



Turkey's Compliance with the Convention on the Rights of Persons with Disabilities

Alternative Report about Physical Accessibility, Arbitrary Detention and Coerced Confessions, Detention Conditions, and Access to Employment for Persons with Disabilities

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

21st Session of the Committee on the Rights of Persons with Disabilities

11 March–5 April 2019

Submitted February 2019

The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. For three decades, The Advocates has represented asylum-seekers in the Upper Midwest of the United States, including asylum-seekers from Turkey.

EXECUTIVE SUMMARY

1. This report describes several problems concerning Turkey's obligations under the Convention on the Rights of Persons with Disabilities and offers suggested recommendations to improve the State Party's compliance with the Convention. People with disabilities in Turkey face physical barriers to accessing public facilities, including public transportation. Moreover, since the attempted coup in July 2016, people with disabilities also face discrimination based on actual or perceived political opinion. That discrimination includes arbitrary arrest, ill-treatment to coerce confessions, dismissal from public sector employment, and denial of access to social support.
2. This report, while not comprehensive, contains information gathered from primary sources on the ground in Turkey and from secondary source research.

Turkey fails to uphold its obligations under the Convention on the Rights of Persons with Disabilities

3. People with disabilities in Turkey face many challenges, including physical barriers to access public facilities, torture and other forms of ill-treatment, obstacles to remaining in the labor market, and barriers to obtaining social support. The Turkish Government has exacerbated these problems since the failed coup in 2016.

I. The Turkish Government's efforts to implement Act No. 6353 and expand physical accessibility have fallen short, particularly with respect to government facilities and accessibility for people with disabilities who use service animals (Article 9: Accessibility, List of Issues Paragraph 10(a)).

4. People with disabilities face physical barriers to accessing public facilities, including public transportation, in part because the Turkish Government has failed to establish laws governing service animals. Existing regulations must be fully implemented without delay, and the government must promptly establish new regulations authorizing the use of service animals in public places and prohibiting denial of access on account of a person's use of a service animal.
5. The Committee requested information about "[t]he implementation of Act No. 6353 regarding accessibility and the additional steps taken and results achieved, as well as measures to address the remaining gaps in the provision of access to the physical environment, transport, information, and communications."¹
6. The State Party's response asserts that the Turkish Government has taken practical and legislative measures to increase accessibility.²
7. These policies are not implemented effectively.³ The Turkish Government has twice extended the deadline to implement accessibility provisions; first in 2012 and then in

¹ Committee on the Rights of Persons with Disabilities, *List of Issues in Relation to the Initial Report of Turkey*, (Nov. 9, 2018), U.N. Doc. CRPD/C/TUR/Q/1, ¶ 10.

² Committee on the Rights of Persons with Disabilities, *List of Issues in Relation to the Initial Report of Turkey – Replies of Turkey to the List of Issues*, (Jan. 14, 2019), U.N. Doc. CRPD/C/TUR/Q/1/Add.1, ¶ 21.

³ U. S. Department of State, *Country Reports on Human Rights Practices for 2017: Turkey*, (2017). Also available online at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2017&dldid=277227> (last visited Feb. 9, 2019).

2015.⁴ The European Commission reports that many public services facilities and government buildings are not accessible.⁵ There is no regulation governing service animals, and although opposition party deputy Veli Agbaba requested a legislative proposal on service dogs, the Grand National Assembly of Turkey (TBMM) rejected the proposal.⁶ The deputy charged that his counselor, who has a visual disability and uses a service animal, was not allowed to enter the TBMM.⁷ Moreover, gaps in the provision of access to physical environment cause difficulties for people with visual disabilities who use service dogs—these people are denied to access public transportation.⁸ The process of drafting a bill governing service animals has been stalled for two years.⁹

8. **Suggested recommendations** relating to accessibility:

- Fully implement, without delay, the laws governing accessibility, including Act No. 6353, and continue to promulgate awareness-raising campaigns regarding these laws.
- Immediately issue regulations facilitating access for people with disabilities who use service animals and prohibiting all entities from barring access to any person on account of their use of a service animal to accommodate a disability.

