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CENTRE KURDE DES DROITS DE L'HOMME

REPORT TO THE UNITED NATIONS COMMITTEE AGAINST TORTURE

THE RETURN OF KURDISH ASYLUM SEEKERS FROM SWITZERLAND TO TURKEY, RISKS OF DETENTION AND ILL-TREATMENT, AND THE CASE OF BAHAR YALÇINKAYA

I. INTRODUCTION

This report concerns serious concerns regarding the removal from Switzerland to Türkiye of Turkish nationals, particularly Kurdish asylum seekers and persons who have been exposed to criminal investigations or prosecutions because of their political opinions, political activities, social-media expressions, or alleged links to the Kurdish political movement.

For some time, Swiss authorities have increasingly rejected asylum applications submitted by Kurdish nationals from Türkiye. In a number of cases, the reasoning appears to place considerable weight on the assessment that the applicant may receive only a relatively short prison sentence in Türkiye and could therefore serve that sentence there. In cases involving social-media publications, alleged insults against the President, or alleged propaganda-related offences, the potential duration of imprisonment may be treated as insufficient, in itself, to justify international protection.

Such an approach raises serious concerns when the assessment focuses primarily on the length of a possible sentence and does not sufficiently examine the political nature of the prosecution, the individual circumstances of the applicant, the risk of pre-trial detention, the conditions of detention, the possibility of ill-treatment, and the broader human-rights context in Türkiye.

The present report does not argue that every criminal prosecution in Türkiye automatically constitutes a ground for asylum or protection against removal. Rather, it submits that where criminal proceedings are connected to political expression or Kurdish identity and where there is a concrete risk of detention, ill-treatment or politically motivated prosecution, the individual risk must be examined carefully before removal.

The case of Bahar Yalçinkaya illustrates these concerns particularly clearly.

Bahar Yalçinkaya was removed from Switzerland together with her two children. According to available information, she was handcuffed with her hands behind her back in front of her children during the removal operation. After arriving in Türkiye, she was detained and subsequently placed in pre-trial detention. Her youngest child, born in Switzerland on 5 June 2025, was reportedly placed in prison with her.

The case is particularly significant because her Swiss lawyer had reportedly warned the Swiss authorities before her removal that she was the subject of ongoing criminal investigations and proceedings in Türkiye and that she faced a serious risk of detention if returned.

The issue before the Committee is therefore not merely whether Switzerland was entitled to reject an asylum application. The central question is whether Switzerland fulfilled its obligations under international human-rights law before returning a person for whom a concrete risk of detention and potentially ill-treatment had been specifically brought to the authorities' attention.



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II. THE POLITICAL AND HUMAN-RIGHTS CONTEXT IN TÜRKIYE

Türkiye has entered a new phase of political discussions concerning the Kurdish question and the possibility of ending the armed conflict.

Contacts between the Turkish authorities and representatives of the Kurdish political movement have resumed, and in 2025 the Kurdistan Workers' Party (PKK) announced the end of its armed struggle and its dissolution following a call by Abdullah Öcalan. The Turkish authorities have also spoken publicly about a political and democratic solution to the Kurdish question.

These developments are important and potentially significant.

However, the existence of a political dialogue does not, by itself, demonstrate that the risks faced by Kurdish political actors, activists or persons accused of supporting Kurdish political causes have disappeared.

There remains a substantial gap between political declarations concerning a peace and democratisation process and certain practices on the ground.

Kurdish political actors continue to face criminal investigations, prosecutions and other forms of pressure. Elected local officials associated with Kurdish political parties have been removed from office or replaced by government-appointed trustees. These developments have generated criticism from European and international institutions.

The continued use of criminal and counter-terrorism legislation against political expression is particularly relevant when assessing the risk faced by Kurdish asylum seekers returned from Europe.

The existence of peace negotiations should therefore not be interpreted as evidence that political expression relating to the Kurdish question is automatically safe in Türkiye.

III. CRIMINAL PROSECUTIONS FOR POLITICAL EXPRESSION

Persons in Türkiye may face investigations or prosecutions in connection with social-media posts, political statements, expressions of support for Kurdish political causes, alleged “terrorist propaganda”, or alleged insults against public officials.

The legal classification of such conduct must be examined on an individual basis.

However, the potential sentence alone cannot determine whether return is safe.

A person may face:

- arrest or detention upon arrival;
- prolonged pre-trial detention;
- politically motivated prosecution;
- restrictions on access to family members and legal counsel;
- ill-treatment in custody;
- psychological pressure;
- disproportionate restrictions on freedom of expression; and



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- additional investigations arising from the same political profile.

Accordingly, the relevant question is not simply whether the person might ultimately receive a short prison sentence.

The relevant question is whether there are substantial grounds for believing that the individual would face a real and foreseeable risk of torture or other serious ill-treatment upon return.

This distinction is particularly important under Article 3 of the Convention against Torture.

