

PRESS RELEASE

TÜRKIYE FACES INTERNATIONAL CRIMINAL COURT PROBE FOR CRIMES AGAINST HUMANITY, AFTER GROUNDBREAKING INVESTIGATION BY PANEL OF INTERNATIONAL LEGAL EXPERTS

- The Erdogan regime has subjected more than 200,000 victims to crimes including Torture, Enforced Disappearance, Imprisonment in Violation of Fundamental Rules of International Law, and Persecution.
- Evidence shows that Turkish official have committed crimes not only in Türkiye, but also within the territories of 45 ICC State Parties through kidnapping, arbitrary deprivation of liberty, expulsion, denying most essential services such as delivering ID papers and collective dismissal of opponents of the Erdogan regime.
- A large number of persons – for the first time- spoke up under the discretion rule of the ICC.
- Not all the documented Crimes can be judged by the ICC. Crimes committed against some 1300 persons have been described and analysed in detail and can be judged by the ICC.
- Mr. Karim Khan, the ICC's prosecutor must now consider whether the court will open the investigations with a possible result that high ranking officials of a NATO ally could be in cause.

On 9 February 2023, a communication was submitted to the Office of the Prosecutor of the ICC. The Communication has been introduced by:

- The Belgian lawyers office Van Steenbrugge Advocaten (VSA), under the guidance of Prof. Em. Dr. Johan Vande Lanotte, former Deputy Prime Minister of Belgium and reputed professor on International Human Rights law, on behalf of an important number of victims.
- The Belgium-based NGO Turkey Tribunal vzw, the organizer in September 2021 of the Turkey Tribunal in Geneva, on behalf of which the president Prof. Em. Dr. Marc Baron Bossuyt, former president of the Belgian Constitutional Court and former president of the UN Human Rights Commission, has signed the communication.
- MEDEL (*Magistrats Européens pour la démocratie et les libertés*), an organisation of judges and prosecutors, composed of 23 national organizations, from 16 countries, representing 18 000 magistrates, on behalf of which the President, Mrs. Judge Mariarosaria Guglielmi has signed.

The letter whereby the communication was sent to the OTP is joined in Annex 1. The communication submitted to the Office of the Prosecutor of the ICC consists of 4,000 pages

of legal and factual analysis and includes testimony from hundreds of individuals, who have broken the silence imposed on victims and their families by the Erdogan regime. A summary of the Communication is joined in Annex 2.

A. The “Attack”

To fall under the definition of Crimes against Humanity, two elements are crucial:

1. The Crimes must be in the list of Crimes enumerated in the Rome Statute
2. The Crimes must be committed as a part of a widespread or systematic attack against a civilian population, whereby the crimes were committed pursuant to or furtherance of a state policy to commit such an attack.

1. The Crimes must be in the list of Crimes enumerated in the Rome Statute

The Crimes against Humanity that have been committed and are documented in the communication are:

- a) Torture,
- b) Enforced Disappearances,
- c) Imprisonment in Violation of Fundamental Rules of International Law and
- d) Persecution.

2. The Crimes must be committed as a part of a widespread or systematic attack against a civilian population, whereby the crimes were committed pursuant to or in furtherance of a state policy to commit such an attack.

To assess the presence of an attack, both the Crimes committed in Türkiye and the Crimes outside Türkiye must be taken in account.

The communication to the court includes 463 individual statements of Torture, relating to 800 identified or identifiable persons. The statements describe in detail how torture has been inflicted on a large and consistent scale. Evidence from the Turkish Human Rights Association shows that the organisation received on average 1,460 complaints per year related to Torture in the period 2003-2021, with systematic torture continuing into 2022.

The communication to the court documents 59 cases of extraterritorial and domestic Enforced Disappearance, relating to 109 persons. While the Turkish state has always denied involvement in domestic disappearances, authorities have consistently boasted about illegal abductions made overseas. Most recently, in July 2021, President Erdogan gave a press conference next to an image of a Turkish teacher proclaiming that he had been abducted from a foreign country. In an arrogant demonstration of impunity, the published image of the abducted person showed clear signs of torture, and he later underwent surgery to treat his broken arm.