9. **Suggested questions** for the Government of Turkey relating to accessibility:

- What measures has the State Party taken to ensure that people with disabilities have physical access to public facilities, public transportation, and government buildings, particularly in rural areas?
- What steps will the State Party take to ensure that no individual is denied access to public transportation or public buildings on account of their use of a service animal?

II. People with disabilities who criticize the Turkish Government are subject to arbitrary detention as well as ill-treatment to extract false confessions (Article 10: Right to life, List of Issues Paragraph 11).

10. Since the failed coup in July 2016, people with disabilities who criticize the government have experienced arbitrary detention and ill-treatment in detention. The Turkish

⁴ Committee on the Rights of Persons with Disabilities, *Initial Report Submitted by Turkey Under 35 of the Convention, Due in 2011*, (Oct. 4, 2017), U.N. Doc. CRPD/C/TUR/1, ¶ 69.

⁵ The European Commission, *The European Economic and Social Committee and the Committee of the Regions Reports on Turkey*, (April 17, 2018), 39 . Also available online at https://www.ab.gov.tr/siteimages/birimler/CEB/commission_country_reports/2018/20180417-turkey-report.pdf (last visited Feb. 6, 2019).

⁶ Yurdagul Simsek, *CHP's Ağbaba: My Visually Impaired Counselor Cannot Enter the TBMM With His Dog*, Sputniknews, June 14, 2017, <https://tr.sputniknews.com/columnists/201706141028877932-rehber-kopekler-icin-yasa-chpli-veli-agbaba/> (last visited Feb. 7, 2019).

⁷ Ibid.

⁸ Begum Feyzioglu, *The Story of the Starfish: Attorney Mustafa Keskin with Guide Dog Tabs!*, Sonsoz, Jan. 15, 2019, <https://sonsoz.com.tr/denizyildizi-hikayesi-avukat-mustafa-keskin-ile-rehber-kopek-tabs/> (last visited Feb. 7, 2019).

⁹ Electronic Communication, (Feb. 5, 2019), on file with The Advocates for Human Rights.

Government must take concrete measures to prevent future human rights violations and must hold perpetrators accountable.

11. The Committee requested “information on the measures taken to allow persons with disabilities to enjoy their right to life on an equal basis with others, including measures to protect them from arbitrary detention, cruel, inhuman or degrading treatment or torture to extract false confessions.”
12. The State Party’s response addresses the provision of guesthouses to women with disabilities who are victims of violence but omits any response to the Committee’s request for information about arbitrary detention, torture, and coerced confessions.¹⁰
13. People with disabilities who criticize the government are subject to arbitrary detention, torture, and cruel, inhuman or degrading treatment, including for the purpose of extracting false confessions. As discussed in greater detail in paragraph 28 below, following the failed coup attempt in July 2016, many people were dismissed from public institutions including more than one thousand persons with disabilities. Subsequently, many people were detained, including persons with disabilities. Human rights organizations report that many people have been subjected to torture and ill-treatment while in custody at police stations. According to a report from the Justice for Victims Association, some persons with disabilities who were held in custody were forced to admit their guilt and confess to crimes in order to secure their release. For example, one detained person with a disability stated, “I was asked whether I want to be a confessor or responsible for all the consequences.”¹¹
14. People with disabilities are subject to arbitrary detention. Veli Sacilik is a sociologist and a person with a physical disability (he has only one arm) and he was dismissed from his position under an emergency decree. He was subjected to ill-treatment during one demonstration in which he was requesting that he be allowed to return to his job. During that protest, police intervened harshly and shot him with plastic bullets at very close range. He is under investigation for participating in the demonstration and his case is still pending. Over the course of his protests, he was taken into custody several times. Cuneyt Arat, a journalist with a visual disability, was charged with and prosecuted for insulting President Erdogan, and he was subsequently sentenced and imprisoned for alleged links to the Gulen movement.¹²
15. **Suggested recommendations** relating to arbitrary detention and coerced confessions:
 - Ensure that all persons with disabilities enjoy the right to freedom of peaceful assembly and do not face arrest or detention on account of political opinion.

