



European Asylum Support Office

# EASO Country of Origin Information Report

## Turkey Country Focus



November 2016

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Jean Marcou, Researcher on Turkey, Professor - Director of International Relations - Grenoble Institute of Political Studies (Sciences Po Grenoble - France) / Director of the Master of Mediterranean and the Middle Eastern Studies, has reviewed the report as well.

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## Disclaimer

This report was written according to the EASO COI Report Methodology (2012) <sup>(1)</sup>. The report is based on carefully selected sources of information. All sources used are referenced. To the extent possible and unless otherwise stated, all information presented, except for undisputed or obvious facts, has been cross-checked.

The information contained in this report has been researched, evaluated and analysed with utmost care. However, this document does not claim to be exhaustive. If a particular event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organisation does not exist.

Furthermore, this report is not conclusive as to the determination or merit of any particular claim to refugee status or asylum. Terminology used should not be regarded as indicative of a particular legal position.

'Refugee', 'risk' and similar terminology are used as a generic terminology and not as legally defined in the EU Asylum Acquis and the Geneva Convention.

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The target users are asylum caseworkers, COI researchers, policymakers, and decision-making authorities.

The drafting of this report was finalised on 14 September 2016. Any event taking place after this date is not included in this report. An exception to this cut-off date was made for the European Commission's 2016 Communication on EU Enlargement Policy issued 9 November 2016, the main findings of which were incorporated in this report.

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<sup>(1)</sup> The EASO methodology is largely based on the Common EU Guidelines for processing Country of Origin Information (COI), 2008, and can be downloaded from the EASO COI Portal, (<https://coi.easo.europa.eu/administration/easo/PLib/EASO%20COI%20Report%20Methodology.pdf>).

## Glossary and Abbreviations

AEDH	European Association for the Defence of Human Rights
AI	Amnesty International
AKP	<i>Adalet ve Kalkınma Partisi</i> / Justice and Development Party
BBP	<i>Büyük Birlik Partisi</i> / Grand Unity Party
BDP	<i>Bariş ve Demokrasi Partisi</i> / Peace and Democracy Party
CAT	Committee Against Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEPEJ	European Commission for the Efficiency of Justice
CHP	<i>Cumhuriyet Halk Partisi</i> / People Republican Party
CIG	Country Information and Guidance
CKMP	<i>Cumhuriyet Köylü Millet Partisi</i> / Republican Villagers Nation Party
CoE	Council of Europe
CoE-GRECO	Council of Europe - Group of States against Corruption
CPJ	Committee to Protect Journalists
<i>Danıştay</i>	Council of State
DHKP-C	<i>Devrimci Halk Kurtuluş Partisi – Cephesi</i> / Revolutionary People's Liberation Party - Front
DISK	<i>Devrimci İşçi Sendikaları Konfederasyonu</i> / Confederation of Revolutionary Workers Unions
DP	<i>Demokrat Parti</i> / Democratic Party
EC	European Commission
ECFR	European Council on Foreign Relations
ECHR	European Court of Human Rights
EDAM	<i>Ekonomi ve Dış Politika Araştırma Merkezi</i> / Center of research on Economy and Foreign Policy
EESC	European Economic and Social Committee
DTP	<i>Demokratik Toplum Partisi</i> / Democratic Society Party
ECFR	European Council on Foreign Relations
EESC	European Economic and Social Committee
EU	European Union
<i>Ergenekon</i>	Alleged clandestine ultranationalist group aimed at overthrowing AKP. Allegedly composed of members of the military and police, terrorist or paramilitary groups, nongovernmental organisations, organised crime, journalists, politicians, judges, and government officials.

EuroMed	Euro-Mediterranean Human Rights Network
FETÖ	<i>Fethullahcı Terör Örgütü</i> / Fethullah Gülen Terror Organisation. Turkish authorities and media refer to the Gülen Movement with the term FETÖ since they have designated this movement as a terrorist organisation, and in particular since the attempted coup of 15 July 2016.
FIDH	International Federation for Human Rights
FIU	Financial Investigation Units (MASAK)
FP	<i>Fazilet Partisi</i> / Virtue Party
GNAT or GNA	Grand National Assembly of Turkey / in Turkish: <i>Türk Büyük Millet Meclisi</i> (TBMM)
GRECO	Group of States against Corruption
Hak-Is	<i>Hak İşçi Sendikaları Konfederasyonu</i> / Moral Rights Workers Union
HBDH	<i>Halkların Birleşik Devrim Hareketi</i> / People's United Revolutionary Movement
HDP	<i>Halkların Demokratik Partisi</i> / Peoples' Democratic Party
<i>Hizmet</i>	The Gülen Movement refers to itself as <i>Hizmet</i> , 'the service'
HRFT/ TİHV	<i>Türkiye İnsan Hakları Vakfı</i> / Human Rights Foundation of Turkey
HRIC	Human Rights Investigation Commission
HRW	Human Rights Watch
HSYK	<i>Hakimler ve Savcılar Yüksek Kurulu</i> / High Council of Judges and Prosecutors
ICG	International Crisis Group
IDPs	Internally Displaced Persons
IDMC	Internal Displacement Monitoring Centre
IHD/HRA	<i>İnsan Hakları Derneği</i> / Human Rights Association
ILGA	International Lesbian, Gay, Bisexual, Trans and Intersex Association
ILO	International Labour Organization
IOM	Organization for International Migration
IRB	Immigration and Refugee Board of Canada
IS	Islamic State
ISIS	Islamic State of Iraq and al-Sham
ISPAT	Investment Support and Promotion Agency of Turkey
JITEM	<i>Jandarma İstihbarat ve Terörle Mücadele</i> / Gendarmerie Intelligence and Counterterrorism
KCK	<i>Koma Civakên Kurdistan</i> / Union of Communities of Kurdistan

KESK	<i>Kamu Emekçileri Sendikaları Konfederasyonu / Confederation of Public Sector Unions</i>
KNK	Kurdistan National Congress
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex persons
MASAK	<i>Mali Suçları Araştırmakurulu / Financial Crimes Investigation Board Intelligence and Counterterrorism</i>
MHP	<i>Milliyetçi Hareket Partisi / Nationalist Movement Party</i>
MİT	<i>Milli İstihbarat Teşkilatı / National Intelligence Organisation</i>
MÜSIAD	<i>Müstakil Sanayici ve İş Adamları Derneği / Independent Industrialists' and Businessmen's Association</i>
MKYK	<i>Merkez Karar Yönetim Kurulu / Central Decision and Executive Board</i>
NAP	National Action Plan
NHRI	National Human Rights Institution (also TIHK)
NATO	North Atlantic Treaty Organization
NGOs	Non-Governmental Organisations
OHCHR	Office of the United Nations High Commissioner for Human Rights
OI	Ombudsman Institution
OKK	<i>Özel Kuvvetler Komutanlığı / Special Forces Command</i>
OSCE	Organization for Security and Co-operation in Europe
'Parallel Structure'	Recep Tayyip Erdoğan referred to the Gülen Movement as 'the parallel structure', pointing to the opacity of the organisation, accused of preparing a conspiracy.
PKK	<i>Partiya Karkerên Kurdistanê / Kurdistan Workers' Party</i>
Postmodern coup	Reference to the 'recommendations' issued by the military in February 1997, which initiated a process to force the Islamist Prime Minister, Necmettin Erbakan, to resign.
PYD	<i>Partiya Yekîtiya Demokrat/ Democratic Union Party</i>
RP	<i>Refah Partisi / Welfare Party</i>
RoP	Rules of Procedures
RSF	Reporters without Borders
RTÜK	<i>Radyo ve Televizyon Üst Kurulu / Radio and Television Supreme Council</i>
SCOs	Civil Society Organisations
SDF	Syrian Democratic Forces
SÖNİM	Violence Prevention and Monitoring Centres
SP	<i>Saadet Partisi / Felicity Party</i>
TAK	<i>Teyrênbazê Azadiya Kurdistan / Kurdistan Freedom Falcons</i>

TBB	<i>Türkiye Barolar Birliđi</i> / Union of the Turkish Bar Associations
TBMM	<i>Türk Büyük Millet Meclisi</i> / Grand National Assembly of Turkey (GNA/GNAT)
TESEV	<i>Türkiye Ekonomik ve Sosyal Etüdler Vakfı</i> / Turkish Economic and Social Studies Foundation
TESK	Turkish Confederation of Tradesmen and Craftsmen
THKP/C-Acılıciler	Turkish People's Liberation Party-Front
TİB	<i>Telekomünikasyon İletişim Başkanlığı</i> / Telecommunications Directorate
TISK	Turkish Confederation of Employers' Unions
TLFC	Turkish Land Forces Command
TMMOB	<i>Türk Mühendis ve Mimar Odalar Birliđi</i> / Union of the Chambers of Turkish Engineers and Architects
TNP	Turkish National Police / <i>Türk Polis Teşkilatı</i>
TOBB	<i>Türkiye Odalar ve Borsalar Birliđi</i> / Turkish Union of Chambers of Commerce and Commodity Exchanges
TRT	<i>Türkiye Radyo ve Televizyon Kurumu</i> / Turkish Radio and Television Corporation
TSK	<i>Türk Silahlı Kuvvetleri</i> / Turkish Armed Forces
TTB	<i>Türk Tabipleri Birliđi</i> / Turkish Medical Association
TÜBİTAK	<i>Türkiye Bilimsel ve Teknolojik Araştırma Kurumu</i> / Scientific and Technological Research Council of Turkey
TÜRK-İŞ	<i>Türkiye İşçi Sendikaları Konfederasyonu</i> / Turkish Confederation of Labour
TÜSEV	<i>Türkiye Üçüncü Sektör Vakfı</i> / Third Sector Foundation of Turkey
TÜSİAD	<i>Türk Sanayici ve İş Adamları Derneđi</i> / Turkish Industrialists' and Businessmen's Association
TUSKON	<i>Türkiye İş Adamları ve Sanayiciler Konfederasyonu</i> / Confederation of Businessmen and Industrialists of Turkey
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Emergency Fund
UPR	Universal Periodic Review
USCIRF	US Commission on International Religious Freedom
USD	US Dollar
US DoS	United States Department of State
UYAP	National Judiciary Informatics System
VP	Patriotic Party

<i>Yargıtay</i>	Court of Cassation (or Supreme Court of Appeals or High Court of Appeals)
YÖK	<i>Yüksek Öğretim Kurulu</i> / Turkish Higher Education Board
YDG-H	<i>Yurtsever Devrimci Gençlik Hareket</i> / Patriotic Revolutionary Youth Movement
YPG	<i>Yekîneyên Parastina Gel</i> / People's Protection Units
YSK	<i>Yüksek Seçim Kurulu</i> – Supreme Electoral Council

## Introduction

This Country Focus report on Turkey written at the request of both the European Parliament and the European Council for general background information and more detailed information relevant for international protection status determination and for the assessment of the applicability of the safe country of origin concept to Turkey. For the designation of safe countries of origin, Annex I of the Asylum Procedures Directive foresees that:

‘A country is considered as a safe country of origin where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Article 9 of Directive 2011/95/EU, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict’<sup>(2)</sup>.

In addition, ‘account shall be taken, *inter alia*, of the extent to which protection is provided against persecution or mistreatment’<sup>(3)</sup>. The Turkey Country Focus at hand covers the most important information needs related to the above-mentioned criteria for safe country of origin designation, namely state structure, socio-political landscape, rule of law and state protection, security situation and human rights situation. The [Terms of Reference](#) can be found at the end of the report.

The report aims at providing an objective and neutral information base (without assessment or policy recommendations) that will allow for more informed policy discussions. It should be noted that the situation of third country nationals in Turkey (including person transiting through Turkey or seeking international protection in Turkey) does not fall within the scope of this report.

## Methodology

- Defining the Terms of Reference

The [Terms of Reference](#) have been defined on 8 April 2016 taking into account feedback from the EASO Country of Origin Information (COI) Strategic Network.

- Drafting process

The initial collecting information and drafting of this report was done between April-July 2016 by COI specialists from the COI units and asylum offices, and by EASO staff. During this process, Turkey became the scene of an attempted coup on 15 July 2016. These events, and the initial responses by the Turkish government were subsequently also included in the report.

The reference period has for this reason been extended until 15 September 2016. An exception to this cut-off date was made for the European Commission’s Communication on EU Enlargement Policy<sup>(4)</sup> issued 9 November 2016, the main findings of which were incorporated in this report.

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<sup>(2)</sup> Council of Europe, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), 29 June 2013.

<sup>(3)</sup> Council of Europe, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), 29 June 2013.

<sup>(4)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016.

- Quality control

In order to ensure that the authors respected the EASO COI Report Methodology, two rounds of reviews have been carried out by COI specialists from the countries listed as reviewers in the [Acknowledgments](#) section. In addition, an external reviewer, Professor Dr Jean Marcou has also reviewed and commented the report twice. All comments made by the reviewers were taken into consideration and most of them were implemented in the final draft of this report.



## Map Turkey (5)



(5) Perry-Castañeda Library Map Collection, Turkey Maps, Turkey (Political), 2006.

## 1. State structure

With a population of 79 414 269 <sup>(6)</sup>, Turkey is situated in the Anatolian peninsula and located in western Asia and south-eastern Europe (Eastern Thrace). It covers an area of approximately 780 580 sq. km and is bordered by eight countries: Bulgaria to the north-west (240 km); Greece to the west (206 km); Georgia to the north-east (252 km); Armenia (268 km), Azerbaijan (9 km) and Iran to the east (499 km); and Iraq (352 km) and Syria to the south-east (822 km); making a total of 2 648 kilometres. Turkey borders the Black Sea (to the north), the Mediterranean (to the south), the Aegean (in the west) and the Marmara Sea (Turkish Straits in the north-west separating Europe and Asia) and has a total sea coastline of 8 333 kilometres <sup>(7)</sup>.

The country is divided into seven geographical regions, that do not refer to an administrative division:

- Aegean region;
- Black Sea region;
- Marmara region;
- Mediterranean region;
- Central Anatolia region;
- Eastern Anatolia region;
- South-eastern Anatolia region.

With regard to the level of development, the Marmara region, the smallest and the most densely populated region, represents a major destination for internal migration. At the opposite pole, south-eastern Anatolia (a region with dry and mostly infertile lands) and eastern Anatolia (mountainous with short summers and tough winters) consist mainly of Kurdish populations that have been facing decades of armed clashes between the Turkish State and the Kurdistan Workers' Party (PKK). Due to the armed conflict between the PKK and the Turkish army since the middle of the 1980s, this region has also been a generator of internal migrants and Internally Displaced Persons (IDPs) <sup>(8)</sup>.

### 1.1 Constitution

Turkey's constitution is inspired by the French model of *laïcité*: strict secularism, which requires the absence of religion in public life and in government. But differently to the French model, all religious communities, including the Sunni Muslim majority (through the powerful Presidency of Religious Affairs – *Diyanet İşleri Başkanlığı*) are subject to state control mechanisms that organise their rights to own and maintain places of worship, train clergy, and offer religious education <sup>(9)</sup>. Article 4 of the 1982 Constitution defines *laïcité* as one of the irrevocable principles that cannot be challenged even by a constitutional review <sup>(10)</sup>. Under

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<sup>(6)</sup> Population number estimated in July 2015. CIA, The World FactBook – Turkey, last updated 5 May 2016. This is excluding an estimated 2.7 million Syrian refugees. UNHCR, Syria Regional Refugee Response, last updated 30 June 2016.

<sup>(7)</sup> EUMAGINE Project Paper 5, Turkey Country and Research Areas Report, 28 September 2010, p. 5.

<sup>(8)</sup> EUMAGINE Project Paper 5, Turkey Country and Research Areas Report, 28 September 2010, pp. 7, 8.

<sup>(9)</sup> Cornell, Svante, The Rise of Diyanet: the Politicization of Turkey's Directorate of Religious Affairs, 9 October 2015.

<sup>(10)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, 18 October 1982.

the current constitution, the Prime Minister is the head of government and holds most executive authority, while the President is the head of state and his powers include legislative veto and the authority to appoint high-rank civil servants like diplomatic representatives, the military head of staff and judges or prosecutors of the top courts <sup>(11)</sup>.

## 1.2 Executive branch

According to the constitution, the exercise of the executive power is vested in and is used by the President and the Council of Ministers <sup>(12)</sup>.

### 1.2.1 The President of the Republic

The President of the Republic is the head of state and represents the Republic of Turkey and the unity of the Turkish nation <sup>(13)</sup>. The President oversees the workings of the constitution and guarantees that the organs of the state function orderly and harmoniously <sup>(14)</sup>.

According to Article 101 of the Turkish constitution, the President is elected by popular vote from the Turkish Grand National Assembly (GNAT or GNA), 'who are over 40 years of age and have completed higher education, or among Turkish citizens who fulfil these requirements and are eligible to be deputies' <sup>(15)</sup>.

The President shall be elected for a maximum of two terms of five years each. The President's duties and powers relate to the legislative, executive and judicial branches; the President is also 'responsible for ensuring the implementation of the Constitution, and the regular and harmonious functioning of the organs of state' <sup>(16)</sup>.

Formerly the President was elected by the parliament but after the constitutional amendment of 2007 (adopted by a referendum), which set up a popular election, Turkey held direct presidential elections for the first time in August 2014 <sup>(17)</sup>. Prime Minister Recep Tayyip Erdoğan prevailed with 51.8 per cent of the vote, winning a once-renewable five-year term <sup>(18)</sup>. Since this first direct presidential election, despite a parliamentary constitution, Turkish political regime has become *de facto* a semi-presidential system in which the President takes the key decisions and the Prime Minister puts them into effect, according to various analysts <sup>(19)</sup>.

### 1.2.2 The Prime Minister and the Cabinet

The Council of Ministers (Cabinet) consists of the Prime Minister, designated by the President of the Republic from members of the Turkish Grand National Assembly (GNAT), and various ministers nominated by the Prime Minister and appointed by the President of the Republic. Ministers can be assigned either from among the deputies or from among those who are not members of the GNAT qualified to be elected as a deputy. Ministers can be dismissed from

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<sup>(11)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, 18 October 1982; Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016.

<sup>(12)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, 18 October 1982.

<sup>(13)</sup> ISPAT, Legal and Political Structure, n.d.

<sup>(14)</sup> Consulate General Republic of Turkey Michigan, About Turkey, State + Policy, Executive branch, n.d.

<sup>(15)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, 18 October 1982.

<sup>(16)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, 18 October 1982.

<sup>(17)</sup> Presidency of the Republic of Turkey, Duties and Powers, B. Election (Amended Article 102), n.d.

<sup>(18)</sup> Freedom House, Freedom in the World 2016, Turkey, 27 January 2016.

<sup>(19)</sup> Hürriyet Daily News, Turkey ruled by de facto presidential system: Turkey's PM, 11 July 2016; Hürriyet Daily News, Murat YETKIN, De facto system in Turkey change in Turkey as PM leaves post, 6 May 2016; Hürriyet Daily News, Turan YILMAZ, French semi-presidential system back on ruling AKP's agenda, 22 February 2016.

their duties by the President upon the Prime Minister's proposal or individually by the parliament, when deemed necessary. The fundamental duty of the Council of Ministers is to formulate and implement the internal and foreign policies of the state. The Council of Ministers is accountable to the parliament in the execution of this duty <sup>(20)</sup>.

Under the current constitution, the Prime Minister is the head of government and holds the most executive authority, while the President is the head of state <sup>(21)</sup>. After Erdoğan had won the presidential elections in August 2014, Foreign Minister Ahmet Davutoğlu assumed the former's posts of Prime Minister and head of the AKP <sup>(22)</sup>.

After the ruling party (AKP) lost its absolute majority in the parliamentary elections of 7 June 2015, a coalition government could not be formed and an interim government took office in the run-up to the repeat election on 1 November 2015.

The government has been headed by Prime Minister Ahmet Davutoğlu from 28 August 2014 until he resigned on 5 May 2016 <sup>(23)</sup>, having five Deputy Prime Ministers (until 1 November 2015): Yalçın Akdoğan (since 29 August 2014), Yıldırım Tuğrul Türkeş (since 29 August 2014), Lutfi Elvan (since 24 November 2015), Numan Kurtulmuş (since 29 August 2014), Mehmet Şimşek (since 24 November 2015) <sup>(24)</sup>. After the AKP regained an absolute majority in the elections of 1 November, Recep Tayyip Erdoğan charged Ahmet Davutoğlu to form a new government different from the interim one <sup>(25)</sup>.

On 19 May 2016, current Transportation Minister Binali Yıldırım was elected as AKP leader and three days later appointed as Prime Minister <sup>(26)</sup>.

## 1.3 Legislative branch

### 1.3.1 The parliamentary system

Turkey is a constitutional republic with a multiparty parliamentary system and a president. A unicameral parliament, the Grand National Assembly (GNA/GNAT - *Büyük Millet Meclisi*), exercises legislative authority on behalf of the Turkish nation and this right is inalienable <sup>(27)</sup>.

The GNA/GNAT is composed of 550 members directly elected in multi-seat constituencies by proportional representation vote from 81 provinces and 85 electoral districts in total. Deputies represent the entire nation and before assuming office, take an oath <sup>(28)</sup>. Parliamentary elections are held every four years. Currently, in addition to this provincial system of proportional representation, a national threshold of 10 % is in place <sup>(29)</sup>.

<sup>(20)</sup> ISPAT, Legal and Political Structure, n.d.

<sup>(21)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, 18 October 1982.

<sup>(22)</sup> Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016

<sup>(23)</sup> BBC, Turkey PM Ahmet Davutoglu to quit amid reports of Erdoğan rift, 5 May 2016.

<sup>(24)</sup> CIA World Factbook, Turkey, Government, last update 05 May 2016.

<sup>(25)</sup> Reuters, Turkey's Erdoğan asks PM Davutoglu to form new government, 17 November 2015.

<sup>(26)</sup> AA, Turkey: AK Party's new chairman to form government, 22 May 2016; New York Times (The), Erdoğan Loyalist Is Nominated to Be Turkey's Prime Minister, 19 May 2016.

<sup>(27)</sup> US DoS, Country Report on Human Rights Practices 2015 - Turkey, 13 April 2016; CIA, The World Factbook, Turkey; Grand National Assembly of Turkey (The), Duties and Powers, n.d.; CoE - GRECO, Fourth Evaluation Round, Evaluation Report Turkey, 17 March 2016.

<sup>(28)</sup> Republic of Turkey (The), ISPAT, Legal and Political Structure, n.d.; CIA, The World Factbook, Turkey, last updated 5 May 2016; Grand National Assembly of Turkey (The), Duties and Powers; CoE-GRECO: Fourth Evaluation Round, Evaluation Report Turkey, 17 March 2016.

<sup>(29)</sup> World Elections, Turkey 2011, 13 June 2011.

Consequently, political parties that cannot obtain more than 10 % of valid votes throughout the country will not win any seat in the Assembly, limiting political pluralism <sup>(30)</sup>.

The legislative term (the period between two parliamentary elections) is four years, but this can change when an early election is held, or when the parliamentary elections are postponed due to war <sup>(31)</sup>.

The constitution allows every Turk over the age of 25 to become a member of parliament, with some exceptions <sup>(32)</sup>. The Fourth Evaluation Round Report on Turkey (March 2016), drafted by the Council of Europe-Group of States against Corruption (GRECO), noted that:

‘Members of parliament benefit from immunity (inviolability); i) deputies cannot be held liable for their votes and statements during parliamentary proceedings, and ii) deputies accused of having committed an offence before or after election cannot be arrested, detained, interrogated or tried – except in cases of in flagrante delict or equiring a heavy penalty and in cases subject to Article 14 of the Constitution as long as an investigation has been initiated before the election – unless permission is given by Parliament. The execution of a criminal sentence imposed on an MP is to be suspended until s/he ceases to be a member’ <sup>(33)</sup>.

However, a constitutional amendment, approved by the parliament on 20 May 2016, allowed the lifting of the immunity of members of parliament for alleged ties with terrorists <sup>(34)</sup>. Its Communication on EU Enlargement Policy 2016 (hereafter referred to as ‘EC Communication 2016’) the European Commission expressed its deep concern about this measure <sup>(35)</sup>.

### 1.3.2 The electoral system

Local, parliamentary and presidential elections are regularly held in Turkey (see [2.2 Elections](#)). Turkish citizens have the right to change their government in fair and free elections. There is universal and equal suffrage in Turkey <sup>(36)</sup>. According to the Brookings Institute, ‘Turkey is increasingly called an “illiberal democracy”’. Though it holds relatively fair and free elections, it also shows signs of authoritarianism, still according to Brookings Institute. External and internal factors (e.g. armed conflict in south-east Turkey, terror attacks and corruption charges), and the government’s reactions to these, have led many to believe there is a diminishing of democracy and civil rights <sup>(37)</sup> (see [5. Human Rights Situation](#)).

<sup>(30)</sup> Grand National Assembly of Turkey, Parliamentary Elections, n.d; CoE-GRECO, Fourth Evaluation Round, Evaluation Report Turkey, 17 March 2016; OSCE/ODIHR, Turkey, Early Parliamentary Elections, 1 November 2015: Final Report, 28 January 2016.

<sup>(31)</sup> Grand National Assembly of Turkey (The), Basic Concepts, n.d.

<sup>(32)</sup> Exceptions are as follows: persons who have not completed primary education; persons who have been deprived of legal capacity; persons who have not performed compulsory military service, persons who are banned from public service, persons who have been sentenced to a prison term totaling one year or more excluding involuntary offences, or to a heavy imprisonment; persons who have been convicted for dishonorable offences such as embezzlement, corruption, bribery, theft, fraud, forgery, breach of trust, fraudulent bankruptcy; and persons convicted of smuggling, conspiracy in official bidding or purchasing, of offences related to the disclosure of state secrets, of involvement in acts of terrorism, or incitement and encouragement of such activities. These persons shall not be elected as a deputy, even if they have been granted amnesty, in: CoE-GRECO, Fourth Evaluation Round, Evaluation Report Turkey, 17 March 2016.

<sup>(33)</sup> CoE-GRECO: Fourth Evaluation Round, Evaluation Report Turkey, 17 March 2016, p. 23.

<sup>(34)</sup> LoC, *Turkey: Constitutional Amendment Adopted to Allow Certain Legislators to Be Stripped of Immunity*, 25 May 2016.

<sup>(35)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 4.

<sup>(36)</sup> US DoS, Turkey 2015 Human Rights Report, 18 April 2016, p. 47.

<sup>(37)</sup> Kirişci, K., Turkey and the international liberal order: What happened?, 23 February 2016.

Parties are allowed to present candidates who can stand freely in elections. The chief prosecution of the Court of Appeals can prohibit a candidate from running due to unconstitutional activities<sup>(38)</sup>. Elections in Turkey are supervised by the Supreme Electoral Council (*Yüksek Seçim Kurulu - YSK*)<sup>(39)</sup>.

A 10 % threshold must be reached for a party to obtain seats in parliament. This threshold has resulted in the inability of smaller parties, such as pro-Kurdish parties or far-left parties, to enter the parliament. Smaller parties have their candidates elected by listing them as independent candidates<sup>(40)</sup>. This permitted former Kurdish parties (Democratic Society Party or DTP and then Peace and Democracy Party or BDP) to overcome the threshold obstacle. They indeed appointed independent candidates for the 2007 and 2011 parliamentary elections and then formed a parliamentary group with the Kurdish elected independent deputies<sup>(41)</sup>. But in both June and November 2015 parliamentary elections, the new Kurdish party (*Hakların Demokratik Partisi / Peoples' Democratic Party* or HDP) decided to field party lists rather than independent candidates. In both parliamentary elections in 2015, only four parties passed the threshold among which the HDP. This party has currently the third group (59 seats) in the GNAT. The other represented parties are the ruling party (AKP – 317 seats), the Kemalists (People Republican Party or CHP – 134 seats) and the Nationalists (Nationalist Movement Party/ *Milliyetçi Hareket Partisi* or MHP – 40 seats)<sup>(42)</sup>.

The European Commission (EC) in its Communication on EU Enlargement Strategy 2015 (further referred to as EC Communication 2015), criticised the lack of legal framework regulating elections, of which 'the 10% threshold of votes for parties to be represented in parliament need to be addressed as a priority'<sup>(43)</sup>. The EC's Communication on EU Enlargement Policy 2016 (EC Communication 2016) does not mention any news on this issue<sup>(44)</sup>.

### 1.3.3 The legislative process: Parliament

The legislative process in Turkey is regulated by the constitution, in the Rules of Procedure (RoP) of the GNAT. Only members of parliament and the government (Council of Ministers) are entitled to introduce bills. Following Turkey's parliamentary system, the government must have the support of the Assembly and is accountable to the Assembly. The government resumes office by obtaining a vote of confidence from the Assembly<sup>(45)</sup>.

According to the Republic of Turkey Prime Minister Investment Support and Promotion Agency (ISPAT), the GNAT has the following functions and powers:

'(...) the adoption of draft laws, and the amendment and repeal of existing laws; the supervision of the Council of Ministers (Cabinet) and the Ministers; authorization of the Council of Ministers to issue governmental decrees having the force of law on

<sup>(38)</sup> US DoS, Turkey 2015 Human Rights Report, 18 April 2016, p. 49.

<sup>(39)</sup> YSK, Elections Powers and Duties, n.d.

<sup>(40)</sup> Seufert, G., Parliamentary Crisis Follows Turkis Elections, August 2011, p. 2.

<sup>(41)</sup> Reuters, Turkish elections stirs optimism, change for Kurds, 15 July 2007; *Hürriyet Daily News*, Kurdish DTP in revamp, 8 November 2007.

<sup>(42)</sup> *Milliyet*, 1 Kasım Genel Seçim, n.d.

<sup>(43)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Enlargement strategy, COM(2015) 611 final, 10 November 2015, p. 28.

<sup>(44)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016.

<sup>(45)</sup> Grand National Assembly of Turkey (The), Basic concepts, n.d.; CoE-GRECO, Fourth Evaluation Round, Evaluation Report Turkey, 17 March 2016, p. 11.

certain matters; debating and approval of the budget draft and the draft law of final accounts, making decisions on the printing of currency, the declaration of war, martial law or emergency rule; ratifying international agreements; making decisions with 3/5 of the GNA on proclamation of amnesties and pardons in line with the Constitution' (46).

The Assembly has the power to scrutinise the activities of the government (47). According to the website of the Grand National Assembly of Turkey, 'the Plenary of the GNA is the final decision-making organ which carries out the legislative, scrutiny and other functions. Government bills and private members' bills debated in the committees are enacted upon approval of the Plenary' (48).

Draft bills should be accepted by the Assembly before they become laws; and after publication in the Official Gazette, they are binding and to be enforced. Laws should be forwarded to, and approved by, the President, after which they have to be published within 15 days. If the President does not (fully) approve the bill, it will return to the Assembly for a second round of debates and, if needed or desirable, amendments (49).

According to the website of the Grand National Assembly of Turkey, a political party should have twenty deputies in order to establish a group and the constitution determines that the political parties should participate in all activities of the Assembly, according to the percentage of their representation. A political party group enjoys several advantages in their legislative and scrutiny activities (50).

Represented parties and their leaders in parliament are (as of 20 June 2016):

- Justice and Development Party or AKP [Binali YILDIRIM]
- Republican People's Party or CHP [Kemal KILIÇDAROĞLU]
- Nationalist Movement Party or MHP [Devlet BAHÇELİ]
- People's Democratic Party or HDP [Selahattin DEMİRTAŞ and Figen YÜKSEKDAĞ] (51).

Others parties received less than 1 % of the votes in the last parliamentary elections, such as:

- Democratic Party or DP [Gültekin UYSAL]
- Felicity Party or SP [Mustafa KAMALAK]
- Grand Unity Party or BBP [Mustafa DESTİCİ]
- Patriotic Party or VP [Doğu PERİNÇEK] (52).

There are also a number of political pressure groups (mainly trade unions or associations of employers) and leaders such as:

- Confederation of Businessmen and Industrialists of Turkey or TUSKON [Rizanur MERAL] (this Gülen-linked association of employers has been disbanded since the attempted

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(46) ISPAT, Legal and Political Structure, n.d.

(47) Grand National Assembly of Turkey (The), Functions of the Government, n.d.

(48) CoE-GRECO, Fourth Evaluation Round, Evaluation Report Turkey, 17 March 2016; Grand National Assembly of Turkey (The), The Plenary, n.d..

(49) Grand National Assembly of Turkey (The), Publication of Laws, n.d.

(50) Grand National Assembly of Turkey (The), Political Party Groups, n.d.

(51) Milliyet, 1 Kasım Genel Seçim, n.d.; Grand National Assembly of Turkey (The), Political Party Groups, n.d.

(52) Milliyet, 1 Kasım Genel Seçim, n.d.; Grand National Assembly of Turkey (The), Political Party Groups, n.d.; Vatan Partisi (Patriotic Party), Chairman, n.d.

coup of 15 July 2016 <sup>(53)</sup> and an arrest warrant was issued against its leader, who is believed to be abroad) <sup>(54)</sup>

- Confederation of Public Sector Unions or KESK [Lami OZGEN, Sazyie KOSE, co-chairs]
- Confederation of Revolutionary Workers Unions or DISK [Kani BEKO]
- Independent Industrialists' and Businessmen's Association or MÜSIAD [Nail OLPAK]
- Moral Rights Workers Union or Hak-Is [Mahmut ARSLAN]
- Turkish Confederation of Employers' Unions or TİSK [Tuğrul KUDATGOBİLİK]
- Turkish Confederation of Labor or Turk-Is [Ergun ATALAY]
- Turkish Confederation of Tradesmen and Craftsmen or TESK [Bendevi PALANDOKEN]
- Turkish Industrialists' and Businessmen's Association or TÜSIAD [Cansen BAŞARAN-SYMES]
- Turkish Union of Chambers of Commerce and Commodity Exchanges or TOBB [M. Rifat HİSARCIKLIOĞLU] <sup>(55)</sup>.

See also [2.1 Political parties](#).

## 1.4 Administration

Turkey's constitution governs the legal framework of the country, sets out the main principles of government and establishes Turkey as a unitary centralised state <sup>(56)</sup>. The fundamentals of the Turkish administration are enshrined in Turkey's constitution, according to which the country is divided into provinces and further divided into lower levels of administrative districts. The administration of the provinces is based on the principle of devolution of powers, meaning that the central administration from Ankara has the power of administrative tutelage over the local administrations in the framework of principles and procedures set forth by law <sup>(57)</sup>. The local administrations of the 81 provinces (also called *iller/ili*) <sup>(58)</sup> are public entities established to meet the common local needs of the inhabitants of provinces, municipal districts and villages, whose decision-making organs are elected. Provinces elect councils while municipalities and villages elect councils and mayors <sup>(59)</sup>.

Despite a centralised system, the importance of local power increased in Turkey during the last decades. In 1984, metropolitan municipalities were established to boost the management of great urban centres (up to 750 000 inhabitants). In July 2016, there were 30 metropolitan

<sup>(53)</sup> Hurriyet Daily News, Bosses, baklava kings detained in anti-Gülen probe, 18 August 2016.

<sup>(54)</sup> Daily Sabah, Arrest warrants issued for 114 businessmen for financing Gülenist terror cult, 8 September 2016

<sup>(55)</sup> CIA, The World Factbook, Turkey, last updated 20 June 2016.

<sup>(56)</sup> EUMAGINE Project Paper 5, Turkey Country and Research Areas Report, 28 September 2010.

<sup>(57)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, article 126, 18 October 1982.

