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CONFEDERATION OF PUBLIC EMPLOYEES TRADE UNIONS

LA CONFÉDÉRATION DES SYNDICATS DE TRAVAILLEURS



KESK's opinions on current trade union rights and freedoms situation in Turkey

The current problematic situation in Turkey has reached a new phase on 15 July 2016. However, the background of problems related to grave human rights violations and restrictions to freedom of expression goes back to an earlier period. Similarly, the dominance of security oriented policies has a longer history. The turning point in these policies can go back to the ISIS suicidal bombing attack against 30 young people on 20 July 2015. Then, curfews were declared across the Southeast Region of Turkey where mainly Kurds live and the resume of the armed conflict led to the existing situation. In fact, the curfews caused approximately 500.000 people to leave their house and became Internally Displaced People. Furthermore, the armed conflict resulted in the death of many people including our trade union members in the health sector. The public space has dramatically shrunk *viz* the immunity of the MPs was lifted in May 2016 but impunity was provided to security officers who join security operations in July 2016. Journalists were arrested by courts and freedom of media was violated by public authorities. As for the Western part of the country, fundamental rights e.g. freedom of assembly and freedom of expression were violated by public officers. Academics for Peace supporters suffered from administrative and judicial investigations. Hundreds of these academics were permanently dismissed from their university posts for signing the Peace Petition since mid-2016. There was a continuous pressure on civil actions and restrictions to any civilian initiative yet security oriented policies were prioritised and violence became common.

Although the State of Emergency was not renewed, and as a result lifted, on 19 July 2018, there are still practices that amount State of Emergency and even martial law in some provinces and in certain periods. For example, governors power' to declare curfews and ban public events is an example of State of Emergency problem. Certainly, the power to ban outdoor public event and activities affects directly trade union activities. Furthermore, public authorities be they governors or security officers interpret such powers in from a broader perspective. Consequently, almost all press conferences, demonstrations and marches are banned by governors. If KESK executives and activists take streets, security officers use excessive force-that amount to torture and ill-treatment in many cases-and arrest trade union activists. Following the security officers' excessive use of violence, public prosecutors launch arbitrary judicial investigations against KESK members. In the light of these facts, KESK is of the opinion that the State of Emergency has been lifted on paper only.

KESK objective defines that labour rights, trade union rights and democratic principles cannot be separated from each other. Accordingly, KESK organises activities and issues public statements about labour and trade union rights and social issues related to democratic problems in our country. While there were some discussions about a potential military intervention in Afrin province in Syria in January 2018, KESK issued a public statement of which title is "An attack on Afrin will deepen the Chaos." The public prosecutor's office in Ankara launched an investigation against the KESK executive committee members. There is a pending case related to this statement before the 4th Assize Court in Ankara. The next hearing will be held at 10.00 on 19 December 2019.

Trade union rights and freedoms

Trade union rights and freedoms as well as human rights have always been problematic categories in our country. However, it is the first that so many public officers were suspended and dismissed from their offices in Turkey since military coup attempt on 15 July 2016. Even after military coups and coup attempts, public officers did not face such a high number of dismissals and suspension. According to the UN High Commissioner for Human Rights; there are approximately 150.000 dismissed and approximately 40.000 suspended public officers in Turkey. Public officers are dismissed from their offices without any judicial investigation and any chance to challenge the dismissal. They are dismissed from the public sector not during the State of Emergency period but for life. The existing conditions of the dismissal demonstrate the level problems that a dismissed public officer faces. The main issues related to dismissals and suspensions are that the presumption of innocence is violated and there is no effective legal remedy. There is a criminalisation and defamation policy towards public officers in general and KESK members.

Trade union rights and freedoms are under the protection international conventions, particularly ILO conventions, which Article 90 of the Constitution consider as superior to domestic legislation. In fact, these rights and freedoms are under the protection of domestic laws. However, the Government does not obey these obligations in this regard. On the contrary, the Government put pressure on us and violate our fundamental rights and freedoms.

