



# HOUSING AND LAND RIGHTS NETWORK

## Habitat International Coalition

### URGENT ACTION APPEAL

#### DIYARBAKIR: TUR-260516

### EXPROPRIATION, EVICTION AND DEMOLITIONS IN SURIÇI, DIYARBAKIR, TURKEY

Mass dispossession, 23,000 people displaced, 27,000 facing forced eviction, 1,100 buildings, including world heritage sites, already demolished

#### I. Summary

Following large-scale military operations since December 2015 that displaced **23,000 inhabitants** in the fortress area of Metropolitan Diyarbakir known as Suriçi (Walled City), the Council of Ministers of Turkey have issued a decree ordering the immediate expropriation of all non-state-owned parcels of Suriçi. The mass dispossession would appropriate a total of **6,292 land parcels**. Application of the Decree will entail the forced eviction and dispossession of **another 27,000 inhabitants** of Suriçi, affecting **14,764 households** and Suriçi's entire **population of 50,341**.

Since the cease-fire between the Government of Turkey and the outlawed Kurdish Workers Party (PKK) ended in July 2015, armed conflict has displaced at least **355,000 people** (February 2016) and curfews have affected some **1,642,000 residents** in at least 22 districts of seven cities across Turkey's southeast.



Map of Turkey showing location of City of Diyarbakir with detail on Province of Diyarbakir (pop. 1,654,196).

Suriçi, and by extension the metropolitan area of Diyarbakır, is also considered to be the historic and cultural capital of Turkish Kurdistan. Demolition of the quarter is ongoing, with some 1,100 buildings partially or completely destroyed during and after the military operations, including precious world heritage. These acts contravene international law, including treaties ratified by Turkey and raise the specter of ethnic cleansing. In light of Turkey's urban transformation history under the ruling Justice and Development Party (AKP) since 2002 and the historic conflict between Turkish governments and citizens in Kurdish-populated areas, two party doctrines converge in the dispossession and destruction of Suriçi. Local inhabitants have expressed their conviction that the security operations seek to empty the historic center of its indigenous population ahead of an urban-transformation drive, rather than battling the PKK.

## II. Victims

Open-ended round-the-clock curfews (confinements) were declared on 11 December 2015 and still partly ongoing. During the military operations in spring of 2016, curfews were declared in six neighborhoods of the 15 total neighborhoods of Suriçi (Cevat Paşa, Dabanoğlu, Fatih Paşa, Hasırlı, Cemal Yılmaz and Savaş). The Municipality of Diyarbakır estimates 50,000 people displaced due to curfews and armed conflict in the wider Sur District. In particular, 23,000 people from Suriçi fled their homes when the curfew was lifted for a few hours before the resumption of the still-ongoing confinement. After military operations in confined areas, 70% of the buildings of the curfew-affected Suriçi neighborhoods were totally or partially destroyed.

The Expropriation Decree affects the whole Suriçi area and the total 50,341 inhabitants; hence, its immediate victims are **23,000 already displaced** and a potential **27,000 to be forcibly evicted**. Concerning the whole southeastern region, at least **1,642,000** residents have been **affected by the curfews** declared and carried out in the region. During curfews and confinements, fundamental rights of the inhabitants are violated, such as right to life and right to health. Moreover, according to the Ministry of Health on 27 February 2016, at least **355,000** residents have been **forced to leave the cities** and districts where they lived. From August 2015 to April 2016, at least 338 civilians (78 children, 69 females, 30 elderly people) lost their lives under curfew, 46 of whom are from the Metropolitan Diyarbakır, and 21 of those in Suriçi.

## III. Perpetrators of Violations and Duty Holders

The party responsible for the potential evictions and actual dispossession is the Government of Turkey and, more specifically, the signatories on the Expropriation Decree, the Cabinet of Ministers, headed by the President of Turkey Mr. Recep Tayyip Erdoğan and the former Prime Minister of Turkey Mr. Ahmet Davutoğlu –who resigned on May 2016 and was substituted by Mr. Binali Yıldırım.. The subsidiary entities responsible for the expropriation and envisaged development of Suriçi are the Ministry of Development, Ministry of Culture and Tourism, Ministry of Environment and Urban Planning and the Housing Development Administration of Turkey (TOKİ). The authority responsible for declaring the curfews are the presidentially appointed provincial governors; hence, in the case of Sur District, the Governor of Diyarbakır Mr. Hüseyin Aksoy.

