

Academic Freedom of Turkey after Post-July 15 State of Emergency

- **Executive summary**

Higher Education System of Turkey contains two types of structure: State Universities and Foundation Universities (called also Private Universities). There are, at present, 129 state Universities and 72 Foundation Universities in Turkey. This report explains situation of State Universities and Academia.

Erdogan Government declared the state of emergency for 3 months on July 20, 2016, with aim of an effective fight against Gulen movement and all oppositions as the result of their accusation of Gulen movement as the mastermind of July 15, 2016, military coup attempt. OHAL (State of Emergency) decision was based upon the 120th article of the constitution and Erdogan Government prolonged state of emergency 7 more times as 3 months each. The rights that are under the protection by the European Convention of Human Rights and International Covenant on Civil and Political Rights to which Turkey is counterparty were suspended with the declaration of State of Emergency. Almost in each state institutions and organizations totally new rebuilding has been carried out with these executive orders. Erdogan Government dismissed thousands of academics and judged hundreds of them. During this period Erdogan Government intervened in academics' works and protests of students. By demolishing academic freedom, self-censorship has been consolidated in the country. Academics have been trying to migrate to free countries either legally or illegally. Some found scholarships, some were granted asylum. Turkey continues watching the collapse of its bright future.

- **Introduction and Statutory Decrees and Dismissals**

Only three days after the declaration of a state of emergency on July 20th, 35 health institutions and organizations, 15 Foundation Universities, 1043 private education institutions and dormitories, 1229 foundations and associations, 19 syndicates and syndicate confederations were shut down through no.667 Statutory decree. All those institutions were allegedly affiliated with Gulen movement. At present, the number of educational institutions including NGOs which have been closed under claims of

connections with the Gulen movement has increased. In total, 3003 schools, dormitories, and universities have been shut down.¹

As seen in statements made by the Government of Erdogan, the main target was Gulen Movement, all the institutions connected with Gulen Movement, people working in public, and in other opposition groups. Dismissals of academicians from the public were started through lists which were prepared before 15 July by collaborating with intelligence unit and no. 672 statutory decree which was put into action in September 2016. At the first step, 2346 academicians were dismissed from 96 different universities. Rector of Gazi University which is the second university among on top universities dismissing academicians, pointed out in his explanation about dismissing academicians that criteria identified by the government are considered as valid in the approach toward Gulen Movement. Then, 1267 in 29 of October, 242 in 22 of November, 631 in 6 of January 2017, 330 in 7 of February in 2017 and 484 academicians in 29 of April 2017 were dismissed. A small number of Academicians (53 academicians) got back their duty through no. 677 and 688 of the statutory decree. Hereby, 5247 academicians from 117 state universities lost their own jobs through 6 statutory decrees. In addition, 2808 lecturers working in closed foundation / private universities (According to indicated numbers in the website of the council of higher education in Turkey (YÖK)) lost their own jobs. While thousands of academicians from public universities have been dismissed through statutory decrees mentioned above since the coup attempt in 2016, at least 378 of academicians who condemn security operations of Turkish government made in South East part of Turkey where majority of Kurdish people live, are the ones who sign declaration of academicians for peace (Academics for Peace) in January 2016. Including opponents of the government, human rights defenders, and more than 1128 academicians who signed the declaration of academicians for peace (Academics for Peace) in order to have -one of the basic rights of a human being- freedom of speech and expression are mainly targeted by the Government of Erdogan. Most of these academicians were dismissed from their own jobs and public services. Afterward, They are told by authorities of their universities that reason for their dismissing from their jobs was their signature for peace. It was impossible to determine the reasons behind dismissal of academicians through statutory decrees. In fact, there was not any concrete evidence about the crimes which academicians allegedly committed. Statutory decrees just referred to connections with the alleged terror organisation. Despite Gulen Movement is being accused as an armed terrorist organization and the one behind a coup attempt in 2016, there is not any

¹ Emergency Decree Laws1 of July, Turkey - September 2016 NOS. 667 – 674, European Commission for Democracy Through Law, Venice Commission, Opinion No. 865 / 2016, CDL-REF(2016)061, Strasbourg, 10 November 2016

evidence found as neither having an act of violence nor planning coup attempt by academicians who were dismissed, illustrating their alleged link with Gulen movement. The ones who are dismissed are not allowed to make an objection about their cases. The Council of Higher Education (YÖK) in Turkey announced that councils in Universities make corrections in case of any mistake about dismissal decisions, however, no council has been established in universities so far.

