firsata-ceviren-feto-sepetine-sucsuzlari-koyanlar-atilmalidir-12065.html>

<sup>21</sup> Interview January 2017

colleagues who had criticized the government and those that had voted for the Kurdish rooted left wing opposition party, Peoples' Democratic Party (HDP).<sup>22</sup>

Interviewees frequently told Amnesty International that before being dismissed, they were questioned whether anyone in their family had links to the Gülen movement. A former soldier told Amnesty International that he was asked whether anyone in his family had been suspended from their job due to Gülen movement connections as part of the investigation against him.<sup>23</sup>

Representatives of the public sector trade union confederation KESK told Amnesty International that members of affiliated trade unions and, to an even greater extent, their own activists and officials had been disproportionately targeted for dismissal under decree by the authorities. They told Amnesty International that up to the end of 2016, 2,094 of their members had been dismissed from their positions, and that many of this number were union activists or union officials. A former teacher and member of KESK affiliated Eğitim-Sen trade union told Amnesty International that she had received no disciplinary sanction against her during her nine years in the job but that she had taken part in a strike on 29 December 2015 to protest against the state's policies in the south east of Turkey, and that she had been detained at a protest during the strike. She told Amnesty International that she believed that she was dismissed, along with many of her colleagues who had participated in the strike, for this reason.<sup>24</sup>

There are strong indications that academics who had signed the petition of the Academics for Peace in January 2016, calling for "the government to prepare the conditions for negotiations and create a road map that would lead to a lasting peace which includes the demands of the Kurdish political movement", have been targeted for dismissal as part of a government campaign against them which has included public condemnation, branding them terrorists, and criminal investigations and prosecutions.<sup>25</sup> By the end of April 2017, 372 signatories to the petition had been dismissed from their positions as academics under the decrees. The vast majority of them are among the 1,128 original signatories to the petition, rather than those who added their support later. A former academic at Kocaeli University, who along with her husband was dismissed after they both signed the petition, told Amnesty International that ahead of her dismissal she was subjected to an internal investigation, that was not completed, in which she was questioned about her signature of the petition.<sup>26</sup> All 19 academics at the university who had signed the petition have been dismissed from their positions. A signatory to the petition and former academic at Marmara University told Amnesty International that after a successful academic career, she began to experience problems after signing the petition, including the arbitrary denial of permission to attend conferences abroad and being passed over for promotion. She said that after witnessing the dismissal of signatories of the Academics for Peace petition from Kocaeli University she decided to leave the country, going to Germany with her seven-month-old child and partner during maternity leave. She was dismissed on 7 February 2017 under decree no. 686 and is one of approximately 30 signatories to the Academics for Peace petition dismissed under decrees and now living in Germany.<sup>27</sup>

A Ministry of Justice official told Amnesty International that being a signatory of the Peace Petition was not a justification for dismissal and the fact that the majority of signatories had not been dismissed was evidence of this.<sup>28</sup> However, the fact that almost one-third of the original signatories to the petition have been dismissed suggests a clear link between the petition and the dismissal of academics.

A former judge told Amnesty International that he was dismissed on the grounds of "connection to FETÖ" despite being a well-known as a critic of both the government and the Gülen movement. He was detained and questioned regarding membership of "FETÖ" immediately after the coup attempt in July 2016. He told Amnesty International that he was asked whether he had a bank account at the Gülen linked Bank Asya, whether he had attended any of their training programmes abroad or whether he had stayed in their dormitories, to which he answered 'no'.<sup>29</sup> Approximately one month later he was dismissed by the High Council of Judges and Prosecutors (HSYK) on the authority of decree no. 668 of 24 August 2016. No reasons for his dismissal were given beyond the generalized criteria of "connections to FETÖ". He told Amnesty International that he believed he was dismissed for publicly criticizing the unlawful practices of the government including by joining the Gezi Park demonstrations in 2013, for which he was subjected to an

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<sup>22</sup> Interview February 2017

<sup>23</sup> Interview February 2017

<sup>24</sup> Interview December 2016

<sup>25</sup> See Amnesty International, *Detention of academics intensifies crackdown on freedom of expression*, 15 January 2016. Available at <https://www.amnesty.org/en/press-releases/2016/01/turkey-detention-of-academics-intensifies-crackdown-on-freedom-of-expression/>