¹⁰ Committee on the Rights of Persons with Disabilities, *List of Issues in Relation to the Initial Report of Turkey – Replies of Turkey to the List of Issues*, (Jan. 14, 2019), U.N. Doc. CRPD/C/TUR/Q/1/Add.1, ¶ 27.

¹¹ Electronic Communication from Justice for Victim Association, (Feb. 5, 2019), on file with The Advocates for Human Rights.

¹² Media Governance and Industries Research Lab, *Assaults on Journalists in Europe: An Investigation of the Period 2000-2016*, by Katharine Sarikakis, Izabela Korbiel, Anna Gerhardus, et. al. (Vienna Media Governance and Media Industries Lab, 2017), 21. Also available online at https://mediagovernance.univie.ac.at/fileadmin/user_upload/p_mediagovernance/PDF/EuropeAssaults.pdf; *Visually Impaired Journalist Cüneyt Arat Sent to Prison Over Alleged Gülen Links*, Stockholm Center for Freedom, July 10, 2017, <https://stockholmcf.org/visually-impaired-journalist-cuneyt-arat-sent-to-prison-over-alleged-gulen-links/> (last visited Feb. 6, 2019).

- Immediately cease the use of rubber bullets against protesters.
- Ensure that all persons with disabilities have access to an attorney at the time of any custodial interrogation.

16. **Suggested questions** for the Government of Turkey relating to arbitrary detention and coerced confessions:

- Would you please provide disaggregated data regarding the number of persons with disabilities who have been taken into custody, charged with offenses, and the nature of the offenses with which they were charged?
- What provisions exist to ensure that coerced confessions are not used to obtain criminal convictions?

III. Prison officials engage in ill-treatment with impunity, and access to accommodations in prison is limited (Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment, List of issues paragraph 16(b), (c)).

17. People with disabilities in detention encounter ill-treatment and prison officials do not accommodate some disabilities. The Turkish Government should establish an independent reporting system to ensure that all detainees can report ill-treatment without fear of reprisals, and should ensure that each detention facilities provides reasonable accommodations to all detainees with disabilities.

18. The Committee requested information about “[m]easures to ensure that acts of ill-treatment or torture are investigated, perpetrators are prosecuted, and victims receive adequate compensation, reparation and rehabilitation,” as well as “[m]easures to improve the situation of persons with disabilities and their levels of access in prisons, other penal institutions and detention houses.”

19. The State Party observes that a 2015 Ministry of Justice circular “proposes” certain measures to “raise public awareness” about torture, but the response does not provide evidence of any concrete measures to investigate allegations of torture, hold offenders accountable, or provide remedies to victims.¹³ With respect to accessibility in detention facilities, the State Party asserts that people with disabilities “can evaluate the services they receive” and that the KDK in 2018 “initiated studies . . . to identify the problems in the penal system, including accessibility related problems.”¹⁴

20. In detention facilities, torture and ill-treatment of people with disabilities persist, and victims are afraid to report their treatment. The administration of the high security Edirne F-type prison subjected Arif Pelit, a 57-year-old man who is categorized as 84% disabled with a physical disability in one leg and who also has chronic obstructive pulmonary disease, to seven terms of solitary confinement as punishment. (Pelit had been convicted for possession of cigarette lighters, which officials argued could be used to make bombs.) Pelit and several other prisoners were placed in solitary confinement for allegedly

¹³ Committee on the Rights of Persons with Disabilities, *List of Issues in Relation to the Initial Report of Turkey – Replies of Turkey to the List of Issues*, (Jan. 14, 2019), U.N. Doc. CRPD/C/TUR/Q/1/Add.1, ¶ 35.