Concerning the destruction of the cities, the entities directly responsible are the security forces such as the Police Anti-terror Combat Team, Police Special Forces, Gendarmerie Special Forces, military forces and riot police, led by Turkish Ministry of Interior and Ministry of Defense. In addition, unofficial militant squads including the "Gendarmerie Intelligence and Counter-Terrorism" or "Gendarmerie Intelligence Organization" (JİTEM), Hançer, Fatihler and Esedullah teams, also led by Ministry of Interior and Ministry of Defense of Turkey. The last of these cited is allegedly linked to Islamic State of Iraq and Levant (ISIL).

The opposing combatants include Kurdistan Workers' Party (PKK) guerrillas such as the Revolutionary Patriotic Youth Movement (YDG-H), the urban youth branch of PKK.

#### **IV. Events, Consequences and Developments**

The current events in Diyarbakır and the expropriation of Sur are entangled with the wider political context of the Kurdish-majority provinces in Turkey. Since the end of the Turkey-PKK ceasefire in July 2015 and after months of increasing tensions, violence spread throughout Turkey, particularly in the southeastern provinces. As clashes continued between the outlawed PKK and the Turkish army, Turkish authorities imposed curfews in several cities, followed by demonstrations. An unknown number of Kurdish citizens joined the armed struggle, mainly led by youth allegedly linked to YDG-H. In a dozen cities, local youth took up arms in what they brand a "self-defense" strategy, and took control of the cities by patrolling their streets. They dug trenches built barricades to prevent the police and army entry into the neighborhoods to avoid the conduct arbitrary arrests, as had been happening since the ceasefire.

In response, Turkish authorities expanded the curfews and launched a large-scale military operation in southeastern Turkey, killing 338 civilians, displacing 355,000 and causing massive destruction in residential areas. Turkish forces totally demolished 1,100 buildings in Suriçi alone. Between 16 August 2015 and 20 April 2016, authorities officially imposed 65 open-ended and round-the-clock curfews in at least 22 districts of seven cities in the region. At least 1,642,000 residents have been affected by these curfews. As mentioned, protests and vigils took place frequently outside the curfew areas, which police routinely dispersed with tear gas and water cannons, detaining protestors. As per 20 April, the Metropolitan Diyarbakır had undergone 35 curfews.

Moreover, security operations in the region have put up to 200,000 people at risk of death, injury and displacement, leaving them in the crossfire or cutting them off from emergency and basic services such as water, as they have been confined indoors. The New Year 2016 saw an escalation in combat activity, and 103 days of security operations left the Sur District in ruins by early March. Yet the curfew remained in place and was partially active as of June 2016, with confinement in some areas exceeding 160 days. As trucks moved in to remove debris, locals were still banned from entering their neighborhoods.

Meanwhile, in its interim monitoring cycle of 2016, the Council of Europe's Commission against Racism and Intolerance has reiterated the need for Turkey to establish "a body, independent of the police and other security forces and of the prosecution authorities, entrusted with the investigation of alleged cases of misconduct by the members of the police or other security forces, including ill treatment directed against members of minority groups."

Concerning counter-terrorism operations and policies, the Committee against Torture (CAT) recently raised its concerns about allegations of torture and ill-treatment of detainees, extrajudicial killings and ill-treatment in the context of counter-terrorism operations. CAT cites numerous credible reports of law-enforcement officials engaging in such acts while responding to perceived and alleged threats and carrying out counterterrorism operations in the southeastern part of the country following the breakdown of the peace process in 2015. In addition, CAT regretted the reported impunity enjoyed by the perpetrators of such acts, the failure by the State party to ensure accountability for the perpetrators of killings in cases previously raised by the Committee, and the Turkish government's reported denial to retrieve the bodies of those killed in clashes between security forces and members or armed groups by their families, hence impeding investigations into the circumstances surrounding those deaths.

The Committee also expressed its serious concern at reports that the imposition of curfews in areas in which security operations have taken place has restricted the affected populations' ability to access basic goods and services such as health care and food, causing severe pain and suffering.



area is still under confinement, it is not possible to know the exact extent of the destruction or to determine the distribution of registered historical buildings, civilian architecture and households among those 1,100 demolished buildings. Hence, any assessment of the damage is done through analyzing satellite images.