Concerning the Imprisonments in Violation of Fundamental Rules of International Law, official Turkish statistics show that investigations into alleged membership of a “terrorist organisation” were launched against 2,217,000 persons in the period 2015-2021. 560,000 persons were put on trial and 374,000 persons were convicted, 270,000 of whom were found to be members of a terrorist organisation. The communication to the court documents 1,789 collective actions of Imprisonment in Violation of Fundamental Rules of International Law, relating to 51,205 persons. The European Court of Human Rights and the UN Working Group on Arbitrary Detention have documented how numerous cases constituted clear breaches of the European Convention on Human Rights, to which Turkey is a signatory but routinely ignores. Prosecutions are even carried out for entirely arbitrary reasons, such as people visiting the graves or attending funerals of deceased individuals who were seen as opponents of the regime.

Perceived opponents of the regime have been subjected to the crime of persecution through actions such as forced mass sackings of civil servants and private sector staff, and the withdrawal of passports and consular services from Turkish nationals overseas, even to newborn children. The only reason for this was the discriminatory persecution of persons (allegedly) linked to the Gülen movement. Official Turkish statistics show that 129,410 public servants have been dismissed and 19,962 teachers had their teaching licences cancelled, since 2016. In total, 234,419 passports were withdrawn in relation to arbitrary investigations against the alleged members of the Gülen movement. Of these, 155,000 relate to persons against whom no judicial action was launched, such as, for instance, the spouses of the persons against whom an investigation or persecution was launched. Outside Türkiye, passports were cancelled or consular services were refused in a discriminatory manner in 46 states, 25 of which are ICC party states. These acts relate to 4,084 persons, many of whom were children, 1,255 of whom were persecuted in ICC party states. Schools were closed outside Turkey, at the behest of the state. The teachers were expelled, prosecuted, abducted and their passports were cancelled, condemning them to a life in exile.

As a conclusion it can be said that the communication indicates that Turkish officials have committed crimes against humanity against hundreds of thousands of opponents of the Erdogan regime. These crimes amount to a “widespread and systematic attack against a civilian population”, meeting the threshold for the ICC to launch proceedings against high-ranking officials of the Erdogan regime.

B. The cases of individual criminal responsibility that can be judged by the ICC

Not all the crimes documented in the communication, can be judged by the ICC in procedures of individual criminal responsibility. Only the Crimes committed or started in a State that ratified the Rome Statute can be judged by the ICC. This is the reason why Crimes against Humanity committed on alleged members of the Kurdish movement (Torture, Enforced Disappearance and Imprisonment) and opponents of the regime (mostly Imprisonment) cannot lead to an individual criminal procedure before the ICC, as they were all committed in Türkiye or an Non-Party State. The cases submitted are:

- a) 17 cases of Enforced Disappearance whereby the victims were abducted from Kenya, Cambodia, Gabon, Albania, Bulgaria, Moldova, Mongolia and Switzerland and brought to Türkiye¹;
- b) The closure of 73 schools in 13 Party States (Mali, Niger, Tunisia, Chad, Afghanistan, Venezuela, D.R. Congo, Gabon, Senegal, Jordan, Zambia, Liberia, and Congo-Brazzaville, related to the dismissal 522 Turkish teachers and their families, in total more than 1000 persons²;
- c) The discriminatory withdrawal of passports, the discriminatory non-extension of passports and the discriminatory non-issuance of ID cards (even for new-born children) in 29 Party States (Afghanistan, Austria, Bangladesh, Belgium, Bosnia Herzegovina, Cambodia, Canada, Denmark, France, Georgia, Germany, Guinea, Liberia, Lithuania, Luxembourg, Madagascar, Mali, Mongolia, Nigeria, North Macedonia, Peru, Poland, Romania, Switzerland, Tanzania, The Netherlands, Tunisia, Uganda and The United Kingdom) relating to 206 persons.

These crimes, relating to some 1300 persons, are not only described in detailed, but all legal aspects have been thoroughly examined.