Anti-labour policies have become more common since the AKP came to power. Yet, there is a dramatic increase in these policies particularly after the military coup attempt on 15 July 2016. These policies are worse than military coups in Turkey. Public officers face a systematic pressure and attacks in their work life. Our confederation and affiliates' executives and members are not free from these repressive policies that can be listed as: displacement (changing workplace) of public officers, change in position, administrative fines and prevention from being promoted, administrative investigations, judicial investigations and court cases, deduction from salary, termination of the contract, suspension, dismissals, reprimand, mobbing, discrimination on the basis of trade union membership, prevention of our members from distributing trade union materials such as leaflets, brochure, calendar etc. ban on trade union activities, demonstration, restriction to right to education, detention of our members, court cases on the basis of accusation of Law on demonstration and marches No. 2911 as well as freedom of thought and expression. In addition to these practices, there are cases that our members are subjected to excessive use of force by security officers. Of course, our members and executives are targeted by these policies. Another recent example of pressure on KESK is that our members and executives, as in the case of our former Co-President Lami Özgen, had to leave our country and are in exile now.

In this regard, the following KESK executive committee members were dismissed from their offices: KESK Co-Presidents Ms. Aysun GEZEN and Mr.Mehmet Bozgeyik, Our Women's Secretary Ms. Gülistan Atasoy, Egitim Sen (that organises teachers and administrative staff in the education sector, and academics) General Secretary, Mr. Keskin Bayindir, Egitim Sen treasurer Mr. Ahmet Karagoz, Women's Secretary Ms. Derya Yulcu, SES (that organises health officers and doctors) Press Secretary Mr. Fikret Çalağan, Women's Secretary Ms. Selma Atabey, BES (that organises public officers administrative institutions) General Secretary Mr. Aziz Özkan, Women's Secretary Ms. Banu Aykaç, TÜM BEL-SEN (that organises public officers in local administrations) General Secretary Mr. Yılmaz Yıldırımçı, Women's Secretary Ms. Semra Kıratlı, TARIM ORKAM-SEN (that organises public officers in the ministries of agriculture and forestry) Treasurer Mr. Ahmet Keleş. In addition to these executive committee members numerous executives at local branches were dismissed from their offices. In total, there are 4218 dismissed KESK members. The following table shows the figures in each sector:

TABLE 1: KESK- DISMISSALS (As of 12 January 2018)																
	Trade Union	1-EMERGENCY DECREE LAWS									i-695 KHK (24.12.17)	J-697 KHK (12.01.18)	HIGHER DISCIPLINARY BOARD	3- REINSTATE D MEMBERS- KHK	TOTAL	
		A-672 KHK (01.09.16)	B- 675 KHK (29.10.16)	C- 677 KHK (22.11.16)	D-679 KHK (06.01.2017)	E-683 KHK (22.01.2017)	F-686 KHK (07.02.2017)	G-689 KHK (29.04.2017)	H-692 KHK (14.07.2017)	I-693 KHK (25.08.2017)						
1	EĞİTİM SEN	167	644	14	51	-	617	57	8	14	33	2	48	-18	1.637	
2	SES	13	437	81	48	2	3	73	114	10	1	2	17	-16	785	
3	BES	14	25	96	203	13	2	14	16	24	24	-	15	-15	431	
4	TÜM BEL-SEN	-	-	502	-	-	-	-	555	44	77	-	4	-26	1.156	
5	TARIM ORK-SEN	1	5	-	37	-	-	4	-	-	-	-	1	-9	39	
6	HABER SEN	4	1	-	2	-	2	-	5	0	1	-	2	-	17	
7	ESM	7	16	-	2	-	-	2	1	3	-	-	-	-3	28	
8	BTS	2	-	-	-	-	-	3	3	0	-	-	-	-2	6	
9	KÜLTÜR SAN.SEN	6	3	-	1	-	-	3	-	0	-	-	-	-1	12	
10	YAPIYOL -SEN	4	12	-	15	-	-	2	1	0	-	-	2	-4	32	
11	DİVES	1	52	-	1	-	-	-	-	0	2	-	13	-	69	
TOTAL		219	1.195	693	360	15	627	155	703	95	138	4	102	-94	4.212	
TOTAL NUMBER OF DISMISSALS THROUGH EMERGENCY DECREE LAWS: (A+B+C+D+E+F+G+H+I) = 4.062													102	-94	4.218	
DISMISSALS THROUGH HIGHER DISCIPLINARY BOARD: 102																
KHK + YDK TOPLAM İHRAC : 4.210 + 102 = 4.163																
REINSTATED MEMBERS THROUGH EMERGENCY DECREE LAWS: 94																
GRAND TOTAL= (4.210 + 102) - 94 = 4.218																

In accordance with the Council of Europe's recommendation, the Government has established the Inquiry Commission on the State of Emergency Measures by the Decree Law No. 685 dated 23 January 2017. The Commission, however, has begun working in July 2017. It is not a legal organ and has several other limitations in regard to the profile of the members who are mainly bureaucrats. In fact, the capacity of the Commission is not enough to examine all of the applications (more than 100.000 applications were submitted) in an efficient way. There is a transparency problem because the Commission's decisions are not public. Applicants have no chance to defend themselves before the Commission since all decisions are made on the basis of documents available. In the light of these facts, KESK is of the opinion that the Commission is not independent or impartial, and an efficient appeal mechanism.

