

117TH CONGRESS
1ST SESSION

S. 2403

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

IN THE SENATE OF THE UNITED STATES

JULY 20, 2021

Mr. MARKEY (for himself, Mr. WYDEN, and Mr. MERKLEY) 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Turkey Human Rights Promotion Act of 2021”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Statement of policy.
- Sec. 5. Sense of Congress on press freedom.
- Sec. 6. Sense of Congress on internet freedom.

Sec. 7. Sense of Congress on protecting lawyers and promoting fair trials.
 Sec. 8. Sense of Congress on accountability for human rights violations.
 Sec. 9. Political prisoners assistance.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The United States values its longstanding
 4 alliance with the Republic of Turkey and its friend-
 5 ship with the people of Turkey, and seeks to pro-
 6 mote their democratic aspirations.

7 (2) Actions taken by the Government of Turkey
 8 in the aftermath of the attempted coup of July 2016
 9 have significantly expanded the government's crack-
 10 down on freedoms of expression, peaceful assembly,
 11 and association. Freedom House assessed Turkey to
 12 be "not free" in its Freedom in the World 2021 re-
 13 port.

14 (3) Since July 2016, Turkish authorities have
 15 detained tens of thousands of people they accused of
 16 aiding the coup attempt or supporting terrorism,
 17 sweeping up journalists, opposition politicians, dis-
 18 sidents, and others. The end of the state of emer-
 19 gency in 2018 has not led to an improvement in fun-
 20 damental freedoms in Turkey as the Government of
 21 Turkey has codified several provisions from the state
 22 of emergency into law.

1 (4) The Government of Turkey has used the at-
2 tempted coup as justification for a broader crack-
3 down.

4 (5) The 2020 Country Reports on Human
5 Rights Practices: Turkey states, “Under broad
6 antiterror legislation passed in 2018 the government
7 continued to restrict fundamental freedoms and
8 compromised the rule of law. Since the 2016 coup
9 attempt, authorities have dismissed or suspended
10 more than 60,000 police and military personnel and
11 approximately 125,000 civil servants, dismissed one-
12 third of the judiciary, arrested or imprisoned more
13 than 90,000 citizens, and closed more than 1,500
14 nongovernmental organizations on terrorism-related
15 grounds, primarily for alleged ties to the movement
16 of cleric Fethullah Gulen, whom the government ac-
17 cused of masterminding the coup attempt and des-
18 ignated as the leader of the ‘Fethullah Terrorist Or-
19 ganization’.”.

20 (6) A 2020 Reuters investigative press report
21 revealed that the Government of Turkey terminated
22 4,000 judges and prosecutors since 2016. A 2020
23 Human Rights Watch report highlighted the contin-
24 ued arbitrary detention of lawyers, which runs con-
25 trary to Turkey’s obligations under the International

1 Covenant on Civil and Political Rights, the Conven-
 2 tion for the Protection of Human Rights and Fun-
 3 damental Freedoms (commonly known as the “Euro-
 4 pean Convention on Human Rights”), and other
 5 human rights obligations.

6 (7) Turkey is the world’s second worst jailer of
 7 journalists, according to the Committee to Protect
 8 Journalists.

9 (8) President Recep Tayyip Erdoğan began a
 10 crackdown on journalism even before the 2016 coup
 11 attempt, which he then intensified. The Committee
 12 to Protect Journalists estimated that Turkey was
 13 holding at least 37 journalists in jail at the end of
 14 2020. According to a September 18, 2019 joint
 15 statement by civil society organizations, at least 180
 16 media outlets have been forcibly closed since the
 17 coup attempt of which Kurdish-language and Kurd-
 18 ish-focused media outlets are especially vulnerable.

19 (9) The Government of Turkey has also tar-
 20 geted writers and academics. Of roughly 2,000 aca-
 21 demics who signed a January 2016 petition calling
 22 for a restart to peace negotiations between the gov-
 23 ernment and the armed Kurdistan Workers’ Party,
 24 more than 700 scholars were criminally charged with
 25 supporting propaganda for a terrorist organization.

1 (10) The Government of Turkey continues its
2 unjust, 3-year detention of civil society leader
3 Osman Kavala. In 2017, Turkish authorities
4 charged Kavala and 15 others with “attempting to
5 overthrow the government or to prevent it from per-
6 forming its duties” based on ill-founded accusations
7 regarding the group’s role in the 2013 protests. In
8 December 2019, the European Court of Human
9 Rights (ECHR) ruled that Kavala’s detention took
10 place in the absence of sufficient evidence that he
11 had committed an offense, in violation of his right
12 to liberty and security under the European Conven-
13 tion on Human Rights. Turkey responded by acquit-
14 ting Kavala, but immediately rearrested him under
15 new charges related to the 2016 coup attempt, pur-
16 ported espionage, and continues to ignore the bind-
17 ing ECHR ruling.