C. Türkiye is not a party to the ICC. How then the ICC can be competent?

Türkiye is not a party to the ICC. However, the court determined in 2019 that it could pursue Myanmar's ethnic cleansing of Rohingya Muslims – despite Myanmar's failure to recognise the court's authority – because the victims were deported to Bangladesh, an ICC signatory, and therefore elements of the crime had been committed in a member state.

The communication indicates that an important number of the Crimes against Humanity were committed on the territory of ICC party states. Indeed, the crimes were committed on the territory of 45 party states, for which the ICC has territorial jurisdiction. These specific crimes are related to some 1300 victims.

D. What now?

The Rome Statute leaves an important discretion to the Prosecutor to decide if it must be considered appropriate to start investigations. Of course, the legal requirements of admissibility must be (and are) fulfilled, but the prosecutor also must make a judgement about the gravity of the facts. In the present case, the communication shows that the gravity threshold has been reached. Indeed: the crimes that can be taken in account in the current case to assess the gravity requirement relate to more than 200,000 persons. The crimes cover a broad geographical scope and a long period of time. Moreover, there is complete and deliberate disrespect for the binding and non-binding decisions of international authorities and jurisdictions such as the European Court of Human Rights, the crimes are executed with cruelty and new-born children are also targeted. The crimes must be considered as deliberate

¹ The cases in Mongolia and Switzerland were attempts that did not succeed.

² Only the Turkish teachers (who all were dismissed and had to leave the country) are taken in account, although also the domestic personnel were affected by the decisions.

disdain for the non-refoulement principle and other basic principle of the international legal order. They clearly challenge the international legal order. Therefore, it would not be reasonable to state that the gravity requirement is not met.

Em. Professor Vande Lanotte says: “The evidence is clear that Türkiye has committed Crimes against Humanity against hundreds of thousands of people, purely on the basis that they are perceived to be enemies of the Erdogan regime. The persons responsible for these acts knew that what they did was against all basic rules of international law, but were certain of their impunity. The ICC was created to halt this impunity and should do so here. We call on the ICC prosecutor to take up this case and ensure that no individual – not even if he serves as a high official of a NATO ally of the West – can be considered above the law. In the past the ICC concentrated on non-European countries, often failed states. This policy has been criticised for its selectivity. Türkiye is not a failed state as such. But Türkiye, without any doubt is a failed state as far as the rule of law is concerned and is a failed state as far as the criminal procedures against officials committing Crimes against Humanity are concerned. The Crimes committed by Russia in Ukraine constitute a war against the people of Ukraine and against the most elementary principles of international Law. The Crimes committed by Turkish officials against opponents of the regime are another type of war condemning the opponents to torture, to imprisonment and to a social death. But this war is also deliberately and proudly attacking the most fundamental principles of international law. After more than five years, it is clear that the only way to punish these crimes in Türkiye and abroad, to prevent the same crimes to happen again and to protect the basic elements of the international legal order, is an investigation by and a procedure before the ICC. The case is broader than the situation in Türkiye. It is the international legal order that is at stake. The initiators of the Communication cannot imagine that the gravity of the situation would not be recognised by the Prosecutor”.

E. Declaration of Em. Prof. Marc Baron Bossuyt

Em. Prof. Marc Baron Bossuyt: “The submission of this communication should not be perceived as a hostile act against Türkiye. It is neither an action in support of those that were involved in that failed coup d’état. It is an action in support of all those - and there are many - that suffer under those gross violations of human rights.”

F. Declaration of MEDEL

The declaration of MEDEL is joined to this release.

G. Declaration of Enes Kanter Freedom and of Doğan Özgüden

At the press conference statements were made by two Turkish personalities.

NBA star and Human Rights activist Enes Kanter Freedom stated : “Crimes against Humanity are committed. Sadly enough, such Crimes committed by strong, Western countries, never were prosecuted. Criminal responsibility for Crimes against Humanity, however cannot be

selective. The introduction of the Communication is a strong signal of the wish of so many people that impunity cannot be tolerated.”

Doğan Özgüden, Info-Türk Chief Editor: "For decades, human rights violations in Turkey have gone unresolved at national courts and the judgements of the European Court of Human Rights never were respected by political powers in Ankara. I hope that this new initiative will open a new horizon of freedom and democracy for all citizens of Turkey."