Teaching staff training program (OYP) had been applied in order to address the need of academicians for universities, which have been established among 2006-2009 by the higher Education Council. Guarantee of personnel cadres of 15.000 academicians / research assistant, who had been appointed in different universities through teaching staff training program in 2010 (ÖYP), were removed due to statutory decrees in September. However, it was claimed that the objective of teaching staff training program (ÖYP) is to train academicians being connected with the Gulen Movement, the discretion whether to dismiss academicians or not is left to the university administrations. Many universities decided to dismiss academicians. However, the most useful merit-based program, which used to train academician in current system was teaching staff training program (OYP). Academicians deny that they are not connected with Gulen movement, since TSTP doesn't contain written and oral exam. Therefore, there would not be any possibility to cheat. Founder of TSTP and former president of the council of higher education of Turkey, Yusuf Ziya Özcan, said that "we had designed a system to address the need of academicians in Turkey. However, we live through such bad days. Fortunately, we see good days." At least, 23427 academicians including the victim of TSTP got influenced adversely by the state of emergency. It is a question that how many of those academicians will be able to find or continue their work.²

• **Operations and Lack of Inspections in the Context of the State of Emergency**

A lot of academicians were sent to trial in a court because they have been accused of being terrorists. According to official data, 160.000 people were arrested in the period of state emergency after the botched coup attempt on 15 July 2016. 150.348 people were dismissed from public service without due process.³ More than 82.000 have been

² Assylum Research Consultancy, Turkey Country Report, 25 January 2017.

³ This number(1) contains academicians, lecturers, state officials and bureaucrats who were dismissed by no. 670/71, no. 669/71 and no. 669 statutory decrees which were released on 25 and 31st of July 2016. (Statutory Decrees & their dates: No. 672/673/674 & 1 August 2016- No.677/678 & 29 October 2016- No. 677/678 & 22 November 2016- No. 680/681 & 6 January 2017- No.686/687 & 29.04.2017 and 29.07.2017- No.682/683/684/685 & 23 January 2017- No.682/683/684/685 & 2017- No.6392 & 14 July 2017- No.6393/694 & 25 August 2017- No.701& 8 July 2018; and (2) No.672/673/674 & 1 October 2016- No. 675/678 & 29 October 2016- and No.677/678 +No.675/676 refer the academicians who were dismissed. Military Personnels (17,844 military officer and 16,409 military students) were dismissed by No. 686/687/679/680/681/693/694/701 Statutory decrees which were released on 22.03.2017, 29.06.2017, 27.06.2017, 7.07.2017, 8. 07.2017 (3) For detailed information: <https://turkeypurge.com/purge-in-numbers-2> ve turkeypurge.com/academics-sacked-from-positions.

arrested. The investigation was started by accusing 155.000 people of having a connection with an armed terrorist organization. At present number of people who have been accused of being member of the Gulen Movement reached more than 500.000.⁴ Furthermore, those people are labeled by the government ,therefore they will not be able to work in a public or in the private sector related to security services. ⁶

265 academics who have signed for peace declaration are being judged and hundreds are investigated to give the penalty as making propaganda for the terror organization. Academicians who signed for peace declaration are given the same bill of indictment with 17 pages and accusations. Most of them, at present, were sentenced for the accusation of making propaganda of terror in trials. Accordingly, joining any protests or march, sharing or publishing any academic article or essay about the Government of Erdogan might be counted as crime and therefore, people might be sentenced for jail.

When the case files of academicians who are judged after 15 July (coup attempt) are investigated, it has been seen that no any concrete evidence can be found. When their case files have been investigated, only things found are legal bank accounts, registration of private school for their children, trips and researches related to their academic activities. This case is seriously significant in order to see how jurisdiction of the Erdogan Government has become unfunctional. In addition to criminal investigations, there are a lot of disciplinary proceedings going on against academicians as well. The Government of Erdogan through jurisdiction takes advantage of the judiciary which is not independent and a law of fighting with terrorism which is enlarged in time of AKP (Justice and Development Party) in order to punish academy which is the stronghold for freedom of expression and other nonviolence activities. As it has been seen in researches of human rights watch, investigations related to terror crimes and other cases in Turkey are made without concrete evidence by breaking laws and constitution.⁵

After, the constitutional court of the Republic of Turkey stated that legal decisions related to a state of emergency and applying to cancel it are not possible.⁶ Then due to reactions from international arena about inconvenient ways that are applied to make mass dismissals, a temporary committee was established to evaluate objections against the decisions given during state emergency period, by the government in January 2017. The commission started working in January 2017. People and academicians who have

⁴ Office of the United Nations High Commissioner for Human Rights, Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East, January – December 2017.