<sup>26</sup> Interview January 2017

<sup>27</sup> Interview January 2017

<sup>28</sup> Interview February 2017

<sup>29</sup> Interview February 2017

administrative investigation, and because of a criminal prosecution against him for insulting the President during a demonstration that he took part in in 2015.<sup>30</sup>

A former employee of the Ministry for Family and Social Policies, and a former board member of the Turkey branch of Amnesty International, said that ahead of being dismissed he was warned by a superior for his social media posts regarding Amnesty International activities. He was told: "What you are doing has become very obvious. This is something that could be used against you."<sup>31</sup> He is one of a number of individuals engaged in human rights activism who have been dismissed from their jobs in the public sector.

In other cases it appears that dismissals may have been linked to work related disputes. Some interviewees told Amnesty International that they had been in conflicts with their managers ahead of being dismissed. One former local government employee told Amnesty International: "If anyone wants to erase you from the institution, they just give your name as a Gülenist." Her dismissal came after a number conflicts with management, including one in which she was disciplined after criticizing them on social media.<sup>32</sup>

Others told Amnesty International that problems at their place of work started after they opened administrative cases against their employers or because of differences with colleagues in the workplace. For example, one told Amnesty International: "One religious society (*tarikat*) was very dominant in my place of work. If you weren't one of them then you had no chance."<sup>33</sup> Others told Amnesty International that they believed that they had been dismissed as a result of workplace rivalries. A former police officer told Amnesty International: "I had studied abroad, I spoke a foreign language and was seen as smart. Without me there were more opportunities for others".<sup>34</sup>

Another told Amnesty International she overheard her managers discussing the dismissals saying "let's exaggerate the numbers so it looks like we are really fighting against FETÖ."<sup>35</sup> Where employees were questioned ahead of their dismissal, the questions asked of them suggest that decisions were taken arbitrarily. Many people told Amnesty International that they had been asked whether they had bank accounts with the Gülen linked Bank Asya, a mainstream bank that had more than 200 branches across the country.<sup>36</sup>

Information provided by dismissed individuals, lawyers, NGOs and trade union representatives suggests widespread abusive and discriminatory dismissals. However, it must also be the case that there are dismissals which are justified and for which evidence could be presented, not least, for instance, in the case of soldiers who took part in the coup attempt. The failure to present any evidence that can be scrutinized and challenged both discredits the government's claim to be countering coup plotters, and unfairly taints a huge group of people and their families, many of whom are suffering great hardships as a result of the arbitrary dismissals.

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<sup>30</sup> Interview January 2017

<sup>31</sup> Interview December 2016

<sup>32</sup> Interview December 2016

<sup>33</sup> Interview February 2017

<sup>34</sup> Interview February 2017

<sup>35</sup> Interview February 2017

<sup>36</sup> Interviews December 2016 to February 2017

# 3. DISMISSED PUBLIC OFFICIALS - CIVIL DEATH?

**“I was a soldier fighting terrorism, going on operations in the mountains, not sleeping in a proper bed, not eating good food or drinking clean water. I have seen friends die. I was doing a job that nobody wanted to do but I was regarded as a hero by society. Now I'm seen as a terrorist and a traitor. A soldier friend of mine was injured when we were attacked. He was off work for seven months, he nearly died. He was dismissed one month after returning to work.”**

A dismissed soldier formerly stationed in Hakkari, south-east Turkey.<sup>37</sup>

In addition to being dismissed from their jobs, individuals face a host of negative consequences stemming from their dismissal. Many of these consequences may not yet be apparent, but given the continuing state of emergency, the arbitrary application of the law during this period, the reluctance of courts to examine the cases of dismissed individuals and the stigma now attached to them, they risk being severe in the long-term. It remains uncertain for example whether dismissed individuals will be able to claim their full pension rights resulting from their years of service in the public sector. What is clear and stated explicitly in the decrees, is that in addition to being dismissed from their employment, they are expelled from all forms of public service. Given the broad interpretation of public service in Turkey, in many cases this means that dismissed people are effectively banned from continuing their professions.