<sup>(58)</sup> 81 Provinces Adana, Adiyaman, Afyonkarahisar, Agri, Aksaray, Amasya, Ankara, Antalya, Ardahan, Artvin, Aydin, Balikesir, Bartin, Batman, Bayburt, Bilecik, Bingol, Bitlis, Bolu, Burdur, Bursa, Canakkale, Cankiri, Corum, Denizli, Diyarbakir, Duzce, Edirne, Elazig, Erzincan, Erzurum, Eskisehir, Gaziantep, Giresun, Gumushane, Hakkari, Hatay, Igdir, Isparta, Istanbul, Izmir (Smyrna), Kahramanmaras, Karabuk, Karaman, Kars, Kastamonu, Kayseri, Kilis, Kirikkale, Kirlareli, Kirsehir, Kocaeli, Konya, Kutahya, Malatya, Manisa, Mardin, Mersin, Mugla, Mus, Nevsehir, Nigde, Ordu, Osmaniye, Rize, Sakarya, Samsun, Sanliurfa, Siirt, Sinop, Sirnak, Sivas, Tekirdag, Tokat, Trabzon (Trebizond), Tunceli, Usak, Van, Yalova, Yozgat, Zonguldak in: CIA, The World Factbook, Turkey, last updated 5 May 2016.

<sup>(59)</sup> Pérouse, Jean-François, La création de 13 nouvelles municipalités métropolitaines en Turquie par la modification de la loi N°5779 ou le triomphe écrasant de l'urbain dans l'ordre de gestion territorial, DIPNOT, 19 November 2012; Turkish Great National Assembly, Bill 6360 (amending Bill 5779 on Turkish Metropolitan Municipalities), 12 November 2012.



municipalities in Turkey: the capital and great western cities (Ankara, Bursa, İstanbul, İzmir, etc.), but also Mediterranean cities (Antalya, Adana, Mersin, etc.), Anatolian Cities (Erzurum, Kayseri, Konya, etc.) and south-eastern or Kurdish cities (Diyarbakır, Mardin, Şanlıurfa, Van, etc.). Metropolitan municipalities elect metropolitan councils and mayors as well as district councils and mayors. They became important administrative, financial but also political stakes <sup>(60)</sup>.

Turkey's public service is regulated by the Law on Civil Servants which establishes several categories of civil servants covered by specific legal acts <sup>(61)</sup>.

The EC had noted in its Communication 2015: 'Turkey is moderately prepared in the area of public administration reform with a strong commitment to an open, responsive administration. (...) Recent dismissals and demotions in the context of the fight against the 'parallel structure' were a source of concern' <sup>(62)</sup>.

The EC Communication 2016 added: 'However, there has been backsliding in the area of public service and human resources management in particular in the aftermath of the coup attempt. The structural impact on the functioning of the civil service of the measures taken after the coup attempt remains to be assessed' <sup>(63)</sup>. See also [6.1 The aftermath of the attempted coup](#).

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<sup>(60)</sup> Pérouse, Jean-François, La création de 13 nouvelles municipalités métropolitaines en Turquie par la modification de la loi N°5779 ou le triomphe écrasant de l'urbain dans l'ordre de gestion territorial, DIPNOT, 19 November 2012; Turkish Great National Assembly, Bill 6360 (amending Bill 5779 on Turkish Metropolitan Municipalities), 12 November 2012.

<sup>(61)</sup> ILO, NATLEX, Turkey Civil Servants' Act No. 657, 14 July 1965.

<sup>(62)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Enlargement strategy, COM(2015) 611 final, 10 November 2015, p. 29.

<sup>(63)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 16.

## 2. Socio-political landscape

### 2.1 Political parties

The Turkish party system is regulated by the 1982 Constitution that was drafted by the military<sup>(64)</sup>. Thirty signatures of Turkish citizens who are eligible to be elected to the parliament must be gathered in order to form a party. All political parties must have their headquarters in the capital, Ankara. Their internal working and decisions must respect democratic principles<sup>(65)</sup>.

Turkish citizens over 18 years old are entitled to form, join, and withdraw from political parties. Some groups are not allowed to become members of parties. These are:

‘[j]udges and prosecutors, members of higher judicial organs, teaching staff at institutions of higher education, members of the Council of Higher Education, civil servants in public organizations and corporations, and other public employees not regarded as workers on account of the duties they perform, students, and members of the Armed Forces’<sup>(66)</sup>.

Parties are allowed to get funding from their members, corporations and legal bodies, and the state, as stated in the Political Parties Law. Local administrations, public institutions and agencies are not allowed to donate property, assets or privileges to parties<sup>(67)</sup>.

#### 2.1.1 Justice and Development Party, AKP

The Justice and Development Party (*Adalet ve Kalkınma Partisi*, AKP) is the biggest party in Turkey. As the ruling party, AKP holds the positions of Prime Minister (Binali Yıldırım) and President (Recep Tayyip Erdoğan)<sup>(68)</sup>.

The AKP was established in 2001 by the modernist wing of the Islamist movement (embodied by the Refah and then Fazilet Partisi in the 90s)<sup>(69)</sup>. It is a conservative, Islamic-inspired party, that promotes liberal market economy and seeks to enhance Turkey’s role in the region. Since 2012 the party has been trying to transform the Turkish system of governance from a parliamentary into a presidential system by attempting to draft a new constitution for which it needs a two-third majority in parliament. In the last parliamentary elections, the AKP won the majority rule with 317 seats, which is not enough to make these constitutional changes<sup>(70)</sup>.

AKP’s highest permanent decision-making body is the Central Decision and Executive Board (*Merkez Karar ve Yönetim Kurulu* - MKYK). Its tasks are to decide on AKP’s positions on political issues, implement policies and shape election strategy. AKP held its annual convention on

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<sup>(64)</sup> Global Security, Turkey - Politics - Background, n.d.

<sup>(65)</sup> Turkish Elections, Political Parties, n.d.

<sup>(66)</sup> Turkish Elections, Political Parties, n.d.

<sup>(67)</sup> Turkish Elections, Political Parties, n.d.

<sup>(68)</sup> BBC News, Turkey PM Ahmet Davutoglu to quit amid reports of Erdoğan rift, 5 May 2016; Reuters, Turkey’s new prime minister wins vote of confidence in parliament, 29 May 2016.

<sup>(69)</sup> Kirişci, Kemal, ‘Religion as an Argument in the Debate on Turkish EU Membership’, 2008; Atuk, Esra, Les partis de “vision nationale”: des partis Janus dans le système politique turc, 2009; Marcou, Jean, ‘Islamisme et post-islamisme en Turquie’, 2004, p. 587; Burdy, Jean-Paul & Marcou, Jean, La Turquie à l’heure de l’Europe, 2008, pp. 72-75.

<sup>(70)</sup> Carnegie Europe, Turkey’s Political Parties, 26 October 2015 (updated 6 November 2015); Guardian (The), Turkey election: Erdoğan and AKP return to power with outright majority, 2 November 2015.

12 September 2015. It re-elected Prime Minister Ahmet Davutoğlu as its chairman and voted for new members for MKYK <sup>(71)</sup>.

Former Prime Minister Ahmet Davutoğlu resigned on 5 May 2016 both as Prime Minister and as chairman of the party, because the MKYK decided to take back from him the authority to appoint provincial and local heads of the party. After an extraordinary party convention on 22 May 2016 he was succeeded by Binali Yıldırım <sup>(72)</sup>.

### 2.1.2 Republican People's Party, CHP

Established in 1923 by Mustafa Kemal Atatürk, the Republican People's Party (*Cumhuriyet Halk Partisi* – CHP) is Turkey's oldest party. It was Turkey's single party from 1923 to 1946. The party initially strived to defend Kemalist values of republicanism and secularism, but since the 70s it has also embraced social-democratic values and strived to be the backbone of the Turkish left. The CHP criticised the 1971 military intervention, despite its Kemalist and secular values, and was dissolved after the 1980 coup. The party was set up again during the 1980s when Turkey returned to democracy and it was re-established through its original name in 1993 under the supervision of Deniz Baykal, who exerted a strong influence on the party during the two next decades. In 2010, Baykal was forced to resign after a clandestinely shot video tape of him was leaked to the media <sup>(73)</sup>.

The new leader of the CHP, Kemal Kılıçdaroğlu <sup>(74)</sup> was born in the Kurdish Alevi province of Tunceli (Dersim in Kurdish) in the south-eastern part of the country. According to press reports, he tries to reform the party and to provoke a renewal of its ideas by advocating a more flexible secularism and a social-democratic program <sup>(75)</sup>. Currently in parliament, CHP is the main opposition party <sup>(76)</sup>. The CHP is affiliated to both the Progressive Alliance and the Socialist International <sup>(77)</sup>.

### 2.1.3 Nationalist Movement Party, MHP

The Nationalist Movement Party (*Milliyetçi Hareket Partisi* – MHP / Nationalist Action Party) was established in 1969 by Alparslan Türkeş, the leader of Turkish ultranationalism. He succeeded to the Republican Villagers Nation Party (*Cumhuriyet Köylü Millet Partisi* – CKMP) which embodied the extreme-right cause after different party experiences and splits during the 1950s <sup>(78)</sup>.

MHP is considered by sources as a far-right party which does not advocate for Turkey's membership in the European Union. It opposes Kurdish aspirations for autonomy and peace process with the government and PKK <sup>(79)</sup>. The party returned in parliament in 2007 after it was not able to cross the 10 % threshold in 2002. During the 7 June 2015 elections it achieved

<sup>(71)</sup> Cagaptay S., Yolbulan, C. and Kilinc A., The AKP's New Face, 8 October 2015.

<sup>(72)</sup> BBC, Turkey PM Ahmet Davutoglu to quit amid reports of Erdoğan rift, 5 May 2016; Reuters, Turkey's new prime minister wins vote of confidence in parliament, 29 May 2016.

<sup>(73)</sup> Economist (The), Scandal Brings down Turkey's main opposition leader, Sex, lies and videos, 13 May 2010; Burdy, Jean-Paul & Marcou, Jean, La Turquie à l'heure de l'Europe, 2008, pp. 67-69.

<sup>(74)</sup> Hurriyet Daily News, Seeking 'His President's Opposition' in Turkey, 11 April 2016.

<sup>(75)</sup> Hürriyet Daily News, Bildirici, Faruk, Citizen Kılıçdaroğlu: Turkish opposition chief in his own words, 7 November 2010.

<sup>(76)</sup> Carnegie Europe, Turkey's Political Parties, 26 October 2015 (updated 6 November 2015).

<sup>(77)</sup> Progressive Alliance, Participants, n.d.; Socialist International, About us - Member parties of the Socialist International, n.d.

<sup>(78)</sup> Altunisik, Meliha Benli & Tür, Özlem, Turkey, Challenges of continuity and change, 2005, pp. 33 -37.

<sup>(79)</sup> Global Security, Nationalist Movement Party (MHP Milliyetçi Hareket Partisi), n.d.; Guardian (The), Turkey election: Erdoğan and AKP return to power with outright majority, 2 November 2015.

a good score by getting 80 seats but lost half of them in the elections of November 2015, and has less deputies (40) in the current parliament than the Kurdish HDP. Since these poor election results the party's leader Devlet Bahçeli has been unpopular but aims at a re-election, according to press reports <sup>(80)</sup>. His opponents are trying to arrange a party convention to elect a new chairman <sup>(81)</sup>. The date for the extraordinary party congress has been postponed until a local court has ruled on the legality of a dissident congress held on 19 June 2016 <sup>(82)</sup>. According to press reports, after the attempted coup of 15 July 2016 Devlet Bahçeli accused the party's internal opposition of receiving support from the Gülen Movement; dissident leader Meral Akşener was expelled from the party in September 2016 <sup>(83)</sup>.

#### 2.1.4 People's Democratic Party, HDP

The People's Democratic Party (*Halkların Demokratik Partisi*, HDP, in Kurdish *Partiya Demokratîk a Gelan*) is the latest of the Kurdish-focused parties created in Turkey since the beginning of the 1970s: HEP, DEP, ÖZDEP, HADEP, DEHAP, DTP, BDP, HDP. However, contrary to its predecessors the HDP was not created to succeed a party banned by the Constitutional Court. Formally founded in 2012, it is the political branch of a union of left-wing political organisations, the People's Democratic Congress. It gradually replaced the BDP before the former disappeared in 2014 <sup>(84)</sup>.

Led by Selahattin Demirtaş jointly with Figen Yüksekdağ, the new party tried to enlarge its electoral and social basis and to address social groups neglected by the Republic such as women, Alevis, Christians, Armenians, environmentalists and LGBT <sup>(85)</sup>. Selahattin Demirtaş was the HDP candidate to the presidential election in 2014 and won 9.7 % of the votes. This score led the party to believe it would be able to cross the 10 % threshold in the next parliamentary elections. The party, which focused on the Kurdish issue, has already a group in the parliament since 2007 but its deputies were elected as independent candidates. For the 2015 elections the HDP decided to present a full list in the provincial constituencies of the whole country <sup>(86)</sup>. The party gained 13 % of all votes in the legislative elections on 7 June 2015 and entered the parliament. It was the first time in Turkey's history that a pro-Kurdish party succeeded to do so by presenting its own lists and not independent candidates <sup>(87)</sup>.

In November 2015, as the AKP regained its absolute majority in the elections, the HDP got 10.7 % of the votes, sufficient to cross the 10 % threshold. It had more seats than the far-right MHP and became the third party in the parliament <sup>(88)</sup>. Due to this success the HDP has been

<sup>(80)</sup> Altunisik, Meliha Benli & Tür, Özlem, Turkey, Challenges of continuity and change, 2005, p. 64; Jean-Paul BURDY & Jean MARCOU, La Turquie à l'heure de l'Europe, 2008, p. 76; Hürriyet Daily News, MHP dissidents garner enough support for extraordinary convention, 19 June 2016; Hürriyet Daily News, MHP needs a renaissance, says resigned official, 23 June 2016.

<sup>(81)</sup> Tol, G., Davutoglu's Resignation: What it Means for Turkey, 5 May 2016.

<sup>(82)</sup> Reuters, Leadership row in Turkey's nationalist opposition helps Erdoğan, 30 May 2016; AA, Turkey: Court ruling needed on disputed MHP congress, 27 June 2016.

<sup>(83)</sup> Hürriyet Daily News, Turkey's MHP expels dissident Meral Akşener from party, 8 September 2016.

<sup>(84)</sup> HDP Europe, History of Kurdish Political Parties in Turkey, n.d.

<sup>(85)</sup> Hürriyet Daily News, Inclusive HDP candidate list aspires to pass 10 pct election threshold, 7 April 2015.

<sup>(86)</sup> Hürriyet Daily News, Presidential candidate Demirtaş: 'Turkey fanning the flames of the Middle East', 21 July 2014; Hürriyet Daily News, HDP's candidate vows to carry the torch of change, 10 August 2014; New York Times/Akyol, Mustafa, Can Kurds Shake Up Turkey's Politics?, 2 June 2015; Aydınbaş, Aslı, Kurds Shaping Turkey's Political Map, The Washington Institute, 23 April 2015.

<sup>(87)</sup> Guardian (The), Turkey election results: what you need to know, 8 June 2015; Carnegie Europe, Turkey's Political Parties, 26 October 2015, updated 6 November 2015; Al Jazeera, What's behind Turkey's bill of immunity, 29 May 2016.

<sup>(88)</sup> BBC, Turkey election: Ruling AKP regains majority, 2 November 2015.

seen as a possible reformer of Turkish politics, if it would gain enough power<sup>(89)</sup>. But the armed conflict against PKK and court cases against the party members, in particular the lifting of immunity for members of parliament on 20 May 2016 (mainly targeting HDP members) could possibly marginalise the party, according to media sources<sup>(90)</sup>.

### 2.1.5 Felicity Party, SP

The Felicity Party (*Saadet Partisi*, SP) is the latest of the parties that have been created since the 1970s by Necmettin Erbakan, the iconic leader of the Turkish Islamist movement *Milli Görüş* (National Vision). After the so-called postmodern coup of February 1997, the end of Erbakan's government in June 1997 and the ban of the *Refah Partisi* (Welfare Party) in January 1998, the *Fazilet Partisi* (Virtue Party) tried to resume legacy. But conflicts appeared inside this new movement (especially during its first and only congress) opposing the traditionalists of Erbakan to the modernists of Abdullah Gül and Recep Tayyip Erdoğan. In 2001 again the *Fazilet Partisi* was banned by the Constitutional Court, and part of its members founded the SP. It sought to represent the old guard of the Turkish Islamist family, the modernist wing of which decided, with Abdullah Gül and Recep Tayyip Erdoğan, to establish separately the AKP<sup>(91)</sup>.

Differently from the AKP, the SP considers itself as an Islamist party. After Erbakan's death in 2011, Mustafa Kamalak became the leader of the SP. Since its creation in 2001, while the AKP has come to power, the SP has never been able to cross the 10 % threshold in general elections and so it never had any deputies in the parliament. But it won some municipalities and has a strong grassroots support in several areas of the country as well as a true social organisation<sup>(92)</sup>.

### 2.1.6 Other parties

The Peace and Democracy Party (*Barış ve Demokrasi Partisi*, BDP, Kurdish: *Partiya Aştî û Demokrasîyê*) was a pro-Kurdish party<sup>(93)</sup>. The party was founded in 2008 as an extension of the DTP, the banned Democratic Society Party (*Demokratik Toplum Partisi*). It was a founding member of HDP and shared most of the same political ideology<sup>(94)</sup>. The BDP has been merged with HDP (See [2.1.4 People's Democratic Party](#), HDP) in April 2014, with all BDP's parliamentary deputies joining HDP<sup>(95)</sup>.

<sup>(89)</sup> Taşpınar, Ö., Kurds will be the agent of change in Turkish politics, 17 June 2015.

<sup>(90)</sup> New York Times (The), Turkish Parliament Approves Stripping Lawmakers of Their Immunity, 20 May 2016; Tol Davutoglu's Resignation: What it Means for Turkey, 5 May 2016; Al Jazeera, What's behind Turkey's bill of immunity, 29 May 2016; BBC, Merkel 'concern' over Turkey's 'anti-Kurdish' law, 23 May 2016.

<sup>(91)</sup> Atuk, Esra, Les partis de "vision nationale": des partis Janus dans le système politique turc, 2009; Burdy, Jean-Paul & Marcou, Jean, La Turquie à l'heure de l'Europe, 2008, pp. 72-75; Altunisik, Meliha Benli & Tür, Özlem, Turkey, Challenges of continuity and change, London, Routledge Curzon, 2005, p. 66; Marcou, Jean, 'Islamisme et post-islamisme en Turquie', 2004, p. 587.

<sup>(92)</sup> Felicity Party, Saadet Partisi (SP), 9 May 2008; Daily Sabah, Conservative Felicity Party open to form electoral alliance in Turkey's November 1 snap elections, 30 August 2015.

<sup>(93)</sup> Economist (The), A referendum on Erdoğan's rule, 31 March 2014.

<sup>(94)</sup> Global Security, Peace and Democracy Party BDP, (n.d.); Seufert, Parliamentary Crisis Follows Turkish Elections, August 2011, p. 2; Gisselbrecht, T., The HDP, the Future of Turkish Opposition?, 2014, pp. 4-5, 18; Kalender, C., A Comparative Analysis of Two Minority Political Parties, September 2015.

<sup>(95)</sup> Gisselbrecht, T., The HDP, the Future of Turkish Opposition? 2014, p. 5; Kalender, C., A Comparative Analysis of Two Minority Political Parties, September 2015.

## 2.2 Elections

Turkey held local and presidential elections in 2014, as well as two parliamentary elections in 2015 amid an exceptionally polarised and volatile political environment. (For general information and legal aspects of the Turkish elections, see [1.3.2 The electoral system](#).)

### 2.2.1 Local elections in 2014

Local elections were held in Turkey in March 2014. The AKP obtained just over 45 % of the votes and increased its percentage from previous elections in 2009. In the previous year the country had witnessed massive protests against the government (the so-called *Gezi* protests<sup>(96)</sup>). The 45 % vote was therefore considered as a strong support for the party and then Prime Minister Erdoğan. CHP won 28 per cent of the vote while the pro-Kurdish BDP 'made significant gains' in the Kurdish areas<sup>(97)</sup>.

According to analysts and press reports, the AKP was granted more time in state television than others. Most of the campaign period was peaceful although some violent incidents were reported. During the election campaign, offices of the CHP and HDP were attacked. There was fighting between opposing groups in south-east Turkey close to the Syrian border. People were killed in Şanlıurfa and in Hatay<sup>(98)</sup>.

### 2.2.2 Presidential elections in 2014

Recep Tayyip Erdoğan won over half of the votes (51.8 %) in the presidential elections held in August 2014. Ekmeleddin İhsanoğlu (backed by both MHP and CHP) received 38.4 % and Selahattin Demirtaş (HDP) 9.7 %. It was the first time that the President was elected by a popular vote, which was seen by critics as a first move from a parliamentary to a presidential system<sup>(99)</sup>.

Some domestic and international observers pointed to irregularities in the campaign, including media bias and self-censorship, misuse of state resources to support Erdoğan's election bid, lack of transparency in campaign finances, and voter fraud<sup>(100)</sup>. The OSCE noted that 'the election campaign was characterized by a general respect for fundamental freedoms and contestants were generally able to campaign without hindrance'. The election day was generally professionally organised and procedures were followed overall. However, the OSCE noted on the campaign :

'While all three candidates actively campaigned, the campaign of the Prime Minister was the most visible. The misuse of administrative resources and the lack of a clear distinction between key institutional events and campaign activities granted him an undue advantage and at odds with paragraph 5.4 of the 1990 OSCE Copenhagen Document and the Report on the Misuse of Administrative Resources during Electoral

<sup>(96)</sup> On 30 May 2013, a group of protesters against the destruction of a central park in Istanbul was violently dispersed by the police. In reaction, a wave of anti-government demonstrations swept across Turkey. The authorities reacted excessively violent in suppressing these demonstrations, causing many casualties. AI, Turkey accused of gross human rights violations in Gezi Park protests, 2 October 2013.

<sup>(97)</sup> Voice of America, Main Pro-Kurdish Party Also Winner in Turkish Local Elections, 4 April 2014.

<sup>(98)</sup> Economist (The), A referendum on Erdoğan's rule, 31 March 2014; Guardian (The), Turkish local elections: AKP set for victory, 30 March 2014; Voice of America, Main Pro-Kurdish Party Also Winner in Turkish Local Elections, 4 April 2014.

<sup>(99)</sup> Aljazeera, Erdoğan wins Turkey's presidential election, 11 August 2014; Economist, The next sultan?, 16 August 2014; Daily Sabah, Presidential Election 2014, n.d.

<sup>(100)</sup> Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016; Aljazeera, Erdoğan wins Turkey's presidential election, 11 August 2014; Economist, The next sultan?, 16 August 2014.

Processes by the Council of Europe's Commission for Democracy through Law (Venice Commission) <sup>(101)</sup>.

### 2.2.3 Parliamentary elections in 2015

Turkey held parliamentary elections on 7 June 2015, which observers considered generally peaceful, free and fair <sup>(102)</sup>. For the first time since its creation, the ruling AK Party did not win a majority. It obtained 41 % of the votes, while the Kurdish HD Party won 13 % and passed the 10 % threshold needed to enter parliament for the first time. The HDP attracted not only Kurdish votes, but also minorities, liberals and women's support. The AKP would have needed a supermajority to amend the constitution increasing the President's powers. The CHP won 25 % of the votes and the MHP 16.5 %. The number of women in parliament increased to 98. According to a semi-official Anatolia news agency, 86 % of eligible voters participated in the election <sup>(103)</sup>.

All three opposition parties refused a coalition with the AKP, and deep divisions between the MHP and HDP prevented the opposition from forming a coalition on its own. Consequently, President Erdoğan called new elections <sup>(104)</sup>.

Early elections were held on 1 November 2015. The AKP then received 49.5 % of the votes, enough for it to form a government alone. CHP won 25.3 % and MHP 11.9 %. The HDP managed to obtain 10.8 % of the votes and therefore won seats in parliament. The number of women elected fell to 81. The division in parliamentary seats (total 550) is: AKP 317, CHP 134, HDP 59, MHP 40 <sup>(105)</sup>.

After the elections, observers expressed concerns about the future of Turkey. Erdoğan's supporters perceived him and the AKP as modernisers and stabilisers of the country while critics see him as an increasingly autocratic ruler <sup>(106)</sup>.

### 2.2.4 Election campaigns

The OSCE, which monitored both the June and November 2015 elections, reported that they were professionally organised and that voters could choose their candidate freely. The polling stations were mostly peaceful. However, some opposition rallies were cancelled or restricted or their posters were removed on the ground that they insulted the President. During the November's elections and campaign period, a 'challenging security environment' and violent incidents, especially in the south-east, constituted an obstacle to free campaigning <sup>(107)</sup>.

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<sup>(101)</sup> OSCE, Republic of Turkey Presidential Election, OSCE/ODIHR Limited Election Observation Mission Final report, 10 August 2014, p. 2.

<sup>(102)</sup> US DoS, Country Report on Human Rights Practices 2015 - Turkey, 13 April 2016; OSCE, Turkey, Early Parliamentary Elections, 1 November 2015: Final Report, 28 January 2016.

<sup>(103)</sup> Guardian (The), Turkey election results: what you need to know, 8 June 2015; Aljazeera 8.6.2015; US DoS, Turkey 2015 Human Rights Report, 18 April 2016, p. 49.

<sup>(104)</sup> Freedom House, Freedom in the World 2016, Turkey, 27 January 2016; UK Home Office: CIG Turkey, February 2016; CoE-GRECO, Third Evaluation Round Second Interim Compliance Report on Turkey "Incriminations (ETS 173 and 191, GPC 2)", "Transparency of Party Funding", 21 March 2016.

<sup>(105)</sup> YSK, Yüksek Seçim Kurulundan Duyuru [Announcement of the Supreme Election Board], 11 November 2015.

<sup>(106)</sup> Guardian (The), Turkey election: Erdoğan and AKP return to power with outright majority, 2 November 2015; US DoS Country Report on Human Rights Practices 2015 - Turkey, 13 April 2016, p. 49.

<sup>(107)</sup> OSCE, Statement of Preliminary Findings and Conclusions, 8 June 2015, p. 1; OSCE, Statement of Preliminary Findings and Conclusions, 2 November, 2015, p. 1; Guardian (The), Turkey election: Erdoğan and AKP return to power with outright majority, 2 November 2015.

Despite the shortened election calendar for the November elections, the Supreme Electoral Council (YSK) met all the deadlines. Around 54 million voters were registered to vote in Turkey and some 3 million abroad <sup>(108)</sup>.

Observers expressed concern that media restrictions during the campaign period ‘reduced voters’ access to a plurality of views and information’ and state-run broadcasters gave more coverage to the AKP than to the other parties <sup>(109)</sup>. According to observers, President Erdoğan did not remain politically neutral, as prescribed by the constitution, but favoured the AKP during both election campaigns <sup>(110)</sup>.

During both campaigns, there were attacks on political party offices, members and rallies, particularly against the HDP <sup>(111)</sup>. On 5 June 2015, following a bomb attack in a HDP rally in Diyarbakır five persons were killed and over one hundred injured. Authorities claimed the Islamic State (IS) was responsible for the attack <sup>(112)</sup>. In September and October, the HDP headquarters in Ankara and HDP offices in at least six other cities were attacked and its officials were detained by the police because of alleged links with the PKK. <sup>(113)</sup>.

Few weeks before the November 2015 elections, in Ankara, another bomb attack targeted a demonstration by civil society, professional organisations, trade unions, and several political parties including HDP and CHP, killing over 100 people <sup>(114)</sup>. According to media reports, individuals linked to IS were blamed for the attack <sup>(115)</sup>. The EC Communication 2015 noted: ‘It is essential that swift and transparent investigations are conducted into these heinous acts which were aimed to destabilise and harm Turkey’s democracy’ <sup>(116)</sup>. In Diyarbakır, in the south-east, violent protests erupted after the election results were announced in November 2015. They were met with water cannons by the police <sup>(117)</sup>.

## 2.3 Opposition

### 2.3.1 Political opposition

Political opposition to the ruling party, AKP, is not united. The Turkish opposition consists of three main parties: the largest one is the Republican People’s Party (CHP) with 134 seats, the Nationalist Action Party (MHP) with 40 seats, and the pro-Kurdish Peoples’ Democratic Party (HDP) with 59 seats. Their aims are often contrary to each other which prevents them from forming a joint opposition coalition in parliament, not to mention forming a coalition government consisting of two or more parties, according to media reports <sup>(118)</sup>.

<sup>(108)</sup> OSCE, Turkey, Early Parliamentary Elections, 1 November 2015: Final Report, 28 January 2016.

<sup>(109)</sup> Freedom House, Freedom in the World 2016, Turkey, 27 January 2016; OSCE, Turkey, Early Parliamentary Elections, 1 November 2015: Final Report, 28 January 2016; CoE-PACE - Parliamentary Assembly: Assessing the impact of measures to improve women’s political representation, 1 April 2016.

<sup>(110)</sup> Freedom House, Freedom in the World 2016, Turkey, 27 January 2016; US DoS, Turkey 2015 Human Rights Report, 18 April 2016, p. 49.

<sup>(111)</sup> OSCE Statement of Preliminary Findings and Conclusions, 2 November 2015, p. 1.

<sup>(112)</sup> US DOS, Turkey 2015 Human Rights Report, 18 April 2016, pp. 48-49.

<sup>(113)</sup> OSCE Statement of Preliminary Findings and Conclusions, 2 November 2015, p. 8; US DOS, Turkey 2015 Human Rights Report, 18 April 2016, pp. 48-49.

<sup>(114)</sup> OSCE Statement of Preliminary Findings and Conclusions, 2 November 2015, p. 8.

<sup>(115)</sup> Daily Sabah, Ankara suicide bomber identified as brother of suspected attacker in Suruç bombing, 19 October 2015.

<sup>(116)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Enlargement strategy, COM(2015) 611 final, 10 November 2015, p. 28.

<sup>(117)</sup> Guardian (The), Turkey election: Erdoğan and AKP return to power with outright majority, 2 November 2015.

<sup>(118)</sup> Hürriyet Daily News, Seeking ‘His President’s Opposition’ in Turkey, 11 April 2016; Foreign Policy, Turkey’s Hapless Opposition, 4 December 2015.



The renewed conflict with PKK was used by the Erdoğan administration to attack HDP. Some of HDP's supporters abandoned the party in the November 2015 elections after the fighting with the Kurds had started again, in fear of increasing instability <sup>(119)</sup>. The HDP lost almost 1 million votes in the November elections, also from Kurdish voters. According to an analysis by Foreign Policy, the HDP has to clarify its relationship with the PKK in order to become a national party in Turkey <sup>(120)</sup>. Another analysis attributes the large electoral loss of the HDP to the renewed PKK militancy and the reluctance of HDP to condemn PKK violence <sup>(121)</sup>.

### Gülen movement

The Gülen movement (self named *Hizmet*) is a nationalist and religious organisation founded by Fethullah Gülen, a Turkish Sunni Muslim of Sufi order who lives in the U.S. since 1999. It provides, amongst others, education and Qu'ran lessons. The group also works internationally. The Gülen movement used to be allied with the AKP <sup>(122)</sup>, both supporters of political Islam, but the two separated in 2012-13 <sup>(123)</sup>.

According to press reports, the Gülen movement maintains commercial activities in Turkey. For example, the Bank *Asya* and the insurance company *Işık*, the media corporations *Zaman*, and the English *Today's Zaman*, and *Samanyolu* are or were under Gülen's unofficial leadership. Parts of the Turkish police forces, army and judiciary allegedly belonged to the movement <sup>(124)</sup>. Government administrators seized control over the *Zaman* and *Today's Zaman* on 4 March 2016 on court order for being critical at Erdoğan <sup>(125)</sup>.

Turkey issued a warrant for Gülen in December 2014 on accusation of trying to overthrow the government <sup>(126)</sup>. In January 2016, the prosecutor demanded a life sentence against Gülen as he was tried in absentia <sup>(127)</sup>. According to press reports, as of April 2016, a total of 2 261 people allegedly linked to Gülen movement have been detained, 501 of whom are in jail and 623 have been released on probation <sup>(128)</sup>. The Turkish Government designated the Gülen movement as a terrorist organisation on 31 May 2016 (calling it FETÖ, *Fethullahcı Terör Örgütü*/ Fethullah Gülen Terror Organisation) <sup>(129)</sup> and accused it to have masterminded the attempted coup of 15 July 2016. See further [6. The attempted military coup](#).

### 2.3.2 Armed groups

There are several oppositional armed groups active in Turkey:

- Kurdistan Workers' Party, PKK (*Partiya Karkerên Kurdistanê*)
- Kurdistan Freedom Falcons, TAK (*Teyrenbazen Azadiya Kurdistan*)

<sup>(119)</sup> Hürriyet Daily News, Seeking 'His President's Opposition' in Turkey, 11 April 2016.

<sup>(120)</sup> Foreign Policy, Turkey's Hapless Opposition, 4 December 2015.

<sup>(121)</sup> Middle East Eye, Why did most of Turkey's lost pro-Kurdish votes go to ruling AK party? 4 November 2015.

<sup>(122)</sup> More on the relations of Gülen movement and AKP see El-Kazaz, S., The AKP and the Gülen: The End of a Historical Alliance, July 2015.

<sup>(123)</sup> Monde Diplomatique (Le), Der mächtige Herr Gülen, 14 February 2014 ; El-Kazaz, S., The AKP and the Gülen: The End of a Historical Alliance, July 2015.

<sup>(124)</sup> Le Monde Diplomatique, Der mächtige Herr Gülen, 14 February 2014; Seufert, G., The Fethullah Gülen Movement and Turkey's Current Domestic Policy, January 2014, p. 19.

<sup>(125)</sup> Deutsche Welle, Turkish government seizes critical opposition paper, 4 March 2016; BBC, Turkey seizes control of Zaman newspaper linked to Gulen, 4 March 2016.

<sup>(126)</sup> New York Times (The), Turkey Issues Arrest Warrant for a Rival of Its President, 19 December 2014.

<sup>(127)</sup> Guardian (The), Turkish prosecutors demand life sentence for cleric accused of coup plot, 7 January 2016; Middle East Eye, Turkey tries preacher Gulen in absentia, 6 January 2016.

<sup>(128)</sup> Rethink Institute, Update: Persecution of the Gülen Movement in Turkey, April 2016, pp. 1-2.

<sup>(129)</sup> Stratfor, Turkey: President Designates Gulen Movement As Terrorist Group, 31 May 2016.

- Revolutionary People's Liberation Party-Front, DHKP-C (*Devrimci Halk Kurtuluş Partisi-Cephesi*)
- Islamic State of Iraq and al-Sham, ISIS/IS

As these groups are affecting the security situation, they will be discussed in [4.2 Actors in the conflict](#).

## 2.4 Civil society

Turkish civil society is vibrant, growing and active in many social areas. Since the country became officially an EU candidate country in 1999, several reforms (such as the Associations Law in 2004 and the Foundations Law in 2008) have been implemented promoting democratisation and the functioning of civil society. However, the state still has a dominant influence over society and future reforms are necessary in order to comply with international standards, according to the Non-Governmental Organisation (NGO) Law Monitor. It further warns that basic freedoms such as freedoms of association, assembly and expression, are increasingly under threat for the sake of public order or national security <sup>(130)</sup>.

Activists and other actors not in line with the government views may be targeted by the authorities. EuroMed (Euro-Mediterranean Human Rights Network) and the International Federation for Human Rights (FIDH) are increasingly concerned about the weak rule of law in Turkey, due to the 'general crackdown on independent and dissenting voices'. Freedom of speech can be curbed under pretext of national security <sup>(131)</sup>. Human rights workers may be targeted under the Anti-Terror Law (Law 3713 of April 1991 – last modified in April 2015) as well <sup>(132)</sup>.

According to the Council of Europe <sup>(133)</sup>, the amount of NGOs dealing with human rights is quite limited: some organisations on the position of women and children, several organisations supporting people with disabilities, few on prisoners. Finally, there are foundations promoting rights of minority groups, which are placed under the strict supervision of the Directorate General of Foundations <sup>(134)</sup>.