The recent Turkish history of urban-development plans of cities augurs the harmful trajectory of the government as well. Through top-down planning without consulting affected communities or consideration of the social dimensions and cultural practices, historical neighbourhoods whose residents own legal titles, such as happened in Sulukule, Tarlabası or Ayvansaray, became subject to destruction through urban renewal. In these examples, the areas targeted for urban development hosted Roma and Kurdish populations. Planners and developers replaced those communities with unaffordable luxurious projects on local populations, compelling the original low-income inhabitants to leave. Because they cannot pay the inflated prices of their properties and those in the development project, they cannot contract to sell to third parties and simply leave in order not to face expropriation. They end up impoverished, further deprived and, eventually, displaced.

While the centres of cities are redesigned for high-income groups, wealthy, transitory tourists and CEOs, it is not exaggerated to state that 70% of the population living in the redeveloped areas is expected to migrate to the periphery. Concerning the development plans of slums, often the inhabitants are moved from so called “unhealthy, “unsafe” and “filthy” places, turning “development” into a latent forced-eviction mechanism, since the relocated populations, unable to pay the housing in the “redeveloped” areas end up by moving out, most probably more impoverished than before and also losing all their social networks and solidarity ties, vital mechanisms of their survival.

Taking into account the recent Turkish urban transformation history and the historic conflict between Turkish governments and citizens in Kurdish-populated areas, it is not unthinkable that the intentions of the central Government of Turkey are to change the demographic character of Diyarbakır.

## **V. Official Reasons and Critique**

The Expropriation Decree of Sur on 21 March 2016 relies mainly on the Article 27 of the Expropriation Law no. 2942, which allows the Cabinet of Ministers to issue a so-called Immediate Expropriation Decree, pleading national defense or an emergency. In this case, seemingly the decree was request by the Ministry of Environment and Urban Planning. According to the Minister of Environment and Urban Planning, the decision was made as a “last resort” to protect the area. In addition, Turkish authorities also expressed that the decree was issued to speed up assistance. However, the immediate expropriation does not protect nor assist the owners and the inhabitants of Sur and, what is more, the Turkish authorities did not speed up any provision of alternate housing for displaced inhabitants of District of Sur and the Metropolitan Diyarbakır, which would have been an indicator of the intent to render assistance instead of dispossession.

Another publicized reason for the operations is urban transformation of Suriçi. While urban transformation and development are legitimate reasons when carried out in meaningful consultation with, and participation of local inhabitants and their representative bodies, among human rights-related preconditions, authorities who pursue such transformation through displacement caused by armed conflict commit illegal forced evictions that aggravate the conditions of displacement, poverty and homelessness.

## **VII. The State’s Duty under International Law**

The Turkish Constitution recognizes (Articles 56, 57) that Turkish citizens have the right to decent housing, and the state bears a responsibility to help meet those needs and rights. Moreover, Turkey

ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 2003, which recognizes “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.” Thus, the Republic of Turkey is obliged to give effect to the rights recognized therein and implement the guidance in the corresponding General Comments (No. 4 on the right to adequate housing and No. 7 on forced evictions). Turkey is further obliged to align the domestic legal order in order to give effect to their treaty obligations, as provided in General Comment No. 9 on domestic application of the Covenant.

Under the European Social Charter, which Turkey ratified in 2007, Article 31 guarantees the right to housing. Further, Article 1 of the European Convention on Human Rights Protocol 1 provides that “every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.” The Protocol reiterates a provision of the Universal Declaration of Human Rights: “no one shall be arbitrarily deprived of his property” (Article 17). And Turkey ratified the Protocol already in 1954.

In its resolution 43/181, the UN General Assembly determined the “fundamental obligation [of Governments] to protect and improve houses and neighbourhoods, rather than damage or destroy them” and that “people should be protected by law against unfair eviction from their homes or land.” The UN Commission on Human Rights also has affirmed that, “the practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing,” and “urges governments to undertake immediate measures, at all levels, aimed at eliminating the practice of forced eviction.” International standards also affirm the right to a remedy and reparation “for victims of gross violations of human rights.”