This is significant problem in the legal professions where over 3,500 judges and prosecutors and an unknown number of law faculty academics have been dismissed. Bar associations have deemed the profession of lawyer to be a public service from which dismissed public sector workers are barred and the Union of Bar Associations, an organization constituted from all the bar associations in Turkey, has

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<sup>37</sup> Interview February 2017

introduced further restrictions beyond those found in existing law.<sup>38</sup> A judge with 29 years' experience told Amnesty International that he had not been able to register as a lawyer to continue practising law after being dismissed as a judge. After working in the judiciary his entire adult life, he had not found any other work three months later and was experiencing mounting financial problems. Günal Kurşun, an assistant professor at the law faculty of Çukurova University until he was dismissed as an academic, had also been unable to regain his licence to work as a lawyer six months after his dismissal.

Dismissed academics as a whole are not only barred from any future work for state universities, but also in "private" universities, which in Turkey have the status of foundations, are regulated by the Council of Higher Education (YÖK) and fall within the definition of public service. Similarly, according to the Ministry of Education, which has dismissed more than 30,000 employees in total, dismissed teachers are also barred from working in private schools.<sup>39</sup> This is a situation mirrored in other professions regulated by the state. Anil Arslan who worked for the Ministry of Family and Social Policies in child protection services, was denied employment in a private crèche after permission to employ him was refused by the Ministry.<sup>40</sup> He opened an administrative court case against the Ministry which remains pending.

According to Ministry of Health officials, the situation is not the same for dismissed doctors who are not barred from working in private health institutions.<sup>41</sup> However, dismissed doctors are barred from working for state hospitals and from receiving further education from the state to progress their career, for example to acquire a medical specialization.<sup>42</sup> In practice doctors and other dismissed health professionals, as with those in other professions, have faced great difficulty in finding work in the private sector, and where they have obtained such work it has been for much lower wages than their previous salary.<sup>43</sup>

Dismissed public sector workers are barred by decree from employment in private security companies, effectively barring dismissed police and military officials from finding similar work in the private sector.<sup>44</sup>

None of the 33 dismissed public sector workers that Amnesty International interviewed had found work within the formal economy, many months after being dismissed. A woman who previously worked at the top of the civil service in the President's office but is now barely surviving by making food to sell, told Amnesty International: "They don't allow us to leave the country, they don't allow us to work, I have a daughter to support... what do they want me to do?" She explained that she called prospective employers who at first jumped at the chance to employ her but withdrew the offer after she told them that she had been dismissed. "They offered me a position to do training in Istanbul, but I said that I wanted to work in Ankara so they offered to find me something here. When I told them that I had been dismissed by decree they told me that they could not employ me, that it could put them in danger, that their licence to operate could be cancelled."<sup>45</sup> Most interviewees told Amnesty International that they had not applied for work, knowing that they would be rejected. One man told Amnesty International that he didn't want to seek work in a company owned by a relative for fear of creating problems for him.<sup>46</sup>

All of the people Amnesty International spoke to were either living off their savings, being assisted by friends or family, doing jobs such as cleaning in the irregular economy, or surviving on the minimal amount paid to dismissed workers who are members of trade unions. None of the people interviewed believed that they could survive in the long term under these circumstances.

## 3.1 TRAVEL BANS

Dismissed public sector workers have also had their passports cancelled by decree. Decree no. 673 further provides for the passports of partners of persons dismissed under the decrees to be cancelled on national security grounds, but unlike their own passports, dismissed public servants' partners' passports have not

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<sup>38</sup> Regarding restrictions placed by bar associations, see for example Sputnik news, *KHK ile ihraç edilen akademisyene bir engel de Baro'dan*, 9 March 2017. Available at <https://tr.sputniknews.com/turkiye/201703091027555890-khk-ihrac-akademisyen-engel-baro/>  
Regarding restrictions on dismissed persons practicing as lawyers, see note from Union of Bar Associations, 15 August 2016. Available at <http://www.barobirlig.org.tr/Detay.aspx?ID=71379>

<sup>39</sup> See <http://www.ogretmenlerhaber.com>, *Meb'den İhraç Edilen Öğretmenler Özelde Çalışabilir Mi?* 25 October 2016. Available at <http://www.ogretmenlerhaber.com/ogretmenler-haber/meb-den-ihrac-edilen-ogretmenler-ozelde-calisabilir-mi-h4135.html>

<sup>40</sup> A document from the Ministry seen by Amnesty International states that persons dismissed under the decrees are not suitable for employment in private institutions providing social services which are regulated by the Ministry.

