

116TH CONGRESS
1ST SESSION

S. 2832

To assist those subject to politically motivated charges in Turkey, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 12, 2019

Mr. MARKEY (for himself and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To assist those subject to politically motivated charges in Turkey, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Turkey Human Rights
5 Promotion Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The United States values its longstanding
9 alliance with the Republic of Turkey and its friend-

1 ship with the people of Turkey, and seeks to pro-
2 mote their democratic aspirations.

3 (2) Actions taken by the Government of Turkey
4 in the aftermath of the attempted coup of July 2016
5 have significantly expanded the government's crack-
6 down on freedoms of expression, peaceful assembly,
7 and association. Freedom House assessed Turkey to
8 be "not free" in its Freedom in the World 2019 re-
9 port.

10 (3) Since July 2016, Turkish authorities have
11 detained tens of thousands of people they accuse of
12 aiding the coup attempt or being affiliated with a
13 militant group, sweeping up journalists, opposition
14 politicians, dissidents, and others. A two-year state
15 of emergency restricted the exercise of fundamental
16 freedoms, and laws and decrees then codified some
17 provisions from the state of emergency.

18 (4) The Ministry of Justice reported that, be-
19 tween July 2016 and July 2018, "investigations
20 have been opened into 612,347 persons alleged to be
21 founders, executives, or members of armed organiza-
22 tions". A majority of these were reportedly detained,
23 often with little due process or access to the evidence
24 underlying the accusations against them.

1 (5) By the end of 2018, according to the De-
2 partment of State’s 2018 Human Rights Report,
3 “authorities had dismissed or suspended more than
4 130,000 civil servants from their jobs, arrested or
5 imprisoned more than 80,000 citizens, and closed
6 more than 1,500 nongovernmental organizations
7 (NGOs) on terrorism-related grounds since the coup
8 attempt, primarily for alleged ties to cleric Fethullah
9 Gulen and his movement, accused by the government
10 of masterminding the coup attempt.”

11 (6) The United Nations Human Rights Coun-
12 cil’s Working Group on Arbitrary Detention, in its
13 Opinion of August 16, 2019, found the Government
14 of Turkey’s detention of judges Melike Göksan and
15 Mehmet Fatih Göksan to be arbitrary and “note[d]
16 a significant increase in the number of cases brought
17 to it in the last two years concerning arbitrary de-
18 tention in Turkey.” The Working Group stated that
19 “it appears that a pattern is emerging whereby
20 those with alleged links to the Gulen movement are
21 being targeted on the basis of their political or other
22 opinion.”

23 (7) Turkey remains the world’s worst jailer of
24 journalists, according to the Committee to Protect
25 Journalists.

1 (8) President Recep Tayyip Erdoğan began a
2 crackdown on journalism before the 2016 coup at-
3 tempt, which he then intensified. The Committee to
4 Protect Journalists estimated that Turkey was hold-
5 ing at least 68 journalists in jail at the end of 2018.
6 According to a September 18, 2019, joint statement
7 by civil society organizations, at least 180 media
8 outlets have been forcibly closed since the coup at-
9 tempt. Kurdish-language and Kurdish-focused media
10 outlets are especially vulnerable. An unknown num-
11 ber of journalists remain outside the country due to
12 fear of arrest.

13 (9) The release of employees of the Cumhuriyet
14 newspaper is a welcome yet insufficient step towards
15 ending the persecution of the press in Turkey.

16 (10) The Government of Turkey has also tar-
17 geted writers and academics. Of roughly 2,000 aca-
18 demics who signed a January 2016 petition calling
19 for a restart to peace negotiations between the gov-
20 ernment and the armed Kurdistan Workers' Party
21 (PKK), more than 700 scholars were criminally
22 charged with making propaganda for a terrorist or-
23 ganization.

24 (11) The Government of Turkey continues its
25 unjust, two-year detention of civil society leader

1 Osman Kavala. Turkish authorities have charged
2 Kavala and 15 others with “attempting to overthrow
3 the government or to prevent it from performing its
4 duties” based on ill-founded accusations regarding
5 the group’s role in 2013 protests.

6 (12) In 2017, Turkish police arrested Amnesty
7 International Turkey’s board chair, Taner Kiliç, and
8 its director, Idil Eser, charging them as members of
9 a terrorist organization. The charges against Kiliç
10 were based on the mere allegation, later found to be
11 false, that he had downloaded a messaging applica-
12 tion.

13 (13) The Government of Turkey continues its
14 unjust detention of Selhattin Demirtaş, a Kurdish
15 politician detained with other members of the Peo-
16 ple’s Democratic Party (HDP) on November 4,
17 2016. He was a member of parliament at the time
18 of his arrest for allegedly “carrying out terrorist
19 propaganda” by speaking in support of peace nego-
20 tiations with the Kurdistan Workers’ Party. The Eu-
21 ropean Court of Human Rights ruled in November
22 2018 that his detention “had pursued the predomi-
23 nant ulterior purpose of stifling pluralism and lim-
24 iting freedom of political debate, which was at the
25 very core of the concept of a democratic society”.