18 (11) In 2017, Turkish police arrested Amnesty
19 International Turkey founding member Taner Kilic
20 and its director, Idil Eser, charging them as sup-
21 porters of terrorism. In July 2020, a Turkish court
22 unjustly sentenced Kilic to over 6 years in prison
23 and Eser to more than 2 years in prison.

24 (12) The Government of Turkey continues its
25 unjust detention of Selhattin Demirtas, a Kurdish

1 politician detained with other members of the Peo-
 2 ple’s Democratic Party in 2016. Demirtaş was a
 3 member of parliament at the time of his arrest for
 4 allegedly “carrying out terrorist propaganda” by
 5 speaking out in support of peace negotiations with
 6 the Kurdistan Workers’ Party. The European Court
 7 of Human Rights ruled in November 2018 that his
 8 detention “had pursued the predominant ulterior
 9 purpose of stifling pluralism and limiting freedom of
 10 political debate, which was at the very core of the
 11 concept of a democratic society”. In December 2020,
 12 the ECHR ruled that Turkey must “immediately re-
 13 lease” Demirtaş from prison, which Turkey con-
 14 tinues to ignore.

15 (13) The Government of Turkey has targeted
 16 lawyers, with particular focus on criminal defense
 17 lawyers, prosecuting them for discharging their pro-
 18 fessional duties and associating them, without evi-
 19 dence, with the alleged crimes of their clients. Fair
 20 trial rights and protections for lawyers have been re-
 21 stricted just as they are most critically needed given
 22 mass detentions and the wider crackdown on dissent.
 23 Police have also intimidated lawyers and obstructed
 24 their work.

1 (14) The Government of Turkey heavily re-
2 stricts and censors the internet. In 2019, the gov-
3 ernment blocked more than 408,000 websites,
4 40,000 tweets, 10,000 YouTube videos, and 6,200
5 Facebook shares, and blocked Wikipedia between
6 2017 and 2020. In early 2021, the government en-
7 acted a new social media law, which threatens social
8 media companies that do not obey requests to re-
9 move content. Twitter, and its live video-streaming
10 services, are currently facing pressure in the form of
11 advertising bans by the Government of Turkey as a
12 result of their unwillingness to appoint local rep-
13 resentatives to handle government removal requests.

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

18 (16) The Government of Turkey has dem-
19 onstrated a disregard for fundamental freedoms be-
20 yond Turkey's borders, including in the United
21 States. In 2016, members of President Erdoğan's
22 security detail engaged in violence against journal-
23 ists reporting on an event at the Brookings Institu-
24 tion. During President Erdoğan's May 2017 visit to
25 Washington, DC, individuals from the Turkish Em-

1 bassy grounds pushed past District of Columbia po-
 2 lice officers to brutally attack individuals dem-
 3 onstrating peacefully in opposition to policies of the
 4 Government of Turkey.

5 (17) The Government of Turkey has abused
 6 international institutions to target critics, “trig-
 7 gering a flood of Interpol ‘red notice’ requests to de-
 8 tain critics abroad”, according to Freedom House.
 9 Targets include United States permanent resident
 10 Enes Kanter, a professional basketball player,
 11 human rights activist, and vocal critic of President
 12 Erdoğan.

13 (18) Since 2014, the Government of Turkey has
 14 pursued opponents and critics in more than 30 coun-
 15 tries, securing the renditions of at least 58 people
 16 without due process in what Freedom House has
 17 characterized as a “campaign of transnational re-
 18 pression”, unrivaled by any other country. In a
 19 March 2021 report, the Office of the High Commis-
 20 sioner for Human Rights stated that the increase
 21 cases in arbitrary detention “may constitute crimes
 22 against humanity”.

23 (19) The Government of Turkey threatens to
 24 escalate its targeting of critics internationally, con-
 25 sistent with an overly broad domestic counterter-

1 rorism campaign. On October 30, 2019, President
2 Erdogan stated, “Some countries eliminate terrorists
3 whom they consider as a threat to their national se-
4 curity, wherever they are. Therefore, this means
5 those countries accept Turkey has the same right.
6 This includes the terrorists they shake hands with
7 and praise.”. He added that he hoped to deliver
8 “good news” on the matter soon.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) **POLITICAL PRISONER.**—The term “political
12 prisoner” means a person who has been deprived of
13 his or her personal liberty if—

14 (A) the detention has been imposed in vio-
15 lation of one of the fundamental guarantees set
16 out in the European Convention on Human
17 Rights, particularly—

18 (i) freedom of thought, conscience,
19 and religion;

20 (ii) freedom of expression and infor-
21 mation; and

22 (iii) freedom of assembly and associa-
23 tion;

1 (B) the detention has been imposed for
2 purely political reasons without connection to
3 any offense;

4 (C) for political motives, the length of the
5 detention or its conditions are clearly out of
6 proportion to the offense of which the person
7 has been found guilty or is suspected;

8 (D) for political motives, he or she is de-
9 tained in a discriminatory manner as compared
10 to other persons; or

11 (E) the detention is the result of pro-
12 ceedings which were clearly unfair and appear
13 to be connected with political motives of the au-
14 thorities.