<sup>41</sup> Meeting with Ministry of Health officials, February 2017

<sup>42</sup> Meeting with the SES health sector trade union Diyarbakır February 2017

<sup>43</sup> Interview December 2016

<sup>44</sup> See Decree no. 667 22 July 2016, Article 4.3. The same provision is found in subsequent decrees.

<sup>45</sup> Interview Ankara February 2017

<sup>46</sup> Interview February 2017

been automatically cancelled. An academic dismissed from Kocaeli University told Amnesty International: “We had no idea that our passports had been cancelled, one of the other dismissed academics from the university was detained while going through passport control at the airport. After that we got our lawyer to check - apparently all of our passports have been cancelled.”<sup>47</sup> Passport cancellations apply to both the green passports available to senior public sector employees in place of an ordinary passport and to ordinary passports. Applications for new passports by dismissed people, after their existing passports had been cancelled, have been routinely refused by the authorities. Difficulties were also reported by those who had managed to leave the country. An academic who left Turkey prior to being dismissed told Amnesty International that the Turkish Embassy in Berlin refused to provide consular services to her or other dismissed public sector workers, without explanation.<sup>48</sup>

Interviewees told Amnesty International that being labelled as “terrorists” impacts on their freedom of movement within the country as well. Several interviewees told Amnesty International that they would not travel long distances for fear that their identity documents would be checked by police, who would see from their records that they had been dismissed under the decrees, leading to further investigation or detention. One Kurdish interviewee told Amnesty International that he had been living and working in Izmir, but left because of the strong nationalist sentiment and history of sectarian attacks on Kurds in Izmir and the surrounding Aegean region of Turkey, which made him feel unsafe as a person dismissed on the grounds of an alleged link to a “terrorist” organization.<sup>49</sup> Another interviewee told Amnesty International that her family lived in a small community in Anatolia, and that she didn't feel safe to go and see them because her status as a dismissed person was known.<sup>50</sup>

## 3.2 IMPACT ON FAMILIES

Interviewees told Amnesty International of the wide-ranging impact of their dismissals on their families.

The fact that lists of dismissed people have been published in the decrees and on the internet, and form part of a person's record, visible to state institutions and the public at large has led to additional pressures on them and their families. A woman told Amnesty International “My son didn't want to go to school, the other children were picking on him, saying that his mother was a terrorist and a traitor.” Another woman told Amnesty International that when her daughter was interviewed for a school scholarship, the authorities told her that her mother was a “terrorist”. She did not get the scholarship.<sup>51</sup> For dismissed public sector workers in housing linked to their job, their dismissal also means the loss of that housing for themselves and their family. A dismissed academic told Amnesty International that she was forced to leave her house within 15 days. Unable to pay rent, she and her husband put their furniture into storage, expecting the situation to be resolved. Nearly five months later their furniture remains in storage and they are still living in their summer house in a rural area far from any potential employment opportunities.

Access to health care is also affected. Public sector workers are provided with health care packages for themselves, their partners and their children. After being dismissed, the family's health care protection is continued only for a further three months, after which a premium must be paid to stay protected. Without any income or compensation none of the dismissed public sector workers interviewed by Amnesty International had been able to pay to keep their health care protection. An academic told Amnesty International: “My husband has heart problems, he has been receiving treatment and needs an operation. We don't have any income but are faced with the prospect of huge medical bills, I don't know how we will pay them.”<sup>52</sup>

Some interviewees told Amnesty International that their relationships with family members who are government supporters had been damaged or even ended because those family members believed that dismissed public sector employees did indeed have connections with “terrorism”. One interviewee told Amnesty International of their isolation from their family: “I can't explain what happened to my family because I don't know myself. They wouldn't be able to understand. So I haven't told them anything. They think I'm still working, we just don't speak anymore.”<sup>53</sup> A former police officer, who gave his name as Abdullah, told Amnesty International: “Nobody calls me, not friends, not family. I don't have anyone to talk