The TÜSEV (*Türkiye Üçüncü Sektör Vakfı / Third Sector Foundation of Turkey*), established in 1993 by Turkey's leading civil society organisations is a network supporting more than 100 associations and foundations aiming at strengthening the legal, fiscal and operational infrastructure of the third sector in Turkey. It's main objectives are 'civil society law reform, research on civil society and philanthropy, promoting social investment and social justice philanthropy, and facilitating partnerships across sectors, as well as across borders' <sup>(135)</sup>.

The European Economic and Social Committee (EESC), in a report on the situation and operating conditions of civil society organisations in Turkey, notes the apparent arbitrariness and lack of transparency of the Turkish state in actions against individuals and organisations. It encourages the Turkish Government to recognise CSOs as key organisations, to work on separation of powers and refrain from 'disproportionate state interference'. EESC further recommends to implement basic rights (of women, trade union, minorities, consumer), free and diverse media, freedoms of expression, assembly and association, 'including and

<sup>(130)</sup> International Center for Not-for-Profit Law, NGO Law Monitor: Turkey, last updated 4 June 2016.

<sup>(131)</sup> EuroMed Rights and FIDH, High-Level Solidarity Mission to Turkey 20-24 January 2016, n.d., pp. 9-10.

<sup>(132)</sup> Republic of Turkey (The), Anti-Terror Law, Act no 3713: Law to fight terrorism, 12 April 1991; CoE, Strengthening the protection and role of human rights defenders in CoE member States, 11 January 2016, p. 11.

<sup>(133)</sup> International Center for Not-for-Profit Law, NGO Law Monitor: Turkey, last updated 4 June 2016.

<sup>(134)</sup> CoE, How to prevent inappropriate restrictions on NGO activities in Europe? 8 January 2016, pp. 18-19.

<sup>(135)</sup> TUSEV, About us, n.d.

especially in conflicting debates and events'. An independent judiciary is the basis of any rule of law. Separation of legislative, judiciary and executive powers is, according to EESC, a key condition for civil society organisations to freely operate <sup>(136)</sup>.

A study by TÜSEV on constitutional and legal regulations that hinder or forestall active participation in civil society in Turkey confirms EESC's findings on arbitrariness, lack of transparency, and lack of impartiality of the judiciary. The report presents a large number of recommendations dealing with enhancing freedoms of speech, of assembly and of right to information, and access to justice <sup>(137)</sup>.

For more information on freedom of assembly and association, see [5.2.2 Freedom of assembly](#), on freedom of speech, see [5.2.1 Freedom of speech](#), on human rights violations against human rights activists and defenders, see [5.4.3 Human rights and peace defenders](#).

## 2.5 Media

### 2.5.1 Television and newspapers

Turkey has a large variety of media, both in the political spectrum and in the availability of publications in different languages, e.g., Kurdish, Armenian, Arabic, English and Farsi. Foreign broadcasts are also available <sup>(138)</sup>. In a media profile, the BBC characterised the Turkish media landscape as 'lively, with some 300 private TV stations – about 20 with national coverage - and more than 1,000 private radio stations competing with the state broadcaster, TRT' <sup>(139)</sup>. The BBC media profile provides a list of the main press, TV, radio and internet providers <sup>(140)</sup>.

A non-limited overview of Turkish newspapers can be found in the website *Online newspapers* <sup>(141)</sup>.

The Radio and Television Supreme Council (RTÜK - *Radyo ve Televizyon Üst Kurulu*) is a body that regulates the public service broadcaster. It is also responsible for granting licenses for broadcasters <sup>(142)</sup>.

The US Department of State (US DoS) Country report on human rights practices noted that large companies own an increasing share of the media outlets, many of which depend on the government for other businesses, thereby limiting their independence. Gülen's affiliated holding companies which own media outlets were put under government-appointed trusteeships in October and November 2015. Some Gülen-linked television channels were also dropped from pay-television platforms in spite of the government's media regulatory institution's warnings against it <sup>(143)</sup>.

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<sup>(136)</sup> EESC, Opinion of the European Economic and Social Committee on Situation and operating conditions of civil society organisations in Turkey, 21 January 2015.

<sup>(137)</sup> TÜSEV, Active Participation in Civil Society: International Standards, Obstacles in National Legislation and Proposals Report, TÜSEV Publications No. 66, October 2015, p. 117.

<sup>(138)</sup> US DoS, Turkey 2015 Human Rights Report, 18 April 2016, pp. 27-28.

<sup>(139)</sup> BBC, Turkey profile – Media, 18 March 2016.

<sup>(140)</sup> BBC, Turkey profile – Media, 18 March 2016.

<sup>(141)</sup> Online Newspapers, Turkish Newspapers, n.d.

<sup>(142)</sup> RTÜK - Radyo ve Televizyon Üst Kurulu, [website], <http://www.rtuk.org.tr/>

<sup>(143)</sup> US DoS, Turkey 2015 Human Rights Report, 18 April 2016, pp. 27-28.

## 2.5.2 Internet

Internet is used by approximately 60 % of the population in Turkey. The main internet media consists of Ensorhaber, T24, and Internet Haber <sup>(144)</sup>.

Internet laws can apply – and have done so increasingly – various forms of censorship online. The Internet Law of Turkey (Law No 5651) from 2007 was amended in 2013 and has increased bans on websites and requests to remove content. <sup>(145)</sup> As part of one of the March 2015 ‘package laws’, Law No 6639, Article 8A has been inserted into the Law on Internet Media Regulation, giving the government the power to remove internet content and block access to websites <sup>(146)</sup> on the following grounds: ‘insulting Mustafa Kemal Atatürk; engaging in obscenity, prostitution, or gambling; encouraging suicide, sexual abuse of children; drug abuse, or provision of substances dangerous to health (...) right to life and protection of security of life and property, protection of national security and public order, prevention of commission of crimes, or protection of public health’; the last four grounds were added in 2015 <sup>(147)</sup>. The EC Communication 2015 commented: ‘Changes to the internet law, which are a significant setback from European standards, increased the government’s powers to block content without a court order on an unduly wide range of grounds’ <sup>(148)</sup>.

Several Turkish and international human rights groups have expressed concerns for restrictions on internet freedom. Freedom House categorised Turkey’s freedom of the net in 2015 as ‘partly free’ <sup>(149)</sup>. Access to YouTube and Twitter have been blocked during several occasions in 2015, however, circumvention techniques are widely used. Facebook attracted more than 32 million users in 2014 <sup>(150)</sup>. After the start of the fighting between the army and PKK the government blocked the internet for some mainly Kurdish-language media outlets. Technical reasons were given for this but critics say that the reasons were political. Ankara’s Administrative Court ruled in the media outlets’ favour when they appealed there <sup>(151)</sup>.

For more information on freedom of speech, see [5.2.1 Freedom of speech](#) and [6.2 The aftermath of the attempted coup](#).

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<sup>(144)</sup> BBC, Turkey profile – Media, 18 March 2016.

<sup>(145)</sup> OSCE, Report of the OSCE Representative on Freedom of the Media on Turkey and Internet Censorship, n.d., p. 2; HRW, Open Letter to the Government of Turkey on Internet Blocking and Free Expression, 29 October 2015.

<sup>(146)</sup> Library of Congress, Turkey: Recent Developments in National and Public Security Law, last updated 30 November 2015.

<sup>(147)</sup> US DoS, Turkey 2015 Human Rights Report, 18 April 2016, p. 34, see also Freedom House, Freedom of the Press 2016 - Turkey, n.d.

<sup>(148)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Enlargement strategy, COM(2015) 611 final, 10 November 2015, p. 29.

<sup>(149)</sup> Freedom House, Freedom in the World 2016, 2016, p. 24.

<sup>(150)</sup> BBC, Turkey profile – Media, 18 March 2016.

<sup>(151)</sup> US DoS, Turkey 2015 Human Rights Report, 18 April 2016, pp. 27-28.

### 3. Rule of law and state protection

#### 3.1 General overview

The EC Communication 2016 reported on the judicial system:

‘Turkey’s judicial system is at an early stage/has some level of preparation. There has been backsliding in the past year, in particular with regard to the independence of the judiciary. The extensive changes to the structures and composition of high courts are of serious concern and are not in line with European standards. Judges and prosecutors continued to be removed from their profession and in some cases were arrested, on allegations of conspiring with the Gülen movement’<sup>152</sup>).

The Communication continued, referring to the aftermath of the attempted coup: ‘This situation worsened further after the July coup attempt, following which one fifth of the judges and prosecutors were dismissed and saw their assets frozen’<sup>153</sup>).

The European Council on Foreign Relations (ECFR), an international think tank, states that in 2015 ‘Turkey has largely regressed on the rule of law, civil liberties, separation of powers, and freedom of expression’<sup>154</sup>).

The 2015 US DoS report states that impunity and weak administration of justice are issues of concern in Turkey. The broad interpretation of the law by prosecutors and judges makes way to politically motivated investigations and verdicts, and the authorities abuse the antiterror legislation to arrest opposition members and individuals accused of connection with the PKK or the Fethullah Gülen movement<sup>155</sup>).

According to the 2016 Freedom House report, the Turkish judiciary is influenced by the government via appointments, promotions and financing. The antiterror legislation is being used to investigate and accuse opposition members, and the March 2015 law package increased police powers, such as granting the possibility of detention without court order. Impunity of the security forces is of serious concern, in particular regarding past human rights abuses<sup>156</sup>), especially related to the *Gezi* events<sup>157</sup>).

In a statement given after his visit to Turkey in April 2016, Nils Muižnieks, the Council of Europe Commissioner for Human Rights, recalled that Turkey must avoid straying from human rights and rule of law principles in the fight against terror. He expressed doubts about the legality of ‘round-the-clock, open-ended and increasingly long’ curfews declared during anti-terrorism operations in south-eastern Turkey, the proportionality of government military achievements, and the harm caused to civilians in some of these zones. The Commissioner also notes serious

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<sup>152</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. \*\*.

<sup>153</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. \*\*.

<sup>154</sup> ECFR, *Wider Europe*, 31 - Rule of law, democracy, and human rights in Turkey, 2015.

<sup>155</sup> US DoS, *Country Reports on Human Rights Practices for 2015*, Turkey, n. d.

<sup>156</sup> Freedom House, *Freedom in the World 2016*, 2016, p. 24.

<sup>157</sup> *Hürriyet Daily News*, Expert report proves police report wrong in killing Gezi protester, 6 September 2016; *Hürriyet Daily News*, Legal battle over Gezi victim Berkin Elvan rages on amid family complaints, 16 June 2016.

shortcomings in investigations by the Turkish State into casualties during the operations, including civilians and security forces, but also suspected terrorists <sup>(158)</sup>.

Similarly, in its Third Progress Report 2016, the EC expresses concerns about the excessively broad application of the concept of terrorism, and to courts' interpretation of anti-terror legislation. Such interpretations have led to severe restrictions on freedom of expression and press, freedom of association and impunity, arrests and prosecution of demonstrators, journalists and academics, on charges of membership and making propaganda for terrorist organisations <sup>(159)</sup>.

The EC Communication 2016 cautioned, after the attempted coup:

‘(...) the rule of law, human rights and fundamental freedoms must be respected under all circumstances, and the parliament and all forces represented in the democratic institutions of the country must be able to play their constitutional role in full’ <sup>(160)</sup>.

In May 2016, the Turkish parliament adopted a law allowing the immunity of a large number of deputies to be lifted. In November 2016 several HDP Members of Parliament were arrested and detained, which the EC in its Communication 2016 considered ‘a matter of grave concern’ <sup>(161)</sup>.

Human Rights Watch (HRW), in its submission to the UN Committee against Torture on Turkey, notes an ‘erosion of the rule of law’ in the context of a deteriorating human rights scenario, and mentions the increasing political pressure on the justice system and weak mechanisms for accountability for wrong-doing by state officials and members of the security forces <sup>(162)</sup>.

Authorities have implemented a number of reforms to tackle corruption, some of which in partnership with the Council of Europe and the European Union. Many of the reforms have targeted legislation and institutional settings. However, observers note that Turkey must pursue reform efforts to prevent and curb corruption in respect to parliament members, judges and prosecutors <sup>(163)</sup>. See [3.5 Corruption and good governance](#).

Insults to the President and the Prime Minister, to the Grand National Assembly or to the Turkish nation are punishable under Article 299 of the Turkish Criminal Code <sup>(164)</sup>. In the first eight months of 2015, the Minister of Justice reported having received 331 complaints brought under this law, of which it rejected 265 <sup>(165)</sup>.

The number of cases awaiting prosecution for insulting the President has amounted to 1 845 as of March 2016, according to the Minister of Justice, quoted by the Hürriyet Daily News. Among these cases are celebrities, journalists and high school students, as well as opposition

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<sup>(158)</sup> CoE, Commissioner for Human Rights, Turkey: security trumping human rights, free expression under threat, 14 April 2016.

<sup>(159)</sup> EC, Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap, 4 May 2016, p. 40.

<sup>(160)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 10.

<sup>(161)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 4.

<sup>(162)</sup> HRW, UN Committee against Torture: Review of Turkey, 57th Session of the Committee against Torture, Submission to the United Nations Committee against Torture on Turkey, 22 April 2016.

<sup>(163)</sup> CoE-GRECO, Fourth evaluation round report on Turkey, 17 March 2016.

<sup>(164)</sup> Ministry of Justice, Turkish Penal Code (Türk Ceza Kanunu), 26 September 2004.

<sup>(165)</sup> US DoS, Country Reports on Human Rights Practices for 2015, Turkey, 13 April 2016.

party leaders and party members <sup>(166)</sup>. The Venice Commission, the legal advisory body of the Council of Europe (CoE), has recommended repealing Article 299 of the Penal Code (on ‘insulting the president’), and changing Article 301 (on ‘degrading the state and the nation’). The Venice Commission concluded on Article 299: ‘No progress has been made and [the code’s] use has recently increased substantially,’ adding: ‘Having regard to the excessive and growing use of this Article, the Commission considers that, in the Turkish context, the only solution to avoid further violations of the freedom of expression is to completely repeal this Article and to ensure that application of the general provision on insult is consistent with these criteria’ <sup>(167)</sup>.

However, after the attempted coup of 15 July 2016 (see [6. The attempted military coup](#)), ‘as a sign of solidarity’, Recep Tayyip Erdoğan decided to withdraw all insult cases he previously launched against politicians (especially the chairs of opposition parties, with the exception of the HDP) and citizens. As the result all people probed for insulting the President (more than 10 people) have been released, according to the President’s lawyer <sup>(168)</sup>.

## 3.2 Law enforcement and security forces

### 3.2.1 Police

#### Structure and capacity

The Turkish National Police (TNP/ *Türk Polis Teşkilatı*), composed of almost 270 000 sworn police officers, has become one of the biggest organisations in the Turkish public sector. It is a civilian organisation directed by a governor appointed by the Ministry of Interior <sup>(169)</sup> and its commanding body is the General Directorate of Security <sup>(170)</sup>.

The National Police is responsible for security in large urban areas, towns and cities, while policing in rural areas comes under jurisdiction of the Gendarmerie (*Jandarma*) <sup>(171)</sup>. Around 50.5 million people live in urban areas, translated into a ratio of approximately 220 persons to every police officer <sup>(172)</sup>. Under the General Directorate are 81 police directorates, each corresponding to one of Turkey's provinces, and at the next level down, there are the police posts, or district commands <sup>(173)</sup>.

At operational level, the National Police carries out administrative, judicial, and political functions. The administrative function covers a very wide range of areas, including the enforcement of laws and regulations <sup>(174)</sup>, safeguarding public order, forming police teams for undertaking crime prevention <sup>(175)</sup> (e.g., prevention of smuggling and the apprehension of smugglers), fingerprinting and photographing, censorship of films, traffic control,

<sup>(166)</sup> Hürriyet Daily News, Article on insulting the president ‘must change’, 16 March 2016.

<sup>(167)</sup> CoE, Venice Commission, Opinion on articles 216, 299, 301 and 314 of the Penal Code of Turkey, 11-12 March 2016, p. 31.

<sup>(168)</sup> Hürriyet Daily News, All released in ‘insulting president’ cases after Erdogan pulled back complaints, 6 September 2016.

<sup>(169)</sup> Turkish National Police (The), Organisation, n. d.

<sup>(170)</sup> Turkish National Police (The), Structure, n. d.

<sup>(171)</sup> Turkish National Police (The), Organisation, n. d.

<sup>(172)</sup> UK Home Office, CIG - Turkey, February 2016, p. 13.

<sup>(173)</sup> Turkish National Police (The), Structure, n. d.

<sup>(174)</sup> UK Home Office, CIG - Turkey, February 2016, p. 13.

<sup>(175)</sup> Piran, L., Institutional Change in Turkey, The Impact of European Union Reforms on Human Rights and Policing, 2013, pp. 141-142.

enforcement of licensing laws of various kinds, arrest of thieves, and the tracking down of military deserters <sup>(176)</sup>.

The Judicial Police performs judicial functions, such as criminal investigations, collection of evidence, apprehension of suspects and turning suspects over to the judicial authorities. Judicial police has to do its work in accordance with legal regulations and under directions from judicial authorities. Its duty starts when a crime is committed <sup>(177)</sup>.

Political duties include the investigation of crimes categorised as political crimes, that is, crimes against national security and sovereignty. They fall within the duties of the Turkish police and the *Jandarma* <sup>(178)</sup>.

According to the Turkish Ministry of Foreign Affairs, 'human rights courses have become compulsory at Police Academies' <sup>(179)</sup>. However, the TNP reported that 5 588 personnel had received one hour of human rights training during the year and that 1 733 personnel had taken a longer counterterrorism and human rights course that covered detention, arrest, and defence tactics <sup>(180)</sup>.

In the aftermath of the failed coup of July 2016, thousands of policemen were detained or removed from their positions. See [6.2 The aftermath of the attempted coup](#).

### **Abuse of power**

According to media reports, allegations of excessive use of force during demonstrations were common and increasing in 2015 and 2016, including the firing of tear gas canisters at demonstrators from close range, the firing of rubber bullets and the use of water cannon and beatings of peaceful protesters <sup>(181)</sup>.

Human rights organisations report allegations of torture and abuse, especially of persons in police custody but not in a place of detention, and during demonstrations and transfers to prison, where such practices are more difficult to document <sup>(182)</sup>. Amnesty International (AI) reported that excessive use of force by police and ill treatment in detention and other inhuman or degrading treatment have increased in the context of police or military operations against the PKK <sup>(183)</sup>.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions expressed in 2015 his serious concern about 'The excessive use of force by law enforcement officers during

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<sup>(176)</sup> UK Home Office, CIG - Turkey, February 2016, p. 12.

<sup>(177)</sup> Piran, L., Institutional Change in Turkey, The Impact of European Union Reforms on Human Rights and Policing, 2013, pp.141-142.

<sup>(178)</sup> Piran, L., Institutional Change in Turkey, The Impact of European Union Reforms on Human Rights and Policing, 2013, pp.141-142.

<sup>(179)</sup> Republic of Turkey (The), Ministry of Foreign Affairs, Human Rights:Policy Objectives And Developments, n.d.

<sup>(180)</sup> US DoS, Country Reports on Human Rights Practices for 2015 -Turkey, 13 April 2016.

<sup>(181)</sup> HRFT, Alternative report to the United Nations Committee Against Torture For Its Consideration of the 4th Periodic Report of Turkey, March 2016; AI, Annual Report 2015/2016; Turkey, n.d.; US DoS, 2015 Country Reports on Human Rights Practices - Turkey, 13 April 2016. HRW reported about the police abusing detainees in custody after a security operation on 7 August 2015. HRW, Turkey: Beaten, Threatened With Death by Police, 2 September 2015.

<sup>(182)</sup> FIDH/EuroMed Rights, High-Level Solidarity Mission to Turkey 20-24 January 2016, February 2016, p. 7; HRFT, Alternative report to the United Nations Committee Against Torture For Its Consideration of the 4th Periodic Report of Turkey, March 2016, pp. 1, 12-13; HRFT, Police Violence Targeted Human Rights Defenders and Peace Activists in İzmir, 2 February 2016; HRW, World Report 2016 - Turkey, 27 January 2016; US DoS, Country Reports on Human Rights Practices for 2015 -Turkey, 13 April 2016.

<sup>(183)</sup> AI, Annual report 2015/2016, Turkey, n. d.



assemblies and arrest remains a serious concern, as does the use of tear gas and pepper spray’<sup>(184)</sup>.

The US DoS 2015 quoted human rights observers reporting that

‘detainees often refrain from reporting torture and abuse because they fear retaliation or believe complaining to authorities would be futile. Human rights organisations documented cases of prison guards beating inmates and maintained those arrested for ordinary crimes are as likely to suffer torture and mistreatment as those arrested for political offenses, such as speaking out against the government’.

The organisations also noted that some Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons, particularly gay men, were abused and harassed by police on ‘moral’ grounds<sup>(185)</sup>.

By legislative amendments made in March 2015 to the Internal Security Package (Law amending the Law on powers and duties of the police, other laws and decrees), police was provided with powers to detain without judicial supervision<sup>(186)</sup>. Amending 14 different laws or decrees, this recast, which was used as a basis for the arrest and judicial proceedings against demonstrators on May Day (1<sup>st</sup> of May), contains vague provisions granting the police the power to detain individuals without a prosecutor's order for up to 24 hours in individual crimes, and up to 48 hours for crimes committed in the context of violent incidents during protests<sup>(187)</sup>.

Another provision allows the police to use firearms to protect property. Further approved legislation affects the independence of prosecutors and their obligation to ensure that their work is carried out without interference. Also regional governors were granted the capacity to issue direct orders to the police in ongoing investigations<sup>(188)</sup>.

### 3.2.2 *Jandarma* and village guards

#### **Jandarma**

##### ***Structure and capacity***

The Turkish Gendarmerie (*Jandarma*) is an armed, military force of security and law enforcement, responsible for the maintenance of security and public order in its areas of responsibility. It is subordinated to the Ministry of Interior when performing security and public order duties. It is under the Turkish General Staff command regarding training and education and duties related to its military nature<sup>(189)</sup>.

The Turkish Gendarmerie performs administrative, judicial and military duties. The administrative duties include the fight against smuggling, general crime prevention and external protection of state penitentiaries. The judicial tasks include executing procedures and judicial orders described by the relevant legislation. Military duties are derived from the military legislation provisions and the tasks are assigned by the General Staff<sup>(190)</sup>. The Turkish

<sup>(184)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 6 May 2015.

<sup>(185)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016 .

<sup>(186)</sup> Library of Congress, Turkey: Recent Developments in National and Public Security Law, last updated 30 November 2015; AI, Annual report 2015/2016 Turkey, n. d.

<sup>(187)</sup> Library of Congress, Turkey: Recent Developments in National and Public Security Law, last updated 30 November 2015; AI, Turkey: Draconian reforms give police wide-ranging powers to repress dissent, 27 April 2015.

<sup>(188)</sup> AI, Turkey: Draconian reforms give police wide-ranging powers to repress dissent, 27 April 2015; OMCT, Turkey: Open Letter EMHRN: EU-Turkey Association Council, Right to Peaceful Assembly, 12 May 2015.

<sup>(189)</sup> General Command of Gendarmerie (The), General Issue, Duties, n.d.

<sup>(190)</sup> General Command of Gendarmerie (The), General Issue, Duties, n.d.; FIEP, Forces, Turkish Gendarmerie, n.d.

Gendarmerie also carries specific controls in border sectors where smuggling is common, although the military has overall responsibility for border control and overall external security <sup>(191)</sup>.

Jane's Sentinel Security Assessment for Turkey, cited by the UK Home Office, further noted:

'The General Command headquarters is located in Ankara; it controls the various branches of the force - the Internal Security Forces, Border Defence Units, Training Units, Training Schools and Administrative and Logistical Support Units. In 1987 the Gendarmerie set up a Public Order Command based in Diyarbakır to counter the activities of the PKK. Gendarmerie forces played a major role in fighting these guerrillas. It has been estimated that the Gendarmerie has approximately 50,000 reserves in addition to its regular strength of about 150,000' <sup>(192)</sup>.

According to the Turkish Gendarmerie, and in order to raise human rights awareness, both the officers and the rank and file follow the 'Human Rights Education' course. Follow-ups are provided in the form of seminars and conferences throughout Turkey <sup>(193)</sup>.

The Permanent Mission of Turkey to the UN in Geneva, in a note to the OHCHR on the second phase of the World Programme for Human Rights Education, informed that human rights education is mandatory for all civil servants and courses on human rights are compulsory in the National Police Academy and in Gendarmerie schools. The document adds that the Gendarmerie provides regular in-service and on-site training on human rights, as well as courses and conferences on gender equality and fight against violence against women. It also states that the Gendarmerie General Command published the Performance Criteria of Law-Enforcement Officers in Terms of Human Rights booklet with human rights principles to be followed by all officers <sup>(194)</sup>.

In 2015, the Turkish Government announced that a book on human rights would become part of the Jandarma training curriculum in 2016. Additionally, the authorities stated that 5 000 Jandarma had received training in human rights and counterterrorism issues in 2015, and that 31 detention centres had been inspected for procedural compliance <sup>(195)</sup>.

### **Abuse of power**

HRW reports a recent deterioration of human rights following the breakdown of the Kurdish peace process and notes allegations of 'police torture and ill-treatment of detainees, including children, in the Southeast'. Numerous political activists have been arrested on charges of terrorism <sup>(196)</sup>.

According to the US DoS Country report for 2015, the Gendarmerie has been responsible for arbitrary arrest cases. Human rights groups allege that especially in areas under curfew or in 'special security zones', security forces (including the Gendarmerie) detain citizens without official record. Consequently, these detainees are at greater risk of 'arbitrary practices' <sup>(197)</sup>.

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<sup>(191)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(192)</sup> UK Home Office, CIG - Turkey, February 2016, p. 13.

<sup>(193)</sup> General Command of Gendarmerie (The), Human Rights Violations, n.d.

<sup>(194)</sup> Republic of Turkey (The), Note from the Permanent Mission of the Republic of Turkey to the UN in Geneva, to the OHCHR, 16 April 2015; UN General Assembly, Evaluation of the implementation of the second phase of the World Programme for Human Rights Education, 16 July 2015.

<sup>(195)</sup> US DoS, Country Reports on Human Rights Practices for 2015, Turkey, n. d.

<sup>(196)</sup> HRW, UN Committee against Torture: Review of Turkey, 57th Session of the Committee Against Torture, 22 April 2016.

<sup>(197)</sup> US DoS, Country Reports on Human Rights Practices for 2015 -Turkey, n. d., p. 15.

The Domestic Security bill of 2015 places the gendarmerie forces under the Ministry of Interior. Previously, gendarmerie forces were supervised by the Gendarmerie General Command, a branch under the Turkish Armed Forces. Now, the governors will assume the role of chief of Gendarmerie personnel within their districts <sup>(198)</sup>. Opposition parties argue that this will create an additional armed branch of the AKP - the 'AK-Police' and the 'AK-Gendarmerie'. Officials of the AKP, however, argue that putting the gendarmerie under administrative command has the aim to demilitarise, and not to politicise, this armed unit <sup>(199)</sup>.

### ***Village guards***

The village guard system, created in the 1920s in response to looters and bandits, was reactivated by the Turkish Government in 1985, following the strengthening of PKK's power in northern Iraq and southern Turkey in 1984 <sup>(200)</sup>.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions raised serious concerns about the village guard system operating throughout Turkey and recommended the government abolishing the system. Village guards have reportedly been involved in human rights violations, including violations of the right to life, and there is a lack of sufficient safeguards against potential abuses committed by such village guards <sup>(201)</sup>.

A number of international human rights bodies made recommendations to abolish the village guard system but it remains on active duty, according to the Special UN Rapporteur <sup>(202)</sup>. According to press reports, new recruitments of village guards have been carried out by the Turkish authorities since July 2015, when the Kurdish Peace Process ended <sup>(203)</sup>.

## **3.2.3 Intelligence services**

### **National Intelligence Organisation (MİT - *Milli İstihbarat Teşkilatı*)**

According to Jane's Sentinel Security Assessment of 24 April 2015, cited by the UK Home Office, the National Intelligence Organisation's (MİT) primary task is gathering intelligence on threats to the security of the state. Over the years, it has gathered both domestic and foreign intelligence, including foreign links of the PKK. There is also a counter-intelligence role to the MİT, being charged of countering foreign intelligence activities. The organisation does not have police powers. The MİT has quite high entry requirements. Recruits undergo a course at MİT's own academy, MİT Training Centre. The MİT recruits people with a military background (less than 10 %), employs some individuals on a contract basis, while members of the Turkish Armed Forces with special qualifications or skills are seconded to the agency. Members of the MİT are forbidden from marrying foreigners, and their superiors must be informed of any contact with foreigners. In addition to the MİT, three other organisations also gather intelligence in Turkey: the military, the National Police and the Gendarmerie (see next section [Other intelligence agencies](#)) <sup>(204)</sup>.

Both military and civil intelligence are defined by the National Intelligence Coordination Committee, composed of members of the National Security Council, to which it is directly

<sup>(198)</sup> Library of Congress, Turkey: Recent Developments in National and Public Security Law, last updated 30 November 2015.

<sup>(199)</sup> Open Democracy, No more popular protests? Reflections on Turkey's Domestic Security Bill, 14 March 2015.

<sup>(200)</sup> Truth Justice Memory Center, Enforced disappearances and the conduct of the judiciary, Istanbul, 2013; Balta, E., Causes and Consequences of Village Guard System in Turkey, 2 December 2004.

<sup>(201)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 6 May 2015.

<sup>(202)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 6 May 2015.

<sup>(203)</sup> Hürriyet Daily News, Turkey set to recruit 5,000 village guards in anti-terror fight, 20 September 2015.

<sup>(204)</sup> UK, Home Office, CIG - Turkey, February 2016.

responsible. The effectiveness of MİT is allegedly hindered by the lack of coordination between the intelligence services <sup>(205)</sup>.

Erdoğan appointed his security adviser, Hakan Fidan, as head of the MIT <sup>(206)</sup>. In January 2014, a well-publicised incident took place when the Turkish Gendarmerie intercepted a convoy of trucks carrying weapons to Syria, escorted by MIT personnel. According to a political commentator, the MİT contacted the government in Ankara, which ordered the gendarmes to release the trucks. <sup>(207)</sup>.

According to HRW, MİT members have access to personal data without court order and benefit from immunity from prosecution for violations of the law since the 2014 amendment of the Law on State Intelligence Services <sup>(208)</sup>.

### Other intelligence agencies

As mentioned previously, the Turkish Armed Forces, the National Police and the Gendarmerie have their own intelligence units. The National Police has its own intelligence-gathering capability, which is used against organised crime and security threats (including violent militant groups) in the areas within the National Police's jurisdiction. Each branch of the Turkish Armed Forces also has its own intelligence arm. Military Intelligence focuses both on individuals and organisations considered to pose a threat to Turkish security and on preventing ideologically driven groups (particularly Islamists) from infiltrating the military <sup>(209)</sup>.

Since 1992, the *Özel Kuvvetler Komutanlığı* / Special Forces Command (OKK) units carry out counterterrorism and rescue operations, conduct domestic security duties and guard high-ranking military leaders. The OKK members are selected from professional military officers and undergo three and a half years' training programs, that include language education, ideological training, physical exercise, asymmetric warfare, and regular combat training. OKK reports directly to the Turkish Armed Forces (TSK) Deputy Chief of General Staff <sup>(210)</sup>.

The Turkish Ministry of Foreign Affairs has a small intelligence assessment unit and runs a research centre <sup>(211)</sup>.

## 3.2.4 Military

### Structure and capacity

The Turkish Armed Forces (*Türk Silahlı Kuvvetleri*/TSK) depend on the Turkish General Staff and consist of the Land Force Command, the Naval Force Command, the Air Force Command, the Gendarmerie General Command and the Coast Guard <sup>(212)</sup>.

According to the database on military powers Global Firepower, Turkey has approximately 410 000 active frontline personnel, and an active reserve personnel of around 185 630. The

<sup>(205)</sup> International Business Publications, Turkey Intelligence, Security Activities and Operations Handbook, 2014.

<sup>(206)</sup> MIT (National Intelligence Organization), *Duties, powers and responsibilities of the MIT*, n.d. For more background, see Adamson, Craig Stanley, 'The impact of global media perceptions of Turkey's intelligence and security approach towards the Syrian conflict', 18 July 2016.

<sup>(207)</sup> Jenkins, G., State of Threat, Turkey Confronts Islamic State, April 2015, pp. 28-31.

<sup>(208)</sup> HRW, World Report 2016 Turkey, n.d.; Zeldin, W., Law Library of Congress, Turkey: Recent Developments in National and Public Security Law, November 2015.

<sup>(209)</sup> UK Home Office, CIG - Turkey, February 2016.

<sup>(210)</sup> Jamestown Foundation, Tackling the PKK: New Directions for Turkey's Special Forces, 10 July 2008; Özel Kuvvetler Komutanlığı, accessed 13 July 2016.

<sup>(211)</sup> International Business Publications, Turkey Intelligence, Security Activities and Operations Handbook, 2014.

<sup>(212)</sup> CIA, The World Factbook: Turkey, updated 4 April 2016.

military budget is estimated at 18.2 billion USD or 2.2 % of the GDP. The army consists of 402 000 servicemen (325 000 conscripts)', which makes it the second largest ground force in NATO <sup>(213)</sup>.

According to Jane's Sentinel Security Assessment, cited in the UK Home Office Country Information and Guidance (CIG) on Turkey, 'the armed forces (TSK) have historically regarded themselves as the guardians of the secular Turkish state'. They have frequently intervened in Turkish politics military coups (1961, 1971, 1980, 1997). However, the role and influence of the TSK has been under threat in recent years <sup>(214)</sup>. Freedom House notes that, under the AKP, 'various reforms - in particular a series of deeply flawed, politically motivated prosecutions - have increased civilian control over the military' <sup>(215)</sup>. According to Southfront Analysis and Intelligence, '[T]he goal of the Turkish military is to become a smaller, but better-skilled force, with the ability to accomplish all NATO missions while providing a highly mobile force, able to fight across the spectrum of a conflict' <sup>(216)</sup>.

The armed forces leadership continues to be an influential institution within Turkey, but plays a much smaller role in politics. The Turkish military remains focused on the threats emanating from the Syrian civil war, Russia's actions in Ukraine and in Syria, and the PKK insurgency; primary domestic threats are listed as fundamentalism (with the definition in some dispute with the civilian government), separatism (Kurdish discontent), and the extreme left wing <sup>(217)</sup>.

The Euro-Mediterranean Human Rights Network (Euromed Rights) and FIDH in their High-Level Solidarity mission to Turkey report, characterise the security forces as follows: 'Security forces engaged in these operations are mostly professional and well-trained "special forces" of the army, the police and the gendarmerie. Officers do not carry badges of identification, or they hide them; they often wear masks and some of them act plain-clothed, contrary to what is provided for in international law' <sup>(218)</sup>.

According to press reports, in June and July 2016, the Turkish Parliament has drafted and adopted a government's law proposal to provide legal protection to soldiers involved 'in anti-terror operation' and to enable the participation of the Turkish Armed Forces in operations in urban areas. <sup>(219)</sup>.

For the involvement of segments in the Turkish army in the failed coup of July 2016 and the impact of post-coup actions against, i.a., the military, see [6.1.2 The aftermath of the attempted coup](#).

### **Military service**

Military service is compulsory for males of 21-41 years of age. There is a 12-month conscript obligation for non-university graduates, 6-12 months for university graduates. Women serve in the Turkish Armed Forces only as officers. Reserve obligation is until age 41. Exemption from conscription is only allowed for medical reasons or homosexuality <sup>(220)</sup>. Turkey does not recognise the right to conscientious objection for conscripts. Recently the ECHR found Turkey guilty of inhuman treatment of the first known Muslim objector who declined to serve in the

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<sup>(213)</sup> Southfront, Military analysis: Turkish armed forces, 16 February 2016; Global Firepower, Countries ranked by military strength (2016), n.d.

<sup>(214)</sup> UK Home Office, CIG - Turkey, February 2016.