15 (2) PRISONER OF CONSCIENCE.—The term
16 “prisoner of conscience” means any person who—

17 (A) is imprisoned or otherwise physically
18 restricted solely for the peaceful exercise of his
19 or her human rights; and

20 (B) has not used violence or advocated vio-
21 lence or hatred.

22 **SEC. 4. STATEMENT OF POLICY.**

23 It is the policy of the United States—

24 (1) to support democracy, peace, and prosperity
25 in Turkey;

1 (2) to oppose the abuse of counterterrorism au-
2 thorities, including targeting journalists, political op-
3 ponents, dissidents, minorities (including Kurds),
4 and others engaged in exercising their right to free-
5 doms of expression, peaceful assembly, or associa-
6 tion;

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

14 (4) to use all diplomatic tools to advocate that
15 all prisoners of conscience and political prisoners in
16 Turkey should be released;

17 (5) to support and pressure the Government of
18 Turkey in the repeal or amendment of—

19 (A) all anti-terrorism laws and regulations
20 that allow the government to unjustly target
21 journalists, political opponents, dissidents, and
22 minorities;

23 (B) all laws and regulations that violate
24 the right to freedoms of expression, peaceful as-
25 sembly, or association in a manner not per-

1 mitted by international legal standards, includ-
2 ing laws and regulations that seek to punish
3 those who insult political figures or denigrate
4 the Turkish nation or state institutions; and

5 (C) all laws and regulations that violate
6 the right to a fair trial; and

7 (6) to oppose the export to Turkey by any
8 country of surveillance technologies, including soft-
9 ware, that could be used to monitor the activities of
10 journalists, political opponents, dissidents, or minori-
11 ties.

12 **SEC. 5. SENSE OF CONGRESS ON PRESS FREEDOM.**

13 It is the sense of Congress that—

14 (1) the Government of Turkey must take steps
15 to significantly improve the dire climate for journal-
16 ists and those supporting the journalism profession,
17 including—

18 (A) ending the enforcement of draconian
19 laws and regulations that restrict freedom of
20 expression; and

21 (B) releasing all journalists and media
22 workers who have been imprisoned for fulfilling
23 their professional responsibilities;

24 (2) the Department of State should provide as-
25 sistance and warnings of impending politically moti-

1 vated detention or harm to journalists and media
2 workers in danger in Turkey, regardless of citizen-
3 ship status, including journalists working for Kurd-
4 ish media organizations;

5 (3) United States Government officials should
6 prioritize demands to release unfairly detained jour-
7 nalists and media workers in their communications
8 with Turkish officials; and

9 (4) press freedom and the freedom of expres-
10 sion are fundamental human rights and should be
11 upheld and protected in Turkey and everywhere.

12 **SEC. 6. SENSE OF CONGRESS ON INTERNET FREEDOM.**

13 It is the sense of Congress that—

14 (1) the Government of Turkey must cease its
15 ongoing crackdown on free expression on the inter-
16 net, including by repealing or amending laws that
17 allow the government to block a website or remove
18 content from the website if there is sufficient sus-
19 picion that the site is insulting political figures;

20 (2) the Department of State should support
21 and pressure the Government of Turkey—

22 (A) to halt its frequent requests that social
23 media companies block accounts and content of
24 journalists and media outlets; and

1 (B) to ensure that the Radio and Tele-
 2 vision Supreme Council does not arbitrarily re-
 3 strict online streaming services through a costly
 4 and opaque licensing regime; and

5 (3) escalating controls regulating internet use
 6 are an attempt by the Government of Turkey to si-
 7 lence one of the last platforms for independent jour-
 8 nalism in the country.