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<sup>47</sup> Interview February 2017

<sup>48</sup> Interview April 2017

<sup>49</sup> Interview January 2017

<sup>50</sup> Interview February 2017

<sup>51</sup> Interview February 2017

<sup>52</sup> Interview January 2017

<sup>53</sup> Interview February 2017

to. The only people I speak to now are my brother and my mother.”<sup>54</sup> A woman who worked for the office of the President before she was dismissed told Amnesty International: “I had decided to try for a baby, but with the stress of the investigations that were going on after December 2013 I started to have psychological problems, I went to a psychologist and was prescribed medicine, I was advised not to conceive in those circumstances. Now I have been dismissed and the future is even more uncertain. I’m over 40 and I fear that I might not have the chance to have a child.”<sup>55</sup>

These examples illustrate the wide-ranging impact of the dismissals on individuals and their families. There are some sanctions beyond dismissal that could be justified in the event of proven wrongdoing, however, some of the measures, including the barring of individuals from all forms of public service and the routine cancellation of passports would violate rights even in the cases where dismissal was justified.

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<sup>54</sup> Interview February 2017

<sup>55</sup> Interview February 2017



# 4. NO EFFECTIVE APPEAL

**“The international community should not act so naïve. It is obvious that there is no solution for us in domestic law.”**

A dismissed public sector worker expressed her frustration to Amnesty International regarding perceived international support for the proposed ad hoc commission to examine appeals.<sup>56</sup>

Across the country, following more than 100,000 dismissals, approximately 1,300 individuals have been reinstated to their jobs by the authorities, although the criteria and the process under which these decisions were taken is not known. It is very unlikely that any of the reinstatements were made following appeals to administrative courts, where there are no cases known to have been assessed. It is likely that the decisions were taken following administrative appeals to local governorships, or more likely following lobbying on behalf of friends by political parties.<sup>57</sup>

Under existing structures in Turkey, there is no effective appeal against dismissal from employment or expulsion from public service under the decrees. Administrative courts across Turkey have ruled that they do not have jurisdiction to hear cases because the dismissals are not administrative decisions but, as names were written in the decrees, are part of statute.<sup>58</sup> The highest administrative court, the Council of State, has ruled that it does not have the jurisdiction to examine the cases unless local administrative courts have ruled on them.<sup>59</sup> The Constitutional Court, which since 2012 has had the power to consider individual applications, has shown no willingness to examine the cases in the ten months since the declaration of the state of emergency and has ruled that it does not have the jurisdiction to rule on the constitutionality of the decrees.<sup>60</sup> Whether it could examine the individual measures taken under the decrees is not clear, but as yet it has not. As of September 2016 approximately 45,000 cases relating to the period of the state of emergency were already pending at the court, a figure likely to have increased exponentially by the time of the publication of this report.<sup>61</sup> Provincial Governors' offices have also received appeal petitions submitted by dismissed public sector employees. All of the individuals interviewed by Amnesty International had made, or were in the process of making, appeals to the administrative courts and had submitted petitions to the Governor's office. None had received an answer from the Governor's office or notification from the administrative court that their appeal had been registered. On 29 April 2017 decree no. 690 formally blocked any appeal to the courts, requiring that courts send any appeal requests to the yet to be established ad hoc commission.<sup>62</sup>

Dismissed public sector employees currently have no prospect of a remedy at the European Court of Human Rights (ECTHR) either. So far applications have been rejected as inadmissible on the grounds that it had not

<sup>56</sup> Interview February 2017

<sup>57</sup> Names of individuals reinstated to their jobs are written in the decrees, in the same way as dismissals.