IV. SWITZERLAND'S RETURN PRACTICE

Switzerland's State Secretariat for Migration (SEM) examines asylum applications and may order removal following rejection of an asylum claim. Cantonal authorities are responsible for enforcing removals.

However, the existence of a removal decision does not eliminate Switzerland's international obligations concerning non-refoulement.

The Committee against Torture has emphasized that the prohibition of refoulement under Article 3 is absolute where substantial grounds exist for believing that the person would be in danger of torture. The Committee also stresses the importance of an individualized assessment rather than collective or generalized assumptions.

Against this legal background, concerns arise from reports that Turkish nationals whose asylum applications were rejected in Switzerland were subsequently detained or imprisoned after returning to Türkiye.

V. SRF INVESTIGATION AND SIMILAR CASES

A particularly important independent source is an investigation published by Swiss public broadcaster SRF in late 2025.

According to the SRF investigation, at least twelve Turkish nationals whose asylum applications had been rejected in Switzerland were arrested or imprisoned shortly after returning to Türkiye.

The cases prompted criticism from refugee and human-rights organizations, which questioned whether the Swiss authorities were sufficiently assessing the individual risks faced by Turkish asylum seekers before removal.

The Swiss State Secretariat for Migration reportedly stated that such cases were taken seriously and that individual circumstances should be examined.

The SRF findings are particularly relevant to the present case because they demonstrate that detention after return is not merely a hypothetical possibility.

VI. THE CASE OF BAHAR YALÇINKAYA

1. Personal and family circumstances

Bahar Yalçinkaya was born on 5 June 1991 and is originally from Diyarbakır.

She completed her university education in Malatya. After graduation, she worked for approximately two years as a teacher in a village in Diyarbakır.



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Before leaving Türkiye, she lived in Istanbul for approximately three years with her husband and daughter.

She subsequently lived in Switzerland for approximately two years and nine months.

She has two children:

- Mavi Yalçinkaya, born 29 December 2022.
- Leon Yalçinkaya, born 5 June 2025.

The youngest child was born in Switzerland.

Bahar lived with her children for approximately two years at the Rückkehrzentrum Ober Halden return centre in the canton of Zurich.

2. Asylum and return procedure

Bahar Yalçinkaya's asylum application in Switzerland was rejected. According to the information available, she received a second negative decision in June.

The assessment attributed to the Swiss authorities reportedly considered that any sentence she might receive in Türkiye would not be particularly severe and that she could serve such a sentence in Türkiye.

This reasoning is of concern if the assessment did not sufficiently consider the political context of the proceedings, the existence of ongoing investigations and court proceedings, the possibility of pre-trial detention, and the risk of ill-treatment.

Her Swiss lawyer, Murat Özten, reportedly informed the Swiss authorities before her removal that Yalçinkaya was the subject of ongoing criminal investigations and judicial proceedings in Türkiye and that she faced a significant risk of detention if returned.

The reported investigations concerned allegations relating to propaganda associated with the Kurdish political movement.

3. The removal operation

Bahar Yalçinkaya was removed from the Rückkehrzentrum Ober Halden in the canton of Zurich together with her two children.

According to a witness living at the same centre, police officers entered her room in the morning and forcibly removed her.

The witness reported that Bahar was handcuffed with her hands behind her back in front of her children.

The witness further stated that the children cried intensely and that other residents were prevented from assisting them.

These allegations should be independently investigated.

Even where a removal order is legally enforceable, the method by which the removal is carried out remains subject to requirements of necessity, proportionality, human dignity and respect for the rights and welfare of children.

4. Detention after return to Türkiye



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After arriving in Türkiye, Bahar Yalçinkaya was reportedly detained immediately.

Following approximately one day in police custody, a court ordered her pre-trial detention and she was reportedly transferred to Bakırköy Women's Prison in Istanbul.

Her youngest child, born in Switzerland on 5 June 2025, was reportedly placed in prison with her.

This sequence of events is highly significant. Before removal, her lawyer had reportedly warned the Swiss authorities that she faced a serious risk of detention in Türkiye. After removal, that risk materialised almost immediately.

5. The children

Bahar's children were present during the removal operation. According to the witness account, they saw their mother being forcibly removed and handcuffed.

The youngest child was born in Switzerland on 5 June 2025. Following Bahar's detention in Türkiye, the youngest child was reportedly placed in prison with her mother.

The impact of the removal and detention on the children should therefore be assessed separately from the mother's asylum claim.

VII. BROADER CONTEXT: KURDISH POLITICAL EXPRESSION

The broader human-rights context in Türkiye is also relevant. Reports concerning police intervention against Kurdish families and individuals for cultural or political expression illustrate the continuing sensitivity surrounding Kurdish identity and expression.

In July 2025, reports emerged concerning a police intervention against members of a Kurdish family in Istanbul's Bayrampaşa district. According to reports and a subsequent communication by UN Special Procedures, members of the family were allegedly subjected to police violence and detained after listening to Kurdish music. The allegations included excessive force and the involvement of a pregnant woman. The family members were subsequently released under judicial-control conditions.