Forced eviction and house demolition as a punitive measure are also inconsistent with the norms of the ICESCR, and the 4<sup>th</sup> Geneva Convention of 1949 (Article 49) and its 1977 Protocols prohibit the displacement of the civilian population and the destruction of private property outside of strict military necessity. In light of these norms, CESCR repeatedly has expressed its concern over forced evictions that have taken place without adequate compensation or alternative accommodation. CESCR has encouraged Turkey to review its legal framework regulating urbanization projects to ensure those affected received adequate compensation and/or relocation.

The human right to adequate housing, which is derived from the right to an adequate standard of living, is of central importance to the enjoyment of all economic, social and cultural (ESC) rights and, as CESCR also has stated, is indivisible from many civil and political rights. As stated in General Comment 4 “the right to housing” should not be interpreted in a narrow or restrictive sense, rather, it should be seen as the right to live somewhere in security, peace and dignity. Adequate housing is composed by seven main elements: legal security of tenure; availability of services, materials, facilities and infrastructures; affordability; habitability; accessibility; location; and cultural adequacy.

Like all ESC rights, implementation must take place with States’ assurance of self-determination, nondiscrimination, gender equality, rule of law, the maximum of available resources, progressive realization (nonretrogression) and international cooperation. Correspondingly, policies and legislation should not benefit already-advantaged social groups at the expense of others, but rather prioritize disadvantaged groups such as minorities. At governance level, human rights treaties require States to take steps to ensure coordination among the various spheres of public authorities, including local authorities and local governments, in order to reconcile related policies and fulfill the right to adequate housing.

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"people should be protected by law against unfair eviction from their homes or land." The UN Commission on Human Rights also has affirmed that, "the practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing," and "urges governments to undertake immediate measures, at all levels, aimed at eliminating the practice of forced eviction."

International standards also affirm the right to a remedy and reparation "for victims of gross violations of human rights." CESCR considers that instances of forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most-exceptional circumstances, and in accordance with the relevant principles of international law. The practice of forced evictions may also result in violations of civil and political rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions.

General Comment No. 7 recognizes that forced eviction often takes place in connection with forced population transfers, internal displacement and forced relocations in the context of armed conflict. It states that, in all of these contexts, the right to adequate housing and not to be subjected to forced eviction may be violated through a wide range of acts or omissions attributable to States parties. In this sense, many instances of forced eviction are associated with violence, such as evictions resulting from international armed conflicts, internal strife and communal or ethnic violence, in fact indigenous people, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced eviction.

Other instances of forced eviction occur in the name of development, for development and infrastructure projects, such as the construction of dams or other large-scale energy projects, with land acquisition measures associated with urban renewal, housing renovation and city beautification programs. Forced eviction and house demolition as a punitive measure are also inconsistent with the norms of the Covenant. General Comment No. 7 also recalls the obligations enshrined in the Geneva Conventions of 1949 and its 1977 Protocols that prohibit the displacement of the civilian population and the destruction of private property outside of strict military necessity. The 4<sup>th</sup> Geneva Convention's Article 49 forbids the transfer of persons outside military imperatives and orders that such persons "shall be transferred back to their homes as soon as hostilities in the area in question have ceased" so as to ensure that proper accommodation is provided to the greatest practicable extent during evacuation period.

In light of these norms, CESCR repeatedly has expressed its concern over forced evictions that have taken place without adequate compensation or alternative accommodation. CESCR has encouraged Turkey to review its legal framework regulating urbanization projects to ensure those affected received adequate compensation and/or relocation. This reform is urgently needed to comply with ICESCR, consistent with General Comment No. 9, as well as with the Vienna Convention on the Law of Treaties (1969), which Turkey has not yet ratified.

The Turkish Cabinet ministers' March 2016 Expropriation Decree is inconsistent with these norms and constitutes a form of cruel, inhuman and degrading treatment to all inhabitants of Suriçi. This is not only a punishment to persons charged, or alleged to be responsible for armed clashes. Article 33 of the 4<sup>th</sup> Geneva Convention, Articles 26 and 67 of Geneva Convention III, Article 20(f)(ii) of the 1996 ILC Draft Code of Crimes against the Peace and Security of Mankind and Article 75(2)(d) of 1977 Additional Protocol I. Paragraph 5 of the 1974 UN Declaration on the Protection of Women and Children in Emergency and Armed Conflict explicitly ban collective punishment and determines that "destruction of dwellings and forcible eviction, committed by belligerents in the course of military operations or in occupied territories shall be considered criminal." Turkey has not taken legislative or administrative action to foreswear collective punishment or criminalize forced eviction.