<sup>58</sup> See Human Rights Joint Platform, *685 Sayılı KHK ile kurulan OHAL komisyonu etkili bir hukuk yolu mu?* Kerem Altıparmak, January 2017, page 1-2. Available at [http://www.ihop.org.tr/wp-content/uploads/2017/03/%C4%B0nceleme-Komisyonu\\_OHAL.pdf](http://www.ihop.org.tr/wp-content/uploads/2017/03/%C4%B0nceleme-Komisyonu_OHAL.pdf) p.1-2

<sup>59</sup> See Bianet *Danıştay Kararı: KHK ile İhraç Edilenler İdare Mahkemesine Başvuracak*, 6 October 2016. Available at <https://bianet.org/bianet/insan-haklari/180456-danistay-karari-khk-ile-ihrac-edilenler-idare-mahkemesine-basvuracak>

<sup>60</sup> See Venice Commission opinion Venice Commission, *Opinion on emergency decree laws 667-676 following the failed coup of 15 July 2016*, paras 190-205. Available at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)037-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)037-e)

<sup>61</sup> Ibid. Para. 195

<sup>62</sup> See Decree 690 29 April 2017, Article 56. Available at <http://www.mevzuat.gov.tr/MevzuatMetin/4.5.690.pdf>

been demonstrated that domestic remedies had been exhausted.<sup>63</sup> In the absence of existing legal structures to examine appeals, domestic and international pressure to create a domestic appeals mechanism grew, including a recommendation from the Venice Commission to create an independent and impartial ad hoc commission.<sup>64</sup> In response the authorities published decree no. 685 on 22 January, which foresees the creation within six months of an administrative commission to examine appeals from individuals dismissed and institutions closed down under the state of emergency. On 16 May 2017, Prime Minister Binali Yıldırım announced the names of the commission's seven members.

Neither the yet to be established commission, nor the response from the ECtHR have inspired confidence in dismissed individuals, their lawyers or their trade union representatives. One dismissed public sector worker told Amnesty International: "I have lost a lot of confidence in the international community. I can't believe that they don't know what is happening here, for them to turn away in the face of this is shocking." Another dismissed public official speaking about the new appeal mechanism, told Amnesty International: "They fired us for no reason. I don't believe that now they are going to change their minds."

The commission's lack of independence is a matter of serious concern. Of the seven members of the commission, three are to be chosen by the office of the Prime Minister, one each by the Ministries of Justice and Interior and two by the High Council of Judges and Prosecutors (HSYK, the highest judicial body) - all institutions that were responsible for initial dismissal decisions. Ministry of Justice officials asserted that the commission members had guarantees of independence, in virtue of their tenure being guaranteed for the two year initial working period of the commission (providing a criminal or administrative investigation is not started against the Commission member).<sup>65</sup>

The procedure that the commission will operate under also calls its effectiveness into question. It remains unclear on what criteria the commission will judge whether people were rightfully or wrongly dismissed since the decisions are not based on existing administrative or criminal law procedures. The ability of individuals to bring a case before the commission is also limited by the fact that they will not be able to see the evidence which was the basis for their dismissal and expulsion and therefore will not be able to mount an effective defence.<sup>66</sup>

Significantly, the seven-person commission lacks the capacity to examine potentially over 100,000 appeals from dismissed individuals and the hundreds of associations and institutions closed down under state of emergency decrees. For the commission to examine all of the individuals' cases alone within the foreseen two year period would require it to take hundreds of decisions every day. Ministry of Justice officials told Amnesty International that the capacity of the seven-person commission would be boosted by the presence of a secretariat and the fact that it will not have further duties.<sup>67</sup> But the secretariat staff of the commission are provided by the office of the Prime Minister further eroding its independence.<sup>68</sup>

Given the shortcomings in the design of the commission, the main consequence of its creation will likely be to delay individuals from accessing an effective remedy. Furthermore, according to the terms of decree no. 685, after the commission has ruled on the cases, further appeals would go to one or more Ankara administrative courts (to be decided by the HSYK) creating a second bottle neck before cases would go to the Council of State and then to the Constitutional Court, entailing at least ten years of domestic legal wrangling before applicants could take a case to the ECtHR.

Given the arbitrary nature of the dismissals and their far-reaching consequences, there is an urgent need for the Turkish government to establish a prompt, independent and impartial appeal procedure. The proposed commission clearly fails this test, and should be replaced without delay. Ultimately, such a change is only likely to come after the ECtHR begins to accept dismissal cases. It should do so without delay.