Apart from the dismissals, there are numerous administrative investigations and court cases against our executives and members. As of 5 October 2017, there are more than 50 members of our Confederation are held in prison. Among dozens of court cases, there is one specific case that needs to be mentioned in this presentation. 72 KESK members, including former and existing co-presidents namely Lami Özgen and Mehmet Bozgeyik, face a judicial case that goes back to 2012. The next hearing will be held on 23 October 2019.

KESK and its affiliates are in full solidarity with the members who face problems. We provide financial assistance, though it is a small amount, and legal assistance to our members. More importantly, we stand together with them so that they can feel our moral and political support in this period.

None of the dismissed public officers exercised their right of defence under the State of Emergency. Similarly, their right to a fair trial was denied in this period. In other words, Article 6 of the European Convention on Human Rights has been clearly violated by the authorities. Fundamental individual rights and liberties, which are under the protection of national and international law, were violated by administrative decisions. Although the Constitution protects these

rights, authorities do not obey laws. Judicial processes still continue for our dismissed and suspended members. KESK closely follows their cases.

In fact, these dismissals, suspensions and anti-democratic attempts to intervene in our Confederation have a systematic structure. The Government exercises all these above-mentioned practices with a political objective that is elimination of our representational capacity.

Upon the Council of Europe recommendations, the Inquiry Commission on the State of Emergency Measures was set up on 23 January 2017. The Commission has not administrative autonomy and is not a judicial organ. Thus, there is no possibility of independent and impartial examination of cases by the Commission. The Commission members are bureaucrats who are appointed by the Government. Despite the long period, the Commission has examined about 55% of the applications. Only 7% of the applicants were reinstated. With regard to the KESK members, 200 members were reinstated and 389 applications were rejected by the Commission.

The existing policies namely targeting members of a specific trade union (in this case our Confederation), dismissals, no access to job and effective remedy, which are contrary to international obligations, are implemented through emergency decree laws. Consequently, these policies lead to the issue of lack of “job security”.

The Government does not accept that our executives are elected by our general assemblies, the highest organ of our trade unions, even if they are dismissed from their offices. Nor does the Government want to recognise the representative capacity of our executives. Our executives are prevented from joining activities in any commission or committee though they are the legal and legitimate representatives of our Confederation.

On the one hand, dismissals, suspensions, and displacement target our individual trade union members and executives; on the other hand, the political power intervenes in our organisations, statutes in this way. Therefore, the State of Emergency and Emergency Decree Laws serve as tools to eliminate and silence all segments of oppositional groups in the society. These tools eliminate trade union rights and freedoms. On 17 July 2017, KESK sent the list of our delegation that would represent our Confederation in the Collective Bargaining Agreement Negotiations for the period of 2018-2019 to the State Personnel Department. The political power intervened in the Collective Bargaining Agreement Negotiations in a manner contrary to legal principles. The Minister of Labour and Social Justice, Ms. Jülide Sarieroğlu cancelled our appointment in the last minute. Then, the Minister sent a scandalous letter to us and stated that the delegation should change because the former members are dismissed public officers.

Quality of the public service

All these repressive policies and practices made negative and destructive impacts also on the quality of the public service. Our Confederation defends a model of public service that citizens and public can collectively have a say, fairly free from the State intervention as well as private sector, free, accessible for everyone and in mother tongue. After the qualified and experienced public officers were dismissed from their offices, new public officers are employed according to their loyalty to the authorities rather than their skills and competency. This new employment policy damages the quality of the public services.

In conclusion;

Trade union members and human rights defenders face serious problems in Turkey. These problems include judicial harassment as in the case of arrest and detention as well as court cases. Moreover, administrative investigations and

dislocations are used to put pressure on trade union members. Public authorities do not hesitate to criminalise and defame trade union activists and leaders though these rights are under the protection of national and international laws.

For further communication, please contact us at international@kesk.org.tr

In solidarity,

Mehmet Bozgeyik
Co-President

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