<sup>(215)</sup> Freedom House, Freedom in the World 2016, 2016.

<sup>(216)</sup> Southfront, Military analysis: Turkish armed forces, 16 February 2016.

<sup>(217)</sup> UK, Home Office, CIG - Turkey, February 2016.

<sup>(218)</sup> Euromed Rights And Fidh High-Level Solidarity Mission To Turkey, 20-24 January 2016.

<sup>(219)</sup> Hürriyet Daily News, Legal shield for Turkish soldiers in anti-terror operations becomes law, 14 July 2016.

<sup>(220)</sup> Daily Sabah, President Erdoğan ratifies law on military exemption fee, 26 January 2016; BBC News, Proving you're gay to the Turkish army, 26 March 2012.

Turkish military due to its secular identity. But the ECHR ruled that Turkey had not violated Article 9 of the European Convention on freedom of thought, conscience and religion since the complainant's objection was not based on religious beliefs preventing him to carry out military duty but on his political ideas rejecting the secularism of the Republic of Turkey <sup>(221)</sup>.

In January 2016, President Recep Tayyip Erdoğan ratified the law reducing the fee that Turkish expats are required to pay for exemption from military service. Turkish citizens who have been living outside of Turkey for at least three years or have worked for at least three consecutive years outside of the country can be exempt from military service in exchange for EUR 1 000. Citizens need to be at least 38 years old to benefit from the law <sup>(222)</sup>.

In 2013, the army introduced a new category to the pre-draft exams, the 'sexual identity and behavioural disorders', which replaced the long-criticised definitions of 'unnatural' or 'mental illness' <sup>(223)</sup>. While there is no legislation against homosexuality in Turkey, openly gay men are not believed to be welcome in the army. It is possible to avoid military service in Turkey by declaring one's homosexuality. In November 2015 the army amended the medical examination pre-draft rules, and the former humiliating practices were abolished, namely naked physical exams or rendering explicit photographs <sup>(224)</sup>. According to the BBC, a 'don't ask don't tell' policy exists in the Turkish Army and it is possible to serve if the sexual identity is kept a secret <sup>(225)</sup>.

#### ***Turkish Land Forces Command (TLFC)***

Jane's Sentinel Security Assessment states that '[w]ithin the Turkish Armed Forces the army is referred to as the Turkish Land Forces Command (TLFC). Although the Turkish Army is the second-largest in the NATO, it is debatable whether its size and structure is prepared to address the new threats posed by asymmetrical warfare' <sup>(226)</sup>.

An overhaul of the TLFC is to produce 20-30 % smaller, more highly trained forces characterised by greater mobility and firepower and capable of joint and combined operations; the TLFC has taken on increasing international peacekeeping responsibilities including in Afghanistan <sup>(227)</sup>.

#### ***Turkish Navy***

The Navy is heavily involved in NATO, multinational, and UN operations; its roles include control of territorial waters and security for sea lines of communications <sup>(228)</sup>.

#### ***Turkish Air Force***

The Turkish Air Force priorities include attaining a modern deployable, survivable, and sustainable force structure, and establishing a sustainable command and control system <sup>(229)</sup>.

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<sup>(221)</sup> ECHR, Case Enver Aydemir vs. Turkey (Application N° 26012/11), Judgment, 7 Jun 2016.

<sup>(222)</sup> Daily Sabah, President Erdoğan ratifies law on military exemption fee, 26 January 2016.

<sup>(223)</sup> Al-monitor, Gays seeking military exemption in Turkey no longer need to provide visual proof of their homosexuality, 17 November 2015.

<sup>(224)</sup> Al-monitor, Gays seeking military exemption in Turkey no longer need to provide visual proof of their homosexuality, 17 November 2015; BBC News, Proving you're gay to the Turkish army, 26 March 2012.

<sup>(225)</sup> BBC News, Proving you're gay to the Turkish army, 26 March 2012.

<sup>(226)</sup> UK Home Office, CIG, February 2016.

<sup>(227)</sup> CIA, The World Factbook: Turkey, updated 4 April 2016.

<sup>(228)</sup> CIA, The World Factbook: Turkey, updated 4 April 2016.

<sup>(229)</sup> CIA, The World Factbook: Turkey, updated 4 April 2016.

### 3.2.5 Accountability mechanisms

The Turkish Economic and Social Studies Foundation (TESEV), in its November 2015 report on Local Recommendations for Access to Justice, identifies barriers to access to justice for several disadvantaged groups such as women, children, and disabled persons in a number of areas. It concludes that gender inequality, lack of education and poverty are key barriers to acquire legal aid and access to justice for women. Likewise, the juvenile justice system is lacking important elements such as social inspection and supervision of children <sup>(230)</sup>.

According to the May 2015 report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, impunity for serious crimes, including murder:

‘Impunity for killings manifested itself in slow or inadequate investigations and prosecutions and was widely believed to be due to lack of political will, exacerbated by a deferential approach to the executive by prosecutors, as well as shortcomings in the independent and effective functioning of the judiciary, inadequate forensic services and lack of an independent complaints mechanism regarding law enforcement officials’ <sup>(231)</sup>.

The government explained that prosecutors tasked the Gendarmerie to conduct preliminary investigations where the crime is alleged to have been perpetrated by the Police, and vice versa. It stated that, in instances where both the Police and Gendarmerie are jointly implicated, the prosecutor would carry out the investigation and collect all the evidence. However, the Special Rapporteur was informed that, in practice, the same police or gendarmerie units alleged to have committed the violation often undertake the collection and recording of forensic evidence <sup>(232)</sup>.

There are several institutions in Turkey dealing with human rights violations and accountability. The Ombudsman institution, the National Human Rights Institution (NHRI), and the Parliament’s Human Rights Investigation Commission (HRIC) are authorised to investigate reports of security forces’ killings, torture or mistreatment, excessive use of force, or other abuses, but military and civil courts remain the main recourse to prevent impunity <sup>(233)</sup>.

The Ombudsman institution is accountable to the parliament and is tasked with receiving and investigating complaints and making recommendations on the functioning of the public administration <sup>(234)</sup>. See also [3. Rule of law and state protection](#) and [5. Human rights situation](#).

The NHRI is administratively responsible for investigating human rights violations, including allegations of torture, excessive use of force, or extrajudicial killings. As mentioned in the US DoS report, domestic human rights organisations claimed that the NHRI’s failure to follow through in investigating potential human rights violations deterred victims of abuse from filing complaints. According to the same report, authorities regularly allowed officers accused of abuse to remain on duty during their trial <sup>(235)</sup>.

There is no prison-specific ombudsman institution. It is reported that NGOs are not allowed to monitor prisons but report that they receive numerous complaints of inhuman treatment

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<sup>(230)</sup> TESEV, Local Recommendations for Access to Justice in Turkey, November 2015, pp. 36-39.

<sup>(231)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 6 May 2015.

<sup>(232)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 6 May 2015.

<sup>(233)</sup> HRW, World report 2016 Turkey, n.d.

<sup>(234)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 6 May 2015.

<sup>(235)</sup> US DoS, 2015 Country Reports on Human Rights Practices - Turkey, 13 April 2016.

by prison wardens or other inmates. The HRIC and the Ombudsman institution are allowed to visit and observe prisons, including military prisons, without advance permission <sup>(236)</sup>..

The UN Special Rapporteur recommended the establishment of several independent bodies to investigate public officials' abuse, notably the creation of an independent organisation to investigate the thousands of unresolved execution-type killings, deaths in custody and enforced disappearances allegedly committed by state officials and members of the PKK during the 1990s. The Special Rapporteur also stressed the importance of establishing a law enforcement oversight body with organisational and not merely functional independence, including independence from the government. Additionally, a similar monitoring mechanism should be set up to examine complaints regarding all acts of the TSK, as well as the military duties of the Gendarmerie. The Special Rapporteur recommended to amend the law on the Ombudsman institution to enable it to examine violations committed in all instances by the TSK <sup>(237)</sup>.

Still according to the UN Special Rapporteur, steps should be taken to reverse and stop the trend of reprisals against those who lodge complaints. Investigation and accountability should be ensured for all cases of threats and coercion against witnesses, families, lawyers and non-governmental organisations <sup>(238)</sup>.

AI, in its annual report on human rights for 2015/2016, also notes the need for an independent law enforcement oversight body to fight impunity:

‘Impunity persisted for human rights abuses committed by public officials. Investigations were hampered by police withholding crucial evidence, such as lists of officers on duty and CCTV footage, and the passivity of prosecutors faced with this obstructiveness. Without a long-promised Independent Police Complaints Commission, there was little prospect of improvement. Where they [investigations] took place, prosecutions were often flawed.’

Turkey accepted recommendations made during its Universal Periodic Review at the Human Rights Council in January 2015 to create a fully independent national human rights institution <sup>(239)</sup>.

Prosecutors investigate allegations of abuse and torture by security forces but rarely indict accused offenders <sup>(240)</sup>. As reported by AI, in November 2015, eight defendants, including the former district Gendarmerie commander Cemal Temizöz, were acquitted in a landmark case brought for the disappearances and killings of 21 people in Cizre between 1993 and 1995, following a trial reported as deeply flawed <sup>(241)</sup>.

Also in 2015, the government pursued efforts to ensure compliance with legal safeguards to prevent torture and mistreatment through its campaign of ‘zero tolerance’ of torture. The *Jandarma* reported that 97 per cent of 2 010 detention centres had camera systems to help prevent torture and abuse. The National Police reported it had completed the installation of digital audio and video systems in 284 detention rooms and 114 statement-taking rooms in 74 provinces <sup>(242)</sup>. The special Rapporteur recommended ensuring that surveillance cameras are fully operational in all security and detention facilities, including at military custody sites,

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<sup>(236)</sup> US DoS, Country Reports on Human Rights Practices for 2015 -Turkey, 13 April 2016.

<sup>(237)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 6 May 2015.

<sup>(238)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 6 May 2015.

<sup>(239)</sup> HRW, World report 2016 Turkey, n.d.

<sup>(240)</sup> US DoS, 2015 Country Reports on Human Rights Practices, Turkey, 13 April 2016.

<sup>(241)</sup> AI, Annual report 2015/2016, Turkey, n.d.

<sup>(242)</sup> US DoS, 2015 Country Reports on Human Rights Practices, Turkey, 13 April 2016.



and that their footage be entirely and immediately available when it may provide evidence of abuse <sup>(243)</sup>.

In March 2015, the Council of Europe Committee of Ministers urged Turkey to comply with a group of European Court of Human Rights rulings by amending its Law on Meetings and Demonstrations to address restrictions on the right to peaceful assembly and to ensure effective investigation of excessive use of force ‘to ensure the accountability of all, including senior law enforcement officers’ <sup>(244)</sup>.

### 3.3 Judiciary

#### 3.3.1 Court system

Turkey has a tripartite judicial system, divided into judicial, administrative and military jurisdictions. Dating back to the Ottoman Empire, the basis of Turkish judiciary structure was initially inspired by the dual French system of jurisdictions (ordinary jurisdictions and administrative jurisdictions, ordinary law and public law).

Judicial courts deal with civil and criminal cases. Administrative and tax courts are responsible for cases brought against the executive branch of the government in relation to implementation of legislation <sup>(245)</sup>. Military courts have jurisdiction to try military personnel for military offences, offences committed by them against other military personnel or for offences connected with military service and duties <sup>(246)</sup>.

The judiciary consists of professional career judges and prosecutors. Judges and prosecutors belong to a single professional *corpus*, governed by the High Council of Judges and Prosecutors (HSYK) and are, to a large extent, governed by the same rules, including those relating to recruitment, career, integrity and disciplinary accountability <sup>(247)</sup>.

The prosecutors and judges are accountable to HSYK and the Ministry of Justice. The Minister of Justice has the right of supervision over prosecutors (and judges) except for duties related to the exercise of the judicial power. Public prosecutors (like judges) are attached to the Ministry of Justice as far as their administrative functions are concerned. Public prosecutors have judicial and administrative functions. Their main judicial duties are to conduct investigative procedures following an examination of reports and complaints of crime, and to file a criminal case when there is evidence of sufficient suspicion of a criminal offence. GRECO’s evaluation team stresses that the independence of prosecutors is essential for the rule of law and has to be guaranteed similarly to that of judges, in particular in a system where the Prosecution Service is an integrated part of the judiciary <sup>(248)</sup>.

The courts are, as stipulated in the law, divided into supreme courts, regional courts and first instance courts. However, according to the March 2016 CoE-GRECO report, the current court system operates with only two instances in reality as the second instance courts - the regional courts - are still not operational <sup>(249)</sup>.

#### Supreme courts

<sup>(243)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 6 May 2015.

<sup>(244)</sup> HRW, World report 2016 Turkey, n.d.

<sup>(245)</sup> Özbudun, E., Introduction to Turkish Law, 2011, pp. 214-215.

<sup>(246)</sup> Republic of Turkey (The), The Constitution of the Republic of Turkey, Article 154.

<sup>(247)</sup> CoE-GRECO, Fourth evaluation round report on Turkey, 17 March 2016.

<sup>(248)</sup> CoE-GRECO, Fourth evaluation round report on Turkey, 17 March 2016, p.48.

<sup>(249)</sup> CoE-GRECO, Fourth evaluation round report on Turkey: Corruption prevention in respect of members of parliament, judges and prosecutors, 17 March 2016, p. 25.

As a result of its multipartite structure, the Turkish judicial system has several different supreme courts rather than a single supreme court. The supreme courts in each jurisdiction are as follows:

- o The Constitutional Court sits above other supreme courts<sup>(250)</sup>. The Constitutional Court, composed of 17 members, examines the constitutionality, in both form and substance, of laws, decrees having the force of law, and the Rules of Procedure of the Turkish Grand National Assembly and to decide on individuals' applications<sup>(251)</sup>.

Following the 2010 constitutional amendment package (adopted by referendum) that came into effect in September 2010, individuals may apply to the Constitutional Court on the grounds that one of the human rights within the scope of the European Convention on Human Rights, which are guaranteed by the constitution, has been violated by public authorities<sup>(252)</sup>.

Furthermore, the Constitutional Court, in its capacity as a Supreme Court, tries cases against the President of the Republic, the Speaker of the Grand National Assembly, members of the Council of Ministers (the Government); presidents and members of the Constitutional Court, Court of Cassation, Council of State, High Military Court of Appeals, High Military Administrative Court, High Council of Judges and Prosecutors (HCJP), Court of Accounts and Chief Public Prosecutors and Deputy Public Prosecutors<sup>(253)</sup>.

- o The Court of Cassation (or Supreme Court of Appeals or High Court of Appeals or *Yargıtay* in Turkish), the final decision maker in judicial jurisdiction<sup>(254)</sup>;
- o The Council of State (*Danıştay*), the superior court for administrative justice<sup>(255)</sup> created in 1868 during the Ottoman Empire.
- o The Military Court of Cassation (or High Military Court of Appeals), the court of final instance for all rulings and verdicts rendered by military courts<sup>(256)</sup>; it is also the first and last instance for dealing with specific cases designated by law concerning military persons<sup>(257)</sup>;
- o The Supreme Military Administrative Court (or High Military Administrative Court), the final decision maker in military administrative matters (it serves both as court of first instance and supreme court)<sup>(258)</sup>.
- o In the case of disputes concerning verdicts and competencies of the judicial, administrative or military courts, these are resolved by the Court of Jurisdictional Disputes<sup>(259)</sup>.

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<sup>(250)</sup> Woolf, H. et al, Report on the Rule of Law and Respect for Human Rights in Turkey since December 2013, July 2015.

<sup>(251)</sup> CoE-GRECO, Fourth evaluation round report on Turkey: Corruption prevention in respect of members of parliament, judges and prosecutors, 17 March 2016, p. 26.

<sup>(252)</sup> Republic of Turkey, Ministry of Justice, Turkish Judicial System - Bodies, Duties and Officials, 2013, p. 31.

<sup>(253)</sup> CoE-GRECO, Fourth evaluation round report on Turkey: Corruption prevention in respect of members of parliament, judges and prosecutors, 17 March 2016, p. 26.

<sup>(254)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, Article 154.

<sup>(255)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, Article 155.

<sup>(256)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, Article 156.

<sup>(257)</sup> CoE-GRECO, Fourth evaluation round report on Turkey: Corruption prevention in respect of members of parliament, judges and prosecutors, 17 March 2016, p. 27.

<sup>(258)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, Article 157.

<sup>(259)</sup> CoE-GRECO, Fourth evaluation round report on Turkey: Corruption prevention in respect of members of parliament, judges and prosecutors, 17 March 2016.

On 1 July 2016, the government passed a package in parliament to reshape the composition of both the Court of Cassation and the Council of State, by reducing the number of members (from 516 to 200 for the first one, from 195 to 90 for the second one). This reform was characterised as a breach to the judiciary's independence by the opposition parties and by some pressure groups, e.g. the Union of the Turkish Bars Association. The CHP appealed unsuccessfully before the Constitutional Court <sup>(260)</sup>.

### Regional courts

Regional Courts of Appeal and Regional Administrative Courts are not operational as second instance courts as yet, and will require the recruitment and appointment of many new judges as the current number of judges is insufficient. 15 regional courts of appeal are to be established, each headed by a president and divided into chambers. Chief prosecutors have been appointed and further appointments to these courts are to be made by the HSYK <sup>(261)</sup>.

### First instance courts

First instance courts are trial courts established to deal with the cases at the first stage. In Turkey, three types of first instance courts are established on the basis of jurisdictional separation of civilian – military jurisdictions and ordinary – administrative jurisdictions.

#### *First Instance Courts of Ordinary Jurisdiction*

First Instance Courts of Ordinary Jurisdiction are the courts assigned to deal with all types of cases outside the jurisdiction of the military and administrative courts. They are split into two categories, criminal law courts and civil law courts. Among these courts, only the severe criminal courts and some other specialised courts consist of one president and two members. One judge serves in all of the other courts <sup>(262)</sup>.

First Instance Courts of Ordinary Jurisdiction could be assigned to general jurisdiction or specialised jurisdiction:

- *Courts of general jurisdiction* deal with cases not included in the jurisdiction of a specialised court. They are separated in levels on the basis of the severity of crimes for criminal law courts and on the basis of the economic value of claims for civil law cases. Severe criminal courts, penal courts and penal peace courts are found in criminal law jurisdiction, while civil courts and civil peace courts are found in civil law jurisdiction. There is no superiority between these courts and the only separation is jurisdictional. However, if case parties raise an objection against an *interim decision* of a court, this objection can be evaluated and finalised by another court <sup>(263)</sup>.
- *Specialised courts* deal with cases in their jurisdiction and they are found at an equal level to one of the courts of general jurisdiction. They are generally established for a territory or a province and/or specified districts, taking into account the geographical conditions and the workload of the regions <sup>(264)</sup>.

#### *Offices of public prosecutors*

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<sup>(260)</sup> Olcay, T., Resetting the Turkish Judiciary, 1 July 2016.

<sup>(261)</sup> CoE-GRECO, Fourth evaluation round report on Turkey: Corruption prevention in respect of members of parliament, judges and prosecutors, 17 March 2016.

<sup>(262)</sup> Republic of Turkey, Ministry of Justice, Turkish Judicial System - Bodies, Duties and Officials, 2013, p. 58.

<sup>(263)</sup> Republic of Turkey, Ministry of Justice, Turkish Judicial System - Bodies, Duties and Officials, 2013, p. 60.

<sup>(264)</sup> CoE-GRECO, Fourth evaluation round report on Turkey: Corruption prevention in respect of members of parliament, judges and prosecutors, 17 March 2016, p. 26.

Offices of public prosecutors are found at first instance level. Public prosecutors carry out prosecution services under the supervision of chief public prosecutor and deputy chief public prosecutors. Courts and offices of prosecutors use the same buildings, the 'courthouse'. The tasks related to the management of these buildings, peculiar to the Turkish judicial system, are carried out by the prosecutors and chief public prosecutors who are also responsible for the financial management of courthouses <sup>(265)</sup>.

There are different types of first instance courts of ordinary jurisdiction <sup>(266)</sup>:

- Severe criminal courts, responsible for trying severe criminal offences that result in aggravated life sentence, life sentence and confinement for more than 10 years. They also deal with offences prescribed in special laws, such as larceny and corruption in tenders, and with offences committed by public officials, judges and lawyers, who must be tried in these specific courts.
- Juvenile severe criminal courts try cases filed against the juvenile which are related to crimes within the jurisdiction of severe criminal courts.
- Courts of terrorism have been established to try terrorism crimes. The jurisdictional area of these courts is specified in a way to cover more than one city and province. Therefore, in places where such courts do not exist, it is not possible for other severe criminal courts to deal with the crimes within their jurisdiction. These courts also try some crimes committed against the state.
- Criminal courts deal with all criminal cases that remain outside the duties of other courts.
- Criminal peace courts are assigned to hear cases on crimes with prison sentences up to two years (including two years), as well as judicial fines. Criminal peace courts are also assigned to judge on the implementation of any preventive measures during the investigation stage, if requested by a public prosecutor.
- Civil courts are the primary courts in terms of civil law jurisdiction. They deal with any type of cases and proceedings which remain outside the jurisdiction of civil peace courts or other specialised courts, and that stem from special law relations.
- Offices of military prosecutors are established where military courts are found to carry out investigation of cases tried by military courts. There is only one office of the prosecutor under the same command of the armed forces, even if there is more than one military court. Prosecutors and deputy prosecutors are appointed from among the military judges.

There are still other courts with specific functions, namely the Criminal Courts for Intellectual and Industrial Property Rights, Criminal courts of enforcement, Juvenile court, Commercial courts, Specialised Courts for Maritime, Civil courts of enforcement, Land registry courts, Labour courts, Family Courts, Consumer courts, Civil courts for intellectual and industrial property rights, and Civil peace courts <sup>(267)</sup>.

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<sup>(265)</sup> Republic of Turkey, Ministry of Justice, Turkish Judicial System - Bodies, Duties and Officials, 2013, p. 58.

<sup>(266)</sup> The description of these types of first instance courts is based on Republic of Turkey, Ministry of Justice, Turkish Judicial System - Bodies, Duties and Officials, 2013, p. 68, unless stated otherwise.

<sup>(267)</sup> Republic of Turkey, Ministry of Justice, Turkish Judicial System - Bodies, Duties and Officials, 2013.

Regarding the criminal courts mentioned above, during his mission to Turkey in April 2016, the Council of Europe's Commissioner for Human Rights noted that he 'intends to examine more closely the practice of these judicial formations, which were supposed to improve the protection of human rights in criminal proceedings, but there are strong indications that they may be having exactly the opposite effect' <sup>(268)</sup>.

#### *First Instance Courts of Administrative Jurisdiction*

First Instance Courts of Administrative Jurisdiction are assigned to deal with the administrative cases. Administrative cases are the cases in which the defendant is, with some exceptions, a public institution.

Administrative courts are split into two categories which are administrative and tax courts.

#### *First Instance Courts of Military Jurisdiction*

In Turkey, military criminal courts try criminal cases of military staff. There are two types of first instance courts in the military judiciary, the military courts and the disciplinary courts. Both are established based on the military system. Also, the territorial limits of their jurisdiction are identified in accordance with the commands they are established in. Offices of military prosecutors are also established where military courts are found <sup>(269)</sup>.

### **High Council of Judges and Prosecutors (HSYK)**

According to the constitution, the High Council of Judges and Prosecutors (HSYK) is an independent board established to act in accordance with the principles of independence of courts and tenures of judges and prosecutors. It supervises judges and public prosecutors. Its primary duties are to decide on appointments, promotions and assignments, discipline of judges and prosecutors, and render final decisions on government proposals to abolish or change a court's jurisdiction <sup>(270)</sup>. 15 of the HSYK's 22 members are chosen from among judges and prosecutors. The Council independently administers a budget of EUR 12.5 million. The HSYK is supported by a well-staffed office led by a Secretary-General <sup>(271)</sup>.

Although the constitution refers to the independence of the HSYK, and the 2010 constitutional reform was considered a positive step towards enhancement of its independence at the time <sup>(272)</sup>, after legislative changes in 2014, the executive reasserted its influence over this judicial management body, according to AI <sup>(273)</sup>.

### **3.3.2 Capacity and judicial integrity**

#### **Capacity**

The total number of judges and prosecutors was 13 989 in 2014, a quarter of whom were women. The number of judges per 100 000 persons has increased from 10.7 in 2012 to 11.6 in 2013. This ratio is still lower than the European average, which is 22.7 per 100 000 <sup>(274)</sup>.

<sup>(268)</sup> CoE, Commissioner for Human Rights, Turkey: security trumping human rights, free expression under threat, 14 April 2016.

<sup>(269)</sup> Republic of Turkey, Ministry of Justice, Turkish Judicial System - Bodies, Duties and Officials, 2013, p. 68.

<sup>(270)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, Art. 159.

<sup>(271)</sup> AI, Annual report 2015/2016 - Turkey, n.d.

<sup>(272)</sup> CoE-GRECO, Fourth evaluation round report on Turkey: Corruption prevention in respect of members of parliament, judges and prosecutors, 17 March 2016, p. 4.

<sup>(273)</sup> AI, Annual Report 2015/2016 - Turkey, n.d.

<sup>(274)</sup> TI, National Integrity System assessment, Turkey, 7 April 2016, p. 72.

Turkish judges' salaries are comparable to the European average. According to the European Commission for the Efficiency of Justice (CEPEJ)'s report based on 2012 data, the net annual salary of a first instance professional judge is EUR 32 991/year. However the salaries of newly attained judges are relatively low when compared to the EU median <sup>(275)</sup>.

Courts across the country tend to have modern ICT equipment. In most courts, cases are assigned through an automated IT system which offers lawyers and parties protected access to important information about judicial proceedings, and is used for the purpose of statistical reporting <sup>(276)</sup>.

HRW mentions 'excessively long proceedings' among 'long-standing defects' in Turkey's justice system <sup>(277)</sup>. In April 2016, the ECHR fined Turkey for ignoring 'the right to be brought promptly before a judge' <sup>(278)</sup>.

## **Integrity**

### ***Independence***

In the 2015 Corruption Assessment Report by the Turkish Economic and Social Studies Foundation (TESEV), the independence of the judiciary is called 'problematic', as the Minister of Justice presides the Council. 'Thus, the executive's interference in the judiciary harms the independence of the tenure of magistrates by putting them under political pressure' <sup>(279)</sup>.

The need to strengthen independence of the judiciary in Turkey has been one of the main targets of judicial reform in Turkey for many years, as noticed by GRECO <sup>(280)</sup>.

The EC Communication 2016 reported 'backsliding in the past year, in particular with regard to the independence of the judiciary' and expressed serious concern on the 'extensive changes to the structures and composition of high courts' <sup>(281)</sup>.

Human rights organisations also noted that the independence of the judiciary has further eroded <sup>(282)</sup>. Politically motivated prosecutions, according to HRW, constitute 'long-standing defects' in Turkey's justice system which threaten judicial independence <sup>(283)</sup>. During 2015, prosecutors, judges, as well as police officers, with perceived links to the Gülen movement were imprisoned and charged with plotting against the government and membership of a terrorist organisation <sup>(284)</sup>.

On the other hand, court decisions overturning convictions and arrests of people accused of criticism and plotting a coup against Erdogan were hailed in the media as 'significant legal developments in recent Turkish history' but 'did little to do away with the distrust of ordinary citizens toward the legal system in this country'. Media reports noted that 'it is clear that politically motivated judicial aberrations are still continuing today, especially with regard to

<sup>(275)</sup> TI, National Integrity System assessment, Turkey, 7 April 2016.

<sup>(276)</sup> TI, National Integrity System assessment, Turkey, 7 April 2016.

<sup>(277)</sup> HRW, World report 2016, Turkey: Events of 2015, n. d.

<sup>(278)</sup> ECHR - Vedat Doğru vs. Turkey (application 2469/10), 5 April 2016.

<sup>(279)</sup> TESEV The Corruption Assessment Report for Turkey, 26 February 2015, p.5.

<sup>(280)</sup> GRECO, Fourth evaluation round report on Turkey: Corruption prevention in respect of members of parliament, judges and prosecutors, 17 March 2016, p. 4.

<sup>(281)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 16.

<sup>(282)</sup> AI, Annual Report 2015/2016; Turkey, n. d.

<sup>(283)</sup> HRW, World report 2016, Turkey: Events of 2015, n. d.

<sup>(284)</sup> HRW, World report 2016, Turkey: Events of 2015, n. d.

constitutionally protected rights, such as freedom of the press and freedom of expression' <sup>(285)</sup>.

During his April 2016 visit to Turkey, the Council of Europe's Commissioner for Human Rights stressed a number of issues related to judiciary and judicial process. He found 1 845 criminal proceedings, initiated for insulting the President, 'abusive' <sup>(286)</sup>. According to the Commissioner, the intolerance of the executive and the judiciary to legitimate criticism had led to a self-censorship, and reduced the scope of democratic discussion in the country <sup>(287)</sup>.

The Commissioner also criticised the practice of criminal courts of peace (see [3.3.1 Court System](#)) and raised the issue of political attacks on human rights defenders stating that 'in a context where there is a lot of misinformation, manipulation and conflicting opinions, a transparent judicial process which relies on human rights defenders is the main hope for establishing the truth and obtaining redress' <sup>(288)</sup>.

According to a media report, at the end of May 2016, the main opposition party leader criticised the fact that the presidents of both the Court of Cassation and Council of State accompanied President Erdoğan during an official trip to the Black Sea Region, claiming it was a clear breach to the judiciary independence <sup>(289)</sup>.

In the aftermath of the failed coup of July 2016, scores of judges were suspended or jailed. The EC commented: 'This situation worsened further after the July coup attempt, following which one fifth of the judges and prosecutors were dismissed and saw their assets frozen' which 'represents a further significant challenge to the overall functioning of the judiciary' <sup>(290)</sup>. See also [6.2 The aftermath of the attempted coup](#).

### **Judicial transparency**

The Ministry of Justice publishes annual reports on its website including information on the budget and main expenditure items. The Constitutional Court, the Council of State, the Court of Cassation and the HSYK publish their detailed financial reports on their websites <sup>(291)</sup>.

The Court of Cassation publishes some of its decisions in a monthly periodical, the Journal of the Court of Cassation Decisions. The selection process for the decisions published is not clear. The journal is available on the court's website, but the latest available periodical was published in December 2012. Similarly, the Council of State publishes a periodical, the Journal of Turkish Council of State, which includes selected decisions of the Council. All decisions of the Constitutional Court are published in both the Official Gazette and the Decisions Journal which is available on the website of the court <sup>(292)</sup>.

A transcript of the courtroom has to be maintained in every trial. No one can access these transcripts, including attorneys, based on privacy grounds. It is the duty of the prosecutors,

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<sup>(285)</sup> BBC, Turkey Ergenekon: Court quashes 'coup plot' convictions, 21 April 2016; Hürriyet Daily News, The silver lining in the Ergenekon ruling, 26 April 2016.

<sup>(286)</sup> As highlighted before, after the 15 July 2016 attempted coup Erdoğan decided to withdraw all insult cases he previously launched against politicians (except the HDP) and citizens. According to his lawyer, 'all people probed for insulting the president (more than 10 people) have been released' by 6 September 2016. Hürriyet Daily News, All released in 'insulting president' cases after Erdogan pulled back complaints, 6 September 2016.

<sup>(287)</sup> CoE, Commissioner for Human Rights, Turkey, 14 April 2016.

<sup>(288)</sup> CoE, Commissioner for Human Rights, Turkey, 14 April 2016.

<sup>(289)</sup> Hürriyet Daily News, Turkey's appeals court head rejects criticism over joining president's visit, 30 May 2016.

<sup>(290)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 16.

<sup>(291)</sup> TI, National Integrity System assessment, Turkey, 7 April 2016, p. 78.

<sup>(292)</sup> TI, National Integrity System assessment, Turkey, 7 April 2016, p. 78.

who are entrusted by the HSYK, to inform the media on the investigation process. The disciplinary decisions of the HSYK are only shared with the related person and are not open to public scrutiny. The General Directorate of Judicial Record and Statistics publishes the number of cases conducted annually in the judicial statistics yearbook <sup>(293)</sup>.

Access to justice constitutes another important issue, according to Transparency International (TI). High fees apply for personal applications:

‘For instance, in 2015, a fee of TRY 226 (Turkish lira) (approximately EUR 70) was required for a personal application to the Constitutional Court. The practice of moving courts to other cities is another matter of contention. Especially used when the defense is a member of law enforcement, the Ministry of Justice justifies the transfer of the court under matters of security, but in practice this may be used to limit public participation in the trials’ <sup>(294)</sup>.

The distribution of criminal cases to the courts has been based, since 2014, on a computerised system which enables the automatic distribution of files at the chief public prosecutor’s offices of first instance. Once a variety of parameters have been taken into account by the system, the cases are distributed randomly among the prosecutors and the affiliated courts <sup>(295)</sup>.

The EC Communication 2016 reported that after the attempted coup, the state of emergency was declared,

‘under which far-reaching measures curtailing fundamental rights were taken. Many serious violations of the prohibition of torture and ill-treatment and of procedural rights were alleged in the aftermath of the coup attempt. Turkey must ensure the effective functioning of an impartial system of judicial review of alleged human right violations in its own interest. The Commission welcomes the commitment by the Turkish authorities to this end and urges Turkey to facilitate monitoring of the subsequent trials by international organisations’ <sup>(296)</sup>.

### ***Integrity mechanisms***

The basic ethical principles concerning judges are provided for in the constitution, according to which, in performing their judicial functions, judges are independent and responsible only to the constitution, laws and their personal conviction in conformity with the law. Rules on judges’ conduct are regulated under different provisions <sup>(297)</sup>. The HYSK has adopted the United Nations’ Bangalore Principles of Judicial Conduct and its principles are applicable to Turkish judges, also in regard to criteria to assess judges’ behaviour. These principles can be applied in disciplinary proceedings against judges. Within the scope of the Instrument for Pre-accession Assistance, a project entitled Strengthening Judicial Ethics in Turkey has been initiated by Turkey and the EU. Partners in this project are the HYSK and Turkish Justice Academy <sup>(298)</sup>.

Currently, the legal framework does not provide for a general definition of conflicts of interest, which may affect not only the judges’ action in court, but might also extend to their conduct outside the court and in their personal life. Although CoE-GRECO’s evaluation team welcomed

<sup>(293)</sup> TI, National Integrity System assessment, Turkey, 7 April 2016, p. 78.

<sup>(294)</sup> TI, National Integrity System assessment, Turkey, 7 April 2016, p. 79.

<sup>(295)</sup> CoE-GRECO, Fourth evaluation round report on Turkey, 17 March 2016.

<sup>(296)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. \*\*.

<sup>(297)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, art. 138, n.d.

<sup>(298)</sup> GRECO, Fourth evaluation round report on Turkey, 17 March 2016.



the adoption of the so-called Bangalore Principles of Judicial Conduct, it noted that these international standards are not specific to the Turkish context. According to CoE-GRECO's evaluation team, a specific set of professional and personal rules of ethical conduct would be a useful tool in order to clearly identify the standards of integrity and conduct to be observed by judges, to assist them in meeting those standards and to inform the public of the conduct it is entitled to expect <sup>(299)</sup>.

Members of the judiciary are prohibited from accepting or demanding gifts, either in person or through an intermediary, or from obtaining any personal benefits from conducting their duties. The punishment for this is a change of location. There is also a formal procedure to effectively challenge a judge if a party considers that the judge is not impartial <sup>(300)</sup>.

Whereas 43 % of respondents to the 2013 Global Corruption Barometer felt that the judiciary is corrupt/extremely corrupt, only 13 % of respondents reported that they had paid a bribe to the judiciary, according to the Transparency International report. A nationwide survey on corruption perception conducted in 2015 by Transparency International Turkey with 2 000 respondents, revealed that 28 % of respondents perceived the judiciary as one of the most corrupt institutions. <sup>(301)</sup>.