Some extra technical information:

- The communication to the court documents Crimes against Humanity committed by Turkey in 45 ICC party states Afghanistan, Albania, Austria, Bangladesh, Belgium, Bosnia Herzegovina, Burkina Faso, Cambodia, Canada, Chad, Congo, Democratic Republic of the Congo, Denmark, France, Gabon, Georgia, Germany, Greece, Guinea, Jordan, Kenya, Liberia, Lithuania, Luxembourg, Madagascar, Mali, Mongolia, Netherlands, Niger, Nigeria, North Macedonia, Peru, Poland, Republic of Moldova, Romania, Senegal, Switzerland, Tajikistan, The Gambia, Tunisia, Uganda, United Kingdom, United Republic of Tanzania, Venezuela, and Zambia.
- The ICC's Pre-Trial chamber [ruled in November 2019](#) that the court could investigate crimes against humanity, such as deportation and persecution, allegedly committed against the Rohingya population in Myanmar, a non-ICC nation, where they were committed "at least in part" on the territory of any ICC signatory.



Mr. K. Kahn
Prosecutor of the ICC
Oude Waalsdorperweg 10
2597 AK Den Haag

Ghent, 9 February 2023

Hon. Mr. Kahn,

Attached to this letter, we are submitting to the Office of the prosecutor a communication concerning the situation in Türkiye.

This communication provides information that there is a reasonable basis to believe that Crimes against Humanity under the jurisdiction of the ICC have been and are being committed and that the contextual requirements as foreseen in the Rome Statute are fulfilled. The Crimes against Humanity are Torture, Enforced Disappearances, Imprisonment in Violation of Fundamental Rules of International Law and Persecution.

In the communication attention is paid to the temporal, material and territorial admissibility and the gravity requirement. The complementarity requirement is assessed as are the "Interests of Justice".

The Office of the Prosecutor is requested to start investigations under Article 15 Rome Statute.

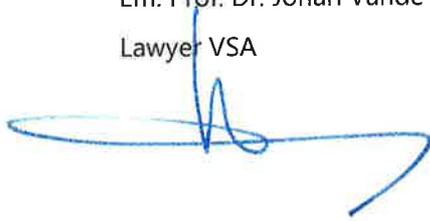
The communication is brought under your attention by VSAAdvocaten, a Belgian Lawyer's office acting in the name of some 40 victims, vzw Turkey Tribunal, a Belgian NGO that organised the people's tribunal "Turkey Tribunal" in Geneva in September 2021 and MEDEL (Magistrats Européens pour le Démocratie et les Libertés), an umbrella

association, founded in Strasbourg in June 1985, which brings together 24 associations of judges and public prosecutors from 16 European countries, representing 18 000 magistrates.

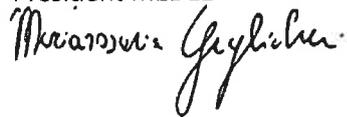
For any further communications, please contact johan.vandelanotte@vsadvocaten.be.

Yours sincerely,

Em. Prof. Dr. Johan Vande Lanotte
Lawyer VSA



Mrs. Mariarosaria Guglielmi
President MEDEL



i.o. JOHAN MEYMANIS

Em. Prof. Dr. Marc Baron Bossuyt
President Turkey Tribunal vzw



The commitment to democracy, fundamental rights and freedoms, which is at the origin of MEDEL's history, has led us to repeatedly denounce for years the consequences of the crisis and of the ensuing collapse of the rule of law in Turkey.

After the attempted coup d'état, the state of emergency and the end of democracy meant for so many citizens of that country a massive and systematic violation of fundamental freedoms and rights, such as personal freedom, freedom of information, freedom of speech. This included mass arrests, detentions without legal basis and sentences imposed by local courts without respect for the minimum guarantees of due process, despite rulings of the ECtHR in several cases brought before it.

