

**HRDfactsheet: 2021/1**

# **POLITICAL PERSECUTION AGAINST THE GÜLEN MOVEMENT**

**Arbitrary Mass Detentions In Turkey:  
An Instrument As A Crime Against Humanity**

March 2021

# POLITICAL PERSECUTION AGAINST THE GÜLEN MOVEMENT

## Arbitrary mass detentions in Turkey: An instrument as a crime against humanity

Since 2014, the Turkish state apparatus is willingly targeting the Gülen movement and its sympathizers. A notorious tool used by the Turkish security agencies, authorities and the judiciary are the daily waves of arbitrary mass arrests and detentions of citizens allegedly having links to the Gülen movement.

In total, more than 5,000 mass arrests operations<sup>1</sup> have been carried out since 2014 and the number of jailed persons exceeds 123,000. On average, at least 3 mass-arrests operations with up to 70 detentions are executed on a daily base.

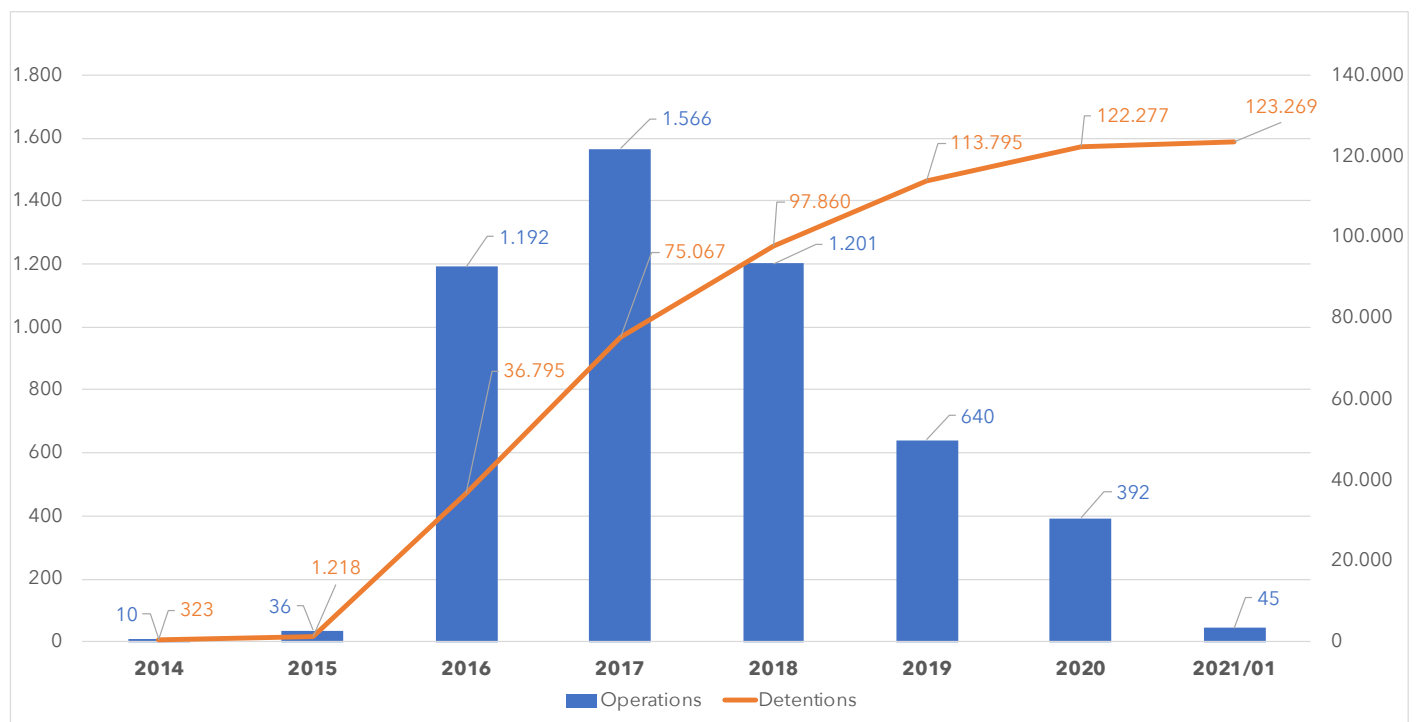


Fig. 1: Yearly mass arrest operations carried out and number of detentions

In addition to these waves of mass-arrests, individual arrests of people with alleged links to the Gülen movement have also become commonplace.