⁵ <https://www.hrw.org/news/2016/07/26/turkey-rights-protections-missing-emergency-decree>

⁶ Acar, A. (2017). On Yaniv Roznai's Theory of Substantive Unamendability-Y. Roznai, *Unconstitutional Constitutional Amendments: The Limits of Amendment Powers*,(Oxford University Press 2017), 368 p. *European Constitutional Law Review*, 13(4), 836-848.

been dismissed from their job and universities applied to this commission in order to get back their job. Number of people who have applied is 108.000 in the middle of 2017. However, the commission did make a decision about 12.000 of them. Commission decided to give their jobs back for only 310 of them. It is not certain how many of applications whether accepted or not belong to academicians. When the Government of Erdogan said that commission ended victimization, Human rights organizations and opposition parties responded it by expressing that commission doesn't work fairly.⁷ Despite positive decisions in favour of academicians who have been dismissed because of statutory decrees in state emergency period, they have not been reinstated in their previous job. According to a statutory decree made in 2017, it is aimed to send those academicians to universities in other cities except Istanbul, Ankara, and Izmir, which were established later than 2016. It means that those academicians are not allowed to work in well known and prestigious universities. Academicians are not let to do their own job because they are blacklisted and prohibited to go abroad.

- **Violations of the rights to freedoms and Emigration to Safe Countries**

Turkey has been experiencing self-censorship due to the authoritarian policies of the Erdogan Government. Academicians are being intervened to ensure that they do not research on critical issues or not participate in conferences by university administrations. For instance, the application for a six-month research project on the Kurdish issue is suspended, considering that the research subject is very sensitive. Academics who want to go abroad to attend the conference on the State of Emergency in Turkey and international human rights have been blocked repeatedly. University administration interferes with research topics. Academic staff is warned not to annoy the government and to organize conferences on sensitive topics. Senior academics refuse to advise the student theses on sensitive topics such as the Kurdish issue in order not to encounter the unlawful face of the regime. The quality of the academia in Turkey is dramatically reduced, critical thinking is silenced, many professors and lecturers cannot freely say what they think.⁸ However, academic freedom is under the protection of international human rights law. Academic freedom consists of the rights of individuals in the university, freedom of thought and expression, as well as the autonomy of institutions. The autonomy of the universities requires the state intervention on universities' educational mission.⁹ International civil and political rights agreement

⁷ Human Rights Joint Platform Report, 21 July 2016-20 March 2018 State of Emergency of Turkey Situation Report; see also <https://www.politurco.com/two-years-on-no-remedy-for-turkeys-purge-victims.html>

⁸ Özkirimli, U. (2017). How to liquidate a people? academic freedom in turkey and beyond. *Globalizations*, 14(6), 851-856.

⁹ Ozgen N. and Badem C. (2018). 7,000 papers gone missing: the short-term effects of the large-scale purges carried out by the AKP government on the research output of Turkey-based academics, *Freedom for Academic Annual Report 2017*.

which, Turkey is a part of it, guarantees the freedom of expression of individuals. Academic freedom is protected as a freedom of expression by the European Convention on Human Rights, which Turkey also supports.¹⁰

After July 15th, 2016, there was a loss of academic independence and an increasingly hostile atmosphere for academics due to several investigations and arrests, all of which were targeted against Gulen linked academicians and signatories of the 'academics for peace' agreement. As a result, many academics fled to Europe and other countries for academic freedoms.

Not only are the academics affected, but their families are dismissed from their employment and are prohibited from getting employed in the private or public sectors. Furthermore, the passports of about 200,000 people who are suspected of terrorist affiliations are barred from overseas travel and the majority of these are people who are accused of being involved with the Gulen Movement. Following their dismissal, they are forced to surrender their passports, or they are stopped at ports of entry and their passports confiscated.¹¹ Under such conditions, it is impossible to travel abroad and find legal employment, therefore, an asylum application is the only means for tens of thousands of academics. This is reflected by press reports in Europe that for the past 2 years, thousands of Turkish nationals have applied for asylum, with Germany, England, France, the Netherlands and Norway as the preferred countries.