The Communication to the Office of the Prosecutor of the ICC on 9 February 2023 -jointly submitted by the Belgian law firm Van Steenbrugge Advocaten (VSA), NGO Turkey Tribunal and MEDEL -is meant to give voice to the demand for justice coming from so many victims, which cannot remain unaddressed, and to contribute to ensure that no Turkish citizen is any longer deprived of the effective protection of fundamental rights and of the inherent guarantees in a State respecting the rule of law.

With this action we wish to bring to the attention of supranational justice the results of an activity of systematic monitoring over time of the allegations of human rights violations, that eventually allowed a legal and factual analysis of the seriousness of facts which can be qualified as crimes against humanity, based on documentary material and individual statements of hundreds of people.

The Turkish people have been hit by a huge tragedy.

MEDEL shares the suffering of the victims and expresses its solidarity for all those affected by a disaster which brought to the destruction of entire communities. For those of us who witnessed in their own countries the impact of events of this kind, the empathy with the population of the regions of Turkey struck by the earthquake is particularly strong.

Nevertheless, every violation of human rights and freedoms must have a response in terms of justice. This is a principle that admits no exceptions: freedoms and human rights are inviolable and universal values. Their protection cannot be suspended or denied. Anyone who deliberately and systematically infringes them must be held accountable.

March 1, 2023

Communication

Submitted to the Office of the Prosecutor of the International Criminal Court

concerning the situation in Türkiye, other countries
and State Parties

Summary and Overall Conclusion



Summary

This communication concerning the situation in Türkiye provides information that there is a reasonable basis to believe that Crimes against Humanity under the jurisdiction of the ICC have been and are being committed. The Office of the Prosecutor is requested to start investigations under Article 15 Rome Statute.

Türkiye did not ratify the Rome Statute. However, an important number of acts are documented for which the ICC's **territorial, temporal and material jurisdiction** is established. Indeed, the commission of these Crimes at least started in a country that ratified the Rome Statute. The ICC's jurisprudence is clear that, in such a situation, the ICC has territorial jurisdiction. The principles regarding this are explained in Part 0 (Preliminary Observations) and applied in Part III (Individual crimes falling under the Jurisdiction of the ICC).

Attention must be paid to the **gravity requirement** for the crimes brought to the attention of the Office of the Prosecutor. The Rome Statute stipulates that the Prosecutor can decide not to start an investigation if the Crimes against Humanity do not reach a certain level of gravity. The gravity does not need to be proven, instead the lack of gravity requires evidence. In other words: the Office of the Prosecutor bears the burden of proof for the lack of gravity.

In the present case, this gravity threshold has been reached. The crimes that can be taken in account in the communication current case to assess the gravity requirement relate to more than 200,000 persons. The crimes cover a broad geographical scope and a long period of time. Moreover, there is complete disrespect for the binding and non-binding decisions of international authorities and jurisdictions such as the European Court of Human Rights, the crimes are executed with cruelty and new-born children are also targeted. The crimes must be considered as deliberate disdain for the non-refoulement principle and they clearly challenge the international legal order. Therefore, it would not be reasonable to state that the gravity requirement is not met.

The **Crimes against Humanity** that have been committed are Torture, Enforced Disappearances, Imprisonment in Violation of Fundamental Rules of International Law and Persecution.

Türkiye has a long history of brutal Torture. For the targeted period, statistical information, provided by the Turkish government itself, indicates that on average, on a yearly basis, 1,422 cases of Torture were brought before the Turkish judicial authorities in the period 2013-2018, yet only one percent of these cases (on average 13 out of 1,422 per year) led to the perpetrator's imprisonment. The statistical information provided by the Turkish Human Rights Association indicates that this organisation received on average 1,460 complaints per year related to Torture in the period 2003-2021. Several credible international reports confirm the frequent use of Torture. Recently - on 30 November 2022 - the UN Human Rights Committee confirmed extensive Torture has

resulted in the death of the victim in the Acikkölu case.

In the communication, 463 individual statements are submitted, relating to 800 identified or identifiable persons (Annex 2 to this communication). These statements describe in detail how Torture has been inflicted on a large and consistent scale. The groups targeted for Torture are the alleged members of the Gülen movement and the Kurdish movement. The most frequent act of Torture that is mentioned in these cases is severe beating, but waterboarding, being handcuffed tightly for extended periods, being forced to stay in the same position for extended periods, being subjected to electroshocks, sexual harassment, the threat of being killed, sleep deprivation and humiliation are also recurrently mentioned. These acts correspond to the definition of Torture in the Rome Statute.