During the budget debate in the Turkish Parliament<sup>2</sup>, Interior Minister Soylu revealed that a total of 292,000 Gülen movement sympathizers had been arrested by November 2020.

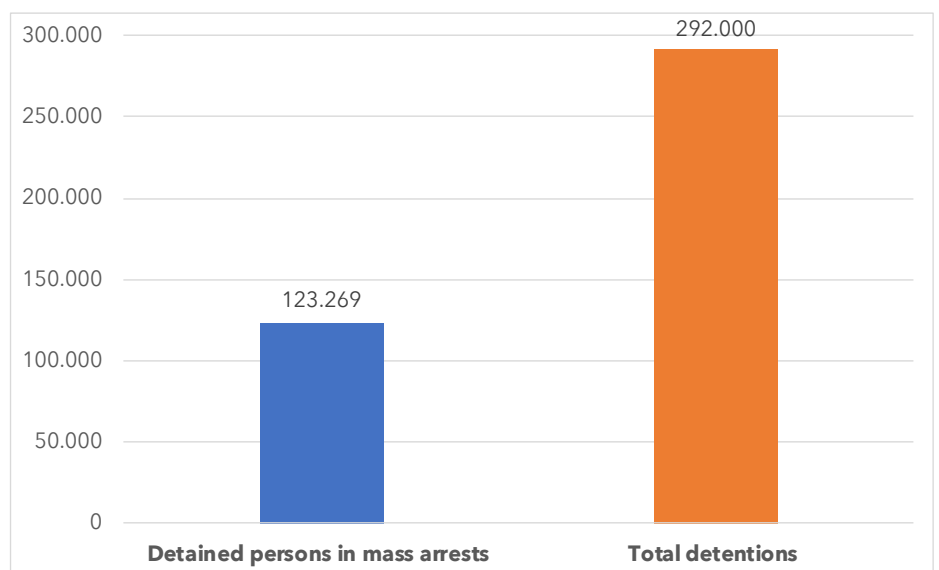


Fig. 2: Persons detained in total with alleged links to the Gülen Movement

Although the number of mass-arrests/detentions has fallen relatively in the last two years, they have been carried out up to date and are on the rise by comparison with the detainees.

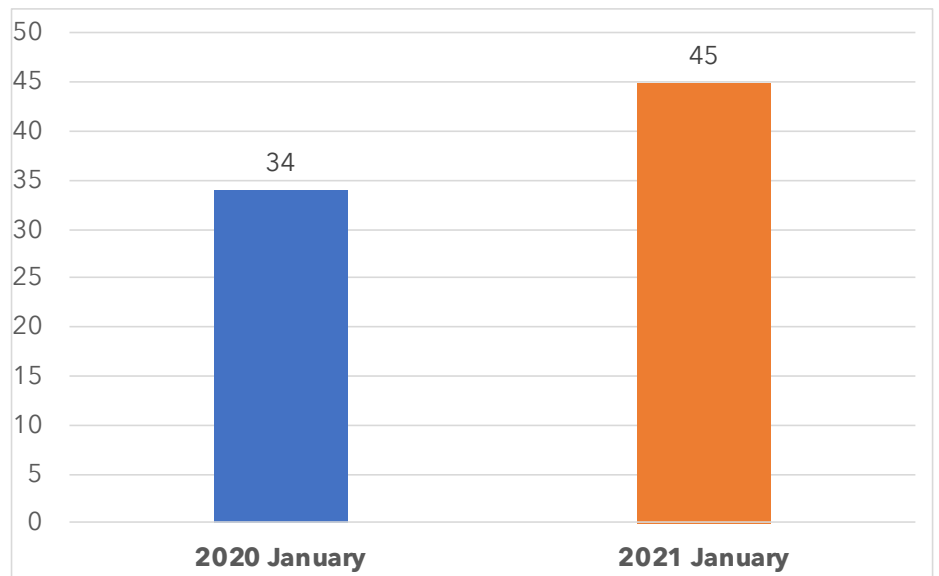
In January 2020, 588 people were arrested in 34 operations. Comparing to 45 operations carried out January 2021 with a total of 992 people were detained.

These arbitrary waves of arrests are also targeting other opposition groups. For example, a total of 718 people with connections to the left-Kurdish HDP were arrested on 15 February 2021 alone<sup>3</sup>.