In this connection, the 4<sup>th</sup> Geneva Convention's Article 33 provides that nobody may be punished for an offence he or she has not personally committed and declares that collective penalties are prohibited. Concerning property, Article 53, prohibits any destruction of personal property belonging individually or collectively to private persons, or to the sovereign, or to other public authorities, or to social or cooperative organizations. Finally, Article 147 considers grave breaches extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly. The destruction and demolition of at least 1,100 buildings and the expropriation of 6,392 land parcels of Suriçi could fit the description of extensive destruction and appropriation of property and would represent a grave breach of the Convention.

The Republic of Turkey violates all seven elements of the human right to adequate housing as pronounced in General Comment 4, while conducting forced evictions in violation of its obligations provided in General Comment 7. The Republic of Turkey is also violating the affected population's right to enjoy a bundle of Esc rights, as well as their right to live in their land in security, peace and dignity.

### **VIII. Actions already Undertaken**

As response to the situation in Diyarbakir, political entities, NGOs and local, Regional and International institutions reacted and mobilize to denounce the events and the expropriation process and developments.

During a March 2016 parliament session, People's Democratic Party (HDP) parliamentarians challenged the Turkish government's executive branch to reveal the real reasons of the Expropriation Decree, as it was clearly not justifiable under the rule of law. Lawmakers from President Recep Tayyip Erdogan's governing AKP party responded by pushing through an amendment to the Turkish Constitution that would strip members of Parliament of their immunity from prosecution, a move that is likely to lead to the ouster of Kurdish deputies. On the very day their parliamentary immunity was lifted, HDP leaders issued a letter to UN Secretary-General Ban Ki-moon appealing that he pay attention to the situation in Sur, ahead of his opening the First World Humanitarian Summit at Istanbul.

The Municipality of Diyarbakır has produced several reports on the destruction of Sur District's cultural heritage. The Municipality presented its reports and studies to the attention of the Turkish's Ministry of Culture and Tourism, Turkish National Commission for UNESCO, Turkish National Commission for International Council on Monuments and Sites ([ICOMOS](#)), Turkish National Committee of the International Commission for Risk Preparedness ([ICORP](#)) with the demand for inclusion of the Directorate of Site Management of the Municipality of Diyarbakır in all assessment, rehabilitation and adjustment processes. To wit, the current practices flout ICORP's 2012 Istanbul Statement on Cultural Heritage Protection in Times of Risk 2012.

More than 300 nongovernmental groups and civic leaders issued a [joint statement](#) on 30 March denouncing the expropriation. Serefhan Aydin, chairman of the Diyarbakır Architects Chamber and signatory of the joint statement, announced that the chamber would initiate a lawsuit to cancel the Expropriation Decree.

Concerning the development of the events, Diyarbakır Bar Association - Girasun prepared an application to the Council of Europe's European Court of Human Rights (ECHR) on behalf of families under curfew to have the curfews in Sur and other southeastern cities condemned as illegal. Having first sought to do the same in Turkish courts, and having had the case dismissed within hours, he and his team filed at the ECHR in September. The ECHR has condemned individual abuses committed by the Turkish state during the curfews, but has not yet declared the curfews themselves illegal.

The Commissioner for Human Rights of the Council of Europe visited Diyarbakır on mid-April 2016 and decried the shocking scale of destruction in some of the zones. The report of the mission will be

published soon. Moreover, the Venice Commission and the European Court of Human Rights of the Council of Europe are in process to examine the legality of the curfews, following as well the application from Diyarbakır Association.

Amnesty International (AI) conducted a mission to Diyarbakır on late May 2016 and witnessed the population displacement from Sur and the bulldozing of the Sur District. The London-based organization has raised alarm about the conduct of the curfews, but not yet reported on the ESC rights consequences of the Turkish military operations.