There is a reasonable basis to believe that these acts of Torture actually occurred. Numerous reports by international organisations and human rights organisations confirm this. Even more so, such acts of Torture persist to this day. In this regard, in the first week of February 2022, a large number (approximately 300 persons) were detained. The Human Rights committee of the Ankara Bar Association made a report on the acts of torture that occurred during the detention of these persons. Tremendous pressure was exerted on the Bar Association not to publish its report. Until today (end of 2022), although its publication was announced, it has never been materialised.*

Under Annex 4 to this communication, 59 cases of (extraterritorial and domestic) **Enforced Disappearance**, relating to 109 persons are documented. Enforced Disappearances are not a new phenomenon. These acts correspond to the definition of Enforced Disappearance in the Rome Statute and there is a reasonable basis to believe that they actually occurred. The Turkish authorities' involvement in the domestic Enforced Disappearances has always been denied. However, the description of these disappearances in Part I.2 clearly indicates otherwise. A completely different attitude is noticed as far as extra-territorial Enforced Disappearances are concerned: alleged members of the Gülen movement have been abducted abroad and brought illegally to Türkiye. The government does not deny its involvement in these cases. On the contrary, is proud of it and overtly celebrates such Crimes against Humanity. In the recent case of Mr. Inandi, the President boastfully gave a press conference with an image of the abducted person, who clearly had signs of torture, shown next to him. This person later on had to undergo surgery to be able to use one of his arms again. Eighteen cases of Enforced Disappearance fall directly under the jurisdiction of the Court and are documented in detail in Part III of the communication.

The third Crime against Humanity documented in the present communication is **Imprisonment in Violation of Fundamental Rules of International Law**. According to official statistics, investigations into alleged membership of a terrorist organisation were launched against 2,217,000 persons in the period 2015-2021. 560,000 persons were put on trial and 374,000 persons were convicted of whom 270,000 persons for membership of a terrorist organisation. In this context, in a large number of judgments the European Court of Human Rights came to the conclusion that detention and/or imprisonment

* As of the drafting date of this communication and its summary, these reports had not yet been published. However, in early January 2023, these reports were published. Turkey Tribunal announced this on its Twitter account: https://twitter.com/turkey_tribunal/status/1610239036073078785?s=20

were executed in violation of the ECHR. The UN Working Group on Arbitrary Detention came to the same conclusion in 16 other cases. In the communication 1,789 collective actions of Imprisonment in Violation of Fundamental Rules of International Law relating to 51,205 persons are documented in Annexes 5.1, 5.2, 5.3 and 5.4 to this communication.

The acts correspond to the definition of Imprisonment in Violation of Fundamental Rules of International Law in the Rome Statute and there is a reasonable basis to believe they actually occurred. Many proofs demonstrate the absurdity of the “investigations” which are taking place. For instance, on 18 October 2022, a country-wide operation was launched in 59 of the 81 provinces whereby a detention order was issued against 742 persons. In total 259 persons were arrested and 459 persons were released by a judicial control decision. The main accusation was the alleged humanitarian help these persons had given (food, money, advice, etc.) to persons that had been released from prison. In some cases they were asked: “you were found to have recently visited deceased persons at their graves. Explain why you visited them.” This question was the consequence of the accusation made by the prosecutor: “By praying for the deceased and attending their apparently normal funerals, one helps the organisation that is attempting to overthrow the Constitutional order, the state and even the government.” Another recent example of the arbitrariness of prosecutions is the arrest of Dr Fincanci, a reputed independent expert on Torture and more specifically on helping victims of Torture and also director of the TTB (Turkish Medical Association). After (and because) she criticised the use of chemical weapons by the Turkish army, she was apprehended and finally placed in custody because some bullets were allegedly found in her house as well as a book that linked her to terrorism and more specifically to the PKK. That is how the arrest was justified in the press. After some days, it became apparent that the book was a poetry book written by the Kurdish female poet Bejan Matur, openly sold without any issue by D&R books which belongs to the family of President Erdoğan, but which has now been completely removed from their website. The cases of the writer Mr Altan, of HDP leader Mr Demirtas, activist Mr Kavala are also well-known examples of completely arbitrary detentions that were qualified by the European Court as detentions with the only purpose to silence persons and organisations defending human rights.