The National Judiciary Informatics System (UYAP) is a database to register asset declarations of judges. Judges who do not declare their personal income and assets can be easily identified, and risk a prison sentence when caught. A judge from the high courts interviewed by Transparency International Turkey asserted that 'all judges disclose their assets properly and all declarations are scrutinised. He added that post-employment restrictions are also effective in practice'. The prohibition lasts for three years from the date of resignation or retirement <sup>(302)</sup>.

### ***Instances of inappropriate exercise of prosecutorial discretion***

Chief prosecutors have discretion, particularly under the wide-reaching antiterror law, to keep in prison inmates whom they deem dangerous to public security, regardless of medical reports documenting serious illness. In 2014, the government amended the law to enhance inmates' access to medical care. Instead of improving conditions, reports indicated that it worked against prisoners by adding a requirement to show 'immediate and verifiable danger' for prisoners to receive special treatment. The Human Rights Foundation of Turkey (HRFT) stated that illness among inmates was the biggest problem in prisons, followed by overcrowding <sup>(303)</sup>.

With regard to exercise of prosecutorial and judicial discretion, the Special Rapporteur found instances of its inappropriate exercise. In cases of unlawful killing, the prosecutor should always bring charges for killing and never for a lesser crime and should not misuse certain arguments to reduce sentences. According to the Special Rapporteur, public officials often receive lighter sentences when found guilty of torture, ill treatment or even fatal shootings <sup>(304)</sup>.

It is reported that the practice of misusing arguments of mitigating factors continues, especially in relation to LGBTI persons. The broad framing of Article 29 of the Criminal Code could allow for a subjective interpretation and abuse of the provisions of the article. With regard to LGBTI persons, the courts sometimes reduce the sentence of the perpetrator by deciding that the

<sup>(299)</sup> GRECO, Fourth evaluation round report on Turkey, 17 March 2016.

<sup>(300)</sup> TI, National Integrity System assessment, Turkey, 7 April 2016, p. 81.

<sup>(301)</sup> TI, National Integrity System assessment, Turkey, 7 April 2016, p. 82 .

<sup>(302)</sup> TI, National Integrity System assessment, Turkey, 7 April 2016, p. 82 .

<sup>(303)</sup> US DoS, Country Reports on Human Rights Practices for 2015 -Turkey, n.d., p. 11.

<sup>(304)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 6 May 2015.

victim's sexual orientation or gender identity itself constitutes an 'unjust act' <sup>(305)</sup>. See also [5.4.6 LGBTI persons](#).

### 3.4 The role of the Ombudsman and the accountability of the administration

#### 3.4.1 Structure and mandate

In order to meet European standards, an Ombudsman institution has been established (in the wake of the constitutional amendment package of September 2010) by the Law No 6328, published in the Official Gazette on 29 June 2012 <sup>(306)</sup>. It functions under the Office of the Speaker of the Grand National Assembly of Turkey, has legal personality, a separate budget and is based in Ankara <sup>(307)</sup>. The office of the Ombudsman became operational in December 2012 and is composed of a Chief Ombudsman and five Ombudsmen <sup>(308)</sup>.

The institution is mandated to 'establish an independent and efficient complaint mechanism' within the framework of human rights and legality, in agreement with the principles of fairness and good governance <sup>(309)</sup>.

The Chief Ombudsman examines and investigates complaints, submits recommendations to the administration accordingly, and prepares and makes public the annual report and special reports on specific themes that require particular attention <sup>(310)</sup>.

#### 3.4.2 Filing a complaint

All Turkish citizens and resident foreigners whose rights have been violated by the administration have the right to file a complaint with the Turkish Ombudsman <sup>(311)</sup>.

The same principle is embedded in Article 74 of the Turkish Constitution as it establishes that 'citizens and foreigners resident in Turkey, with the condition of observing the principle of reciprocity, have the right to apply in writing to the competent authorities and to the Grand National Assembly of Turkey with regard to the requests and complaints concerning themselves or the public' <sup>(312)</sup>.

A complaint can be filed with the Ombudsman in writing and the following rules apply:

- It must be written in Turkish language. However, the administration may decide to accept a complaint written in a different language.
- It can be lodged by hand, mail, email, fax or the Ombudsman's own electronic system.
- It can be lodged at the institution, the institution's offices, governorates and district governorates.

<sup>(305)</sup> US DoS, Country Reports on Human Rights Practices for 2015, Turkey, n. d.

<sup>(306)</sup> Republic of Turkey (The), Law on the Ombudsman Institution, 29 June 2013.

<sup>(307)</sup> Republic of Turkey (The), Ombudsman Institution, About us, n.d.

<sup>(308)</sup> Republic of Turkey (The), Ombudsman Institution, Organizational Chart, n.d.

<sup>(309)</sup> Republic of Turkey (The), Regulation on the Law on the Ombudsman Institution, 28 March 2013, article 4.

<sup>(310)</sup> Republic of Turkey (The), Law on the Ombudsman Institution, 29 June 2013.

<sup>(311)</sup> Republic of Turkey (The), Ombudsman Institution, About us, n.d.

<sup>(312)</sup> Grand National Assembly of Turkey (The), Constitution of the Republic of Turkey, article 74, as amended on October 3, 2001 by Act No. 4709.

- Originals must be delivered to the institution within 15 days of the complaint, otherwise this will not be valid.
- Complaints may also be accepted in oral form, if the situation so determines.

Complaints must still indicate (amongst others):

- name, surname, address and signature;
- citizenship ID for Turkish nationals, or passport for foreigners;
- the subject matter and action to restore legality, as well as the administration against which the complaint is filed <sup>(313)</sup>.

In 2014, the Ombudsman institution received 5 639 complaints; of which 24 % on the issue of public personnel administration, 19 % on education, youth and sports, 7.8 % on economics, finances and taxes, and 7.5 % on human rights, according to the Annual Report of the Ombudsman for 2014 <sup>(314)</sup>.

### 3.5 Corruption and good governance

#### 3.5.1 Fight against corruption

In 2009, the Turkish Government adopted the National Anti-Corruption Strategy Plan (2010-2014), comprising of three elements: 1) to prevent, 2) to impose sanctions on, and 3) to raise awareness about corruption. The strategy plan was implemented by a number of anti-corruption laws and regulations <sup>(315)</sup>. According to the Turkish Economic and Social Studies Foundation TESEV, however, corruption has increased over the past few years. its Corruption Assessment report presents 'evidence on the degree of corruption in Turkey, analyzes the current legal setting and the effects of corruption on the economy. It emphasizes the importance of a free judicial system, the role of civil society, and the benefits of international collaboration in fighting corruption' <sup>(316)</sup>.

TESEV recommends Turkey to:

'adopt new regulations in legal statutes and institutional operations to decrease corruption. The most important steps to be taken in this direction will be the revision of the permissions system regarding the legal cases of civil servants and prevention of impunities, formation of a Council of Political Ethics, and reorganization of the Council of Ethics for Public Service. Further progress is needed on mandatory declaration of financiers for election campaigns and declaration of property and the regulation of the Public Procurement Law to conform to the EU norms' <sup>(317)</sup>.

The EC Communication 2015 noted that 'Turkey has some level of preparation to effectively prevent and fight corruption. Turkey's track record in the fight against corruption remains inadequate. Corruption remains widespread <sup>(318)</sup>.

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<sup>(313)</sup> Republic of Turkey (The), Regulation on the Law on the Ombudsman Institution, 28 March 2013, Chapter Three.

<sup>(314)</sup> Republic of Turkey (The), Ombudsman Institution, Annual Report 2014, n.d.

<sup>(315)</sup> TESEV The Corruption Assessment Report for Turkey, 26 February 2015, p.24.

<sup>(316)</sup> TESEV The Corruption Assessment Report for Turkey, 26 February 2015, p.5.

<sup>(317)</sup> TESEV The Corruption Assessment Report for Turkey, 26 February 2015, p. 6.

<sup>(318)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Enlargement strategy, COM(2015) 611 final, 10 November 2015, p. 29.

On 30 April 2016, the Turkish authorities adopted a national action plan on corruption <sup>(319)</sup>. The EC Communication 2016 called these new plans ‘a step forward even if it remains rather limited in scope. The legal framework continues to suffer from important gaps and the executive’s influence on the investigation and prosecution of high-profile corruption cases remains a major source of concern’ <sup>(320)</sup>.

### 3.5.2 The government’s policy on governance and transparency

According to the Bertelsmann Foundation, Turkey was the only mainly Muslim country that in theory had adopted an explicitly secular political system. The document indicates that ‘since the moderate Islamic AKP party came to power in 2002, and in particular during the third term of office of former prime minister (and now president) Recep Tayyip Erdoğan (2011 – 2014), what might be termed “Islamic morals” have come to play an increasingly important role in Turkish social and political life’.

Despite the increasing influence of Islam on the socio-political system, Turkey’s institutions still operate in an efficient manner, in line with the constitution. The Bertelsmann report adds that ‘in comparison to other countries in the Middle East, democratic rules of the game function rather well; elections are free and fair, although accusations of electoral fraud have been brought forward regarding the communal elections of 2014’ <sup>(321)</sup>.

CoE-GRECO commented that after the November 2015 elections, when the government announced its programme to the parliament, it already identified measures under the sign of ‘transparency’, that will rapidly implement the ‘transparency package’ prepared by the previous government:

‘It is planned to amend the Law on Basic Provisions on Elections and Voter Registers and the Law on Political Parties to make the financing of political parties and election campaigns more transparent (...) The government, as well as the ruling party during the election campaign, declared on various occasions that transparency in the financing of political parties was one of the top priorities of the reform agenda. It is thus expected that the “transparency package” will be adopted shortly’ <sup>(322)</sup>.

In its May 2016 Third progress report, the EC reported that Turkey

‘(...) adopted a new strategy and an action plan for the fight against organised crime, which it now needs to fully implement especially as regards actions aiming at reducing cross-border crime, such as firearms trafficking. On 18 April 2016, Turkey also adopted a new strategy and multiannual action plan on the fight against drug trafficking, covering the period 2016-2018. On 30 April 2016, the Turkish authorities adopted a national action plan on corruption’ <sup>(323)</sup>.

Turkey also ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, and adopted national legislation in line with the Convention’s provisions. Under the umbrella of a EU-

<sup>(319)</sup> EC, Report from the Commission to the European Parliament and the Council, Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap, 4 May 2016, p. 6.

<sup>(320)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 16.

<sup>(321)</sup> Bertelsmann Foundation: BTI 2016; Turkey Country Report, 2016, p. 2.

<sup>(322)</sup> CoE-GRECO, Group of States Against Corruption: Third Evaluation Round Second Interim Compliance Report on Turkey “Incriminations”; “Transparency of Party Funding”, 21 March 2016, p. 5.

<sup>(323)</sup> EC, Report from the Commission to the European Parliament and the Council, Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap, 4 May 2016, pp. 6-7.

funded project, Turkey further reinforced the Financial Intelligence Units' (FIU) capacities (within the Financial Crimes Investigation Board or *Mali Suçları Araştırmakurulu / MASAK*), to strengthen cooperation with the law enforcement agencies in 'detecting and analysing money laundering and the financing of terrorism, and to cooperate with the Member State's FIUs in this area' <sup>(324)</sup>.

The EC Communication 2016 noted:

'Turkey has achieved some level of preparation in the fight against organised crime. Institutional capacity was increased and new strategies and action plans were adopted. However, statistics on the number of final convictions and other important indicators are not available. Financial investigations remain underused. Precautionary freezing of assets is rarely applied and the level of assets confiscated is low. In the fight against terrorism, a comprehensive legal framework on terrorism financing is in place. (...) Both the criminal and anti-terror legislation should be aligned with ECtHR case-law, without reducing the capacity of Turkey to fight terrorism. The proportionality principle must be observed in practice' <sup>(325)</sup>.

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<sup>(324)</sup> EC, Report from the Commission to the European Parliament and the Council, Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap, 4 May 2016, p. 6.

<sup>(325)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 16.

## 4. The security situation

### 4.1. General overview of the security situation

The EC Communication 2016 noted on the security situation in the reporting period (2015-2016):

‘The situation in the south-east remained one of the most critical challenges for the country. Turkey saw a continued very serious deterioration in the security situation, leading to heavy casualties following the collapse of the Kurdish settlement process in July 2015 and was struck by several large-scale deadly terrorist attacks by PKK and Da’esh. The authorities pursued their extensive anti-terror military and security campaign against the Kurdistan Workers’ Party (PKK), which remains on the EU list of terrorist organisations’<sup>(326)</sup>.

The EC added: ‘The settlement of the Kurdish issue through a political process is the only way forward; reconciliation and reconstruction are also becoming key issues for the authorities to address’<sup>(327)</sup>.

Turkey faces an insurgency by both Kurdish armed groups in Turkey and advances in Syria of Syrian Kurdish armed groups. The conflict opposing the state to the PKK is not new. Since the 1980s, Turkey has been confronted with the Kurdish insurgency that has left more than 40 000 people dead and resulted in millions of IDPs<sup>(328)</sup>.

More recently, Turkey has become the target of Islamic State (IS)’s attacks, inside its territory. On 10 October 2015, two alleged IS bombers detonated themselves next to Ankara’s central railway station where a peace rally organised by the HDP and left trade unions and associations (DISK, TMMOB, TTB, KESK, etc.) was held. Killing 106 people and wounding hundreds, this bombing became the deadliest attack in the whole Turkish history<sup>(329)</sup>. On 12 January 2016 an alleged IS bomber detonated himself next to a tourist group, in Istanbul, killing 12 Germans and wounding another 15<sup>(330)</sup>.

Since these attacks, and partly in response to IS rocket strikes on the province of Kilis, the Turkish Government has intensified its operations against IS, notably using intense cross-border artillery fire to force Islamic State militants in Syria to retreat from the Turkish border<sup>(331)</sup>. According to Jamestown Foundation, the IS threat stems not only from Syrian refugees and foreign fighters, but also from radicalised citizens within Turkey’s own borders<sup>(332)</sup>.

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<sup>(326)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 15.

<sup>(327)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 16.

<sup>(328)</sup> FIDH/EuroMed Rights, High-Level Solidarity Mission to Turkey; 20-24 January 2016, February 2016; BBC, Turkey Profile – Timeline, 2 June 2016.

<sup>(329)</sup> Hürriyet Daily News, Nation mourns 95 victims in Turkey’s biggest ever attack, 11 October 2015 ; Hürriyet Daily News, Death toll 106 in suicide blasts: Ankara Chamber of Medical Doctors, 14 October 2015.

<sup>(330)</sup> Jamestown Foundation, Turkey’s Dance with the Islamic State, 22 January 2016; BBC News, Suicide bomber hits western Turkey, 27 April 2016.

<sup>(331)</sup> Jamestown Foundation: Turkey’s Dance with the Islamic State, 22 January 2016.

<sup>(332)</sup> Jamestown Foundation, Turkey’s Dance with the Islamic State, 22 January 2016.

New bomb attacks on crowded public places such as Istanbul İstiklal Caddesi (one of the main and most famous avenues in Istanbul) on 19 March 2016 <sup>(333)</sup> and the Istanbul International Airport on 28 June 2016, both ascribed to IS, have had a deteriorating effect on the security situation <sup>(334)</sup>.

[Annex 1](#) of this report contains a non-exhaustive overview of violent incidents in Turkey over 2015 and 2016. An interactive timeline of the major violent attacks in Turkey since beginning of 2015 can be found on Al Jazeera's website <sup>(335)</sup>.

### **PKK conflict: some historical background**

The conflict has undergone several phases of hostilities followed by various attempts at peace talks and ceasefires. From August 1984, date of the first PKK armed attack, until 1999, armed struggle opposed the state and PKK rebel groups. Several months after Abdullah Öcalan's arrest, in February 1999, the PKK leader called on the insurgent group to abandon the armed struggle. From 1999 to 2004, security conditions gradually improved. In 2002 Turkey lifted the state of emergency which was in place in several provinces in the south-east. In 2004, however, the PKK announced the end of the ceasefire, and violence resumed, until a new ceasefire was declared in August 2010, and lasted until June 2011 <sup>(336)</sup>.

In 2009, the Turkish Government launched the Kurdish Opening, a multi-tiered policy intended to resolve the longstanding conflict between the Turkish Government and the Kurdish population. In general, the proposal included larger cultural rights for Kurds, some form of local autonomy, and incentives to PKK's fighters to disarm <sup>(337)</sup>.

The Kurdish Opening suffered numerous political, judicial and organisational setbacks and failed within a year <sup>(338)</sup>. On 11 December 2009 the Constitutional Court banned the pro-Kurdish DTP due to its close association with the PKK. This was the moment of no return for the entire Kurdish Opening. Over 1 000 Kurdish notables were arrested for alleged support to PKK <sup>(339)</sup>.

After the failure of the Kurdish Opening, the dialogue between the Turkish Government and the PKK was resumed in the secret and unconfirmed 'Oslo process', between 2010 and 2011. While a potential protocol of understanding was being discussed, fightings led to the death of 14 Turkish soldiers in June 2011 and, six months later, to the death of 34 Kurdish smugglers, apparently mistaken for militants. These events hampered the dialogue and 'what was discussed in Oslo, stayed in Oslo' <sup>(340)</sup>.

At the end of 2012, peace negotiations between the PKK and the government were initiated which led, in March 2013, to a new ceasefire <sup>(341)</sup>. On 11 June 2014, the Turkish Parliament adopted a law aiming at a solution of the Kurdish issue. The law encompasses measures to eliminate terrorism, strengthen social inclusion, reintegrate those who leave the PKK and lay down their arms, and prepare the public opinion for the return of former fighters. The law, welcomed by the PKK leader and pro-Kurdish parties, entered into force on

<sup>(333)</sup> BBC News, Istanbul shopping area hit by suicide bomber, 19 March 2016.

<sup>(334)</sup> Telegraph (The), Istanbul Atatürk airport attack: 41 dead and 239 injured in 'hideous' suicide bombings in Turkey, 29 June 2016.

<sup>(335)</sup> Al Jazeera, Attacks in Turkey, n.d.

<sup>(336)</sup> Yeğen, M., The Kurdish Peace Process in Turkey, May 2015.

<sup>(337)</sup> Carnegie Endowment, The Kurdish opening in Turkey: Origins and Future?, 1 December 2009.

<sup>(338)</sup> Columbia University, Journal of International Affairs, The Closing of Turkey's Opening, 20 September 2012.

<sup>(339)</sup> Columbia University, Journal of International Affairs, The Closing of Turkey's Opening, 20 September 2012.

<sup>(340)</sup> Waldman, S., Caliskan, E., The Peace Process that Never Was: Turkey and the PKK, 3 August 2015; Hürriyet Daily News, Chronology of Oslo dialogues with PKK, 28 September 2012.

<sup>(341)</sup> Office of the Commissioner General for Refugees and Stateless Persons, Turquie : Situation sécuritaire, 20 May 2015.

1 October 2014 <sup>(342)</sup>. Despite the ceasefire (March 2013-July 2015), International Crisis Group (ICG) reports that scattered violence continued <sup>(343)</sup>.

The two-year ceasefire collapsed in July 2015 after the Suruç attack <sup>(344)</sup>, a suicide bombing that killed 33 Kurdish and Turkish student activists and injured more than 100. Since then, the conflict has spread to Turkey's predominantly Kurdish cities and developed into urban warfare <sup>(345)</sup>.

On 28 July 2015, the Turkish President announced that his country could not continue the peace process with the Kurds amid attacks by Kurdish militants on Turkish targets <sup>(346)</sup>. This was followed by extensive security and military operations against the PKK. Rapidly, according to Freedom House, '[a]rmed gangs of Kurdish youth took over parts of some towns in the Kurdish-populated southeast' <sup>(347)</sup>, while the state imposed urban curfews to 'restore public order' <sup>(348)</sup>. The BBC reports that the battlefield opposing the state and the PKK thereby expanded from guerrilla fighting in the mountains to urban warfare in Turkey's predominantly Kurdish cities <sup>(349)</sup>.

During the curfews, Special Operations Police teams and other security forces conducted counterterrorism operations against armed Kurdish groups using armoured vehicles, tanks and heavy artillery <sup>(350)</sup>. Turkish army also bombed alleged PKK shelters and supply points in response to PKK attacks on Turkish checkpoints and observation points <sup>(351)</sup>. According to the Council of Europe, reporting on Turkey in April 2016, '[t]he most striking feature of anti-terrorism operations since August 2015 has been the round-the-clock, open-ended and increasingly long curfews declared in entire neighbourhoods or cities in South-Eastern Turkey' <sup>(352)</sup>. The Human Rights Foundation of Turkey estimates that between 16 August 2015 and March 2016, there have been 65 officially confirmed, open-ended and round-the-clock curfews in at least 22 districts of seven cities in south-eastern Turkey <sup>(353)</sup>. It is estimated that at least 1.4 million residents have been affected by these 58 curfews between 16 August 2015 and 5 February 2016 <sup>(354)</sup>.

## 4.2 Actors in the conflict

### 4.2.1 The Kurdistan Workers' Party (PKK)

The PKK has been responsible for numerous serious human rights abuses. It has been put on the USA (1997) and EU (2004) list of terrorist organisations <sup>(355)</sup>.

<sup>(342)</sup> EC, 2014 Progress Report on Turkey, 8 October 2014, pp.5, 6, 17.

<sup>(343)</sup> ICG, Turkey's PKK Conflict: The Rising Toll, August 2016.

<sup>(344)</sup> BBC News, Suruç massacre: At least 30 killed in Turkey border blast, 20 July 2015.

<sup>(345)</sup> BBC, Turkey v Syria's Kurds v Islamic State, 19 February 2016; ICG, Turkey's PKK Conflict: The Rising Toll, August 2016; ICG, Steps Toward Stabilising Syria's Northern Border, 8 April 2016.

<sup>(346)</sup> BBC, Kurdish peace 'impossible' - Turkey's Erdoğan, 28 July 2015.

<sup>(347)</sup> Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016.

<sup>(348)</sup> Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016; ICG, The Human Cost of the PKK Conflict in Turkey: The Case of Sur, 17 March 2016.

<sup>(349)</sup> BBC, Turkey v Syria's Kurds v Islamic State, 19 February 2016.

<sup>(350)</sup> HRW, Turkey: Mounting Security Operation Deaths, 22 December 2015.

<sup>(351)</sup> Jamestown Foundation, Turkey-PKK violence continues to complicate Islamic State fight, 2 December 2015.

<sup>(352)</sup> CoE, Turkey: security trumping human rights, free expression under threat, 14 April 2016.

<sup>(353)</sup> HRFT, Fact Sheet on declared curfews between August 16, 2015 and April 20, 2016, 20 April 2016.

<sup>(354)</sup> HRFT/TIHV, Recent Fact Sheet on Curfews in Turkey Between the dates 16 August 2015-5 February 2016, 6 February 2016; ICG, Steps Toward Stabilising Syria's Northern Border, 8 April 2016.

<sup>(355)</sup> ICG, Steps Toward Stabilising Syria's Northern Border, 8 April 2016; Freedom House, Freedom in the World 2015 – Turkey, 10 March 2015.



Founded by Abdullah Öcalan in 1978 as a Marxist-Leninist separatist organisation, the Kurdistan Workers' Party (*Partiya Karkerên Kurdistanê*, PKK), primarily composed of Turkish Kurds, launched an armed struggle against the Turkish Government in 1984 in order to create a Kurdish state on Turkish territory. In the 1990s, the PKK changed its goal into gaining autonomy for Kurds<sup>(356)</sup>. Since the start of the conflict in 1984, over 40 000 people were killed<sup>(357)</sup>.

The PKK leader, Abdullah Öcalan, has been imprisoned since 1999. The PKK, with other political and armed groups, belongs to a Kurdish umbrella organisation, the Kurdistan Communities Union (*Koma Civakên Kurdistan – KCK*)<sup>(358)</sup>. KCK is considered the political branch of the Kurdish movement which claims autonomy for the Kurds. It has five subdivisions: the ideological, the social, the political, the military and the women's division<sup>(359)</sup>.

The PKK's original goal was to establish an independent Kurdish state in south-eastern Turkey, but in recent years it has spoken more often about autonomy within a Turkish state that guarantees Kurdish cultural and linguistic rights<sup>(360)</sup>. On 21 March 2013, Abdallah Öcalan declared ceasefire for Newroz and launched the so-called Peace process<sup>(361)</sup>.

The ceasefire ended in July 2015 as Turkey started air strikes in northern Iraq against PKK bases, especially after the attack on Suruç<sup>(362)</sup>. Since then, the PKK has launched several bloody attacks in Turkey, mainly on military and police targets and Turkish Government has carried out aircraft and land operations<sup>(363)</sup>. See further details in [4. Security situation](#). On 12 March 2016, a PKK-led umbrella organisation, the People's United Revolutionary Movement (*Halkların Birleşik Devrim Hareketi / HBDH*), comprising nine illegal leftist and pro-Kurdish extremist groups was established, led by senior PKK leader Duran Kalkan<sup>(364)</sup>. The HBDH was created to represent extreme leftist militancy, opposing the Turkish state and the AKP. Its mission is 'to unite and strengthen Turkey's revolutionary forces and promote armed struggle against the Turkish government'. Its means are said to be propaganda and terrorist attacks through unified efforts of different groups. Its focus is on Turkey, but it could also participate in the fighting in Syria. The HBDH held its first meeting in February 2016 in Latakia, Syria<sup>(365)</sup>.

#### 4.2.2 Civil Defense Units (YPS)/ Patriotic Revolutionary Youth Movement (YDG-H)

The PKK affiliate forces consist of the Civil Defense Units (YPS), the youth branch of PKK, formerly known as the Patriotic Revolutionary Youth Movement (*Yurtsever Devrimci Gençlik*

<sup>(356)</sup> BBC, Profile: Kurdistan Workers' Party (PKK), 27 July 2015; US DoS, Country Reports on Terrorism 2014; Foreign Terrorist Organizations: Kurdistan Workers' Party (Chapter 6), 19 June 2015.

<sup>(357)</sup> BBC Profile: Kurdistan Workers' Party (PKK), July 27, 2015; Aljazeera, Erdoğan: Strip PKK supporters of Turkish nationality, 5 April 2016.

<sup>(358)</sup> BBC Profile, Kurdistan Workers' Party (PKK), July 27, 2015; Aljazeera, Erdoğan: Strip PKK supporters of Turkish nationality, 5 April 2016.

<sup>(359)</sup> Daily Sabah, KCK: A historic step towards peace, 1 March 2015.

<sup>(360)</sup> US DoS, Country Reports on Terrorism 2014; Foreign Terrorist Organizations: 'Kurdistan Workers' Party (Chapter 6), 19 June 2015.

<sup>(361)</sup> BBC News, Turkey Kurds: PKK chief Ocalan calls for ceasefire, 21 March 2013; Al-Monitor, Ocalan's Message Is Much More Than a Cease-Fire, 24 March 2013.

<sup>(362)</sup> BBC, Profile: Kurdistan Workers' Party (PKK), 27 July 2015; Aljazeera, Erdoğan: Strip PKK supporters of Turkish nationality, 5 April 2016; ICG, New Turkey-PKK Peace Talks: An Inevitability Postponed, 7 March 2016.

<sup>(363)</sup> Aljazeera, Erdoğan: Strip PKK supporters of Turkish nationality, 5 April 2016.

<sup>(364)</sup> ICG, Crisis Watch n° 154, Turkey, 2 May 2016.

<sup>(365)</sup> Stratfor, Turkey's Militants Get More Organized, 15 April 2016; ANF News, Peoples' United Revolutionary Movement established for a joint struggle, 12 March 2016.

*Hareket* /YDG-H) <sup>(366)</sup>. These forces, deployed by the PKK in the cities, consist of a small number of trained militants – including some who gained experience of urban warfare from fighting against ISIS during the 2014-15 siege of Kobanî – supplemented by a larger number of young, mostly relatively untrained, volunteers <sup>(367)</sup>.

According to the mission conducted by EuroMed Rights and FIDH in January 2016, since the resurgence of the conflict (July 2015), ‘the strategy of the PKK and its affiliated forces, in particular the Patriotic Revolutionary Youth Movement (YDG-H, the youth branch of PKK), has been to occupy all or parts of cities and to “remove” them from civil government rule by isolating them through trenches and barricades’ <sup>(368)</sup>. This strategy has had severe consequences for the population which has served as a *de facto* shield for Kurdish fighters <sup>(369)</sup>.

#### 4.2.3 Kurdistan Freedom Falcons (TAK)/*Teyrenbazen Azadiya Kurdistan*

The Kurdistan Freedom Falcons (*Teyrênbazê Azadiya Kurdistan*, TAK) is a very secretive Kurdish separatist organisation that seeks independence or autonomy in south-east Turkey. TAK says that it was a part of PKK, but has left the group because it denounced the PKK’s methods as ‘too feeble’ <sup>(370)</sup>. According to other sources it is still part of PKK, as an urban warfare unit <sup>(371)</sup>. According to ICG, ‘[f]ormed as a breakaway faction of the PKK in August 2004, the group is designated a terrorist organisation linked to the PKK by the Turkish state; the U.S. designated it as a separate terrorist organisation in 2008’ <sup>(372)</sup>.

Explaining the split from PKK on its website, banned in Turkey, the group declares the ‘methods of struggle’ of the PKK and the Kurdistan People’s Congress ‘too feeble’ <sup>(373)</sup>. The TAK’s goal is an independent Kurdish state in eastern and south-eastern Turkey. According to some Turkish security analysts, Bahoz Erdal is the TAK’s leader, although this is not verified <sup>(374)</sup>.

The group started its public operations in 2005 when it exploded a bomb in a tourist location, in Kuşadası <sup>(375)</sup>. From 2005 onwards TAK launched more deadly attacks <sup>(376)</sup>. Although acknowledging that little is known about TAK, the Jamestown Foundation indicated, in 2006, that there are important ideological differences between the PKK and the TAK. While the PKK has mainly attacked military and government targets, TAK has spread its attacks wider, claiming responsibility for strikes on civilian, police and military targets <sup>(377)</sup>. According to the

<sup>(366)</sup> ICG, The Human Cost of the PKK Conflict in Turkey: The Case of Sur, 17 March 2016; Turkey Analyst (The), Jenkins, G., The PKK and the PYD: Comrades in Arms, Rivals in Politics?, 19 April 2016; Guardian (The), In a devastated Turkish town, teenagers dream of joining the Kurdish guerrillas, 3 April 2016.

<sup>(367)</sup> Turkey Analyst (The), Jenkins, G., The PKK and the PYD: Comrades in Arms, Rivals in Politics?, 19 April 2016.

<sup>(368)</sup> EuroMed Rights and FIDH, High Level Solidarity Mission to Turkey, 20-24 January 2016.

<sup>(369)</sup> EuroMed Rights and FIDH, High Level Solidarity Mission to Turkey, 20-24 January 2016.

<sup>(370)</sup> Al-monitor, Who is TAK and why did it attack Ankara? 29 February 2016.

<sup>(371)</sup> Al-monitor, Who is TAK and why did it attack Ankara? 29 February 2016; Stewart, S., Untangling the Threads of Terrorism in Turkey, 22 March 2016.

<sup>(372)</sup> ICG, The Human Cost of the PKK Conflict in Turkey: The Case of Sur, Crisis Group Europe Briefing N°80, 17 March 2016.

<sup>(373)</sup> International Business Time, TAK: What we know about militant PKK offshoot allegedly responsible for Ankara attacks, 15 March 2016.

<sup>(374)</sup> Deutsch Welle, Turkey’s Kurdish TAK faction a breakaway from the PKK, 17 March 2016.

<sup>(375)</sup> Al-monitor, Who is TAK and why did it attack Ankara? 29 February 2016; Stewart, S., Untangling the Threads of Terrorism in Turkey, 22 March 2016.

<sup>(376)</sup> Jamestown Foundation, The Kurdistan Freedom Falcons Emerges as a Rival to the PKK, 17 October 2006.

<sup>(377)</sup> Jamestown Foundation, The Kurdistan Freedom Falcons Emerges as a Rival to the PKK, 17 October 2006; International Business Time, TAK: What we know about militant PKK offshoot allegedly responsible for Ankara attacks, 15 March 2016.

Jamestown Foundation, 'the geographical spread of TAK attacks also suggests that its members live in Kurdish migrant communities in western Turkey and in Istanbul, rather than in the Kurdish heartlands of the southeast that were the focus of PKK actions'. It added that the PKK statements, striving for negotiations, are now more carefully chosen whereas the TAK's statements are 'deliberately uncompromising' <sup>(378)</sup>.

In 2010 TAK carried out two attacks, one on a bus of Turkish soldiers and their families <sup>(379)</sup>, and the other on a police vehicle <sup>(380)</sup>. Since 2015, it seems that activities of the TAK have become more intensive. The group has claimed responsibility for a mortar attack that killed one worker at Istanbul Sabiha Gokcen Airport in December 2015 <sup>(381)</sup>. In 2016, TAK also claimed responsibility for an attack on a military convoy in Ankara (17 February) that killed 28 people, a car bomb attack in Ankara (13 March) that killed 37 people, and a car bomb (7 June) that destroyed a police vehicle in the Istanbul Vezneciler neighbourhood, killing 12 people and wounding dozens more. The group claimed that the June attack had been carried out in retaliation for Turkish Army operations in south-eastern Turkey, and it warned tourists to stay away from the country <sup>(382)</sup>.

Some experts, such as Sinan Ülgen (the head of the EDAM Think tank and a former Turkish diplomat) speculated that the PKK could hide itself behind the TAK in order not to tarnish its reputation when it carried out bloody actions <sup>(383)</sup>.

#### 4.2.4 Democratic Union Party (PYD)/ People's Protection Units (YPG)

Syrian Kurdish armed groups such as the People's Protection Units (YPG) - the armed wing of the Democratic Union Party (PYD) - have made territorial advances in northern Syria, near the Turkish border <sup>(384)</sup>. Although ideologically affiliated, the PKK and the PYD remain organisationally distinct <sup>(385)</sup>. Turkey considers that the PYD is an extension of the PKK while the YPG denies Turkey's claim <sup>(386)</sup>.

Researcher Gareth Jenkins commented <sup>(387)</sup>:

'Since early 2015, the PYD has greatly expanded the territory under its control, including linking two of its three cantons, and is now threatening to create a contiguous strip of territory along most of Syria's border with Turkey. It has also made considerable progress in terms of creating an alternative administrative structure in Rojava based on Öcalan's writings. The Turkish government frequently insists that

<sup>(378)</sup> Jamestown Foundation, The Kurdistan Freedom Falcons Emerges as a Rival to the PKK, 17 October 2006.

<sup>(379)</sup> BBC News, Five killed in Istanbul bomb attack on soldiers' bus, 22 June 2010.

<sup>(380)</sup> The Guardian, Suicide bomb attack on Istanbul's main square, 31 October 2010.

<sup>(381)</sup> International Business Time, TAK: What we know about militant PKK offshoot allegedly responsible for Ankara attacks, 15 March 2016.

<sup>(382)</sup> New York Times, Kurdish Militant Group T.A.K. Claims Responsibility for Istanbul Bombing, 10 June 2016; Wall Street Journal (The), Kurdish Group TAK Claims Responsibility for Deadly Car Bombing in Turkey, 17 March 2016; Reuters, Kurdish militants claim suicide bombing in Turkey's Bursa, 1 May 2016; Guardian (The), Kurdish rebels claim responsibility for deadly Istanbul airport blast, 27 December 2015.

<sup>(383)</sup> Quentin Raverdy, 'Attentat d'Ankara : qui se cache derrière les Faucons de la Liberté?', 20 February 2016.

<sup>(384)</sup> ICG, Steps Toward Stabilising Syria's Northern Border, 8 April 2016; BBC, Turkey v Syria's Kurds v Islamic State, 19 February 2016.

<sup>(385)</sup> Turkey Analyst (The), Jenkins, G., The PKK and the PYD: Comrades in Arms, Rivals in Politics?, 19 April 2016; New York Times, Turkey Confirms Strikes Against Kurdish Militias in Syria, 27 October 2015.