### **Now It's Time for Your Action!**

We suggest you write to the authorities in Turkey, urging them to:

- Immediately cease demolitions occurring in Suriçi and end the excessive curfews;
- Cancel the Expropriation Decree and reverse any measure undertaken to implement it;
- Provide reparations for the displaced population for damaged property and suffering endured during forced evictions;
- Undertake investigations and ensure accountability and liability of security forces and political authorities for their human rights and humanitarian law violations and consequences;
- Take urgent measures to guarantee the adequate alternate housing for those who lost their homes;
- Uphold all obligations in accordance with international law with respect to the rights of all citizens and residents, including respect, protection and fulfillment of the human right to adequate housing, as the right to live in security, peace and dignity;
- Engage in a frank dialogue with the affected communities and local authorities (the local sphere of government) in accordance with the principles of human rights, especially CESCR General Comment No. 7 and principles of the right to the city;
- Take the necessary steps to protect heritage buildings, investigating and remedying damage and destructive procedures undertaken within the international law norms of reparation for such gross violations.

### **Address your letter to the following authorities:**

#### **President of the Republic of Turkey**

Mr. Recep Tayyip Erdoğan

Fax: +90 312 403 62 82

Email:

[cumhurbaskanligi@tccb.gov.tr](mailto:cumhurbaskanligi@tccb.gov.tr)

#### **Prime Minister of Turkey**

Mr. Binali Yıldırım

Fax: +90 312 403 62 82

Email: [ozelkalem@basbakanlik.gov.tr](mailto:ozelkalem@basbakanlik.gov.tr)

#### **Minister of Environment and Urban Planning**

Mr. Mehmet Özhaseki

Fax: +90 (312) 474 03 35

Email: [ebrua@csb.gov.tr](mailto:ebrua@csb.gov.tr);

#### **Minister of Culture and Tourism**

Mr. Nabi Avci

[kultur@kultur.gov.tr](mailto:kultur@kultur.gov.tr)

#### **Governor of Diyarbakır**

Mr. Hüseyin Aksoy

Fax: +90 (412) 280 20 35

[diyarbakir@icisleri.gov.tr](mailto:diyarbakir@icisleri.gov.tr)

#### **Minister of Interior of Turkey**

Mr. Efan Ala

Fax: +90 312 418 1795

Email: [ozelkalem@icisleri.gov.tr](mailto:ozelkalem@icisleri.gov.tr)

### **Sample letter:**

Dear XXXX:

We are extremely concerned to learn about the situation on Diyarbakır and the Expropriation Decree issued by Turkey's Cabinet of Ministers. According to information received from the Municipality of Diyarbakır and local civil society organisations 23,000 people have been displaced and more than 50,300 people, a total of 14,764 households, risk being evicted upon implementation of the Decree.

The population of Diyarbakır's historic fortress quarter (Suriçi) have been under curfews since August 2015. During military operations in 2016, the army imposed curfews on six neighbourhoods of Suriçi (Cevat Paşa, Dabanoğlu, Fatih Paşa, Hasırlı, Cemal Yılmaz and Savaş). The open-ended round-the-clock curfews (confinements) declared on 11 December 2015 are still partly ongoing. The Municipality of Diyarbakır estimates that the operations have left 50,000 people displaced, including 23,000 people from Suriçi.

Military operations in the confined areas have totally or partially destroyed 70% of the buildings in curfew-affected Suriçi neighborhoods. The army and security forces already have demolished some 1,100 buildings, including world heritage sites. Meanwhile, the Expropriation Decree affects the whole Suriçi area with a total of 50,341 inhabitants; hence, threatening the forced eviction of potentially 27,000 more, and taking a total of 6,292 parcels of land and buildings.

Already, at least 1,642,000 residents have been affected by the curfews carried out in at least 22 districts of seven cities in the southeastern region. During curfews and confinements, fundamental rights of the inhabitants are violated, such as right to life and right to health. According to the Ministry of Health on 27 February 2016, at least 355,000 residents were forced to leave and, from August 2015 to April 2016, at least 338 civilians lost their lives under curfew.

The Turkish Constitution recognizes (Articles 56, 57) that Turkey's citizens have the right to decent housing, and the state bears a responsibility to help meet those needs and rights. Turkey also bears related treaty obligations, having ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 2003, which recognizes "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." Thus, the Republic of Turkey is obliged to give effect to the rights recognized therein and implement the guidance in the corresponding General Comments (No. 4 on the right to adequate housing and No. 7 on forced evictions). Turkey is further obliged to align the domestic legal order in order to give effect to their treaty obligations, as provided in General Comment No. 9 on domestic application of the Covenant.