The number of Turkish citizens who applied for asylum in Germany was 5742 in 2016, the year of the coup attempt. This number increased to 8483 in 2017 and the trend of Turkish asylum seekers is on the increase. In Germany, 3248 Turkish citizens applied for asylum between January and August of 2018¹² and Germany is also an entry port into other European countries. Indeed it is difficult to recite exact figures, but there are a significant number of people applying for asylum in Canada, many of whom are members of the Gulen movement. According to the State of Canada, the number of asylum applicants from Turkey exceeds those from other countries.¹³

According to data from the Immigration and Naturalization Service of Netherland (IND), 1020 academics and highly educated people from Turkey in the first 11 months of 2018 immigrated to the Netherlands as brain drain. According to research done by Dutch Television (NOS) program the 'Nieuwsu's'(News Time), there is a significant increase in

¹⁰ The European Court of Human Rights (2010). In the case of *Sorguç v. Turkey*, application no. 17089/03.

¹¹ Office of the United Nations High Commissioner for Human Rights, Report on the impact of the state of emergency on human rights in Turkey, including an update on the South-East, January – December 2017.

¹² <https://turkeypurge.com/report-least-1400-turkish-nationals-claimed-asylum-germany-jan-feb-alone>

¹³ Refugee Protection Division of Canada Annual Report, Refugee Protection Claim by Country of Alleged Persecution, 2018.

the number of highly educated people who immigrated to the Netherland from Turkey. Also, according to BBC Turkish, numerous academicians and other highly educated people complain about lack of freedom in Turkey. According to data published by Naturalization Service of Netherland (IND), while in 2016, 540 people immigrated from Turkey to the Netherlands, the number went on to 780 in 2017. 1020 highly educated people applied for a job in Netherland during 11 months of 2018. The official number of immigrants going to abroad from Turkey increased from 69,326 (in 2016) to 253,640 (2018). The IND clarified that 235 people applied for asylum in 2016 and that figure increased to 481 in 2017.¹⁴

Rapporteur of European Parliament, Kati Piri, said that "we have already written a lot about the situation of Turkish academics and the European Commission implored Turkey not to punish academicians, due to a coup attempt. "It is emphasized that pressure on academicians increased after "academics for peace" but before the coup attempt of 15 July. Also, it has been emphasized that President Tayyip Erdogan labelled academicians as "terrorists" and called for an investigation against them. It has been specified that about 100-150 academicians who are signatories to "academics for peace" are in Germany.

• **Conclusions and recommendations**

The Erdogan Government has realized mass firings of academics without investigation, using doubtful allegations of links to terrorism or the 15th July 2016 coup plot. There are also academicians under investigation or trial on trumped-up terrorism charges. The authorities are interfering with student protests on campus and prosecuting student activists. And officials are interfering with academic research on controversial topics. Together these actions are creating a climate of fear and self-censorship on campus, and breaching Turkey's obligations under human rights law to respect and protect academic freedom and freedom of expression.

As a result of huge pressure on the academicians in Turkey;

- Academicians in the universities are scared that Turkey will be an autocracy and they cannot explain their opinions because of dismissal and fear of arrest. The Erdogan

¹⁴ The Immigration and Naturalization Service Dutch Ministry of Security and Justice, (2018), The IND in 2018 Annual Report.

Government has to conduct necessary reforms to ensure the independence of the Universities.

- Since fired academicians (according to do the State of Emergency) are labelled as “terrorists,” it impossible to find any work in Turkey. In addition, they have been banned to travel abroad since they are “blacklisted”. Erdogan Government has to rescind passport cancellation orders and deprivation of citizenship procedures and enable full freedom of movement. The Government has to ensure that reverse the ban imposed on dismissed civil servants from rejoining the public service; ensure that all individuals who were dismissed from civil service and the private sector, or lost their jobs due to the closure of private entities, have the right to have their cases reviewed by an independent judicial and administrative body in accordance with international standards; and to compensation for the material and moral damage caused by their arbitrary dismissal.

- in Turkey, more than a thousand academicians have been taken into custody and imprisoned without any accusation. The government has to ensure that any restriction on the right to freedom of expression during the state of emergency is strictly proportionate to the exigency of the situation; immediately release academics who are detained pursuant to counter-terrorism legislation and emergency decrees, and ensure an independent individualized review of their cases;

- Not only fired academicians but also their family members are on the under attack in Turkey. Children are under pressure in the schools, their wives/husband cannot find a job even in private companies. These people are condemned to hunger. The government has to end the practice of detaining pregnant and postpartum women and consider using non-custodial measures for sentenced pregnant women and those with young children.

The future of academic freedom in Turkey is uncertain. As academic freedom depends on a democratic environment and the future of Turkish academicians will be connected with political developments of Turkey, which is getting worse. According to Marco

Nilsson, one thing is clear: “The violation of academic freedom in Turkey deserves serious attention from the international scholarly community”.