



U.S. Department of Justice

Criminal Division

VAA:RT:SAR:TE:mw

Office of International Affairs

Washington, D.C. 20530

October 27, 2023

Via Email

Judge H [REDACTED]  
Chief of Bureau for Incoming Documents  
Directorate General for Foreign Relations and EU Affairs  
Ministry of Justice  
Namık Kemal Mah.  
Milli Müdafaa Cad. No: 22  
Adalet Bakanlığı Ek Binası  
Kızılay  
06650 Ankara, Turkey

Re: Request from Turkey for Assistance in the Matter of [REDACTED]  
Turkish Reference Number: E.148 [REDACTED] 01[4-2-ABD-163 [REDACTED]  
E. [REDACTED]  
U.S. Reference Number: CRM [REDACTED]

Dear Judge Y [REDACTED]

On September 12, 2023, the U.S. Competent Authority, the Office of International Affairs (OIA), received the above-referenced request for legal assistance. In the request, Turkish authorities asked U.S. authorities to ensure that [REDACTED] connects with Turkish authorities via video-teleconference on 7 March 2024 to deliver his defense/testimony in connection with an investigation of membership in a terrorist organization. Turkish authorities allege that [REDACTED] demonstrated membership, via bank deposits and membership in a related religious group, in the Fethullah Gulen movement (a.k.a. FETO or Fethullah Terrorist Organization), which the Turkish government considers a terrorist organization. We regret to inform you that we will not be able to execute this request for assistance, absent our receipt of additional information.

The First Amendment to the U.S. Constitution provides for broad freedom of expression, which includes the right to associate with others for social, political, or other reasons. As a result, the First Amendment prohibits criminal prosecution for associating with a particular group in narrowly defined circumstances. As you know, the limits to this protection include situations in which the activities in question comprise a true threat or incite imminent violence. In this case, there has not been a sufficient showing in this regard. If there are other facts

pertaining to this matter that have not been included in this request, for example, information indicating an endangerment or objectively credible threat to Turkish lives, we will gladly consider them. Without additional information, however, we will not be able to assist with the execution of this request, since we are of the view that the request implicates the above-described principles protected by our Constitution. We consider these principles to be essential interests, and Article 22 of the Treaty allows for the denial of a request where its execution would prejudice essential interests.

We assure you that this decision was based on a careful analysis of the request. We do not invoke Article 22 lightly and will continue to review Turkish Treaty requests that involve speech on a case-by-case basis.

We greatly appreciate the assistance Turkey has granted the United States in criminal justice matters over the years and look forward to continuing this cooperative relationship. Please contact Trial Attorney [REDACTED] or (202) [REDACTED] if you have any questions.

Sincerely,

[REDACTED]

Director

By:

[REDACTED]

Associate Director

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