Under the European Social Charter, which Turkey ratified in 2007, Article 31 guarantees the right to housing. Further, Article 1 of the European Convention on Human Rights Protocol 1 provides that "every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law." Turkey ratified the Protocol in 1954.

In its resolution 43/181, the UN General Assembly determined the "fundamental obligation [of Governments] to protect and improve houses and neighbourhoods, rather than damage or destroy them" and that "people should be protected by law against unfair eviction from their homes or land." The UN Commission on Human Rights also has affirmed that, "the practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing," and "urges governments to undertake immediate measures, at all levels, aimed at eliminating the practice of forced eviction." International standards also affirm the right to a remedy and reparation "for victims of gross violations of human rights."

Forced eviction and house demolition as a punitive measure are also inconsistent with the norms of the ICESCR, and the 4<sup>th</sup> Geneva Convention of 1949 (Article 49) and its 1977 Protocols prohibit the displacement of the civilian population and the destruction of private property outside of strict military necessity. In light of these norms, CESCR repeatedly has expressed its concern over forced evictions that have taken place without adequate compensation or alternative accommodation. CESCR has encouraged Turkey to review its legal framework regulating urbanization projects to ensure those affected received adequate compensation and/or relocation.

The Turkish Cabinet ministers' March 2016 Expropriation Decree is inconsistent with these norms and constitutes a form of cruel, inhuman and degrading treatment to all inhabitants of Suriçi. This is not only a punishment to persons charged, or alleged to be responsible for armed clashes. Article 33 of the 4<sup>th</sup> Geneva Convention, Articles 26 and 67 of 3<sup>rd</sup> Geneva Convention explicitly ban collective punishment. The 1974 UN Declaration on the Protection of Women and Children in Emergency and Armed Conflict determines that "collective punishment, destruction of dwellings and forcible eviction, committed by belligerents in the course of military operations or in occupied territories shall be considered criminal." Turkey has not taken legislative or administrative action to foreswear collective punishment or criminalize forced eviction.

In this connection, the 4<sup>th</sup> Geneva Convention's Article 33 provides that nobody may be punished for an offence he or she has not personally committed and declares that collective penalties are prohibited. Concerning property, Article 53, prohibits any destruction of personal property belonging individually or collectively to private persons, or to the sovereign, or to other public authorities, or to social or cooperative organizations. Finally, Article 147 considers grave breaches extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly. The destruction and demolition of at least 1,100 buildings and the expropriation of 6,392 land parcels of Suriçi could fit the description of extensive destruction and appropriation of property and would represent a grave breach of the Convention.

By the actions taken in Suriçi under the curfews and the ministers' Expropriation Decree, the Republic of Turkey is also violating the affected population's right to enjoy a bundle of human rights, as well as their right to live in their land in security, peace and dignity. Turkey must refrain from forced evictions and wanton destruction of property, including irreplaceable heritage structures, and ensure that the law is enforced against its agents or third parties who carry out such acts, whether in the name of security operations or urban transformation and renewal. Hence, Turkey should ensure that all feasible alternatives are explored in consultation with the affected persons and ensure an effective remedy, including reparations.

We urge Your Excellency and all authorities in the Republic of Turkey to:

- Immediately cease demolitions occurring in Suriçi and end the excessive curfews;
- Cancel the Expropriation Decree and reverse any measure undertaken to implement it;
- Provide reparations to the dispossessed and displaced populations for damaged property and other harm suffered in the course of forced evictions;
- Undertake investigations and ensure accountability and liability of security forces and political authorities for their human rights and humanitarian law violations and consequences;
- Take urgent measures to guarantee the adequate alternate housing for those who have lost their homes;

- Uphold all obligations in accordance with international law with respect to the rights of all citizens and residents, including respect, protection and fulfillment of the human right to adequate housing, as the right to live in security, peace and dignity;
- Engage in a frank dialogue with the affected communities and local authorities (the local sphere of government) in accordance with the principles of human rights, especially CESCR General Comment No. 7 and principles of the right to the city;
- Take the necessary steps to protect heritage buildings, investigating and remedying damage and destructive within the international law norms of reparation;

Your Excellency, we look forward to hearing of your due diligence to adhere to the Republic of Turkey's relevant human rights obligations by protecting its citizens from further violation of their right to adequate housing, among their other human rights.

Yours sincerely,

[your name and organization]