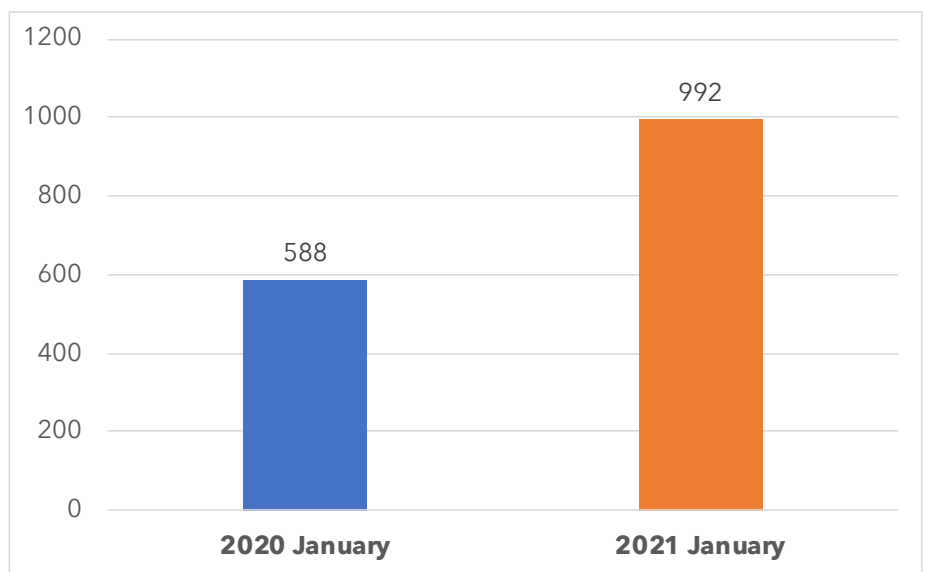
### Under what pretext are these people arrested?

The Turkish anti-terrorism law contains a very broad definition of "terror" and therefore leaves a vast room for interpretation. This allows political opponents and journalists easily to be imprisoned with terror charge. This worldwide application of the legislation is also highlighted in Dunja Mijatovic's -the Commissioner for Human Rights of the Council of Europe, report.<sup>4</sup>

According to a survey<sup>5</sup>, there is a steady increase in the use of anti-terrorism law on individuals by public prosecutors. So, while 8,416 charges were filed under Article 314 of the Turkish Penal Code (TPC) in 2013, this number became 146,731 in 2017, 115,753 in 2018, and 54,464 in 2019.



Tab.3: Mass arrest operations carried out monthly



Tab.3-1: Monthly detained persons

These statistics highlight that Turkish public prosecutors have filed more than 392,000 charges under Article 314 of the Turkish Penal Code within the last seven years.

It does not matter whether one has actually pursued terrorist activities: the writing and sharing of ideas that are close to an alleged terrorist organization are also considered an act of terrorism. The Turkish judiciary uses paradoxical sentences such as "non-violent supporters or sympathizers of a terrorist organization". This means that they were not violent, did not pursue any terrorist activity, but have their sympathy for an alleged (!) terrorist organisation(?).

## Do arbitrarily mass arrests constitute a crime against humanity?

According to the Rome Statute of the International Criminal Court Article 7<sup>6</sup> (Crimes against humanity) any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

....

(e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;

....

(h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;

....

constitutes a crime against humanity.

## Conclusion and Recommendations:

Turkey is one of the founding members of the United Nations and became the 13th member of the Council of Europe. Eager to link itself to western democracies and alliances, especially in the post-WWII atmosphere, Turkey became a signatory to almost all regional and international fundamental conventions on human rights. Especially the constitutional amendment in 2004 (concerning Article 90), guaranteeing that international agreements on fundamental rights and freedoms shall prevail in case of conflict with national legislation regarding the same matter, could be evaluated as a milestone in Turkey's struggle to uphold human rights and its ambition in her democratization progress.

However, being a signatory to fundamental human rights conventions is one thing, implementing, protecting and promoting freedoms and rights enshrined in these conventions or at least showing the uninterrupted will to do so is another thing.

For instance, between 1959 and 2020 the ECtHR has found Turkey to violate the Human Rights Convention the most often. 3309 of 19379 judgments finding at least one violation were given against Turkey<sup>7</sup>. In addition to being the most condemned party country, Turkey does not comply with the judgments of the Court. As of 12/2020, another 647 verdicts of the ECtHR are still pending to be implemented by the relevant Turkish authorities<sup>8</sup>.

