

To the attention of:

Mr Josep Borrell Fontelles

EU High Representative for Foreign Affairs and Security Policy/ Vice-President
European External Action Service (EEAS)

Ministers of Foreign Affairs of EU Member States

Brussels, 16 March 2021

European Council: EU leaders should put human rights at the centre of EU-Turkey relations

Dear High Representative,

Dear Ministers of Foreign Affairs,

We write to you ahead of the 25-26 March European Council discussion on EU-Turkey relations. We welcome this opportunity and call on you to ensure that any decisions on the future development of EU-Turkey relations take the sharp decline in respect for fundamental rights and freedoms fully into account and place human rights front and centre of these relations. The EU and its member states should use all instruments at their disposal to promote genuine human rights reforms in Turkey, urging the authorities to move beyond mere rhetoric and assertions without implementation of general principles – most recently illustrated in the government’s Human Rights Action Plan.

We are concerned that over the past year, the human rights situation in Turkey appeared to be largely absent from both **European Council discussions on EU-Turkey relations** and high-level EU meetings¹ with the Turkish authorities. Instead, these discussions focused primarily on the situation in the eastern Mediterranean and cooperation with the Turkish authorities in the field of migration. While recognizing the need for European leaders to address the tensions in the eastern Mediterranean, recent European Council conclusions² have outlined ways of bolstering cooperation with the Turkish authorities while failing to take into account the escalating levels of repression in the country. In so doing, EU leaders have suggested that human rights concerns are considered secondary or separate from the EU’s wider efforts to engage with the authorities. These signals are not only contrary to the EU and its member states’ foreign policy commitments, they are moreover inconsistent with the EU’s engagement on human rights in Turkey at other levels. This lack of policy coherence

¹ See High Representative Borrell’s press statement ahead of his meeting with Turkey’s Foreign Minister on 21 January, 2021: <https://newsroom.consilium.europa.eu/videos/129419-eu-hr-borrell-meets-mfa-of-turkey-press-statements-20210121>; Turkey: Remarks by HR/VP Josep Borrell at the press conference following his meeting with the Minister of Foreign Affairs Mevlut Çavuşoğlu, 6 July 2020: https://eeas.europa.eu/headquarters/headquarters-homepage/82146/turkey-remarks-hrvp-josep-borrell-press-conference-following-his-meeting-minister-foreign_en; Turkey: Remarks by the High Representative/Vice-President Josep Borrell following his visit in Turkey, 4 March 2020: https://eeas.europa.eu/headquarters/headquarters-homepage/75528/turkey-remarks-high-representativevice-president-josep-borrell-following-his-visit-turkey_en

² European Council conclusions on external relations, 1 October 2020: <https://www.consilium.europa.eu/en/press/press-releases/2020/10/01/european-council-conclusions-on-external-relations-1-october-2020/> and European Council conclusions, meeting 10 and 11 December 2020: <https://www.consilium.europa.eu/media/47296/1011-12-20-euco-conclusions-en.pdf>

risks undermining positive actions the EU has taken to address human rights in Turkey and the concerns expressed in EU reporting and public statements over specific rights-related developments.

This worrying approach to reviewing EU-Turkey relations is being pursued amid a protracted erosion of human rights in the country. In recent months the Turkish authorities have ramped up their repression of real or perceived dissent, orchestrating **large-scale arrests, abusive investigations and unfounded prosecutions**. Drawing on overly broad anti-terrorism laws, the authorities have detained and prosecuted hundreds of opposition politicians, journalists, human rights defenders, lawyers, academics and other civil society actors.

Over the last six years, the authorities have systematically violated the **right to peaceful assembly** through blanket bans and the use of excessive force against protesters, while the **online expression of peaceful dissent** has routinely been met with abusive investigations, detentions and prosecutions. Such content is regularly blocked or removed, as is any reporting on the authorities' decisions to block and remove content. While these decisions can be challenged in courts, the chances of successfully overturning them are slim.