¹⁴ *Id.*, ¶ 36.

participating in a protest regarding the violation of prisoners' rights, but Pelit had been ill at the time of the protests and had not participated. A judge who hears complaints brought by prisoners ("*infaz hakimligi*") concluded that the prisoners had been wrongfully punished, but an appellate court struck down the ruling and sided with prison officials and upheld the punishment. The prison also increased Pelit's sentence by two years as a further punishment for his alleged participation in the protest.¹⁵

21. The Turkish Government does not take effective action against perpetrators of torture. The U.S. State Department notes that "the government's changes to due process implemented in response to the July [2016] coup attempt created an environment conducive to torture," and that "very few of those who reported torture had made any official complaint due to fear of reprisals or mistrust of the institutions meant to prevent torture."¹⁶

22. Moreover, persons with disabilities in detention do not have adequate access to accommodations. Imprisoned journalist Cuneyt Arat sent a letter stating, "Since I was not given books written in braille or a voice watch, I have difficulty living in the ward."¹⁷

23. **Suggested recommendations** relating to detention conditions:

- Ensure that prison officials who engage in torture or cruel, inhuman, or degrading treatment or punishment are held accountable.
- Establish an independent reporting system through which victims of torture and ill-treatment in detention have access to remedies without danger of reprisal.
- Ensure that each detention facility conducts an accommodation assessment of each detained person with a disability and provides all reasonable accommodations requested by the detained person.
- Limit the use of solitary confinement to the conditions outlined in Rules 43–45 of the Nelson Mandela Rules, with particular attention to Rule 45(2) concerning prisoners with disabilities.

24. **Suggested questions** for the Government of Turkey relating to detention conditions:

- Would you please share data regarding the number and nature of torture and ill-treatment claims raised by persons in detention and the steps taken to investigate each claim?
- Could you please respond to allegations that journalist Cuneyt Arat has been denied access to books written in braille and a voice watch while in detention?

¹⁵ Ugur Sahin, *84 Percent Impaired Prisoner with Disability Not Released*, Birgun, May 18, 2017, <https://www.birgun.net/haber-detay/yuzde-84-engelli-olan-tutukluya-tahliye-yok-160079.html> (last visited Feb. 8, 2019).

¹⁶ U.S. Department of State, *Country Reports on Human Rights Practices for 2016: Turkey*, (2016). Also available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265482>.

¹⁷ *Visually Impaired Journalist's Letter Shows He Can Barely Survive in Prison*, Turkish Minute, Nov. 1, 2017, <https://www.turkishminute.com/2017/11/01/visually-impaired-journalists-letter-shows-he-can-barely-survive-in-prison/> (last visited Feb. 8, 2019).

- Could you please respond to allegations that Arif Pelit was subjected to seven terms of solitary confinement as well as an increased prison sentence for allegedly participating in protests against ill-treatment of prisoners?

IV. The Turkish Government impedes efforts of former public sector workers with disabilities to find employment (Article 27: Work and Employment, List of issues paragraph 31).

25. Subsequent to the attempted coup in July 2016, the government terminated more than 1,000 persons with disabilities from public sector employment and banned them from being re-hired in the public sector. Wrongfully terminated employees have ineffective remedies. The Turkish Government should immediately repeal the prohibition against the re-hiring of public sector employees who were terminated by decree after the 2016 attempted coup and should prioritize re-hiring of persons with disabilities who were terminated by decree.
26. The Committee requested information about government measures to facilitate the participation of people with disabilities on the open labor market and to combat negative stereotypes of persons with disabilities at work.
27. The State Party describes a scheme for promoting employment of persons with disabilities in the private sector.¹⁸
28. Persons with disabilities struggle to find employment. After the failed coup attempt in July 2016, the government dismissed more than 130,000 public-sector workers by decree. According to Confederation of Public Employees Trade Union (KESK), this figure includes more than 1,000 persons with disabilities. Dismissed persons are banned from further employment at public institutions and they therefore have difficulties finding employment. One person stated, “I am not hired because I am an orthopedically disabled and a dismissed person by decree.”¹⁹
29. There is no effective protection for persons dismissed by decree. The Turkish Government established a State of Emergency Inquiry Commission to reconsider the decisions taken by emergency decree. The Commission is not completely independent, however, and it does not make decisions in a timely manner. One person with a disability who applied to the Commission explained that he has been waiting for a decision since August 2017.²⁰
30. **Suggested recommendations** relating to employment:
 - Repeal the provision that prohibits re-hiring of public sector workers who were terminated by decree after the July 2016 attempted coup and prioritize re-hiring of persons with disabilities who were affected by the decree.