9 **SEC. 7. SENSE OF CONGRESS ON PROTECTING LAWYERS**
 10 **AND PROMOTING FAIR TRIALS.**

11 It is the sense of Congress that—

12 (1) the Government of Turkey must—

13 (A) halt its indiscriminate detention and
 14 prosecution of lawyers, judges, prosecutors, and
 15 court officials, and its targeting of lawyers' as-
 16 sociations;

17 (B) repeal laws restricting the right of law-
 18 yers to discharge their professional duties, the
 19 rights of suspects to legal counsel, and the right
 20 of lawyer-client privileged communication;

21 (C) ensure that lawyers can visit detainees
 22 in police custody, and remind police and pros-
 23 ecutors of the protected role of lawyers under
 24 Article 14 of the International Covenant on
 25 Civil and Political Rights, Articles 5 and 6 of

1 the European Convention on Human Rights,
2 and the United Nations Basic Principles on the
3 Role of Lawyers; and

4 (D) end the practice of prosecuting lawyers
5 based on whom they have represented as cli-
6 ents;

7 (2) the Department of State should pressure
8 the Government of Turkey—

9 (A) to abolish extended pretrial detention,
10 consistent with Turkey's Judicial Reform Strat-
11 egy;

12 (B) to reverse the April 2017 amendment
13 to Article 159 of the Constitution, which allows
14 for political control over the nomination proce-
15 dures to the Council of Judges and Prosecutors;
16 and

17 (C) to ensure the independence of judges
18 and of the judiciary system, with particular
19 focus on the Ministry of Justice; and

20 (3) the independence of any country's judicial
21 system suffers when lawyers—

22 (A) are subject to intimidation and harass-
23 ment in their work; and

24 (B) are identified with the causes of their
25 clients.

1 **SEC. 8. SENSE OF CONGRESS ON ACCOUNTABILITY FOR**
2 **HUMAN RIGHTS VIOLATIONS.**

3 It is the sense of Congress that if the Government
4 of Turkey does not promptly take effective steps to ad-
5 dress the human rights violations described in this Act—

6 (1) the President of the United States should
7 impose sanctions pursuant to the Global Magnitsky
8 Human Rights Accountability Act (subtitle F of title
9 XII of Public Law 114–328; 22 U.S.C. 2656 note)
10 with respect to officials of the Government of Tur-
11 key found responsible for—

12 (A) the detention of prisoners of conscience
13 and political prisoners;

14 (B) the politically motivated detention of
15 journalists;

16 (C) restricting of freedom of free expres-
17 sion through social media; and

18 (D) other gross violations of internationally
19 recognized human rights;

20 (2) the President should confirm that United
21 States security assistance provided to the Govern-
22 ment of Turkey is fully consistent with the condi-
23 tions mandated in section 36 of the Arms Export
24 Control Act ((22 U.S.C. 2776)) and the human
25 rights provisions contained in section 620M of the
26 Foreign Assistance Act of 1961, (22 U.S.C. 2378d);

1 (3) the Secretary of the Treasury should in-
2 struct the United States executive director of each
3 international financial institution to oppose any loan,
4 grant, policy, or strategy determined to be directly
5 enabling the Government of Turkey to violate the
6 human rights of its citizens; and

7 (4) the Secretary of State should impose visa
8 restrictions under the announced “Khashoggi Ban”,
9 pursuant to section 212(a)(3)(C) of the Immigration
10 and Nationality Act (8 U.S.C. 1182(a)(3)(C)) on—

11 (A) individuals who, acting on behalf of the
12 government, are believed to have been directly
13 engaged in serious, extraterritorial counter-dis-
14 sident activities, including those who—

15 (i) suppress, harass, surveil, threaten,
16 or harm journalists, activists, or other per-
17 sons perceived to be dissidents for their
18 work; or

19 (ii) engage in such activities with re-
20 spect to the families or other close associ-
21 ates of such persons; and

22 (B) family members of individuals de-
23 scribed in subparagraph (A), as appropriate.

1 **SEC. 9. POLITICAL PRISONERS ASSISTANCE.**

2 The Secretary of State shall provide assistance to
3 civil society organizations in Turkey that work to secure
4 the release of prisoners of conscience and political pris-
5 oners in Turkey, and to current and former prisoners of
6 conscience and political prisoners in Turkey, including—

7 (1) support for the documentation of human
8 rights violations with respect to prisoners of con-
9 science and politically motivated prisoners;

10 (2) support for advocacy in Turkey to raise
11 awareness of issues relating to prisoners of con-
12 science and political prisoners;

13 (3) support for efforts to repeal or amend laws
14 or regulations that are used to imprison individuals
15 as prisoners of conscience or political prisoners;

16 (4) support, including travel costs, and legal
17 fees, for families of prisoners of conscience and polit-
18 ical prisoners;

19 (5) support for health, including mental health,
20 and post-incarceration assistance in gaining access
21 to education and employment opportunities or other
22 forms of reparation to enable former prisoners of
23 conscience and political prisoners to resume a nor-
24 mal life; and

- 1 (6) the delegation of specific United States mis-
- 2 sion staff who will observe trials in politically moti-
- 3 vated cases, including in Southeast Turkey.