The fourth Crime against Humanity documented in the present Communication is the crime of **Persecution**. In addition to the crimes of Torture, Enforced Disappearance and Imprisonment in Violation of Fundamental Rules of International Law that were committed in a discriminatory manner based on political grounds, severe deprivations of fundamental rights were also committed in the same discriminatory manner. The following must be mentioned as a deprivation of fundamental rights: 1) the dismissal of civil servants and persons working in private institutions, and further negative consequences subsequently being added to these dismissals, 2) the closure and takeover of schools and violation of the right of employment of the personnel working in these schools in Türkiye and abroad and 3) the withdrawal of passports and denial of consular services such as a refusal to issue IDs or passports, even to new-born children, in Türkiye and abroad. Based on official statistical information, 129,410 public servants were dismissed; 19,962 teachers had their teaching licences cancelled. The aggravating

measures (the fact that a person was dismissed or persecuted is mentioned in his/her social security file) make it very difficult for these persons to find new employment and annuls his/her rights in the social security system such as the right to healthcare. It is no exaggeration to qualify the totality of the measures as these persons' "social death". Outside Türkiye, 162 schools were closed because of their links with the Gülen movement, affecting 7,852 personnel. Of these, 83 schools were located in a Party State, affecting 3,074 personnel. In total 234,419 passports were withdrawn in the context of the arbitrary investigations against the alleged members of the Gülen movement. Of these, 155,000 relate to persons against whom no judicial action was launched, such as, for instance, the spouses of the persons against whom an investigation or persecution was launched. Outside Türkiye, passports were cancelled or consular services were refused in a discriminatory manner in 46 states of which 25 Party States. These acts relate to 4,084 persons, many of whom were children. The facts concerning 1,255 of these persons were committed in Party States.

The crimes described are only Crimes against Humanity under the jurisdiction of the ICC if they are committed as part of a **Widespread or Systematic Attack directed against any Civilian Population**. This requirement is indicated as the conducts' compliance with the contextual elements or "the chapeau". The first stage of the assessment of the existence of an attack entails (1) the establishment of the existence of an operation or course of conduct involving, notably, the multiple commission of acts referred to in article 7(1) Rome Statute; (2) the indication that the operation or course of conduct was directed against a civilian population; and (3) the assessment that the operation or course of conduct took place pursuant to or in furtherance of a State or organisational policy. The second stage pertains to the characterisation of the attack, in particular ascertainment as to whether it was widespread or systematic. In Part II, the steps for the first and second stage of the reasoning are explained for the crimes of Torture, Enforced Disappearance, Imprisonment in Violation of Fundamental Rules of International Law and Persecution, separately and for these crimes considered as a whole.

The conclusion is that the documented Crimes against Humanity must indeed be considered as part of an attack directed against a civilian population and consequently fall under the material jurisdiction of the Court: there is a reasonable basis to believe that the contextual requirements as foreseen in the Rome Statute are fulfilled. Without going into more detail in this summary, the multiplicity of the acts, the persons targeted (alleged members of the Gülen movement and the Kurdish movement and more generally opponents of the Erdoğan regime), the planned nature of the acts, the use of public resources, declarations of high(est) officials of the Turkish Republic, official publications/announcements and the non-accidental repetition of similar criminal conduct, aiming to produce the same effects, are strong and convincing indications for this conclusion.