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<sup>63</sup> See European Court of Human Rights, 8 December 2016, *A teacher dismissed by emergency legislative decree after the failed coup d'état did not exhaust domestic remedies* <http://hudoc.echr.coe.int/app/conversion/pdf?library=ECHR&id=003-5571467-7027985&filename=Decision%20Zihni%20v.%20Turkey%20-%20dismissal%20of%20a%20teacher%20by%20emergency%20legislative%20decree.pdf>

<sup>64</sup> See Venice Commission opinion, *Opinion on emergency decree laws 667-676 following the failed coup of 15 July 2016*, paras 220-222. Available at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)037-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)037-e)

<sup>65</sup> Meeting with Ministry of Justice officials February 2017. See also Decree no. 685 Article 11. Available at <http://www.resmigazete.gov.tr/eskiler/2017/01/20170123-4.htm>

<sup>66</sup> Ministry of Justice officials confirmed to Amnesty International in February 2017 that individuals bringing appeals to the commission would not be able to see evidence against them.

<sup>67</sup> Meeting with Ministry of Justice officials February 2017

<sup>68</sup> See Decree no. 685 Article 12.1. Available at <http://www.resmigazete.gov.tr/eskiler/2017/01/20170123-4.htm>

# 5. INTERNATIONAL LAW AND STANDARDS

The mass dismissals, restrictions on entering other employment and other measures accompanying dismissals threaten a broad spectrum of human rights guaranteed under international instruments. State-sanctioned dismissals based on perceived or actual political affiliation violate the right to non-discrimination protected by Article 26 of the International Covenant on Civil and Political Rights (ICCPR) to which Turkey is a party.<sup>69</sup> Article 2 of the ICCPR, as well as Article 14 of the European Convention on Human Rights and Fundamental Freedoms (ECHR) to which Turkey is also a party, require that rights under those treaties are secured without discrimination.<sup>70</sup> Any dismissals based on a person's political affiliation, membership of a trade union, or participation in actions including demonstrations violates the rights to freedom of expression, association, or assembly as protected by the ICCPR and the ECHR, as well as the right to non-discrimination.<sup>71</sup>

Dismissals which prevent individuals from carrying on their work within the public sector, or indeed their professions as a whole, infringe the right to work as protected by Article 6 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) to which Turkey is a party.<sup>72</sup> In the long-term, where the result of expulsion is to exclude people from a whole range of work, it may also, in the absence of access to alternative income sources such as social security benefits, constitute a threat to the right to an adequate standard of living, protected under Article 11 of that Covenant.<sup>73</sup> Consequences of dismissals such as individuals and their families being forced to vacate state provided housing interfere with the right to a family and private life, protected by the ICCPR and the ECHR, and in some cases may be so severe as to violate those rights.<sup>74</sup> Additional measures under the decrees such as the routine cancellation of passports,

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<sup>69</sup> Article 26 states "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

<sup>70</sup> Article 14 states: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

<sup>71</sup> Article 19.1 and 19.2 of the ICCPR states: "Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. Article 22.1 of the ICCPR states: Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests." Article 10.1 of the ECHR states: Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises." Article 11.1 of the ECHR states: "Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests."

<sup>72</sup> Article 6.1 of the ICESCR states: "The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right."

<sup>73</sup> Article 11.1 of ICESCR states: "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent."

<sup>74</sup> Article 17.1 of the ICCPR states: "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation." Article 8.1 of the ECHR states: "Everyone has the right to respect for his private and family life, his home and his correspondence."

preventing people from leaving the country, amount to a violation of the right to freedom of movement protected by Article 12 of the ICCPR.<sup>75</sup>

The procedure under which dismissals take place, and in particular a lack of a fair and effective appeal procedure, threaten the rights to fair trial in civil proceedings and to an effective remedy.<sup>76</sup> Violations of the right to work can also arise as a result of unfair dismissal. Turkey is party to International Labour Organization (ILO) Convention 158 concerning termination of employment, which protects against arbitrary dismissals without due process. Among the most relevant protections contained within the Convention are those that prohibit employees' employment being terminated for reasons other than legitimate ones related to their capacity and the conduct of the worker in their role, and require that individuals' employment is not terminated without their first having the opportunity to defend themselves against the allegations made against them.<sup>77</sup>

The state of emergency, first declared by the government on 20 July 2016 is currently due to expire on 19 July 2017. While states are permitted to derogate from certain of their obligations under the ICCPR and ECHR where this is strictly required to address the situation of an officially proclaimed state of emergency which threatens the life of the nation, the authorities are still under an obligation to respect and protect these rights, and they must ensure that any additional restrictions imposed under the state of emergency are only such as are strictly required by the emergency situation and proportionate to the legitimate aim pursued, and are exceptional and temporary in nature.<sup>78</sup> No derogation from states' obligations under the ICESCR is permitted in any circumstances, underlining that people's economic and social rights and essential socio-economic needs must be safeguarded at all times.