Widespread and systematically human rights abuses occurring in Turkey, currently targeting especially a specific social/religious group -the Gülen Movement and its members, as well as other ethnic or religious groups like the Kurdish minority or Alevis respectively, are a result of chronic and deep-rooted systemic problems and the lack of Turkey's willingness to fulfill its obligations preserved in regional or international human rights conventions.

The UN Working Group on Arbitrary Detention latest opinion<sup>9</sup> on Turkey, highlights that, ... in the past three years, the Working Group has noted a significant increase in the number of cases brought to it concerning arbitrary detention in Turkey. The Working Group expresses grave concern about the pattern that all these cases follow, and recalls that under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of fundamental rules of international law may constitute crimes against humanity...

We can argue that Turkey, as a strategic rational actor engages in cost-benefit calculations while deciding not to comply with its obligations and willingly violates regional and international norms.

#### Against this backdrop, we urge the Turkish Government to

- immediately end the systematic arbitrary arrest, prosecution and detention of political opponents and human rights defenders, drop the charges against those arbitrarily accused, and release those who are detained, unless credible evidence is presented in proceedings that comply with international fair trial standards,
- amend the laws regulating the use of force by law enforcement officers to comply with international legal standards,
- stipulate that arbitrary detention is among crimes under the Penal Code,
- comply with the opinions of the UN Human Rights Committee and the Working Group on Arbitrary Detention by releasing those arbitrarily detained, and prosecuting those responsible for arbitrary detentions,
- amend Article 314 of the Turkish Penal Code and Law no. 3713 to comply with the case-law of the ECHR,
- adopt necessary legislative and judicial reforms to prevent further violations concerning Article 5, 6, 7 and 10 of the ECHR.

#### Call on the UN WGAD to

- conduct a country visit to Turkey, given that a significant period has passed since its last visit to Turkey, in October 2006.

#### Urge the Secretary General of CoE to

- launch a special inquiry into why these judgments are not being implemented.

#### Call on the CoE - Committee of Ministers to

- be more vocal while overseeing the implementation and executions of the judgements of ECHR.

### Call on the CoE Member States to

- consider instituting an “infringement procedure” against Turkey to show their resolve against political persecution,
- consider asserting their right enshrined in Article 33 of ECHR to submit an inter-state case, as it was previously exercised after the 1980 coupe d’état by France, Norway, Netherlands, Denmark and Sweden.<sup>10</sup>

### Call on the European Union to

- consider sanctioning those who are responsible for gross human rights violations in Turkey under its newly adopted human rights sanction regime
- anchor the modernization of the Custom Union to concrete improvements in Turkey on democratic reforms in the fields of democracy, human rights and fundamental freedoms as well as the rule of law and towards a true, open space for civil society and pluralism.

### Urge International NGO`s to

- allocate more resources to documenting ongoing human rights violations and practices in Turkey,
- consider forging a justice initiative to hold perpetrators accountable under the universal jurisdiction framework,
- advocate before the European Union that perpetrators be sanctioned under the Union’s human rights sanction regime.

## Endnotes

- 1 <https://tr.solidaritywithothers.com/mass-detentions>
- 2 <https://www.sozcu.com.tr/2020/gundem/bakan-soylu-acikladi-feto-operasyonlarinda-96-bin-kisi-tutuklandi-6141845%20>
- 3 <https://www.sueddeutsche.de/politik/kurden-hunderte-festnahmen-1.5207190>
- 4 <https://rm.coe.int/report-on-the-visit-to-turkey-by-dunja-mijatovic-council-of-europe-com/168099823e>
- 5 <https://arrestedlawyers.org/2019/09/23/abuse-of-the-anti-terrorism-laws-by-turkey-is-steadily-increasing/>
- 6 <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf>
- 7 [https://www.echr.coe.int/Documents/Stats\\_violation\\_1959\\_2020\\_ENG.pdf](https://www.echr.coe.int/Documents/Stats_violation_1959_2020_ENG.pdf)
- 8 <https://rm.coe.int/1680709767>
- 9 [https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session89/A\\_HRC\\_WGAD\\_2020\\_66.pdf](https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session89/A_HRC_WGAD_2020_66.pdf) Par.67
- 10 <http://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=001-95690&filename=001-95690.pdf>



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