1 (14) Fair trial rights and protections for law-
2 yers have been restricted just as they are most criti-
3 cally needed given mass detentions and the wider
4 crackdown on dissent. The Government of Turkey
5 has targeted lawyers, with particular focus on crimi-
6 nal defense lawyers, prosecuting them for dis-
7 charging their professional duties and associating
8 them, without evidence, with the alleged crimes of
9 their clients. Police have also intimidated lawyers
10 and obstructed their work.

11 (15) The Government of Turkey heavily re-
12 stricts and censors the internet. The government has
13 blocked over 220,000 websites, has temporarily
14 blocked Twitter and YouTube, has blocked
15 Wikipedia since 2017, and is now pressuring Netflix
16 and other online streaming platforms to censor con-
17 tent according to rules set by the Radio and Tele-
18 vision Supreme Council.

19 (16) Turkey ranks among the countries with
20 the highest number of content removal requests sent
21 to Twitter and Facebook, according to the compa-
22 nies' transparency reports.

23 (17) The Government of Turkey has dem-
24 onstrated a disregard for fundamental freedoms be-
25 yond Turkey's borders, including in the United

1 States. In 2016, members of President Erdoğan’s
 2 security detail engaged in unwarranted violence
 3 against journalists reporting on an event at the
 4 Brookings Institution. During President Erdoğan’s
 5 May 2017 visit to Washington, DC, individuals from
 6 the Turkish Embassy grounds pushed past District
 7 of Columbia police officers to brutally attack individ-
 8 uals demonstrating peacefully in opposition to poli-
 9 cies of the Government of Turkey.

10 (18) The Government of Turkey has abused
 11 international institutions to target dissenters, “trig-
 12 gering a flood of Interpol ‘red notice’ requests to de-
 13 tain critics abroad,” according to Freedom House.
 14 Targets include Enes Kanter, a professional basket-
 15 ball player and vocal critic of President Erdoğan
 16 who currently resides in the United States.

17 (19) On October 14, 2019, the Government of
 18 Cambodia reportedly arrested educator Osman
 19 Karaca at the behest of the Government of Turkey.
 20 On October 19, 2019, Amnesty International warned
 21 that “[i]f he is forcibly returned to Turkey, he faces
 22 a very real risk of ill-treatment and further human
 23 rights abuses. Cambodia has an obligation to protect
 24 him from persecution, not collude in his abuse.”
 25 Karaca is now reportedly in Turkish custody.

1 (20) The Government of Turkey threatens to
 2 escalate internationally its targeting of critics con-
 3 sistent with an overly broad domestic counterter-
 4 rorism campaign. On October 30, 2019, President
 5 Erdoğan stated, “Some countries eliminate terrorists
 6 whom they consider as a threat to their national se-
 7 curity, wherever they are. Therefore, this means
 8 those countries accept Turkey has the same right.
 9 This includes the terrorists they shake hands with
 10 and praise.” He added that he hoped to deliver
 11 “good news” on the matter soon.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) **POLITICAL PRISONER.**—The term “political
 15 prisoner” applies to a person who has been detained
 16 or imprisoned on politically motivated grounds. Po-
 17 litical prisoners may have used or advocated violence
 18 or hatred, or in some cases they may have com-
 19 mitted some minor offense, which is a pretext for a
 20 politically motivated imprisonment.

21 (2) **PRISONER OF CONSCIENCE.**—The term
 22 “prisoner of conscience” means any person who—

23 (A) is imprisoned or otherwise physically
 24 restricted solely for the peaceful exercise of his
 25 or her human rights; and

1 (B) has not used violence or advocated vio-
2 lence or hatred.

3 **SEC. 4. STATEMENT OF POLICY.**

4 It is the policy of the United States—

5 (1) to support democracy, peace, and prosperity
6 in Turkey;

7 (2) to oppose the abuse of counterterrorism au-
8 thorities, including to target journalists, political op-
9 ponents, dissidents, minorities including Kurds, and
10 others engaged in exercising their right to freedoms
11 of expression, peaceful assembly, or association;

12 (3) to consider those unfairly detained or im-
13 prisoned under counterterrorism authorities on po-
14 litically motivated grounds to be prisoners of con-
15 science or political prisoners, as appropriate, unless
16 there is probative evidence of specific criminal mis-
17 conduct presented in proceedings that comply with
18 international fair trial standards;

19 (4) to use all diplomatic tools to ensure that all
20 prisoners of conscience and political prisoners in
21 Turkey are released;

22 (5) to support and pressure the Government of
23 Turkey in the repeal or amendment of all anti-ter-
24 rorism laws and regulations that allow the govern-

1 ment to unjustly target journalists, political oppo-
2 nents, dissidents, and minorities;

3 (6) to support and pressure the Government of
4 Turkey in the repeal or amendment of all laws and
5 regulations that violate the right to freedoms of ex-
6 pression, peaceful assembly, or association in a man-
7 ner not permitted by international legal standards,
8 including laws and regulations that seek to punish
9 those who insult political figures or denigrate the
10 Turkish nation or state institutions;

11 (7) to support and pressure the Government of
12 Turkey in the repeal or amendment of all laws and
13 regulations that violate the right to a fair trial; and

14 (8) to oppose the export to Turkey by any
15 country of surveillance technologies, including soft-
16 ware, that can be used to monitor the activities of
17 journalists, political opponents, dissidents, or minori-
18 ties.