<sup>(386)</sup> BBC, Turkey v Syria's Kurds v Islamic State, 19 February 2016.

<sup>(387)</sup> Gareth Jenkins is a nonresident Senior Fellow with the Central Asia-Caucasus Institute & Silk Road Studies Program Joint Center.

Rojava poses a security threat to Turkey, even disingenuously claiming that the YPG has fired artillery shells across the border' <sup>(388)</sup>.

In October 2015, the PYD indeed declared that Tal Abyad was part of an autonomous region in northern Syria which the Kurds call *Rojava*. Turkey viewed this development as a national security threat <sup>(389)</sup>. In response, on 26 October 2015, the government announced that the army had hit the PYD in northern Syria after PYD members attempted to cross the Euphrates river <sup>(390)</sup>.

According to press reports, on 23 June 2016, the Syrian Democratic Forces (SDF) alliance, allegedly backed by U.S., entered the south-western districts of Manbij, the stronghold of IS in Syria. Prior to the Manbij operation, U.S. and Turkish officials and leaders of the SDF met at Incirlik Air Base in Turkey. The Lebanese daily *As-Safir*, cited in *Hürriyet Daily News*, notes that during the meeting, the 'United States had taken a step on the ongoing conflict between Turkish security forces and militants of the outlawed Kurdistan Workers' Party (PKK), which were reignited in July 2015'. The author further states that the U.S. 'persuaded Turkey to put jailed PKK leader Abdullah Öcalan under house arrest and resume talks with Öcalan on the Kurdish issue' <sup>(391)</sup>.

Prior to this operation Turkey accepted that PYD-YPG participates in this operation under the SDF umbrella but the US provided guarantees that forces of the PYD-YPG involved in this operation will not stay on the western bank of the Euphrat River after the recovery of Manbij <sup>(392)</sup>.

On 24 August 2016, after Turkey has launched Operation Euphrates Shield against IS, Turkish Armed Forces shelled PYD-YPG units near Jarablus, arguing that they should leave the west bank of the Euphrate and asking the US to keep its promises that the Kurdish militia would retreat <sup>(393)</sup>.

#### 4.2.5 Revolutionary People's Liberation Party-Front, DHKP-C

The Revolutionary People's Liberation Party-Front (*Devrimci Halk Kurtuluş Partisi-Cephesi* – DHKP-C) is a marxist organisation. It is considered a terrorist organisation by Turkey, the US and the EU. According to Stratfor's analyst, the DHKP-C does not have the capabilities to organise large and multiple attacks. Its targets are mainly military and diplomatic facilities of the US. The movement has weakened during recent years, though it carried out several operations against Turkish and American interests in Turkey during the last years: a suicide bombing at Ankara's Embassy of the United States (1 February 2013), a grenade attack against the office of the Prime Minister at Dolmabahçe-Istanbul (1 January 2015), the hostage taking and murder of a prosecutor in Istanbul Çağlayan courthouse (31 March 2015), an attack against the American Consulate at İstiniye in Istanbul (10 August 2015), and shooting against a police station at Bayrampaşa in İstanbul (3 March 2016) <sup>(394)</sup>.

<sup>(388)</sup> Turkey Analyst (The), Jenkins, G., *The PKK and the PYD: Comrades in Arms, Rivals in Politics?*, 19 April 2016.

<sup>(389)</sup> New York Times (The), *Turkey Confirms Strikes Against Kurdish Militias in Syria*, 27 October 2015.

<sup>(390)</sup> ICG, *Crisis Watch*, 2 November 2015, Turkey.

<sup>(391)</sup> *Hürriyet Daily News*, *No details on Turkey-US cooperation on Manbij: Ministry*, 7 July 2016.

<sup>(392)</sup> *Hürriyet Daily News*, *US guarantees no PYD presence west of Euphrates after ops on ISIL: Turkish FM*, 7 June 2016.

<sup>(393)</sup> *Hürriyet Daily News*, *Turkish forces shell Syrian Kurdish YPG group near Jarablus*, 25 August 2016.

<sup>(394)</sup> Stewart, S., *Untangling the Threads of Terrorism in Turkey* 22 March 2016; Stratfor, *Turkey's Militants Get More Organized*, 15 April 2016; BBC, *Profile: Turkey's Marxist DHKP-C*, 2 February 2013; AA, *Brief history of DHKP-C attacks in Turkey*, 11 August 2015.

THKP/C-Acilciler (Turkish People's Liberation Party-Front) is another anti-western militant group linked to DHKP-C<sup>(395)</sup>.

#### 4.2.6 Islamic State of Iraq and al-Sham, ISIS/IS

The Turkish Government's attitude regarding IS began to change after the latter held hostage the members of its consulate in Mosul in summer 2014 and moreover, when Turkey had to evacuate its territorial enclave of Süleyman Shah in Syria in February 2015<sup>(396)</sup>.

In 2015, Turkey came in the international spotlight as a jihadi transit road to Syria. In January 2015, Turkish police estimated at 3 000 the number of people linked to IS in the country. On 18 January 2015, Foreign Minister Mevlüt Çavuşoğlu said that the passage of foreign fighters constituted the 'greatest threat' to Turkey<sup>(397)</sup>. According to the Jamestown Foundation, the IS threat stems not only from Syrian refugees and foreign fighters, but also from radicalised citizens within Turkey's own borders<sup>(398)</sup>.

Turkey has recently become the target of IS's attacks, inside its territory. The government holds IS responsible for a 20 July 2015 suicide bombing that killed 33 Kurdish and Turkish student activists and injured more than 100 in Suruç (Syrian border). The victims had travelled to the south-east town of Suruç to join efforts to rebuild the Syrian town of Kobanî<sup>(399)</sup>. In the same month, Turkey launched air strikes on IS, labelled by the US as 'a major moment in developing a joint strategy to tackle the Islamist militants'<sup>(400)</sup>.

IS has conducted several other bloody operations in Turkey, such as the attack in Ankara in October 2015 killing more than 100 people, the 12 January 2016 attack in Istanbul's tourist areas, the 19 March 2016 attack in a shopping street in Istanbul<sup>(401)</sup>, the 28 June 2016 spectacular killing and bombing at Istanbul Atatürk Airport and the 20 August 2016 bloody bombing that took place during a wedding in the south-eastern city of Gaziantep<sup>(402)</sup>. This threat led the Turkish authorities to launch a tough struggle against the jihadist organisation by raiding its sleeping cells around the country and arresting dozens of its militants<sup>(403)</sup>.

In July 2015, Turkey joined the US-led coalition to fight against IS in Irak and Syria although it still had concerns about Kurdish conquests of Syrian areas along its southern border<sup>(404)</sup>. However, as since January 2016 the border province of Kilis was submitted to persistent rocket firings from IS which killed local residents and forced them to flee, Turkey decided to hit the jihadist positions in Syria and on 7-8 May 2016 launched a commando operation across

<sup>(395)</sup> Independent (The), Istanbul attacks: A timeline of recent bombings in Turkey's largest city, 12 January 2016.

<sup>(396)</sup> Al Monitor, How and why were 46 Turkish hostages freed?, 21 September 2014; Hürriyet Daily News, Mosul Consulate 'overpowered' by ISIL militants at the gate, Turkish hostage says, 25 September 2014; Hürriyet Daily News, ISIL continues to spoil Turkish positions, 23 February 2015; Hürriyet Daily News, Turkey relocates historic tomb in Syria over jihadist threat, 22 February 2015.

<sup>(397)</sup> ICG, Crisis Watch, 2 February 2015, Turkey.

<sup>(398)</sup> Jamestown Foundation, Turkey's Dance with the Islamic State, 22 January 2016

<sup>(399)</sup> US DoS, Country Report On Human Rights Practices 2015 - Turkey, 13 April 2016; HRW, World Report 2016 - Turkey, 27 January 2016; FIDH- Euromed Rights and FIDH – High-Level Solidarity Mission To Turkey, 20-24 January 2016.

<sup>(400)</sup> IRIN, Fact check: Is Turkey using ISIS as an excuse to fight the Kurds? 11 August 2015.

<sup>(401)</sup> Stewart, S., Untangling the Threads of Terrorism in Turkey, 22 March 2016; BBC, Suruc massacre: 'Turkish student' was suicide bomber, 22 July 2015.

<sup>(402)</sup> Al Jazeera, Turkey: Suicide bomber kills more than 50 at wedding, 22 August 2016; The Guardian, Erdoğan blames Isis for suspected suicide attack at wedding in Turkey, 22 August 2016.

<sup>(403)</sup> Hürriyet Daily News, Four suspects arrested over Ankara bombing, 18 October 2015; Hürriyet Daily News, Number of ISIL militants detained in Turkey doubled in last half of 2015, 31 January 2016; Hürriyet Daily News, 13 remanded in custody over Istanbul airport attack, 4 July 2016; Hürriyet Daily News, 17 ISIL suspects jailed pending trial over Istanbul airport attack, 5 July 2016,

<sup>(404)</sup> Laub, Z., Masters, J., The Islamic State, CFR Backgrounder, 22 March 2016..

the border carried out by 20 Turkish special forces commandos in an IS-held area in northern Syria. A total of 55 IS militants were killed<sup>(405)</sup>. On the Turkish side, and since January 2016, there were over 20 casualties and an undetermined number of wounded resulting from rocket attacks by IS from their positions in Syria <sup>(406)</sup>.

On 24 August 2016 the Turkish Army launched a cross-border operation called Euphrat Shield in order to clear the northern Syria Euphrat western bank of IS presence. This military operation officially assisted elements of Free Syrian Army and consisted in a ground forces offensive (infantry and tanks) supported by artillery and aerial strikes <sup>(407)</sup>.

For more information on IS attacks, see [Annex 1](#).

#### 4.2.7 Jabhat al-Nusra (Al-Nusra Front)

An offshoot of Al Qaeda in Iraq, formed in 2012, Jabhat al-Nusra is a well-trained and well-equipped Islamist militant group in Syria, and 'relatively successful in the battlefield'. It imposes Sharia law in any new area conquered and its aim is to overthrow the Assad regime <sup>(408)</sup>. Al-Nusra was designated by the US (2012), the UN and other countries, amongst which Turkey (on 3 June 2014), as a terrorist organisation. According to sources cited in Al-Monitor, the Turkish government has long been suspected (and accused) of supporting the Syrian militant group militarily and logistically. This claim is denied by the Turkish government. Al-Nusra was initially considered by the Turkish Government as 'the most effective force against the Assad regime that they wanted to see toppled'. According to Al-Monitor, the government 'reluctantly' distanced itself of the group, to join the US-led coalition against jihadist groups in Syria, in the wake of an increase of Syria-related jihadist attacks which occurred in Turkey <sup>(409)</sup>.

Russian military sources allege that Al-Nusra still receive daily arms shipments across the border with Turkey <sup>(410)</sup>. In a joint report by the Institute of War and American Enterprise Institute, Al-Nusra is considered 'much more dangerous to the U.S. than the ISIS model in the long run' <sup>(411)</sup>.

### 4.3 Impact of the violence in south-east Turkey

The EC Communication 2016 commented on the security situation in Turkey and the impact on the population:

'Serious allegations of human rights violations and disproportionate use of force by the security forces in the south-east were increasingly reported. Many elected representatives and municipal executives in the south-east were suspended, removed from their duties, or arrested under terrorism-related charges, some of them on the

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<sup>(405)</sup> Hürriyet Daily News, Residents flee Turkey's Kilis as ISIL rockets continue to hit border province, 27 April 2016; Al Jazeera, Turkey confirms special forces operation in Syria, 9 May 2016.

<sup>(406)</sup> ICG, Crisis Watch, Turkey, 1 June 2016; Hürriyet Daily News, Turkey stages cross-border operations against PKK and ISIL in Iraq and Syria, 8 May 2016.

<sup>(407)</sup> Hürriyet Daily News, Turkish army backed rebels advance inside Syria on ISIL, 24 August 2016; Hürriyet Daily News, Turkish border with Syria cleared of ISIL militants, 5 September 2016.

<sup>(408)</sup> Stanford University, Mapping Militant organizations, Jabhat al-Nusra, 1 October 2015.

<sup>(409)</sup> Al Monitor, Why is Jabhat al-Nusra no longer useful to Turkey?, 10 June 2014.

<sup>(410)</sup> Al-Manar, Al-Nusra Front in Syria Gets Daily Weapon Supplies from Turkey: Russian Military, 27 May 2016.

<sup>(411)</sup> Institute of War/American Enterprise Institute, Al Qaeda and ISIS: existential threats to the U.S. and Europe, 26 January 2016.

basis of decrees under the state of emergency following the coup attempt. However, anti-terror measures need to be proportionate and must respect human rights' <sup>(412)</sup>.

### 4.3.1 Casualties

Since hostilities between the Turkish Government and the PKK reignited in July 2015, the 'spiral of violence' has caused numerous casualties among civilians and members of the security forces <sup>(413)</sup>. According to ICG, as of February 2016, 1 819 people were killed between July 2015 and August 2016, amongst whom 312 civilians, 618 state security force members (soldiers, police, village guards), 670 PKK militants and affiliates and 219 youth of unknown affiliation. ICG specifies that civilians have 'overwhelmingly been killed in urban clashes in the southeast or in PKK-affiliated bomb attacks in metropolitan centres' <sup>(414)</sup>.

FIDH noted that 'across the Southeastern region, human rights violations are widespread in the context of the conflict between the PKK and the Turkish security forces, which has claimed a lot of lives including among civilians' <sup>(415)</sup>. Human rights organisations report on many instances of security forces opening fire on civilians leaving their homes, failing to distinguish between armed people and unarmed civilians <sup>(416)</sup>. HRW noted in July 2016: 'Credible accounts of Turkish security forces deliberately killing civilians, including children, when they were carrying white flags or trapped in basements should be ringing loud alarm bells' <sup>(417)</sup>.

### 4.3.2 Access to basic services, food and healthcare

The curfews imposed in many towns and neighbourhoods have had a number of implications for the civilian population. The Council of Europe Commissioner for Human Rights declared, in November 2015:

'While I reiterate the right and obligation of the Turkish state to fight terrorism, the methods employed in this fight have to respect the human rights guarantees enshrined in international standards, in particular the European Convention on Human Rights. Imposing open-ended, round-the-clock curfews in entire neighbourhoods or towns until further notice represents a massive restriction of some of the most fundamental human rights of a huge population. Their frequent and widespread use in South-Eastern Turkey since August does not appear to satisfy the criteria of proportionality and necessity in a democratic society' <sup>(418)</sup>.

In particular, the Commissioner highlighted that during these prolonged curfews, a number of human rights violations have been allegedly committed by security forces while the lives of the inhabitants of the city have been total disrupted in what is perceived as a form of 'collective punishment' <sup>(419)</sup>. Curfews have also been accompanied by water and electricity

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<sup>(412)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 16.

<sup>(413)</sup> Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016; ICG, The Human Cost of the PKK Conflict in Turkey: The Case of Sur, 17 March 2016.

<sup>(414)</sup> ICG, Turkey's PKK Conflict: The Rising Toll, August 2016. See also: IRIN, Turkey's hidden humanitarian crisis, 3 February 2016.

<sup>(415)</sup> FIDH, What Turkey really is, 18 April 2016.

<sup>(416)</sup> HRW, Turkey: State Blocks Probes of Southeast Killings, 11 July 2016; HRW, Turkey: Mounting Security Operation Deaths, 22 December 2015; EuroMed Rights and FIDH, High Level Solidarity Mission to Turkey, 20-24 January 2016.

<sup>(417)</sup> HRW, Turkey: State Blocks Probes of Southeast Killings, 11 July 2016.

<sup>(418)</sup> CoE, Turkey should ensure the protection of human rights in the fight against terrorism, 18 November 2015.

<sup>(419)</sup> CoE, Turkey should ensure the protection of human rights in the fight against terrorism, 18 November 2015.

cuts, impossibility to access food and limited or no access to health services. Ambulances and medical staff have not been allowed to enter zones under curfew <sup>(420)</sup> .

Sources also report on the lack of oversight since observers have been barred from entering areas under curfews <sup>(421)</sup>.

### 4.3.3 Education

According to press reports, due to violence in urban centres in the south-east, many school buildings have been closed or turned into military headquarters. Due to pressure from Kurdish militants to boycott Turkish language education, the media reports that ‘ten thousands of children have been deprived of schooling’ <sup>(422)</sup>.

The human rights organisation FIDH notes that public education is heavily disrupted both in areas under curfew and indirectly in other districts due to the arrival of people fleeing from the conflict whose children cannot be accommodated in existing facilities. FIDH further specifies that, according to figures of the Ministry of Education, in the south-east, around 11 000 teachers are impeded to work while 80 000 children are deprived of the right to education. According to the same source, security forces have used several schools as compounds <sup>(423)</sup>.

### 4.3.4 Internal displacements

With the resurgence of the conflict, the number of Internally Displaced Persons (IDPs) has increased to more than 350 000 in the south-east region in 2015, adding up to the 1 to 3 million estimated IDPs from the previous insurgencies <sup>(424)</sup>. It should be noted however that Turkey’s IDPs figures are outdated and disputed. The last study (Hacettepe University), dated 2006, provided figures comprising between 954 000 and 1.2 million people forced to flee their homes between 1986 and 2005, the vast majority of them Kurdish <sup>(425)</sup>.

The Internal Displacement Monitoring Centre (IDMC) highlights the absence of a national strategy to address IDPs’ needs. IDMC indicates that the effectiveness of the Law on Compensation of Damages that Occurred due to Terror and the Fight against Terror (2004) still has to be improved <sup>(426)</sup>.

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<sup>(420)</sup> HRW, Turkey: Mounting Security Operation Deaths, 22 December 2015; EuroMed Rights and FIDH, High Level Solidarity Mission to Turkey, 20-24 January 2016.

<sup>(421)</sup> CoE, Turkey should ensure the protection of human rights in the fight against terrorism, 18 November 2015; EuroMed Rights and FIDH, High Level Solidarity Mission to Turkey, 20-24 January 2016.

<sup>(422)</sup> Guardian (The), In a devastated Turkish town, teenagers dream of joining the Kurdish guerrillas, 3 April 2016.

<sup>(423)</sup> EuroMed Rights and FIDH, High Level Solidarity Mission to Turkey, 20-24 January 2016.

<sup>(424)</sup> EuroMed Rights and FIDH, High Level Solidarity Mission to Turkey, 20-24 January 2016; IDMC, Turkey: Internal displacement in brief as of December 2013, 31 December 2013.

<sup>(425)</sup> IDMC, Turkey: Internal displacement in brief as of December 2013, 31 December 2013.

<sup>(426)</sup> IDMC, Submission from the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council (NRC) for considerations at the 87th Session of the Committee for the Elimination of Racial Discrimination (3-28 August 2015), 21 August 2015.



## 5. Human Rights Situation

### 5.1 Legal context and institutional framework

Turkey is party to a number of international human rights instruments (all the seven principal human rights conventions of the UN and 96 of the 200 Council of Europe conventions) <sup>(427)</sup>.

The EC Communication 2016 assessed the legal framework as follows:

‘The Turkish legal framework includes general guarantees of respect for human and fundamental rights, which need to be further improved. The enforcement of rights stemming from the European Convention on Human Rights (ECHR) and the case-law of the European Court of Human Rights (ECtHR) is not yet ensured. Many allegations of serious violations of the prohibition of torture and ill-treatment and of procedural rights were reported in the immediate aftermath of the coup attempt. Yet, all measures taken must be in line with the principles of proportionality and respect for human rights.

The new Law on the Human Rights and Equality Institution of Turkey is a step in the right direction. It contains provisions on prohibiting discrimination on a large number of grounds, but does not explicitly cover sexual orientation. There is still a need to adopt a fully comprehensive dedicated law on combating discrimination. A legal vacuum exists on human rights cases as the new National Human Rights and Equality institution has not yet been established’ <sup>(428)</sup>.

The EC invited Turkey to ‘ratify Protocols 4 and 7 to the European Convention on Human Rights (ECHR), or, alternatively, ensure or demonstrate that equivalent provisions are included into the Turkish legal framework’ <sup>(429)</sup>.

In recent years, Turkey has engaged in a comprehensive reform process on the basis of three main pillars, as mentioned by the Turkish Ministry of Foreign Affairs: ‘Screening the Turkish legislation, becoming party to international human rights instruments and taking the necessary measures for full implementation’. Amongst the key legislative developments were the adoption of a new Civil Code (2002) and a new Penal Code (2004), and the amendment of the Counterterrorism Law in July 2010 <sup>(430)</sup>.

With the Constitutional Reform Package adopted in September 2010, human rights and fundamental freedoms were expanded and the constitutional system was brought in line with Turkey’s international obligations <sup>(431)</sup>.

In 2012, three main institutions were set up in the area of human rights:

- The Turkey National Human Rights Institution (NHRI or TIHK)
- The Ombudsman Institution (OI)
- The Parliament’s Human Rights Investigation Commission (HRIC)

<sup>(427)</sup> Republic of Turkey (The), Ministry of Foreign Affairs, Human Rights: Policy Objectives and Developments, n.d.

<sup>(428)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. \*\*.

<sup>(429)</sup> EC, *Report to the Commission to the European Parliament and the Council, Second report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap {SWD(2016) 97 final}*, 4 March 2016, p. 9.

<sup>(430)</sup> Republic of Turkey (The), Ministry of Foreign Affairs, Human Rights: Policy Objectives and Developments, n.d.

<sup>(431)</sup> Republic of Turkey (The), Ministry of Foreign Affairs, Human Rights: Policy Objectives and Developments, n.d.

The NHRI/TIHK, which reports to the prime ministry, is mandated to carry out inspections on prisons and alleged mass graves, and conduct awareness-raising activities to promote a human rights culture and prevent infringements <sup>(432)</sup>.

The OI, operational since 2013 (see also [3.3 Judiciary](#)), has the mandate to ‘examine, investigate and submit recommendations to the Executive with regard to all sorts of acts and actions as well as attitudes and behaviors of the Executive under complaint’ <sup>(433)</sup>. It is attached and reports to the Grand National Assembly (GNAT) <sup>(434)</sup>.

The HRIC, as the first national mechanism to monitor and protect human rights, conducts on-site visits to detention centres and maintains dialogue with NGOs. It also investigates complaints, amongst others, about prison conditions, judicial processes and practices of state officials <sup>(435)</sup>.

In what is perceived as a positive step as well, Turkey adopted, in March 2016, a law on the establishment of a commission to inspect alleged violations committed by the law enforcement agencies in time of peace <sup>(436)</sup>. In the current deteriorating context of human rights, as will be examined below, this new commission may play an important role in ensuring respect for the rule of law, provided it remains independent <sup>(437)</sup>.

While reflecting a positive development in the area of human rights, in 2015, the UN expressed concerns about a lack of clear division of mandates between the NHRI and the Ombudsman institutions, as well as the lack of independence and authority of both bodies <sup>(438)</sup>. The US DoS report for the year 2015 also notes a limitation in the independence of the NHRI <sup>(439)</sup>.

Although Turkey engaged in a number of positive reforms to expand the area of fundamental rights and freedom, observers have noted, in particular since 2015, a number of preoccupying legislative steps :

- March 2015: New legislation allowing ministers to request the Communications Directorate (*Telekomünikasyon İletişim Başkanlığı/TIB*) to block online content or remove it within four hours to ‘protect life and property, national security, the public order, [or] to prevent crime and to protect general health’. Such request must be approved by a court within 48 hours <sup>(440)</sup>;
- March 2015: The Law amending the Law on powers and duties of the police, other laws and decrees – the so-called Internal security package grants extended powers to law enforcement agencies. The Internal Security Package increases penalties for carrying items that can be used as weapons as well, prohibits the use of slogans and symbols linked to illegal organisations and criminalises the coverage of faces during

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<sup>(432)</sup> UN, Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015; US DoS, Country Report on Human Rights Practices 2015 - Turkey, 13 April 2016.

<sup>(433)</sup> UN, Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

<sup>(434)</sup> Ombudsman Institution (The), About us, n.d.

<sup>(435)</sup> US DoS, Country Report on Human Rights Practices 2015 - Turkey, 13 April 2016; TBMM, General Information about the Human Rights Inquiry Committee, n.d.

<sup>(436)</sup> EC, Report from the Commission to the European Parliament and the Council, Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap, 4 May 2016.

<sup>(437)</sup> EC, Report from the Commission to the European Parliament and the Council, Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap, 4 May 2016.

<sup>(438)</sup> UN, Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015; UN Committee on the Elimination of Racial Discrimination CERD, Concluding observations on the fourth to sixth periodic reports of Turkey, 11 December 2015.

<sup>(439)</sup> US DoS, Country Report on Human Rights Practices 2015 - Turkey, 13 April 2016.

<sup>(440)</sup> HRW, World Report 2016 - Turkey, 27 January 2016.

protests<sup>(441)</sup>. In the framework of this security package, individuals can be taken to protective custody without the prosecutor's authorisation. The Internal Security Package also allows wide powers for police to search and seize property. Turkish Telecommunications Authority can also wiretap people under the law for up to 48 hours without judges' approval<sup>(442)</sup>. According to human rights organisations, the law grant 'broad discretionary power to law enforcement agencies without adequate judicial or independent parliamentary oversight'<sup>(443)</sup>.

- The Anti-Terror Law (1991<sup>(444)</sup>, last amended April 2015) has been widely used, according to human rights organisations, to suppress dissent<sup>(445)</sup>. The EC Communication 2016 observed that 'The anti-terror law is not in line with the acquis with regard to its scope and definitions and its application raises serious fundamental rights concerns. Both the criminal and anti-terror legislation should be aligned with ECtHR case-law, without reducing the capacity of Turkey to fight terrorism'<sup>(446)</sup>.

## 5.2 General situation

Various sources note a deterioration of the general human rights situation in Turkey in 2015, and in particular as of the second half of 2015. Different sources report that this deterioration has been characterised by an authoritarian 'backlash' against dissenting voices and a rise in human rights violations not only in the south-east, but also in the rest of the country. Sources all point to shrinking fundamental rights, in particular as regard freedom of expression, freedom of assembly and association<sup>(447)</sup>. Nils Muižnieks, the Council of Europe's Commissioner for Human Rights, declared, at the end of a nine-day visit to Istanbul, Diyarbakir and Ankara that '[r]espect for human rights has deteriorated at an alarming speed in recent months in the context of Turkey's fight against terrorism'<sup>(448)</sup>.

ICG described how military operations in the south-east have been accompanied by the death of hundreds of civilians, police and soldiers, the displacement of at least 350 000 persons, numerous arrests and detention of Kurdish political party officials, but also peaceful protesters and human rights defenders on charge of terrorism. In a context of urban warfare, urban curfews have been imposed 'to restore public order' with drastic humanitarian consequences for communities in the south-east<sup>(449)</sup>.

<sup>(441)</sup> US DoS, Turkey 2015 Human Rights Report, 18 April 2016.

<sup>(442)</sup> Library of Congress, Turkey: Recent Developments in National and Public Security Law, last updated 30 November 2015; US DoS, 2015 Human Rights Report Turkey, 18 April 2016.

<sup>(443)</sup> EuroMed Rights, High-Level Solidarity Mission to Turkey; 20-24 January 2016, February 2016; Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016.

<sup>(444)</sup> Republic of Turkey (The), Anti-Terror Law, Act no 3713: Law to fight terrorism, 12 April 1991.

<sup>(445)</sup> FIDH/EuroMed Rights, High-Level Solidarity Mission to Turkey - 20-24 January 2016, February 2016; Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016; Amnesty International, Turkey: Draconian reforms give police wide-ranging powers to repress dissent, 27 March 2015; Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016.

<sup>(446)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. \*\*.

<sup>(447)</sup> AI, AI Report 2015/16 - Turkey, 24 February 2016; US DoS, Country Report on Human Rights Practices 2015 - Turkey, 13 April 2016; Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016; ICG, FIDH/EuroMed Rights, High-Level Solidarity Mission to Turkey; 20-24 January 2016, February 2016; HRW, World Report 2016 - Turkey, 27 January 2016.

<sup>(448)</sup> CoE, Turkey: security trumping human rights, free expression under threat, 14 April 2016.

<sup>(449)</sup> ICG, The Human Cost of the PKK Conflict in Turkey: The Case of Sur, 17 March 2016.

As reported by US DoS in 2015, local NGOs considered that there are hundreds of political prisoners, including journalists, political party officials, academic and students, many of whom are believed to have no 'substantial link' to terrorism <sup>(450)</sup>.

The EC Communication 2016 concluded:

'In Turkey, there has been backsliding in this area and practical implementation often shows significant shortcomings. Following the attempted coup in July, a state of emergency was declared under which far-reaching measures curtailing fundamental rights were taken. Many serious violations of the prohibition of torture and ill-treatment and of procedural rights were alleged in the aftermath of the coup attempt' <sup>(451)</sup>. The media has been particularly targeted, with a number of journalists arrested, detained, and prosecuted for insulting the President or for supporting terrorist organisations (see [2.5 Media](#) and [5.4.2 Journalists and media](#)).

Human rights violations have also been committed by the PKK and affiliated forces <sup>(452)</sup>.

Human rights concerns linked to the failed coup of July 2016 and subsequent measures are described in [6.2 The aftermath of the attempted coup](#).

### 5.2.1 Freedom of speech and expression

Free speech is guaranteed by the Turkish Constitution and the Fourth and Fifth Judicial Packages. While the democratic space has become more open during the last ten years, issues such as religion, Kurds and the Armenian question remain sensitive. Moreover, free speech can be limited by the penal code and the above mentioned Anti-Terror Law. Free speech and press freedom may be subject to restrictions to protect public order if praises of crimes or criminals are included or if the population is incited to enmity or hatred and denigration <sup>(453)</sup>.

According to Reporters without Borders, Turkish media is under pressure. Journalists report harassment and the themes that they are allowed to report on are restricted. There is a wide interpretation of the term 'terrorism' under which media can be restricted <sup>(454)</sup> (see also [5.4.2 Journalists and media](#)). According to the OSCE, freedom of media is limited when reporting on politics and elections. Criticising the ruling party is particularly difficult as it subjects media and journalists to pressure and intimidation <sup>(455)</sup>.

The EC Communications 2016 reported:

'There has been serious backsliding in the past year in the area of freedom of expression. Selective and arbitrary application of the law, especially of the provisions on national security and the fight against terrorism, is having a negative impact on freedom of expression. Ongoing and new criminal cases against journalists, writers or social media users, withdrawal of accreditations, high numbers of arrests of journalists as well as closure of numerous media outlets in the aftermath of the July

<sup>(450)</sup> US DOS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(451)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 4.

<sup>(452)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016; Amnesty International Report 2015/16 - Turkey, 24 February 2016; Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016; HRW, World Report 2016 - Turkey, 27 January 2016; FIDH; EuroMed Rights, High-Level Solidarity Mission to Turkey - 20-24 January 2016, February 2016.

<sup>(453)</sup> US DoS, Turkey 2015 Human Rights Report, 18 April 2016, pp. 25-26, 34.

<sup>(454)</sup> Reporters without Borders, Erdoğan against the media, n.d.

<sup>(455)</sup> OSCE, Statement of Preliminary Findings and Conclusions, 8 June 2015, p. 1; OSCE, Statement of Preliminary Findings and Conclusions 2 November 2015, pp. 1-2.

attempted coup are of serious concern. Freedom of assembly continues to be overly restricted, in law and practice’<sup>(456)</sup>.

The EC Communications of 2015 has earlier already expressed its concern on the ‘curtailing of the freedom of expression (...) both through legislative changes as well as in practice through prosecutions for allegedly insulting high level politicians, including the President, and through high fines having a deterrent effect on free media reporting’<sup>(457)</sup>.

EuroMed and FIDH, in their January 2016 mission report to Turkey, noted three rapidly increasing kinds of state repression: restrictions to freedom of expression and the press on a range of controversial and sensitive issues (including critics on the state and the president), intimidation and threats against independent and dissenting voices, and finally stigmatisation, defamation and smear campaigns against Kurdish and left-wing media, but also of individual critics such as the academics signing a petition (see below)<sup>(458)</sup>.

The Council of Europe’s Commissioner for Human Rights, visiting Istanbul, Diyarbakır and Ankara in April 2016, expressed his deep concern about the deteriorating freedom of expression and press, pointing, amongst others, at the significant increase in the number of blocked websites and the takeover of newspapers and TV stations by trustees<sup>(459)</sup>.

Restrictions on freedom of speech can also impact academic freedom or the organisation of cultural events, as the US DoS notes. The YÖK (*Yüksek Öğretim Kurulu* – Turkish Higher Education Board) limits universities’ autonomy when recruiting or deciding on research policies and practice. Since April 2015, research on Syrian refugees requires prior approval<sup>(460)</sup>. Staff of 90 Turkish universities, calling themselves ‘Academics/Academians of Peace’, have been subject to disciplinary and criminal proceedings after demanding, in a petition dated 11 January 2016, an end to violence in the south-east. Altogether over 2000 academics had signed the petition. This even exposed them to physical attacks by right-wing groups such as the ‘Grey Wolves’<sup>(461)</sup>. According to human rights and press reports, three of these academics were jailed on 15 March 2016 and suspected of terrorist propaganda<sup>(462)</sup>.

### 5.2.2 Freedom of assembly and association

The constitution guarantees freedom of assembly and association (Turkish Civil Code, Law 4721, Law on Associations, Law 5253, and Law on Foundations, Law 5737) but the government can restrict these freedoms<sup>(463)</sup>.

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<sup>(456)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Enlargement strategy, COM(2015) 611 final, 10 November 2015, pp. 6, 28-30.

<sup>(457)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Enlargement strategy, COM(2015) 611 final, 10 November 2015, pp. 6, 28-30.

<sup>(458)</sup> EuroMed Rights and FIDH, High-Level Solidarity Mission to Turkey 20-24 January 2016, n.d., pp. 9-10.

<sup>(459)</sup> CoE, Turkey: security trumping human rights, free expression under threat, April 14, 2016.

<sup>(460)</sup> US DoS, Turkey 2015 Human Rights Report, 18 April 2016, p. 36.

<sup>(461)</sup> EuroMed Rights and FIDH, High-Level Solidarity Mission to Turkey 20-24 January 2016, n.d., p. 13; CoE, Turkey: security trumping human rights, free expression under threat, April 14, 2016.

<sup>(462)</sup> HRW, Turkey: Academics Jailed For Signing Petition, March 16, 2016; Guardian, (The), Turkey rounds up academics who signed petition denouncing attacks on Kurds, 15 January 2016.

<sup>(463)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, n.d.; EuroMed Rights and FIDH, High-Level Solidarity Mission to Turkey 20-24 January 2016, n.d., p. 14; US DoS, Turkey 2015 Human Rights Report, 18 April 2016, p. 37.

Associations and foundations may find obstacles when registering if they do not comply with rules relating to the official language, Turkish<sup>(464)</sup>. Some minority organisations are placed under direct supervision of a government body, the Directorate General of Foundations. Bureaucratic requirements when setting up an NGO can be difficult especially for smaller organisations. Some of these barriers are listed on the International Center for Not-for-Profit Law's website<sup>(465)</sup>.

The Internal Security Package, which came into force on 4 April 2015, increases the level of penalties for carrying items that can be used as weapons as well, prohibits the use of slogans and symbols linked to illegal organisations and criminalises the coverage of faces during protests. It also gives wide powers for police to search and seize property. People can be taken into protective custody and can be wiretapped under the law for up to 48 hours without judges' approval<sup>(466)</sup>.

The EC Communication 2015 noted: 'Civil society has remained active, growing in numbers and continuing to be involved in many spheres of public life, but restrictions to freedom of assembly remain a serious concern'<sup>(467)</sup>.

Investigations into the massive protests against the government and AKP in 2013 (the so-called *Gezi* protests) are still ongoing. As of October 2015, 6 146 people had been charged and 16 people convicted. Eight of them received six years and one month in prison and others fines of USD 25 600 in total. Taksim Solidarity Platform and Beşiktaş soccer team fan club, Çarşı, were two of the organisations that some of the prosecuted were affiliated with<sup>(468)</sup>.