This relentless crackdown on freedom of expression and human rights is made possible by the widespread **executive control and political influence over the judiciary**. In recent years, this has led courts to systematically accept bogus indictments and to detain and convict individuals and groups that the government regards as political opponents, in the absence of any compelling evidence of criminal activity. This was evident in the trials of Selahattin Demirtaş and other members of the opposition, as well as Osman Kavala and several other human rights defenders, lawyers, journalists and academics. Indeed, the ongoing pre-trial detention of **Osman Kavala**³ and **Selahattin Demirtaş**,⁴ and the authorities' persistent refusal to implement the European Court of Human Rights' binding judgments, reveal a judicial system which brazenly disregards its duty to safeguard the human rights of all.

Adding to this climate of repression, the Turkish authorities have recently adopted two **new pieces of legislation which further curb the rights to freedom of expression and association** in the country. The law on the *Prevention of the Financing of the Proliferation of Weapons of Mass Destruction* greatly exceeds its stated aim of countering the financing of terrorism and money laundering and poses a serious threat to the legitimate activities of independent civil society organizations. Although the Turkish authorities claim that the law was introduced in response to a 2019 report by the Financial Action Task Force (FATF), the way it was adopted, fails to comply with the standards set out by the FATF. Meanwhile, the amendments to the Internet Law, which entered into force on 1 October 2020, further enhance state control over social media platforms, their operations and content.

It is amid these spiralling levels of repression that the Turkish government recently renewed its commitment to human rights in its long-awaited **human rights action plan**. Yet these commitments to reform ring hollow and offer little in the form of concrete steps to address violations of human rights safeguarded by the European Convention on Human Rights. The Plan does not display any serious commitment to address the root causes of human rights violations in the country, such as the lack of independence of the judiciary. It fails to introduce targeted measures to remedy the extension of executive control over the judiciary and does not commit to concrete actions to prevent politically motivated and punitive prosecutions and convictions of opposition politicians, activists, journalists' human rights defenders and many others for exercising their rights.

Furthermore, amid ongoing discussions about the implementation of the **2016 EU-Turkey Statement**, it is important to note that Turkey does not [meet the EU's criteria for a safe third country](#) to which an asylum seeker can be returned. This includes respect for the principle of non-refoulement. Based on research by Human Rights Watch and [Amnesty International](#), it is likely that in 2019 Turkish authorities arrested and forcibly [deported](#) to Syria hundreds of Syrians from its cities, putting Syrians living in Turkey at risks of serious human rights violations. This practice also potentially exposes those Syrians who are forcibly returned to Turkey from Greece, on the basis of the EU-Turkey deal of 2016, to the risk of onward refoulement to Syria. In late May 2020, further cases of forcible deportations to Syria were [reported](#) by Amnesty International. In 2018, Turkey also summarily deported [thousands of Afghans](#) to their country.

³ Turkey: New Resolution on Osman Kavala makes clear his detention must end immediately, Amnesty International, <https://www.amnesty.org/en/latest/news/2020/12/turkey-new-resolution-on-osman-kavala-makes-clear-his-detention-must-end-immediately/>; Turkey: Violation of Osman Kavala's Rights Intensifies | Human Rights Watch, <https://www.hrw.org/news/2021/03/01/turkey-violation-osman-kavalas-rights-intensifies>

⁴ Turkey: Free Politician after European Court Ruling | Human Rights Watch, <https://www.hrw.org/news/2021/03/04/turkey-free-politician-after-european-court-ruling/>

In light of these developments, we call on the EU and its member states to ensure that human rights are placed at the centre of upcoming discussions and any decisions on the future development of EU-Turkey relations, including by:

1. **Explicitly addressing the sharp decline in respect for fundamental rights and freedoms in Turkey during the March European Council and any public communications around the meeting. This includes by ensuring that the High Representative's report outlining the progress made in EU-Turkey relations addresses human rights concerns,** including: The evidence of executive control and political influence over the judiciary; the large-scale arrests, abusive investigations and unfounded prosecutions drawing on overly broad anti-terrorism laws to target journalists, opposition politicians, academics, lawyers, human rights defenders, former civil servants and teachers for exercising rights protected under the European Convention on Human Rights; Turkey's persistent disregard for the European Court of Human Rights' binding judgments on Osman Kavala and Selahattin Demirtaş; the implications of the recently adopted *Law on the Prevention of the Financing of the Proliferation of Weapons of Mass Destruction* on independent civil society and the recent amendments to the internet law further threatening the right to freedom of expression online.
2. **Publicly reaffirming that respect for human rights and a thriving, independent civil society are essential to EU-Turkey relations and that the deteriorating human rights situation in Turkey will hamper the positive EU-Turkey agenda proposed by the European Council:** The EU and its member states should use all instruments at their disposal to promote genuine human rights reforms in Turkey and ensure that human rights are placed at the centre of any considerations to bolster cooperation with the authorities, including the possible upgrade of the EU-Turkey Customs Union.
3. **Ensuring strong and consistent human right messaging across all levels of EU and EU member state decision-making and in all exchanges with the Turkish authorities, up to the highest levels:** Human rights should be mainstreamed across all areas of cooperation with Turkey and messaging on human rights should be consistent across the different EU institutions and between the EU and its member states. Inconsistent messaging on human rights risks undermining the EU's positions and its credibility as a foreign policy actor.
4. **Using all upcoming exchanges with the Turkish authorities to seek tangible human rights improvements and the full implementation of Turkey's commitments to reforms, including concrete steps towards:**
 - Ending the arbitrary and prolonged detention and conviction of activists, politicians, human rights defenders, journalists, writers, and ending prosecutions based on their non-violent activities instead of credible evidence they have committed an internationally recognizable crime.
 - Implementing the European Court of Human Rights' rulings that Osman Kavala and Selahattin Demirtaş should be immediately released from their prolonged and arbitrary detention and, in terms of general measures, implementing the judgments by addressing the systemic problems in Turkey's justice system and laws which result in recurring violations of human rights.
 - Ensuring the independence and impartiality of the judiciary in law and practice, including through constitutional and legislative changes removing the executive's control over the judiciary, such as to the composition and the procedure for appointing members of the Council of Judges and Prosecutors (HSK) as noted by the Venice Commission in 2017.
 - Ending the use of arbitrary and abusive detention and prosecution of politicians, activists, journalists, human rights defenders and others on spurious charges or for exercising their right to freedom of expression.
 - Ending the use of blanket bans to impose arbitrary and disproportionate restrictions on the exercise of the right to peaceful assembly.
 - Reviewing all articles of the Turkish Penal Code, the Anti-Terror Law, the newly adopted law on the *Prevention of the Financing of the Proliferation of Weapons of Mass Destruction*, the recent amendments to the Internet Law, the Law on Meetings and Demonstrations and other laws that are used to restrict the rights to freedom of expression, association, and assembly, and the right to access to information, with a view to repealing or amending them to comply with international human rights standards.
 - Respecting the principle of non-refoulement. Ensuring that "voluntary return" procedures comply with international law and standards protecting against refoulement and guarantee free and informed consent of the potential returnee. Allowing UNHCR and other international bodies to monitor these procedures. Stopping the forced returns of asylum seekers to Syria and other countries where they may face risks of

serious human rights violations and ensuring that anyone forcibly returned is able to safely and legally re-enter Turkey.

5. **Ensuring that the human rights of refugees, asylum seekers and migrants are central to the negotiation and implementation of any formal or informal migration cooperation agreement with Turkey, including by:**

- Assuming responsibility for the protection of refugees and asylum seekers by committing to resettle a substantial number of people from Turkey.
- Ending returns of asylum seekers crossing from Turkey to the Greek islands under safe third country provisions.
- Renewing commitment to substantively increase support for refugees in Turkey including to address further displacement from Idlib. Any funding in this field should be equipped with the necessary safeguards to ensure that no EU funding benefits government bodies or institutions involved in or contributing to human rights violations.

The grave deterioration of the human rights situation in Turkey since 2016 has shown no sign of respite. In light of these developments, the strongest message the European Union can offer to the many people in Turkey who continue to courageously call for respect for and protection of human rights is clearly and vocally to put these issues at the top of its agenda with the government of Turkey.

We remain at your disposal should you require any further information.

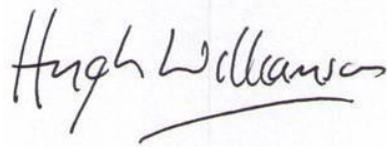
Yours sincerely,



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