19 **SEC. 5. POLITICAL PRISONERS ASSISTANCE.**

20 The Secretary of State shall provide assistance to
21 civil society organizations in Turkey that work to secure
22 the release of prisoners of conscience and political pris-
23 oners in Turkey, and to current and former prisoners of
24 conscience and political prisoners in Turkey. Assistance
25 shall include the following activities:

1 (1) Support for the documentation of human
2 rights violations with respect to prisoners of con-
3 science and politically motivated prisoners.

4 (2) Support for advocacy in Turkey to raise
5 awareness of issues relating to prisoners of con-
6 science and political prisoners.

7 (3) Support for efforts to repeal or amend laws
8 or regulations that are used to imprison individuals
9 as either prisoners of conscience or political pris-
10 oners.

11 (4) Support, including travel costs, and legal
12 fees, for families of prisoners of conscience and polit-
13 ical prisoners.

14 (5) Support for health, including mental health,
15 and post-incarceration assistance in gaining access
16 to education and employment opportunities or other
17 forms of reparation to enable former prisoners of
18 conscience and political prisoners to resume a nor-
19 mal life.

20 (6) The delegation of specific United States
21 mission staff who will observe trials in politically mo-
22 tivated cases, including in Southeast Turkey.

23 **SEC. 6. SENSE OF CONGRESS ON PRESS FREEDOM.**

24 It is the sense of Congress that—

1 (1) the Government of Turkey must take steps
2 to significantly improve the dire climate for journal-
3 ists and those supporting the journalism profession,
4 including ending the enforcement of draconian laws
5 and regulations that restrict freedom of expression
6 and releasing all journalists and media workers im-
7 prisoned for fulfilling their professional responsibil-
8 ities;

9 (2) the Department of State should provide as-
10 sistance and warnings of impending politically moti-
11 vated detention or harm to journalists and media
12 workers in danger in Turkey, regardless of citizen-
13 ship status, including journalists working for Kurd-
14 ish media organizations;

15 (3) United States Government officials should
16 prioritize demands to release unfairly detained jour-
17 nalists and media workers in their communications
18 with Turkish officials; and

19 (4) press freedom is a fundamental human
20 right and should be upheld and protected in Turkey
21 and everywhere.

22 **SEC. 7. SENSE OF CONGRESS ON INTERNET FREEDOM.**

23 It is the sense of Congress that—

24 (1) the Government of Turkey must cease its
25 ongoing crackdown on free expression on the inter-

1 net, including by repealing or amending laws that
 2 allow the government to block a website or remove
 3 content if there is sufficient suspicion that a site is
 4 insulting political figures;

5 (2) the Department of State should support
 6 and pressure the Government of Turkey in halting
 7 its frequent requests that social media companies
 8 block accounts and content of journalists and media
 9 outlets, ending its blocking of Wikipedia, and ensur-
 10 ing that the Radio and Television Supreme Council
 11 does not arbitrarily restrict online streaming services
 12 through a costly and opaque licensing regime; and

13 (3) escalating controls regulating internet use
 14 are an attempt by the Government of Turkey to si-
 15 lence the one of the last platforms for independent
 16 journalism in the country.

17 **SEC. 8. SENSE OF CONGRESS ON PROTECTING LAWYERS**
 18 **AND PROMOTING FAIR TRIALS.**

19 It is the sense of Congress that—

20 (1) the Government of Turkey must—

21 (A) halt its indiscriminate detention and
 22 prosecution of lawyers, judges, prosecutors, and
 23 court officials, as well as its targeting of law-
 24 yers' associations;

1 (B) repeal laws restricting the right of law-
2 yers to discharge their professional duties, the
3 rights of suspects to legal counsel, and the right
4 of lawyer-client privileged communication;

5 (C) ensure that lawyers can visit detainees
6 in police custody, and remind police and pros-
7 ecutors of the protected role of lawyers under
8 Article 14 of the International Covenant on
9 Civil and Political Rights, Articles 5 and 6 of
10 the European Court of Human Rights, and the
11 United Nations Basic Principles on the Role of
12 Lawyers; and

13 (D) end the practice of prosecuting lawyers
14 based on whom they have represented as cli-
15 ents;

16 (2) the Department of State should support
17 and pressure the Government of Turkey in the aboli-
18 tion of extended pretrial detention, consistent with
19 Turkey's Judicial Reform Strategy, and in the rever-
20 sal of the April 2017 amendment to Article 159 of
21 the Constitution, which allows for political control
22 over the nomination procedures to the Council of
23 Judges and Prosecutors;

24 (3) the Department of State should support
25 and pressure the Government of Turkey in ensuring

1 the independence of judges and of the judiciary sys-
2 tem, with particular focus on the Ministry of Jus-
3 tice; and

4 (4) the independence of any country's judicial
5 system suffers when lawyers are subject to intimidat-
6 ion and harassment in their work and when lawyers
7 are identified with the causes of their clients.

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