Hundreds of Kurdish activists have been imprisoned and prosecuted under the 2012 anti-terror laws. The trials have been criticised by the Council of Europe and human rights groups which consider that the definition of terrorism has been interpreted too widely<sup>(469)</sup>. The EC Communication 2016 also underlined that 'anti-terror measures must be proportionate and respect human rights'<sup>(470)</sup>.

It is reported that the round-the-clock curfews imposed since the summer 2015 in several cities of south-eastern Turkey (some of which have been lasting around nine months at the time of writing) restrict people's ability to gather peacefully and in some cases forced people to leave the cities and districts they lived in<sup>(471)</sup>. The Council of Europe's Commissioner for Human Rights has questioned the legality of these curfews<sup>(472)</sup>.

In April 2016, President Erdoğan proposed that supporters of terrorism should be stripped of their citizenship. According to the President, this could include academics, journalists and

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<sup>(464)</sup> The ECHR recently found Turkey guilty for sentencing a politician, Semir Güzel, who had allowed the participants to his party's congress in January 2004 to speak Kurdish. ECHR, Case of Semir Güzel vs. Turkey (application N°29483/09), Judgment, 13 September 2016.

<sup>(465)</sup> CoE, How to prevent inappropriate restrictions on NGO activities in Europe? January 8, 2016, p. 18-19; International Center for Not-for-Profit Law, NGO Law Monitor: Turkey, December 17, 2015.

<sup>(466)</sup> Library of Congress, Turkey: Recent Developments in National and Public Security Law, last updated 30 November 2015; US DoS, 2015 Human Rights Report Turkey, 18 April 2016.

<sup>(467)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Enlargement strategy, COM(2015) 611 final, 10 November 2015, p. 10.

<sup>(468)</sup> US DoS, Turkey 2015 Human Rights Report, 18 April 2016, pp. 39-40.

<sup>(469)</sup> BBC, Profile: Kurdistan Workers' Party (PKK), July 27, 2015; Freedom House, Turkey: Proposal to Annul Citizenship Threatens Fundamental Rights, 6 April 2016.

<sup>(470)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 10.

<sup>(471)</sup> HRFT, Fact sheet on declared curfews between August 16, 2015 and April 20, 2016, 20 April 2016.

<sup>(472)</sup> CoE, Turkey: security trumping human rights, free expression under threat, 14 April 2016.

activists<sup>(473)</sup>. Freedom House expressed concern over the statement for its breach of fundamental rights<sup>(474)</sup>.

The EC Communication 2016 noted after the attempted coup (See also [6.1 The aftermath of the attempted coup](#)):

‘Civil society made what efforts it could to remain active and involved in public life. Independent civil society organisations are rarely involved in law- and policy-making processes. Some of their representatives, including human rights defenders, have been detained and there were credible claims of intimidation. A large number of organisations were closed as part of the post-coup measures taken by the government for alleged links to the Gülen movement’<sup>(475)</sup>.

### 5.3 Detention

According to the World Prison Brief, the total prison population (including pre-trial detainees/remand prisoners) was 187 609 as of 1 April 2016 (national prison administration)<sup>(476)</sup>. According to 2015 data, there were 362 prisons in Turkey<sup>(477)</sup>.

Several sources note a number of positive developments regarding prisons conditions, such as improved detention conditions and surveillance, efforts to prevent overcrowding by enhancing the prison capacity as well as the adoption of a probation system<sup>(478)</sup>.

There is no specific Ombudsman for prisons (see [3.4 The role of the Ombudsman](#)). The Turkish Government, in response to the list of issues prepared by the UN Committee against Torture (January 2015) specified that monitoring of prisons is conducted by a number of stakeholders (inspectors from the Ministry of Justice; officers from the General Directorate of Prisons and Detention Centres; chief public prosecutors, public prosecutors in charge of prisons) and bodies, including 136 monitoring boards, the Ombudsman’s Institution, and the National Human Rights Institution. Moreover, the Parliament’s Human Rights Investigation Commission (HRIC), and international treaty bodies can also visit and monitor prisons and detention centres<sup>(479)</sup>. During 2015, the HRIC had issued 30 reports on prison conditions<sup>(480)</sup>. Moreover, according to Turkish authorities, surveillance cameras have been installed in 97 per cent of detention facilities, in all the common areas, including interview rooms, while juvenile detention centres have been being equipped with individual self-locking cells and centrally monitored camera systems<sup>(481)</sup>.

Despite these positive developments, sources report a number of persistent concerns such as the insufficient monitoring of prisons, abuses against children in detention, and the condition

<sup>(473)</sup> Aljazeera, Erdoğan: Strip PKK supporters of Turkish nationality, 5 April 2016.

<sup>(474)</sup> Freedom House, Turkey: Proposal to Annul Citizenship Threatens Fundamental Rights, 6 April 2016.

<sup>(475)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM (2016) 715 final, 9 November 2016, p. 16.

<sup>(476)</sup> World Prison Brief, Overview, n.d.

<sup>(477)</sup> US DoS Report, Country Report on Human Rights for 2015, Turkey, 13 April 2016.

<sup>(478)</sup> UN, Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015; UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Turkey, 6 May 2015.

<sup>(479)</sup> UN CAT, Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure, Turkey, 26 January 2016.

<sup>(480)</sup> US DoS, Country Report on Human Rights for 2015, Turkey, 13 April 2016.

<sup>(481)</sup> UN CAT, Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure, Turkey, 26 January 2016.

of prisoners with serious health problems and disabilities <sup>(482)</sup>. In its 2015 report, the US DoS noted that '[p]rison facilities remained inadequate and did not meet international standards'. Underfunding, lack of access to adequate health care, and overcrowding in some prisons were identified as persistent problems <sup>(483)</sup>. Torture, ill treatment, including in juvenile prisons, and acts of sexual violence in prisons have also been reported <sup>(484)</sup>.

On 22 March 2016, the ECHR fined Turkey for severe violations of human rights during a police operation in 2000 at the Bayrampasa prison of Istanbul after a number of hunger strikes by prisoners. During the police operation 12 prisoners were killed and 50 wounded <sup>(485)</sup>.

Human rights organisations, such as Amnesty International, Human Rights Watch and FIDH reported a rise in cases of ill treatment in detention in the context of police or military operations against the PKK <sup>(486)</sup>. The US DoS noted that 'detainees often refrained from reporting torture and abuse because they feared retaliation or believed complaining to authorities would be futile' <sup>(487)</sup>. The UN Special Rapporteur noted, in May 2015, that deaths in custody continued to occur, the majority after instances of torture or ill treatment <sup>(488)</sup>.

According to the US DoS, the '[Turkish] Ministry of Justice reported that during the first eight months of the year [2015], 249 prison inmates and 33 pretrial detainees died of what appeared to be natural causes. Through July a total of 29 prison inmates or detainees committed suicide' <sup>(489)</sup>. Concerns were particularly expressed on the operation of surveillance cameras, and on the availability of footage <sup>(490)</sup>. The Turkish NGO 'Human Rights Foundation of Turkey (HRFT) does not consider the National Human Rights Institution of Turkey (TNHRI) <sup>(491)</sup>, established as a national preventive mechanism, to be sufficiently independent <sup>(492)</sup>.

In its Alternative Report to the UN Committee Against Torture (CAT) of March 2016, HRFT raised attention to increased cases of torture or ill treatment in unofficial places of detention. While the Government of Turkey had indicated that necessary steps were taken to tackle this issue, HRFT reported that, on the contrary, the Internal Security Package had contributed to

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<sup>(482)</sup> UN, Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

<sup>(483)</sup> US DoS, Country Report on Human Rights for 2015, Turkey, 13 April 2016.

<sup>(484)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Turkey, 6 May 2015; HRFT, Alternative Report to the United Nations Committee Against Torture For Its Consideration of the 4th Periodic Report of Turkey, March 2016; US DoS, Country Report on Human Rights for 2015, Turkey, 13 April 2016.

<sup>(485)</sup> Hürriyet Daily News, ECHR fines Turkey 133,000 euros over 2000 prison operation, 22 March 2016

<sup>(486)</sup> AI, AI Report 2015/16 - Turkey, 24 February 2016; Human Rights Watch, World Report 2016 - Turkey, 27 January 2016; FIDH, Turkey: Rights groups strongly condemn escalating violence and human rights violations in counter-terrorism operations, 22 September 2015; FIDH, EuroMed Rights: High-Level Solidarity Mission to Turkey - 20-24 January 2016, February 2016; IHD, Human Right Violations in Prisons in 2015 and List of Sick Prisoners, 7 March 2016.

<sup>(487)</sup> US DoS, Country Report on Human Rights for 2015, Turkey, 13 April 2016.

<sup>(488)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Turkey, 6 May 2015.

<sup>(489)</sup> US DoS, Country Report on Human Rights for 2015, Turkey, 13 April 2016.

<sup>(490)</sup> UN CAT, Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure, Turkey, 26 January 2016.

<sup>(491)</sup> The Human Rights Institution of Turkey (in Turkish Türkiye İnsan Hakları ve Eşitlik Kurumu) has been established by Law 6332 on 21 June 2012. According to its website (<http://www.tihk.gov.tr/>): "The Institution is official and authorized to make studies on the protection and development of human rights, on the prevention of violations; to struggle against torture and ill-treatment; to investigate complaints and applications and to follow their results; to take action in the direction of solving the problems; to carry out training activities for this purpose; to carry out researches and examinations with the purpose of following and assessing the developments in the field of human rights". TIHK, About the Institution, n.d.

<sup>(492)</sup> HRFT, Alternative Report to the United Nations Committee Against Torture For Its Consideration of the 4th Periodic Report of Turkey, March 2016.



legitimise unofficial places of detention by broadening the powers of law enforcement officials with no judicial review <sup>(493)</sup>.

The UN CAT in its Concluding observations (2 June 2016) noted:

‘While welcoming the efforts made by the State party to improve conditions of detention in prisons, the Committee is concerned that overcrowding and inadequate health-care services remain a problem in the prison system and that the State party has taken insufficient measures to mitigate the dramatic increase in its prison population through the use of alternative measures to deprivation of liberty’<sup>(494)</sup>.

The UN CAT recommended, amongst others, to

‘alleviate the overcrowding of penitentiary institutions (..), ensure that all persons deprived of their liberty receive timely and appropriate medical treatment; ensure independent and prompt investigations into allegations of deliberate denial of health care to persons deprived of their liberty and ensure that any prison officials responsible for such conduct are subject to prosecution or disciplinary action; Bring its legislation and practice on solitary confinement into line with international standards’ <sup>(495)</sup>.

The Human Rights Commission of the Parliament concluded in a report dated 23 March 2016 that Turkish prisons are overfull, due to a recent large influx of prisoners <sup>(496)</sup>.

The attempted coup and the state of emergency has aggravated the situation in prisons as tens of thousands of people accused of links with terrorism were arrested. The EC Communication 2016 expressed its concern on the extension of the pre-trial detention to 30 days without access to a judge, which is against ECtHR case law <sup>(497)</sup>.

On 15 September 2016, the Justice Ministry announced that 174 prisons will be built during the next five years in order ‘to meet the unanticipated increase in the number of convicts’ following the overcrowding in jails caused by the large number of arrests that followed the failed 15 July coup. This measure will increase capacity by 100 182 convicts <sup>(498)</sup>. In the meantime, the authorities decided to release 38 000 prisoners, to make space for the tens of thousands of arrests <sup>(499)</sup> (see further [6.2 The Aftermath of the attempted military coup](#)).

## 5.4 Specific groups

### 5.4.1 Ethnic and religious (minority) groups

On the basis of the Lausanne Treaty (1923) that established the newly Turkish modern State after the War of Independence, Turkey recognises only some non-Muslims as minorities (i.e.,

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<sup>(493)</sup> HRFT pointed out that many incidents of torture/ill treatment in unofficial places of detention were reported in places under curfew, in the south-east, such as in the sports hall of Silopi where, in early 2016, more than hundred persons were detained, amongst whom many young people who were exposed to torture. HRFT, Alternative Report to the United Nations Committee Against Torture For Its Consideration of the 4<sup>th</sup> Periodic Report of Turkey, March 2016.

<sup>(494)</sup> UN CAT, Concluding observations on the fourth periodic reports of Turkey\*, CAT/C/TUR/CO/4, 2 June 2016.

<sup>(495)</sup> UN CAT, Concluding observations on the fourth periodic reports of Turkey\*, CAT/C/TUR/CO/4, 2 June 2016.

<sup>(496)</sup> Hürriyet Daily News, Number of inmates exceeds prison capacity in Turkey, report shows, 23 March 2016; Hürriyet Daily News, Prisons in Turkey run over capacity as prisoner population on sharp rise, 1 March 2016.

<sup>(497)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. \*\*.

<sup>(498)</sup> Hürriyet Daily News, 174 jails to be built in Turkey, 15 September 2016

<sup>(499)</sup> Al Jazeera, Turkey frees prisoners to make room for coup detainees, 2 September 2016.

Armenian Orthodox Christians, Jews and Greek Orthodox Christians), excluding different cultural and ethnic groups<sup>(500)</sup>.

A recent positive development is the adoption by the parliament on 6 April 2016 of the Law on Human Rights and Equality Institution, addressing *inter alia* the discrimination on ethnic and racial grounds. The law prohibits discrimination on grounds of gender, race, colour, language, religion, belief, philosophical or political opinion, ethnic origin, property, birth marital status, medical condition, disability and age<sup>(501)</sup>. However, as the EC Communication 2016 noted: 'A legal vacuum exists on human rights cases as the new National Human Rights and Equality institution has not yet been established. The rights of the most vulnerable groups and of persons belonging to minorities should be sufficiently protected. Gender-based violence, discrimination, hate speech against minorities, hate crime and violations of human rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons continue to be a source of a serious concern'<sup>(502)</sup>.

Sources report that minorities, such as Assyrians, Caferis, Yezidis, Kurds, Arabs, Roma, Circassians, and Laz, are not permitted to fully exercise their social, economic, linguistic, religious, and cultural rights<sup>(503)</sup>.

The law nonetheless allows private institutions to provide education in languages and dialects that citizens use in their daily lives under certain conditions<sup>(504)</sup>.

## Ethnic groups

### *Kurds*

It is important to observe that generally Kurds do not claim a minority status because they participated in the War of Independence (1919-1922) and consider themselves as co-founders and co-owners of the Republic of Turkey. They prefer to support the project of a civilian constitution protecting their difference and increasing a democratic atmosphere within the state and society<sup>(505)</sup>. Moreover, as Kurds are generally Muslim, they are not considered 'minority' as defined in the Lausanne Treaty (see above).

The estimated percentages of Kurds as part of the total Turkish population vary between 10 and 32 %<sup>(506)</sup>. CIA World Factbook estimates the Turkish citizens of Kurdish origin at 18 % of a total population of 79.4 million, which makes about 14.1 million Kurds. The US DoS estimates the Kurds at more than 15 million (but no official statistics exist)<sup>(507)</sup>.

In recent years, Turkish authorities engaged in reforms to enhance Kurdish rights<sup>(508)</sup>. Kurdish is officially allowed in private education and public discourse, and at least three universities

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<sup>(500)</sup> Minority Rights Group International, Turkey, n.d.; Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

<sup>(501)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, 18 October 1982, art. 10...

<sup>(502)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 17.

<sup>(503)</sup> UN Committee on the Elimination of Racial Discrimination (CERD), 11 December 2015; US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(504)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(505)</sup> Alparslan ÖZERDEM and Füsün ÖZERDEM, Human Security in Turkey: Challenges for the 21<sup>st</sup> century, New York, Routledge, 2013, p.39.

<sup>(506)</sup> Minority Rights Group International, Kurds, n.d.

<sup>(507)</sup> CIA, World Factbook – Turkey, last updated 20 June 2016; US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(508)</sup> Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016.

provided Kurdish language programs<sup>(509)</sup>. The Universal Periodic Review (UPR)<sup>(510)</sup> of Turkey (2015) notes ‘observable improvement in the freedom of assembly of Kurdish celebrations, including *Newroz*’<sup>(511)</sup>.

Yet, various sources observe that the breakdown of the ceasefire has led to a deterioration of the situation for Kurds, particularly in the south-east, an area overwhelmingly Kurdish in composition. Military operations, and associated curfews, cuts in water and electricity, restricted access to medical care have impacted the life of Kurdish communities in this region<sup>(512)</sup>.

In December 2015, the UN warned that:

‘in the context of fight against terrorism, the enforcement of anti-terror legislation and security-oriented policies have reportedly resulted in racial profiling of members of the Kurdish community. Such legislation has been applied to curtail the exercise of the right to freedom of expression and association and led to undue arrests, detentions and prosecutions of Kurds’<sup>(513)</sup>.

Politically active Kurds, but also Kurdish business owners, and unarmed Kurds alleged to have links with PKK have been targeted. Waves of detentions took place after the reignition of the conflict in July 2015<sup>(514)</sup>.

### **Roma**

Existing figures vary significantly on the number of Roma in Turkey, with some sources estimating the figure to 500 000, and others between 2 and 5 million Roma<sup>(515)</sup>.

Roma are not mentioned in the Turkish constitution as an ethnic minority and should benefit from the same rights as Turkish citizens<sup>(516)</sup>.

In 2014, the government drafted an action plan to improve the life of this community, including increased vocational training, business and educational incentives, employment opportunities and the organisation of Romani committees to monitor these actions<sup>(517)</sup>.

More recently, on 26 April 2016, the government adopted the National strategy and an action plan addressing key obstacles to the social inclusion of the Turkish population with Roma and Roma-like background<sup>(518)</sup>.

While noting the various measures taken by Turkey to improve the situation of Roma, the UN Committee on the Elimination of Racial Discrimination notes, in December 2015, that ‘[i]t remains concerned at the persistence of discrimination, stereotypes and prejudices against

<sup>(509)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(510)</sup> The UPR is a process which involves a review of the human rights records of all UN Member States. The UPR is a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations. UN Human Rights Office of the High Commissioner, Universal Periodic Review, n.d.

<sup>(511)</sup> UN, Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

<sup>(512)</sup> FIDH, EuroMed Rights, High-Level Solidarity Mission to Turkey; 20-24 January 2016, February 2016; US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(513)</sup> UN CERD, Concluding observations on the fourth to sixth periodic reports of Turkey, 11 December 2015.

<sup>(514)</sup> Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016; US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(515)</sup> EC, Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap, 4 May 2016; US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(516)</sup> EC, Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap, 4 May 2016.

<sup>(517)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(518)</sup> EC, Third report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap, 4 May 2016.

Roma, including attacks, such as those which occurred in Selendi, Bursa and Iznik, in 2010 and 2013, respectively' <sup>(519)</sup>. According to the US DoS report for 2015, Roma communities also reported being subject to disproportionate police violence <sup>(520)</sup>.

Discrimination persists in social and economic life and in accessing employment and quality education. Amongst Roma children, school absenteeism is high and child labour and early marriages constitute major problems <sup>(521)</sup>.

**Representatives from ethnic minorities (Roma, Yezidi, Armenian, Syriac and Mhallami) were elected in the 2015 parliamentary elections and confirmed as MPs in the general elections on 1 November 2015 <sup>(522)</sup>. Religious minorities**

The constitution provides for freedom of belief, worship and the private dissemination of religious ideas, and prohibits discrimination on religious grounds <sup>(523)</sup>. The US Commission on International Religious Freedom (USCIRF) notes several positive developments during the reporting period (2015) relating to minority property returns and public minority religious celebrations <sup>(524)</sup>.

The USCIRF, in its 2015 report, raises several concerns in regard to religious freedom, amongst which the listing of religious affiliation on national identity cards, societal discrimination and anti-Semitism. The organisation also underlines that the recent deterioration of the security and human rights situation has had 'troubling implications for freedom of religion or belief in Turkey' <sup>(525)</sup>. Based on persistent limitations of religious freedom, USCIRF again places Turkey on Tier 2 in its 2016 report <sup>(526)</sup>. The US DOS report (2015) highlights similar issues as the USCIRF, and provides additional areas of concerns, such as the compulsory religious education classes in public primary and secondary schools, threats against Turkey's small Protestant community, and denials of access to religious sites in the Turkish-occupied northern part of Cyprus <sup>(527)</sup>.

### **Alevi**

Alevi, according to Minority Rights Group International, is the term used for:

'(...) a large number of heterodox Muslim Shi'a communities with different characteristics. Thus, Alevi constitute the largest religious minority in Turkey. Technically they fall under the Shi'a denomination of Islam, yet they follow a fundamentally different interpretation than the Shi'a communities in other countries. They also differ considerably from the Sunni Muslim majority in their practice and interpretation of Islam' <sup>(528)</sup>.

Estimations of the number of Alevi vary between 10 and 40 per cent of Turkey's total population <sup>(529)</sup>. It is the second largest faith in terms of number of followers.

<sup>(519)</sup> UN CERD, Concluding observations on the fourth to sixth periodic reports of Turkey, 11 December 2015.

<sup>(520)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(521)</sup> US DoS, Country Reports on Human Rights Practices for 2014 - Turkey, 25 June 2015.

<sup>(522)</sup> Hürriyet Daily News, Minority MPs preserve seats in Nov 1 election, 2 November 2015.

<sup>(523)</sup> US CIRF, Annual Report 2015 - Tier 2: Turkey, 1 May 2015. However, Freedom House considers that 'critics charge that the AKP has a religious agenda favouring Sunni Muslims evidenced by the expansion of the Directorate of Religious Affairs and the alleged use of this institution for political patronage and to deliver government-friendly sermons in mosques'. Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016.

<sup>(524)</sup> US CIRF, Annual Report 2015 - Tier 2: Turkey, 1 May 2015.

<sup>(525)</sup> US CIRF, Annual Report 2015 - Tier 2: Turkey, 1 May 2015.

<sup>(526)</sup> US CIRF Annual Report 2016 - Tier 2 countries - Turkey, 2 May 2016.

<sup>(527)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(528)</sup> Minority Rights Group International, Alevi, n.d.

<sup>(529)</sup> Minority Rights Group International, Alevi, n.d.; US CIRF, Annual Report 2015 - Tier 2: Turkey, 1 May 2015.

Most Alevis, according to information from Minority Rights Group International, are either of Kizilbash (rural and claiming religious identity by birth) or Bektashi (urban and claiming that membership is open to any Muslim) origin. The religious beliefs of both groups are, however, similar. Linguistically, the Alevis consist of four groups: Azerbaijani Turkish, Arabic, Turkish and Kurdish (both Kurmanci and Zaza). The last two categories constitute the largest Alevi groups <sup>(530)</sup>.

Again according to Minority Rights Group International, Alevis differ from Sunni Muslims in four ways: 'they do not fast in Ramadan but do during the Ten Days of Muharram (the Shiite commemoration of Imam Husayn's martyrdom); they do not prostrate themselves during prayer; they do not have mosques; and do not have obligatory formal almsgiving, although they have a strong principle of mutual assistance' <sup>(531)</sup>.

Politically, many Alevis support the main opposition party, the secular, Kemalist Republican People's Party (CHP) whose leader, Kemal Kilicdaroglu, is an Alevi <sup>(532)</sup>.

Alevis have suffered from a number of human rights violations:

- Massacres of Alevis have taken place in various periods, by Turkish forces in Dersim in 1938 <sup>(533)</sup> and by nationalist groups such as Grey Wolves and others at least five times since 1978 <sup>(534)</sup>.
- Their gathering houses (*cem*, pl. *cemevis*) have no legal status as places of worship, and permissions to build a *cem* house are often denied. The Directorate of Religious Affairs (*Diyanet*) which oversees Muslim religious facilities and education has ruled in several occasions that Alevis did not need *cemevis* because they could worship at a local mosque. In another case it stated that *cemevis* violated Islamic principles and the law <sup>(535)</sup>.

In December 2015, in response to a ruling by the ECHR <sup>(536)</sup>, the government announced a plan to grant full legal status to Alevi houses of worships but implementation has been lacking <sup>(537)</sup>. In April 2016, the European Court of Human Rights ruled that Turkey's refusal to provide a public service to followers of the Alevi faith breached their right to freedom of religion. The court held that the Alevi applicants 'were subjected to a difference in treatment for which there was no objective and reasonable justification' <sup>(538)</sup>. The ECHR has given several earlier rulings on Alevi complaints <sup>(539)</sup>.

- Religious education, compulsory at primary and secondary school, is predominantly focused on Sunni Islam and discriminates non-Sunni minorities. Christian and Jewish students are exempt from the religious classes but the Alevis are not <sup>(540)</sup>.
- Not only are their religious rights not respected, the Alevi suffer from discrimination by society as well, according to several sources cited by the Immigration and Refugee Board of Canada (IRB). In its note on the situation of Alevis of Turkey (July 2015).

<sup>(530)</sup> Minority Rights Group International, Alevis, n.d.

<sup>(531)</sup> Minority Rights Group International, Alevis, n.d.

<sup>(532)</sup> IRB (Immigration and Refugee Board of Canada), Turkey: Situation of Alevis, including political and religious rights; treatment of Alevis by society and authorities; state protection (June 2012-May 2015).

<sup>(533)</sup> Al Jazeera, Turkey's Alevis beholden to politics, 18 December 2014.

<sup>(534)</sup> The Clarion Project, Minority Massacres in Turkey: Alevis Threatened, 29 June 2016.

<sup>(535)</sup> Minority Rights Group International, Alevis, n.d.

<sup>(536)</sup> Al Jazeera, Turkey 'guilty of religious discrimination', 4 December 2014.

<sup>(537)</sup> Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016; Al Jazeera, Turkey's Alevis beholden to politics, 18 December 2014.

<sup>(538)</sup> CoE, Turkey: Court rules freedom of religion breach in Alevi faith complaint, 26 April 2016.

<sup>(539)</sup> Al Jazeera, Turkey 'guilty of religious discrimination', 4 December 2014.

<sup>(540)</sup> Minority Rights Group International, Alevis, n.d..

sources indicate that discrimination against Alevis has increased since the civil war in Syria started in 2011<sup>(541)</sup>. On the other hand, the IRB highlights various local governmental initiatives that support and recognise Alevi communities and *cemevi*, establish a museum for the 1938 massacre, and rename institutions to Alevi important figures.

- In June 2015, Alevi homes in the provinces of Elazığ and Kocaeli were covered with paint. Behzat Hazır, head of the Elazığ Human Rights Association's (İHD) branch, called on people to remain calm as the tagging was intended to create 'an environment of fear and panic, making people anxious and deepening the religious discrimination'<sup>(542)</sup>.
- It is reported that in the aftermath of the attempted coup of 15 July 2016, AKP supporters provocatively marched into Alevi neighbourhoods in Malatya province and started fights. Police fired in the air to disperse the crowd and CHP deputy head called for calm<sup>(543)</sup>. Alevis are alarmed by the marking of their houses with red ink; in previous times this was a precursor of massacres<sup>(544)</sup>.

#### 5.4.2 Journalists and media

Numerous sources raise concerns about the situation of journalists in Turkey, in the aftermath of the 2015 elections. The breakdown of the Kurdish ceasefire and the pervasion of the Syrian conflict in Turkish internal affairs, are also considered to have increased the pressure on the media, and journalists in particular.

As noted earlier (see [5.2.1 Freedom of speech](#)) the EC Communication 2016 reported a 'serious backsliding in the past year in the area of freedom of expression'. The EC expressed its concern about 'ongoing and new criminal cases against journalists, writers or social media users, withdrawal of accreditations, high numbers of arrests of journalists as well as closure of numerous media outlets in the aftermath of the July attempted coup'<sup>(545)</sup>.

In 2016, Turkey was ranked 151<sup>th</sup> out of 180 countries in the RSF's World Press Freedom Index, two places lower than the previous year<sup>(546)</sup>. Turkey's media is increasingly harassed, censored and accused of terrorism, according to RSF. The organisation notes a growing concentration of media in the hands of pro-government individuals, and increased control of the state on the internet<sup>(547)</sup>. RSF further reports that Turkey was responsible for more than

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<sup>(541)</sup> IRB, Turkey: Situation of Alevis, including political and religious rights; treatment of Alevis by society and authorities; state protection (June 2012-May 2015), TUR105167.E, 12 July 2015.

<sup>(542)</sup> Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2016 - Turkey, 12 July 2016.

<sup>(543)</sup> Hürriyet, Tension rises in eastern Turkish province amid reports of march on Alevi neighborhoods, 18 July 2016.

<sup>(544)</sup> The Clarion Project, Minority Massacres in Turkey: Alevis Threatened, 29 June 2016; IRB, Turkey: Situation of Alevis, including political and religious rights; treatment of Alevis by society and authorities; state protection (June 2012-May 2015), TUR105167.E, 12 July 2015; Hürriyet, Tension rises in eastern Turkish province amid reports of march on Alevi neighborhoods, 18 July 2016.

<sup>(545)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 17.

<sup>(546)</sup> RSF, World Press Freedom Index 2016, Turkey, n.d.

<sup>(547)</sup> RSF noted: 'President Recep Tayyip Erdoğan has embarked on an offensive against Turkey's media. Journalists are harassed, many have been accused of "insulting the president"'. RSF, Erdoğan against the media, n.d..

two thirds of the requests to Twitter to remove content, while Freedom House estimates at 100 000 the number of websites blocked by the end of 2015 <sup>(548)</sup>.

The US DoS 2015 report notes that the government resorted to censorship, adding new events on which media coverage was restricted, such as the Kiraz's prosecutor death (March 2015), the scandal linked to the arms delivery to Syria, and the bomb attacks of July and October 2015. Newspapers, books, magazines and bulletins have been banned, confiscated or taken from sale or distribution in 2015. Books of authors whose work was found in the possession of PKK members were pulled from bookstores <sup>(549)</sup>.

From the second half of the year 2015 onwards, many cases of arrested and detained journalists have been reported, most commonly on charges of terrorism or insults to the President, as well as a number of police raids, media closure or changes in management <sup>(550)</sup>. In November 2015, RSF estimated that already 30 journalists had been placed under investigation for 'terrorist propaganda' or 'insulting the president' <sup>(551)</sup>. The Committee to Project Journalists (CPJ) estimated that 17 journalists were detained as of 22 December 2015 <sup>(552)</sup> while the Turkish Union of Journalists estimated this number at 32. The government however contested this figure, indicating that only 4 of the 32 journalists listed by this union carried press accreditation from the government, and another 4 had already been released from jail <sup>(553)</sup>. Media and journalists linked to Fethullah Gülen have been particularly targeted. On 6 September 2016, two journalists have been acquitted in the framework of Erdogan's decision to drop cases on allegation of insulting the president (see also [5.2.1 Freedom of speech](#) and [6.2 The aftermath of the attempted coup](#)).

Below is a (non exhaustive) list of incidents illustrating the increasingly difficult context in which Turkish journalists are considered to be working in, especially since the year 2015:

In March or April 2015, charges were brought against the *Cumhuriyet* journalist Can Dündar, and 17 other journalists, for using a photo of a prosecutor being held hostage (and finally killed) by the DHKP-C, a small ultra-leftist group (see [4.2.5 Revolutionary People's Liberation Party-Front, DHKP-C](#)). Later in the year, the charges were dropped <sup>(554)</sup>.

In September 2015, Ahmet Hakan, a *Hürriyet* journalist, was attacked and beaten by four men who followed his car <sup>(555)</sup>. On 7 September 2015, more than one hundred persons included a deputy of AKP attacked the Istanbul office of the *Hürriyet* newspaper <sup>(556)</sup>. In October 2015, the media group linked to Gülen was raided by the police following a court ruling for its seizure <sup>(557)</sup>.

One month later, two journalists of the weekly *Nokta* were arrested on suspicion of 'inciting criminal activity' for publishing the headline 'Monday 2 November, start of civil war in Turkey' <sup>(558)</sup>.

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<sup>(548)</sup> RSF, Turkey continues to muzzle democracy's watchdogs, 13 November 2015; Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016.

<sup>(549)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(550)</sup> RSF, Timeline of censorship in Turkey, 9 November 2015; RSF, World Press Freedom Index 2016, Turkey, n.d.; Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016.

<sup>(551)</sup> RSF, Turkey continues to muzzle democracy's watchdogs, 13 November 2015.

<sup>(552)</sup> CPJ, Turkey press crackdown continues with arrests of three pro-Kurdish journalists, 22 December 2015..

<sup>(553)</sup> US DOS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016

<sup>(554)</sup> RSF, Turkey - Free Can Dündar and Erdem Gül, held for the past month!, 25 December 2015. US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016

<sup>(555)</sup> HRW, World Report 2016 - Turkey, 27 January 2016.

<sup>(556)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016

<sup>(557)</sup> BBC News, Turkish police raid Istanbul media group Koza-Ipek, 28 October 2015.

<sup>(558)</sup> RSF, Timeline of censorship in Turkey, 9 November 2015.

In November 2015 again, the *Cumhuriyet* journalists Can Dündar and Erdem Gül were arrested and detained for publishing an article, in May, on the delivery of arms to rebels in Syria by the Turkish intelligence services<sup>(559)</sup>. Released in February 2016, the two journalists went on trial, in March 2016, on charges of obtaining and revealing state secrets for the purpose of espionage, attempting to overthrow the government and aiding a terrorist organisation<sup>(560)</sup>. On 6 May 2016, the court sentenced Gül to five years in jail, while Dündar received five years and 10 months, but both were acquitted of the more serious charge of espionage, which could have carried with it a life sentence. Shortly before the verdict, a gunman attempted to kill Mr Dündar who escaped unharmed<sup>(561)</sup>. After the coup attempt of 15 July and the following measures, Dündar decided to stay out of Turkey announcing that he would not surrender himself to the Turkish courts because he had lost faith in his country's judiciary. But in September 2016, Dilek Dündar, wife of the former chief editor of the daily newspaper *Cumhuriyet*, was banned to fly to Germany to join her husband while her passport was seized<sup>(562)</sup>.

Throughout 2015 and 2016, many civilians, including journalists (alongside politicians, students, scholars, artists, and even an ex-Miss Turkey) have been charged for insulting the President or Prime Minister, the state, or for being part of anti-government plots, being members of an illegal political group or for trying to influence the judiciary<sup>(563)</sup>. One lawyer was sentenced for 18 months (suspended) for insulting the President. An investigation was launched against 58 persons, amongst whom journalists, musicians and actors for criticising the state-run Anadolu Agency<sup>(564)</sup>. According to the Council of Europe's Human Rights Commissioner, by April 2016 there have been 1 845 criminal proceedings for insulting the President<sup>(565)</sup>. However, after the 15 July 2016 attempted coup, 'as a sign of solidarity and unity', Recep Tayyip Erdoğan decided to withdraw all insult cases. As a result people probed for insulting the President (more than 10 people) were released<sup>(566)</sup>.

In March 2016, the government seized the Feza media group, including the country's largest circulation newspaper, *Zaman*, and took control of the Cihra private news agency due to its link with supporters of Fethullah Gulen<sup>(567)</sup>.

In a March 2016 letter to the President, the CPJ alerts that '[p]ress freedom in Turkey "is under siege" with increasing numbers of journalists in jail, violence against journalists on the rise, and critical news outlets officially harassed or obstructed'<sup>(568)</sup>.

The Council of Europe's Commissioner for Human Rights has shown concern about the government's crackdown on media<sup>(569)</sup>. After his nine-day visit to Turkey in April 2016, the Commissioner called the takeover of newspapers and TV stations by trustees 'a very dangerous precedent', adding that 'by law, these trustees are supposed to safeguard assets,

<sup>(559)</sup> RSF, Turkey - Free Can Dündar and Erdem Gül, held for the past month!, 25 December 2015.

<sup>(560)</sup> HRW, Turkey: Journalism on Trial, 25 March 2016; BBC News, Turkish journalists face life in jail over Syria report, 27 January 2016; BBC News, Turkey journalists freed from prison after court ruling, 26 February 2016.