In Part III, **the specific acts that can be brought under the jurisdiction of the Court** to define the individual criminal responsibility of the perpetrator(s) are described in detail:

17 cases of Enforced Disappearance in which the victims were abducted from Kenya, Cambodia, Gabon, Albania, Bulgaria, Moldova, Mongolia and Switzerland and brought to Türkiye;¹

The closure of 73 schools in 13 Party States (Mali, Niger, Tunisia, Chad, Afghanistan, Venezuela, D.R. Congo, Gabon, Senegal, Jordan, Zambia, Liberia, and Congo-Brazzaville), related to the dismissal of 522 Turkish teachers and their families - in total more than 1,000 persons²;

Withdrawal of passports, non-extension of passports and non-issuance of ID cards (even for new-born children) in 29 Party States (Afghanistan, Austria, Bangladesh, Belgium, Bosnia Herzegovina, Cambodia, Canada, Denmark, France, Georgia, Germany, Guinea, Liberia, Lithuania, Luxembourg, Madagascar, Mali, Mongolia, Nigeria, North Macedonia, Peru, Poland, Romania, Switzerland, Tanzania The Netherlands, Tunisia, Uganda and United Kingdom) relating to 206 persons.

For each case, the facts are documented, the **admissibility requirements** are analysed and in Part III.20 the **complementarity requirement** is assessed for each case.

The Rome Statute states that the **“Interests of Justice”** must be taken into account to decide whether an investigation must be started. Under this umbrella, the interests of the victims are an important element. This Communication is made under the explicit mandate of some of the victims. Another – negative – aspect is the evaluation of whether the persons who are the most responsible for the crimes could be brought to trial. At this stage of the procedure, an indication of the persons who are individually responsible for the Crimes is not yet at stake and, in any case, falls under the responsibility of the Prosecutor. However, as explained in Part III.21, there is no reason to believe that the persons who are the most responsible for the crimes could not be brought to trial.

The Communication presented to the Office of the Prosecutor is based on extensive, detailed and scrupulously evaluated research. Hundreds of persons have testified on their suffering. The acts exude a reprehensible and arrogant air of impunity which aggravates the suffering of the thousands and thousands of innocent victims. Starting investigations into the situation in Türkiye seems to be the only way to bring justice to these victims.

¹ The cases in Mongolia and Switzerland were attempts that did not succeed.

² Only the Turkish teachers (who all were dismissed and had to leave the country) are taken into account, although also the domestic personnel were affected by the decisions.

OVERALL CONCLUSION

- 1 This Communication provides extensive information and indications that there is a reasonable basis to believe that the Crimes against Humanity of Torture, Enforced Disappearance, Imprisonment in Violation of Fundamental Rules of International Law and Persecution were committed on the territory of both Party States and Non-Party States but for which the ICC would be competent.

These crimes are part of a widespread and systematic attack against a civilian population that can be defined as opponents of the current Turkish regime, whereby the alleged members of the Gülen movement seem to be the primary target.

The admissibility requirements have been scrupulously examined and seem to be fulfilled. An investigation into these allegation seems to be of the utmost importance in light of the numerous victims who have expressed their suffering (notably in the hundreds of testimonies attached to the present communication). Eighteen cases that fall under the jurisdiction of the ICC have been documented. These cases relate to more than 1.000 victims.

- 2 Particular to the present situation is that the existence of the crimes is not denied by the actors involved (in particular by Türkiye) nor is the responsibility for the crimes hidden. This facilitates the investigation into these crimes but on the other hand demonstrates that there exists a strong feeling of impunity which leads to perpetrators who persevere in committing crimes that destroy the lives of thousands of people. The fact that the ECtHR and reputed International Institutions, of which Türkiye is a member state, clearly condemn these crimes has not altered the criminal behaviour of the perpetrators. Only an intervention by the ICC will be effective.
- 3 The ICC was precisely created to fight impunity in case where the national jurisdictions were not capable or did not want to investigate the facts at hand and eventually punish those who commit the worst crimes possible. This is the situation explained in this Communication and extensively supported by tangible and divers convincing indications.

For all these reasons, we respectfully request the Office of the Prosecutor to start investigations under Article 15 Rome Statute concerning the situation in Türkiye and other countries, Party States.

- 4 The crimes committed, the openly disrespect of the decisions of (inter)national courts and institutions, the violation of the non-refoulement principle, the openly admitted responsibility for Crimes against Humanity, are the concern of the international community. The ICC can put an end to this unlawful situation which has been on-going for (too) many years.