¹⁸ Committee on the Rights of Persons with Disabilities, *List of Issues in Relation to the Initial Report of Turkey – Replies of Turkey to the List of Issues*, (Jan. 14, 2019), U.N. Doc. CRPD/C/TUR/Q/1/Add.1, ¶ 73.

¹⁹ Electronic Communication from Justice for Victim Association, (Feb. 5, 2019), on file with The Advocates for Human Rights.

²⁰ *Ibid.*

- Establish an independent and effective institution to provide timely resolution of claims brought by people with disabilities who allege wrongful termination.
- Strengthen the independence and capacity of the State of Emergency Inquiry Commission so it can adjudicate applications in a timely and fair manner.
- Cease unlawful dismissals and reinstate dismissed persons with disabilities.

31. **Suggested question** for the Government of Turkey relating to employment:

- Would you please share data disaggregated by gender and occupation related to how many persons with disabilities were dismissed by decree since the July 2016 attempted coup?

V. **Persons with disabilities face discrimination based on political opinion when they attempt to access social support** (Article 28: Adequate Standard of Living and Social Protection, List of issues paragraph 32(c)).

32. Decrees issued after the July 2016 attempted coup have had an adverse effect on the ability of persons with disabilities to access social support benefits. The Turkish Government should prohibit agencies that are responsible for administering social support programs from engaging in discrimination based on actual or imputed political opinion and should repeal the provisions of all decrees that authorize or facilitate such discrimination.

33. The Committee requested information concerning “[m]easures to ensure equal access to all forms of social support by persons with disabilities, irrespective of their impairment, level of support required, level of income, sex, gender, age, social background, ethnic or national origin, or their migrant, asylum-seeking or refugee status.”²¹

34. The State Party’s response asserts that there is no discrimination for Turkish applicants on the basis of gender, age, or ethnic or social origin.²²

35. According to a study by the Justice for Victims Association, dismissed persons with disabilities are denied some forms of social assistance and benefits. A dismissed person with disability states, “I applied for green card because there is no income and asked for care money for my daughter, however, they were denied. I am 68%, my daughter is 64% disabled. We were left for death and hunger.”²³ KESK notes, “According to study results, 78% of total dismissed persons with disabilities have ‘Child Care Obligation.’ In this respect, hundreds of thousands of children’s fundamental economic and social right has been restricted and violated through the decree laws.”²⁴

²¹ Committee on the Rights of Persons with Disabilities, *List of Issues in Relation to the Initial Report of Turkey*, (Nov. 9, 2018), U.N. Doc. CRPD/C/TUR/Q/1, ¶ 32.

²² Committee on the Rights of Persons with Disabilities, *List of Issues in Relation to the Initial Report of Turkey – Replies of Turkey to the List of Issues*, (Jan. 14, 2019), U.N. Doc. CRPD/C/TUR/Q/1/Add.1, ¶ 76.

²³ Justice for Victims Association, *Social Cost of State of Emergency in the Second Year* (January 2019), 312.

²⁴ Confederation of Public Employees Trade Union (KESK), *State of Emergency – Decree Regime Dismissal Congress* (Ankara, Turkey: KESK 2017), 158. Also available online at http://www.kesk.org.tr/wp-content/uploads/2017/06/OHAL-KHKrejimi_ihracKurultayi.pdf.

36. **Suggested recommendations** relating to social support benefits:

- Expressly prohibit agencies responsible for dispensing social support from engaging in discrimination based on the political opinion of persons applying for support, including discrimination based on a person's termination by decree.
- Ensure that dismissed persons with disabilities and dismissed persons who care for a child with a disability are able to access all forms of social and health care facilities and related benefits.

37. **Suggested question** for the Government of Turkey relating to social support benefits:

- Would you please share disaggregated data by gender related to how many persons with disabilities' social benefits were cut off or restricted after the attempted coup in July 2016?