This incident should not be used to claim that every Kurdish person in Türkiye faces the same treatment. Its relevance lies instead in demonstrating that cultural and political expressions associated with Kurdish identity can still become the subject of police intervention and criminal-justice measures.

VIII. NON-REFOULEMENT UNDER ARTICLE 3 OF THE CONVENTION AGAINST TORTURE

Article 3 of the Convention against Torture prohibits a State party from expelling, returning or extraditing a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture.

The Committee has emphasized that this obligation requires an individualized assessment. The assessment must take into account all relevant considerations, including the existence of a consistent pattern of gross, flagrant or mass violations of human rights in the receiving State.

In the present case, the following factors are relevant:

1. Bahar Yalçinkaya had ongoing investigations and judicial proceedings in Türkiye.



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2. The proceedings were reportedly connected to political expression and alleged propaganda associated with the Kurdish political movement.
3. Her Swiss lawyer reportedly warned Swiss authorities of a significant risk of detention before her removal.
4. She was nevertheless returned to Türkiye.
5. She was detained immediately after arrival.
6. She was subsequently placed in pre-trial detention.
7. Her youngest child was reportedly placed in prison with her.
8. The removal itself allegedly involved handcuffing her hands behind her back in front of her children.

These circumstances warrant careful examination of whether the Swiss authorities conducted the individualized and sufficiently rigorous risk assessment required under Article 3.

IX. KEY QUESTIONS FOR THE COMMITTEE

1. Was the risk assessment genuinely individualized?
2. Were the warnings of her lawyer properly considered?
3. Was the political nature of the proceedings examined?
4. Was the risk of pre-trial detention considered?
5. Was the broader country situation considered?
6. Were the children's interests considered?
7. Was the use of force proportionate?

X. REQUESTS TO THE UNITED NATIONS COMMITTEE AGAINST TORTURE

In light of the above, it is respectfully requested that the Committee:

1. Examine the circumstances of Bahar Yalçinkaya's removal from Switzerland to Türkiye.
2. Examine whether Switzerland adequately assessed her individual risk before removal.
3. Examine whether the information provided by her lawyer concerning the risk of detention was adequately considered.
4. Examine whether Switzerland's removal practice towards Turkish and Kurdish asylum seekers is consistent with its obligations under Article 3 of the Convention against Torture.
5. Request information from the Swiss authorities concerning the criteria used to assess the risk of torture or ill-treatment in cases involving political prosecutions in Türkiye.
6. Request information concerning Turkish nationals returned from Switzerland who were subsequently detained, arrested or imprisoned in Türkiye.



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7. Encourage Switzerland to ensure that every removal decision involving a Turkish national with political or Kurdish-related criminal proceedings is subject to a genuinely individualized risk assessment.
8. Ensure that the best interests and psychological well-being of children are fully considered in removal operations.
9. Call for an independent examination of allegations concerning the use of force and handcuffing during Bahar Yalçinkaya's removal.

10. Where there are substantial grounds for believing that a person would face a real risk of torture or ill-treatment, recommend that Switzerland suspend removal in accordance with Article 3 of the Convention.

XI. CONCLUSION

The issue raised by the present report is not whether Switzerland has the sovereign authority to reject asylum applications. The fundamental issue is whether, after rejecting an asylum claim, Switzerland may lawfully return an individual when there are concrete and foreseeable reasons to believe that the person may be detained, subjected to politically motivated prosecution or exposed to torture or other serious ill-treatment.

The case of Bahar Yalçinkaya is particularly significant because the risk was not merely hypothetical. Her lawyer reportedly warned the Swiss authorities before her removal that she faced a significant risk of detention in Türkiye. She was nevertheless removed. Immediately after her arrival, she was detained and subsequently placed in pre-trial detention. Her youngest child, born in Switzerland on 5 June 2025, was reportedly placed in prison with her.

At the same time, the manner in which the removal was carried out raises separate concerns: according to a witness, Bahar was handcuffed with her hands behind her back in front of her children.

The Committee is therefore respectfully requested to examine the present case within the broader context of Switzerland's removal practice towards Turkish and Kurdish asylum seekers and to assess whether Switzerland is effectively complying with its obligations under Article 3 of the Convention against Torture.

The central concern is simple but fundamental:

Where a person's risk of detention and ill-treatment has been specifically identified before removal, the subsequent detention of that person immediately after return requires serious scrutiny of whether the sending State fulfilled its duty of prevention and non-refoulement.

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32. **Turkish judicial documents concerning Bahar Yalçinkaya**, including decisions concerning police custody, pre-trial detention, decisions of the competent court and documents concerning her transfer to Bakırköy Women's Prison in Istanbul.
33. **Documents concerning the children of Bahar Yalçinkaya**, including birth certificates and any documents establishing their situation following the removal from Switzerland to Türkiye.
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