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<sup>75</sup> Articles 12.1 and 12.2 of the ICCPR state: "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. Everyone shall be free to leave any country, including his own."

<sup>76</sup> Article 2.3 of the ICCPR states: "Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted." Articles 14 and 15 in ICCPR provide fair trial rights. Article 14.1 of ICCPR states: "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children. Article 13 of the ECHR provides for the right to a remedy. It states: "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity." Article 6 of the ECHR provides for the right to a fair trial. Article 6.1 states: "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice."

<sup>77</sup> ILO Convention, in its Article 4 states: "The employment of a worker shall not be terminated unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service. Article 7 states: "The employment of a worker shall not be terminated for reasons related to the worker's conduct or performance before he is provided an opportunity to defend himself against the allegations made, unless the employer cannot reasonably be expected to provide this opportunity."

<sup>78</sup> The UN Human Rights Committee, the body of independent experts that monitors states' compliance with the ICCPR, has elaborated on these points in General Comment 29 regarding Article 4 of the ICCPR, Derogations during a State of Emergency.

# 6. RECOMMENDATIONS

## TO THE TURKISH GOVERNMENT:

- End the arbitrary dismissal of public sector officials;
- Ensure that any disciplinary proceedings are brought on the basis of an employee's capacity and conduct in their employment rather than their political opinion or exercise of their human rights such as freedom of expression, peaceful assembly, or freedom of association;
- Ensure that public sector employees subjected to disciplinary proceedings are afforded the right to trade union representation and have an effective opportunity to present their defence before any sanctions are imposed;
- Ensure that in the event of any disciplinary proceedings resulting in suspension or dismissal, the consequences do not result in denial of human rights, notably, the right to work, freedom of movement, health, housing and adequate standard of living;
- Establish a genuinely independent, impartial, transparent and effective appeal mechanism by which public sector employees can challenge dismissal from their jobs and expulsion from public service under the decrees, in which they have access in practice to legal representation and assistance so as to ensure their right to an effective remedy;
- Ensure that public sector workers found not to be guilty of wrongdoing are able to return to their previous jobs and/or are provided with appropriate compensation.

## TO TURKEY'S STATE ALLIES, THE EUROPEAN UNION AND THE COUNCIL OF EUROPE:

- Call on Turkey to end unfair dismissals and grant effective appeals, recognising that existing appeal mechanisms do not represent an effective domestic remedy.

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# NO END IN SIGHT

## PURGED PUBLIC SECTOR WORKERS DENIED A FUTURE IN TURKEY

The sense of relief following the failure of the bloody coup attempt of July 2016 was short lived as the Turkish authorities launched an unprecedented crackdown on real and perceived critics of the government – dismissing more than 100,000 public sector employees, shutting down media outlets and non-governmental organizations (NGOs) and locking up more than 120 journalists pending trial.

This report focuses on the dismissal of public servants, among them police officers, teachers, soldiers, doctors, judges, prosecutors and academics, by executive decree issued under the powers of the state of emergency in Turkey, which continues 10 months after it was first introduced. The mass dismissals have been carried out arbitrarily on the basis of vague and generalized grounds of “connections to terrorist organizations”. Dismissed public sector workers have not been given reasons for their dismissal nor do they have an effective means to challenge the decisions. Not just summarily dismissed from their jobs, they have also been expelled from all forms of public service, meaning that many cannot continue their careers or maintain a livelihood without support from friends and relatives. With their passports cancelled by the authorities, they cannot seek work abroad either. Amnesty International calls for an end to arbitrary dismissals and a prompt and effective appeal mechanism for those already dismissed.