<sup>(561)</sup> BBC, Turkey jails *Cumhuriyet* journalists Can Dündar and Erdem Gül, 6 May 2016.

<sup>(562)</sup> *Hürriyet Daily News*, Former *Cumhuriyet* editor Dündar says wife banned from leaving Turkey, 3 September 2016.

<sup>(563)</sup> *Hürriyet Daily News*, Article on insulting the president 'must change', 16 March 2016.

<sup>(564)</sup> US DoS, Turkey 2015 Human Rights Report, 18 April 2016, pp. 25-26, 28-29.

<sup>(565)</sup> CoE, Turkey: security trumping human rights, free expression under threat, 14 April 2016.

<sup>(566)</sup> *Hürriyet Daily News*, All released in 'insulting president' cases after Erdoğan pulled back complaints, 6 September 2016

<sup>(567)</sup> RFE/RL, Turkey's government seizes private news agency Cihan, 11 April 2016; UN, Turkey/Freedom of expression, UN expert raises alarm at government seizure of independent media group, 8 March 2016.

<sup>(568)</sup> CPJ, CPJ writes to Turkish PM Ahmet Davutoğlu to protest takeover of Feza media group, 8 March 2016.

<sup>(569)</sup> CoE, Commissioner Muižnieks deplores new case of judicial harassment against media in Turkey, 4 March 2016.



but they changed editorial policy, causing the loss of readership and ruining the market value of the companies. This is an extremely worrying precedent which has already done irreparable harm to media freedom and pluralism in Turkey, even before a final court judgment' <sup>(570)</sup>.

In June 2016, Erol Önderoğlu, the Turkey representative of Reporters Without Borders (RSF) and journalist at *Bianet*, Sebnem Korur Fincancı, an academic, columnist, and president of the Human Rights Foundation of Turkey, and Ahmet Nesin (journalist and author) were arrested (20 June) and detained for participating in a campaign in support of Kurdish media outlets. They were subsequently released (30 June) but face trial on terrorism charges <sup>(571)</sup>.

In August 2016, after police raided the pro-Kurdish daily *Özgür Gündem*, a court of Istanbul arrested Turkish prize-winning novelist and journalist Aslı Erdoğan with other employees of the newspaper over alleged links with terrorist organisations. While the Justice Ministry officially denied this, Aslı Erdoğan claimed she has been mistreated in jail <sup>(572)</sup>. Later, after other arrests of famous journalists, such as Ahmet Altan and his brother Mehmet Altan, 40 prominent thinkers around the world including Turkish Nobel Prize winner Orhan Pamuk urged Turkey's Government, in an open letter released on 11 September 2016, to stop the 'persecution' of the country's own intellectuals <sup>(573)</sup>.

For more information on the impact of the failed coup of July 2016 on the media, see [6.2 The aftermath of the attempted coup](#).

### 5.4.3 Human rights and peace defenders

Freedom of association and assembly are protected in the constitution (Turkish Civil Code, Law 4721, Law on Associations, Law 5253, and Law on Foundations, Law 5737) although the government can restrict these freedoms <sup>(574)</sup> (See [5.2.1 Freedom of speech](#)).

The law allows the government to deny the right to strike for any situation it determines a threat to public health or national security. The government maintained a number of restrictions on the right of association and collective negotiations. The law requires unions to notify government officials prior to holding meetings or rallies, which they must hold in officially designated areas, and allow government representatives to attend their conventions and record the proceedings <sup>(575)</sup>.

As mentioned in [2.4 Civil Society](#), Turkey has an active and growing NGO sector, involved in many spheres of public life <sup>(576)</sup>. As of mid-2015, however, sources report that many human rights and peaceful activists, lawyers, university academics and researchers, as well as doctors advocating for a peaceful resolution of the Kurdish conflict, have been targeted on the ground of anti-terrorist legislation following renewed violence in the south-east <sup>(577)</sup>. Members of the Human Rights Association (*İnsan Hakları Derneği* / IHD, also HRA) have been particularly

<sup>(570)</sup> CoE, Turkey: security trumping human rights, free expression under threat, April 14, 2016

<sup>(571)</sup> CPJ, Turkey releases journalist, press freedom advocate, 30 June 2016; Article 19, Turkey: Activists and journalists charged with terrorism, 20 June 2016.

<sup>(572)</sup> Hürriyet Daily News, Arrested Turkish novelist Aslı Erdoğan mistreated in prison during arrest, 25 August 2016.

<sup>(573)</sup> Hürriyet Daily News, Prominent Thinkers urge Turkey to end writers 'withch hunt', 12 September 2016

<sup>(574)</sup> Republic of Turkey (The), Constitution of the Republic of Turkey, n.d.; EuroMed Rights and FIDH, High-Level Solidarity Mission to Turkey 20-24 January 2016, n.d., p. 14; US DOS, Turkey 2015 Human Rights Report, 18 April 2016, p. 37.

<sup>(575)</sup> US DoS, Country Report on Human Rights Practices 2015 - Turkey, 13 April 2016

<sup>(576)</sup> Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016.

<sup>(577)</sup> CoE - Parliamentary Assembly, Strengthening the protection and role of human rights defenders in CoE member States, 11 January 2016; US DOS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

targeted<sup>(578)</sup>. In this context, according to the US DOS report for 2015 ‘... official human rights mechanisms did not function consistently and failed to address grave violations’, while ‘at times lawyers were detained when they attempted to intervene on behalf of protesters’<sup>(579)</sup>.

In many demonstrations, large numbers of riot police are reportedly using excessive force to quell protests, in some cases leading to detentions (including of children), arrests, deaths, and injuries<sup>(580)</sup>. Restrictions of the freedom of assembly have been criticised by human rights organisations<sup>(581)</sup>.

After his nine-day visit to Turkey in April 2016, the Council of Europe’s Commissioner for Human Rights expressed his deep concern about the situation of human rights defenders and lawyers, in particular ‘stigmatizing rhetoric, smear campaigns and ongoing investigations against them’. He adds: ‘In a context where there is a lot of misinformation, manipulation and conflicting opinions, in particular as to what happened during the curfews, a transparent judicial process which relies on human rights defenders is the main hope for establishing the truth and obtaining redress’. He further referred to political attacks against NGOs as ‘a very disturbing development’<sup>(582)</sup>.

In September 2015, a police operation was launched against NGOs operating in the south-east, including the Siirt provincial branch of the Human Rights Association (İHD/HRA), and resulted in the arrest and detention of several members of this organisation<sup>(583)</sup>.

In January 2016, after signing a statement denouncing state violence on Kurdish provinces, 1 000 academics were targeted by an anti-terrorism police operation. 20 of them were then arrested and detained<sup>(584)</sup>. In February 2016, 49 individuals were arrested and subsequently released after their participation in a press conference organised by the Izmir Peace Block to protest against human rights violations in Cizre<sup>(585)</sup>.

In March 2016, several lawyers, members of the Association of Lawyers for Freedom were arrested, and their houses in Istanbul raided by the police, on charges of ‘membership of an illegal organisation’. The lawyers were to plead the case of the 46 lawyers tried for participating in the defence of Abdullah Öcalan (PKK)<sup>(586)</sup>. The Observatory for the Protection of Human Rights Defenders underlines that ‘this wave of arbitrary arrests and detentions is part of wide-range anti-terrorism operations, started in late July 2015. Such operations turned into a massive crackdown on some civil society organisations depicted as “terrorist networks”’<sup>(587)</sup>.

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<sup>(578)</sup> CoE - Parliamentary Assembly, Strengthening the protection and role of human rights defenders in CoE member States, 11 January 2016.

<sup>(579)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(580)</sup> EC, Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap, 4 May 2016, p. 40; EuroMed Rights and FIDH, High-Level Solidarity Mission to Turkey 20-24 January 2016 n.d., p. 8; US DoS, Turkey 2015 Human Rights Report, 18 April 2016, pp. 37, 40.

<sup>(581)</sup> HRFT, Police Violence Targeted Human Rights Defenders and Peace Activists in İzmir, 9 February 2016.

<sup>(582)</sup> CoE, Turkey: security trumping human rights, free expression under threat, April 14, 2016

<sup>(583)</sup> OMCT, Police raid of the offices of the Siirt branch of the Human Rights Association (İHD) and arbitrary detention of Messrs. Zana Aksu, Azat Taş and Mirza Ekin, 1 October 2015; CoE - Parliamentary Assembly, Strengthening the protection and role of human rights defenders in CoE member States, 11 January 2016; US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(584)</sup> OMCT, Turkey: Arbitrary detention of 20 university academics and researchers, 19 January 2016; RFE/RL, Turkey Arrests Three Academics On 'Terrorist Propaganda' Charges, 16 March 2016.

<sup>(585)</sup> OMCT, Turkey: Arbitrary arrest and subsequent release of 49 individuals participating in a press conference organised by the Izmir Peace Block, 11 February 2016.

<sup>(586)</sup> OMCT, Turkey: Arbitrary arrest and subsequent release of 49 individuals participating in a press conference organised by the Izmir Peace Block, 11 February 2016.

<sup>(587)</sup> OMCT/FIDH, Observatory for the Protection of Human Rights Defenders, Turkey: Judicial harassment of nine lawyers of the Association of Lawyers for Freedom, 23 March 2016.

In the same month, another organisation, the Baran Tursun Foundation (Baransav) which documents and monitors excessive use of police force, was requested to close after it had published a report on police violence<sup>(588)</sup>. In March 2016 again, three academics were arrested on charges of ‘terrorist propaganda’ after publicly calling for an end to security operations in the south-east<sup>(589)</sup>.

Following a field visit to Turkey in March 2016, the UN Working Group on Enforced and Involuntary Disappearances reported receiving information on ‘arrests, threats and intimidation of human rights defenders and lawyers working on enforced disappearances cases’, some of whom had reportedly been threatened during court hearings<sup>(590)</sup>.

#### 5.4.4 Women

Since 2001, Turkey has modernised its legislative and institutional framework to guarantee gender equality, to prohibit violence against women and provide for various levels of protection and support services regardless of marital status<sup>(591)</sup>. In 2011, Turkey was also the first country to sign the Council of Europe’s Convention on Preventing and Combating Violence against Women and Domestic violence, the so-called Istanbul Convention<sup>(592)</sup>. It should be noted that Turkey ratified, in 1985, the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>(593)</sup>.

According to a joint FIDH/IHD report submitted to the UN Committee on the Elimination of Discrimination Against Women in July 2016, ‘[w]hen Mr Erdoğan became prime minister, the AKP adopted several reforms in favour of women’s rights. They established family courts, outlawed marital rape, instituted maternity leave, and took steps to eliminate domestic violence’<sup>(594)</sup>.

Various legislative texts refer directly or indirectly to violence against women: the Constitution, the Civil and Penal Codes, the Labour Law and the Municipality Law<sup>(595)</sup>. But the major legal instrument to combat violence against women is the Law to Protect Family and Prevent Violence against Women (No 6284) which entered into force in 2012<sup>(596)</sup>. According to Article 1 of this law:

‘The aim of this law is to protect the women, the children, the family members and the victims of stalking, who have been subject to the violence or at the risk of violence, and to regulate procedures and principles with regard to the measures of preventing the violence the violence against those people’<sup>(597)</sup>.

This law also regulates the establishment of the Violence Prevention and Monitoring Centres (SÖNIMs)<sup>(598)</sup>.

<sup>(588)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(589)</sup> RFE/RL, Turkey Arrests Three Academics On 'Terrorist Propaganda' Charges, 16 March 2016.

<sup>(590)</sup> OHCHR, Preliminary observations of the Working Group on Enforced or Involuntary Disappearances at the conclusion of its visit to Turkey, 14-18 March 2016.

<sup>(591)</sup> Stop Violence Against Women, Violence against women in Turkey, last updated January 2011; US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(592)</sup> WAVE, Violence against Women Country Report Turkey, January 2016.

<sup>(593)</sup> UNFPA, Child Marriage in Turkey (Overview), June 2014.

<sup>(594)</sup> Time [website], Why Turkey’s Election Is High Stakes for Women, 2 June 2015; FIDH /IHD, Submission to the Committee on the Elimination of Discrimination Against Women, 64th Session – 4/22 July 2016, June 2016.

<sup>(595)</sup> WAVE, Violence against Women Country Report Turkey, January 2016.

<sup>(596)</sup> UN, Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

<sup>(597)</sup> WAVE, Violence against Women Country Report Turkey, January 2016.

<sup>(598)</sup> WAVE, Violence against Women Country Report Turkey, January 2016

Despite these positive legal developments, officials from the governing AKP, at several occasions, have spoken out against gender equality and promoted a conservative view of women's role within society. AKP members have encouraged mothers to focus on their role as mothers, defended marriages of 15-year old girls with older men and took stand against abortion including in cases of rapes<sup>(599)</sup>. President Erdoğan was quoted by press reports, in November 2014, saying that gender equality is 'against nature'<sup>(600)</sup>.

Although a legislative framework is in place to tackle violence against women, gender-related homicides and other forms of violence against women remain a serious challenge in Turkey today. In the past 10 years the number of reported gender-related homicides has tripled in Turkey. Between 2003 and 2013 domestic violence has increased more than 1.400 %<sup>(601)</sup>.

Violence against women has gained more visibility following the February 2015 murder and subsequent burning of Özgecan Aslan, a university student who resisted a rape attempt. Her violent death led to large, nationwide protests against gender-based violence. Demonstrations took place in many cities to condemn her killer and accomplices and call for government action to stop the killing of women<sup>(602)</sup>. Women defied the imam in the murdered woman's funeral by refusing to step back and carrying the coffin themselves; and groups of men wore short skirts to protest against violence against women<sup>(603)</sup>. In September 2016, the release of a man who attacked a woman for wearing shorts on a bus in Istanbul sparked public outrage. In Ayvalık, women activists wearing short pants to protest the release held a demonstration before a court finally ordered the arrest of the abuser<sup>(604)</sup>.

### Domestic violence

A recent report highlights the results of a survey on violence against women in the family in Turkey conducted by Hacettepe University in 2014. According to this survey, 37.5 % of women have experienced physical and/or sexual violence at some point in their lives. The number increases to 39 % in rural areas, while it slightly decreases to 37 in urban areas<sup>(605)</sup>. While recognising that progress is slow, in March 2016, the Turkish Ministry of Family and Social Policies noted a decreasing trend in physical and sexual violence against women, from 42 % in 2008 to 38 % in 2014<sup>(606)</sup>.

The Turkish Government estimated that from 1 January 2009 to 31 March 2014, a total of 31 333 incidents of domestic violence happened, while 76,411 women were exposed to domestic violence in areas within gendarmerie jurisdiction<sup>(607)</sup>.

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<sup>(599)</sup> FIDH /IHD, Submission to the Committee on the Elimination of Discrimination Against Women, 64th Session – 4/22 July 2016, June 2016.

<sup>(600)</sup> Hurriyet Daily News, Turkish President Erdoğan says gender equality 'against nature', 24 November 2014.

<sup>(601)</sup> FIDH /IHD, Submission to the Committee on the Elimination of Discrimination Against Women, 64th Session – 4/22 July 2016, June 2016; Guardian (The), After years of silence, Turkey's women are going into battle against oppression, 17 February 2015.

<sup>(602)</sup> BBC, Turkey rallies over murder of woman who 'resisted rape' 15 February 2015; Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016; US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016; HRW, World Report 2016 - Turkey, 27 January 2016.

<sup>(603)</sup> Hürriyet Daily News, Women defy imam in murdered woman's funeral, carry the coffin, 14 February 2015; BBC, Turkish men wear skirts in protest against violence towards women, 15 February 2015.

<sup>(604)</sup> Hürriyet Daily News, Court arrests man who attacked woman for wearing shorts in Istanbul, 18 September 2016

<sup>(605)</sup> WAVE, Violence against Women Country Report Turkey, January 2016.

<sup>(606)</sup> UN Women, Turkey reviews progress on ending violence against women, 17 March 2016.

<sup>(607)</sup> UN CAT, Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure, Fourth periodic reports of States parties due in 2014: Turkey, 26 January 2016.

Based on NGO sources, the US DoS report estimates that domestic violence killed 400 women in 2015, while acknowledging that the number may be higher due to underreporting <sup>(608)</sup>.

### **Government actions against domestic violence**

In 2011, in an effort to tackle the issue of domestic violence, the Turkish authorities established the Department on Combating Domestic Violence <sup>(609)</sup>. One year later, in 2012 the National Action Plan (NAP) for 2012-2015 on Combating Domestic Violence against Women was drafted <sup>(610)</sup>, succeeding the 2007-2012 National Action Plan <sup>(611)</sup>. In March 2016, the Turkish authorities announced that a new NAP to cover the years 2016–2019, developed with all relevant stakeholders, was soon to come into force <sup>(612)</sup>.

The government also provides ‘Women Guest House’ services operated by the Ministry of Family and Social Policies, NGOs and local administrations <sup>(613)</sup>. Between 2010 and 2014, the number of shelters had doubled, increasing from 65 to 129 <sup>(614)</sup>. In 2015, there were a total of 135 women guest houses <sup>(615)</sup>, and 137 in 2016 <sup>(616)</sup>. Furthermore, the authorities operate the nationwide ‘Women, Family, Children, Handicapped, and Social Service Advisory hotline’ <sup>(617)</sup>.

Violence Prevention and Monitoring Centres (ŞÖNİMs under the Ministry of Family and Social Policies) were also put in service in 14 pilot cities, in 2012, to provide prevention and protection services to survivors and to monitor cases. Currently available in 41 cities, their number is expected to increase nationwide by the end of 2016 <sup>(618)</sup>.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions reports an increase in the number of women alleging violence who had filed complaints with the police in 2014. He also notes the existence of the Women’s Shelter Project for Combating Domestic Violence (2014-2016), a capacity-building, training and cooperation project aimed at strengthening activities to combat violence against women in 26 provinces <sup>(619)</sup>. In March 2016, the General Director for Status of Women at the Ministry of Family and Social Policies announced that 71 000 police officers, 65 000 health staff, 47 600 religious officials and 326 family court judges and public prosecutors had been trained so far on the Law on the Protection of Family and Prevention of Violence against Women and other significant frameworks and conventions on gender equality and women’s empowerment <sup>(620)</sup>.

Yet, sources consider that efforts put into place by authorities to combat violence against women remain inadequate, notably as regards the system of protection orders, the registration of complaints, the number of available shelters for victims of domestic violence,

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<sup>(608)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(609)</sup> UN CAT, Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure, Fourth periodic reports of States parties due in 2014: Turkey, 26 January 2016.

<sup>(610)</sup> UN, Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

<sup>(611)</sup> WAVE, Violence against Women Country Report Turkey, January 2016

<sup>(612)</sup> UN Women, Turkey reviews progress on ending violence against women, 17 March 2016.

<sup>(613)</sup> UN CAT, Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure, Fourth periodic reports of States parties due in 2014 : Turkey, 26 January 2016

<sup>(614)</sup> UN, Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

<sup>(615)</sup> US DoS, Country Reports on Human Rights Practices for 2015 – Turkey, 13 April 2016.

<sup>(616)</sup> UN Women, Turkey reviews progress on ending violence against women, 17 March 2016.

<sup>(617)</sup> UN CAT, Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure, Fourth periodic reports of States parties due in 2014 : Turkey, 26 January 2016.

<sup>(618)</sup> UN Women, Turkey reviews progress on ending violence against women, 17 March 2016.

<sup>(619)</sup> UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns - Addendum - Follow-up to country recommendations: Turkey, 6 May 2015.

<sup>(620)</sup> UN Women, Turkey reviews progress on ending violence against women, 17 March 2016.

and the quality of services provided by the 183 Hotline <sup>(621)</sup>. The Turkish Social Sciences Association, in a 2016 report on the phenomenon of violence against women, notes the ineffective and selective implementation of legal protection of women, and inadequate support mechanisms such as shelters and intervention centres' <sup>(622)</sup>. The number of shelters was considered insufficient (129 in 2014) by Turkish NGOs <sup>(623)</sup>.

The UN, in 2015, highlighted the need to increase efforts for the 'effective access of victims to appropriate legal information, legal aid and judicial proceedings' <sup>(624)</sup>. The UN Committee against Torture, in June 2016, expressed its concern at the very low conviction rate for domestic violence and honour killing crimes (see below for honour killing). Additionally, the Committee noted that 'women who have received or applied for protection orders have not received effective protection from the State party's authorities in practice, resulting in a number of cases in which they were subsequently killed' <sup>(625)</sup>. Similarly, the US DoS report noted, in its 2015 report, that while courts issue refrain orders to protect victims, the police rarely enforced them effectively <sup>(626)</sup>.

### **Honour killing**

According to the US DoS report for the year 2015, honour killings remain a problem in Turkey, with the majority of killings occurring in conservative families, in the rural south-east or amongst families of migrants from the south-east living in large families. Due to the harsh penalties foreseen for honour killings, families in some cases pressure girls to commit suicide, in order to preserve the family's reputation <sup>(627)</sup>.

The Turkish government reports that between 1 January 2009 and 31 March 2014, within the responsibility zone of gendarmerie, two such cases were referred to the judicial authorities <sup>(628)</sup>. In 2015, the US DoS report highlighted the case of 14 suspicious teenage suicides in Van Province, amongst whom some had been forced to marry, some were victims of domestic violence and others had been prevented from attending school <sup>(629)</sup>.

According to the UN Special Rapporteur, variation in the interpretation of the penal code in regard to honour killings has also resulted in lighter sentences for perpetrators of honour killings <sup>(630)</sup>.

### **5.4.5 Children**

Turkey signed and ratified the following conventions:

- the UN Convention on the Rights of the Child (signed 1990; ratified 1994);

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<sup>(621)</sup> UN, Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns - Addendum - Follow-up to country recommendations: Turkey, 6 May 2015; US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(622)</sup> WAVE, Violence against Women Country Report Turkey, January 2016

<sup>(623)</sup> According to these NGOs, the number should at least reach 7 500. Guardian (The), After years of silence, Turkey's women are going into battle against oppression, 17 February 2015.

<sup>(624)</sup> UN, Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

<sup>(625)</sup> UN CAT, Concluding observations on the fourth periodic reports of Turkey, 2 June 2016.

<sup>(626)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(627)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(628)</sup> UN CAT, Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure, Fourth periodic reports of States parties due in 2014 : Turkey, 26 January 2016.

<sup>(629)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(630)</sup> UN, Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns - Addendum - Follow-up to country recommendations: Turkey, 6 May 2015.

- the European Convention on the Exercise of Children's Rights (2005) <sup>(631)</sup>.

In 2005, Turkey passed the Child Protection Law which incorporates most of the principles of the UN Convention on the Rights of the Child. The law is designed 'to regulate the procedures and principles with regard to protecting juveniles who are in need of protection or who are pushed to crime, and ensuring their rights and well-being' <sup>(632)</sup>.

UNICEF observes that the series of reforms encouraged by the EU accession process have contributed to many positive changes for children although their situation continues to be adversely affected by broad geographical, economic and cultural disparities <sup>(633)</sup>.

The UPR notes: 'Despite the Child Protection Law (2005), the violence prevention and justice system remain weak, [while] girls' specific vulnerabilities, needs and exposure to violence and early forced marriages are poorly targeted'. The UPR further highlights the specific situation of Roma, migrant, refugee and asylum seeker children, who are likely to be the most disadvantaged and may face discriminatory attitudes <sup>(634)</sup>.

Sources show concerns for the recent detention of children during the 2014-2015 demonstrations, with almost 300 children arrested, taken into custody or detained <sup>(635)</sup>.

The Government of Turkey alleges persistent recruitment and abduction of children by the PKK for conscription purposes, while a FIDH/EuroMed Rights mission reports the recruitment of minors by the PKK to take part in combat <sup>(636)</sup>.

Child abuse remains a concern for several observers. The UPR considers that 'the causes, consequences of child abuse and its prevention remain largely unaddressed' <sup>(637)</sup>, while the US DoS report notes that comprehensive social services to address this problem were limited <sup>(638)</sup>.

### Early/forced marriages

According to the Turkish Civil Code, the legal minimum age of marriage is 18 for both men and women (age 17 with parental consent) <sup>(639)</sup>. Holding a religious marriage prior to the conclusion of the civil marriage is not allowed (Article 143 of the Civil Code) <sup>(640)</sup>.

In cases of forced marriage, a person can file a criminal complaint and apply for an annulment within the first five years of marriage. Yet the Turkish Penal Code does not provide for any specific sanctions against child marriage <sup>(641)</sup>.

The practice of early/forced marriages is considered to be 'widespread' <sup>(642)</sup> in Turkey, with an estimate of 30 % of married women being under the age of 18 and above 90 000 adolescent girls giving birth (2013 figures) <sup>(643)</sup>. The US DoS report indicates that 'children as young as 12

<sup>(631)</sup> Republic of Turkey (The), Ministry of Foreign Affairs, The Rights Of The Child In Turkey, n.d.

<sup>(632)</sup> UNICEF, Assessment of Juvenile Justice Reform Achievements in Turkey, 2009; Laws Turkey, Law 5395, 3 July 2005; UNFPA, Child Marriage in Turkey (Overview), June 2014.

<sup>(633)</sup> UNICEF, UNICEF in Turkey: Country Profile, n.d.

<sup>(634)</sup> Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

<sup>(635)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(636)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016; FIDH, EuroMed Rights, High-Level Solidarity Mission to Turkey; 20-24 January 2016, February 2016.

<sup>(637)</sup> Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015; Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(638)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(639)</sup> UNFPA, Child Marriage in Turkey (Overview), June 2014.

<sup>(640)</sup> UNFPA, Child Marriage in Turkey (Overview), June 2014.

<sup>(641)</sup> Stop Violence Against Women, Violence against women in Turkey, last updated January 2011.

<sup>(642)</sup> UNFPA, Child Marriage in Turkey (Overview), June 2014.

<sup>(643)</sup> Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

were at times married in unofficial religious ceremonies, particularly in poor, rural regions' <sup>(644)</sup>. Figures on early-age marriages however are based on estimations since most child marriages are unofficial, religious ceremonies and therefore unregistered <sup>(645)</sup>.

Although the practice is found in all regions of Turkey, sources document regional variations, with the highest prevalence in the eastern provinces <sup>(646)</sup>.

In 2009, recognising the amplitude of the problem, the Committee on Equality of Opportunity for Women and Men of the Grand National Assembly of Turkey established a Subcommittee on Early Marriages, which published a report on Early Marriages, investigating the issue as a social problem. Subsequently, campaigns and projects by NGOs and child rights advocates were launched to combat the problem <sup>(647)</sup>.

### **Child labour**

The law generally prohibits all forms of forced or compulsory labour. The age limit for light work that does not interfere with school is 14. Children under 16 are not allowed to perform hard or dangerous work. Supervision of these laws is however insufficient <sup>(648)</sup>.

Turkey has ratified all key international conventions regarding child labour, and has established institutional mechanisms for the enforcement of laws and regulations on child labour <sup>(649)</sup>. The UPR for Turkey (2015) notes a positive development in this area, with the adoption of a national programme in 2015 <sup>(650)</sup>.

According to a 2012 survey, the decreasing trend of child labour has stalled, however, with an employment rate for children aged 6-17 remaining at 5.9 % <sup>(651)</sup>. According to the Turkish Statistical Institute, 5.9 % of children between 6 and 17 work. For children between 15 and 17, the percentage is 15.6. Most of the working children are boys. About half of the working children also attend school <sup>(652)</sup>.

Moreover, a report of the Istanbul Bilgi University's Center for migration released in June 2016 observes that the already high figure of child labourers in Turkey which was almost 1 million in 2012 has hugely increased as millions of Syrian refugees try to earn a living after entering Turkey <sup>(653)</sup>.

Children are engaged in agriculture, and in the worst forms of child labour, including in commercial sexual exploitation <sup>(654)</sup>.

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<sup>(644)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016; ILGA, State sponsored homophobia: A World Survey of Laws: criminalization, protection and recognition of same-sex love, May 2015.

<sup>(645)</sup> UNFPA, Child Marriage in Turkey (Overview), June 2014.

<sup>(646)</sup> UNFPA, Child Marriage in Turkey (Overview), June 2014; Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

<sup>(647)</sup> UN, Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

<sup>(648)</sup> US DoS, Turkey 2015 Human Rights Report, 18 April 2016, pp. 70-71.

<sup>(649)</sup> US DOL, 2014 Findings on the Worst Forms of Child Labor - Part V: Country Profiles - Turkey, 30 September 2015.

<sup>(650)</sup> UN, Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

<sup>(651)</sup> UN, Universal Periodic Review of Turkey 2015 - UNCT Submission, 2015.

<sup>(652)</sup> Turkish Statistical Institute Child Labour Force Survey, 2012, 2 April 2013.

<sup>(653)</sup> Hürriyet Daily News, Child labor on the rise in Turkey amid Syrian refugee influx, 12 June 2016.

<sup>(654)</sup> US DOL, 2014 Findings on the Worst Forms of Child Labor - Part V: Country Profiles - Turkey, 30 September 2015.



## 5.4.6 LGBTI persons

### The legislative framework

The law does not explicitly discriminate against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. Homosexual acts are legal since 1858 and the law provides for an equal age of consent as for heterosexual acts<sup>(655)</sup>. In what is perceived as a legislative limitation however, sexual orientation has not been included as a ground for hate crimes in the 2014 amendment of the Criminal Code<sup>(656)</sup>.

Despite a non-discriminatory legislative framework, various sources report on the vulnerability of LGBTI persons in Turkey and document the use of hate speech against them, the lack of explicit legal protection, discrimination, intimidation, police harassment and violent crimes against LGBTI individuals<sup>(657)</sup>. The EC Communication 2015 calls on Turkey ‘to effectively guarantee the rights of women, children, and lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals’<sup>(658)</sup>.

While the Constitutional Court acknowledged for the first time that referring to LGBTI people as ‘perverts’ constituted hate speech in a 2014 case against the website Habervaktim.com, the court did not rule against the website. Also in 2014, a court acquitted the conservative newspaper Yeni Akit for after it had referred to the LGBTI NGO Kaos GL as ‘deviants’ and ‘perverts’ in a 2012 article<sup>(659)</sup>. The US DoS, in its human rights report for the year 2015, note that ‘legal references to “offenses against public morality”, “protection of the family” and “unnatural sexual behaviour” sometimes served as a basis for discrimination by employers and abuse by police’. In the campaign for the parliamentary elections (June 2015), some politicians engaged in hate speech directed at LGBTI individuals and other minorities<sup>(660)</sup>.

In the employment of civil servants, the law includes a clause that allows the dismissal of a government employee who is found ‘to act in a shameful and embarrassing way unfit for the position of a civil servant’<sup>(661)</sup>.

Between January 2010 and November 2014, the community website ‘LGBTI News Turkey’ documented, via a network of volunteers from various online news media and LGBTI associations, 47 individuals killed due to their real or perceived sexual orientation or gender identity<sup>(662)</sup>.

In June 2015, for the first time since the annual LGBT pride parade was launched (2003) in Istanbul, the authorities violently intervened, using excessive force against marchers. The authorities invoked a lack of formal notification and information about counter-

<sup>(655)</sup> ILGA, State sponsored homophobia: A World Survey of Laws: criminalization, protection and recognition of same-sex love, May 2015. ILGA comments (p. 27): the Turkish Imperial Penal Code of 1858 considered sodomy within rape a specific crime, but there is no mention of consensual sodomy. The criminalising law is said to have been a translation of 1810 French Penal Code and was in effect till 1926, see: [http://archive.org/stream/theimperialottomanpenalcode/ottomanpenalcode\\_djvu.txt](http://archive.org/stream/theimperialottomanpenalcode/ottomanpenalcode_djvu.txt).

<sup>(656)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Turkey, 6 May 2015; UN News Centre, Turkish authorities urged to tackle anti-LGBT violence and discrimination, 14 July 2015.

<sup>(657)</sup> UN HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Turkey, 6 May 2015; AI, AI Report 2015/16 - Turkey, 24 February 2016; Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016.

<sup>(658)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Enlargement strategy, COM(2015) 611 final, 10 November 2015, p. 29.

<sup>(659)</sup> ILGA-Europe, Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe, May 2015.

<sup>(660)</sup> US DOS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(661)</sup> US DoS, Country Report on Human Rights Practices 2015 - Turkey, 13 April 2016.

<sup>(662)</sup> LGBTI News Turkey, Evaluating Hate Murders based on SOGI in Turkey: Shortcomings and Proposals, n.d.

demonstrators<sup>(663)</sup>. In July 2015, the UN High Commissioner for Human Rights (OHCHR) ‘expressed deep concern over attacks and incitement to violence against lesbian, gay, bisexual and transgender (LGBT) people in Turkey and has called on the authorities to take active measures to combat homophobic and transphobic violence and discrimination’<sup>(664)</sup>. This communication followed a series of reported incidents including:

‘the appearance of posters in Ankara encouraging the murder of LGBT people; a violent homophobic attack against a group of young gay men in Istanbul; as well as rape, assault and robbery against Kemal Ördök, a human rights defender and founder of the Red Umbrella Sexual Health and Human Rights Association’<sup>(665)</sup>.

According to the UN Special Rapporteur on extrajudicial, summary or arbitrary detentions,

‘The challenges relating to the protection of lesbian, gay, bisexual and transgender persons are exacerbated by the attitude of some family members of such individuals, as well as the trend observed by the Special Rapporteur during his visit, whereby law enforcement officials and the judiciary seem to take a lenient attitude towards crimes committed against such individuals’<sup>(666)</sup>.

Cases of gay ‘honour’ killing have been reported<sup>(667)</sup> and treated in some instances with a ‘lack of diligence and commitment to bring about justice’, according to Amnesty International<sup>(668)</sup>. In 2014, however, in a landmark case reported by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), a court gave life sentences to a father (and relatives) who had murdered his son in 2012 for his sexual orientation<sup>(669)</sup>.

In June 2016, Turkish authorities banned transgender and gay pride marches in Istanbul to safeguard ‘security and public order’. On 19 June, despite the ban, dozens of demonstrators gathered to support LGBTI rights in Istanbul. Police fired tear gas and rubber bullets to disperse the activists attempting to gather<sup>(670)</sup>.

On 25 July 2016, a Syrian gay refugee was found dead in Istanbul after he had been kidnapped, raped and decapitated. According to available sources, he had already been kidnapped and raped by a group of men five months before<sup>(671)</sup>.

### **The situation of transgender persons**

Particular concerns are raised for the situation of transgender persons who are victims of hate crimes, attacks, murders, arbitrary fines, house raids and police violence<sup>(672)</sup>. In its report

<sup>(663)</sup> AI, AI Report 2015/16 - Turkey, 24 February 2016; Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016.

<sup>(664)</sup> UN News Centre, Turkish authorities urged to tackle anti-LGBT violence and discrimination – UN rights office, 14 July 2015.

<sup>(665)</sup> UN News Centre, Turkish authorities urged to tackle anti-LGBT violence and discrimination, 14 July 2015.

<sup>(666)</sup> UN, HRC, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Turkey, 6 May 2015.

<sup>(667)</sup> For example, in February 2016, two Iranian LGBT refugee men were severely beaten by a police officer at a police station. Erasing 76 Crimes, Turkish police beat 2 gay Iranian refugees, 24 February 2016.

<sup>(668)</sup> AI, Turkey: Seven years on, still no justice for Ahmet Yildiz, 17 July 2015.

<sup>(669)</sup> ILGA-Europe, Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe, May 2015.

<sup>(670)</sup> BBC News, Turkey: Istanbul gay pride march banned over 'security' concern, 17 June 2016; Telegraph (The), Turkey police fire rubber bullets at banned Gay Pride parade, 27 June 2016; Radio Free Europe/Radio Liberty, Turkey: Police in Istanbul crack down on LGBT rally, 20 June 2016; Guardian, Police use teargas against LGBT activists in Istanbul, 19 June 2016.

<sup>(671)</sup> LGBT News Turkey, Syrian gay refugee killed in Istanbul, 3 August 2016; Pink News, Gay Syrian man kidnapped, raped and decapitated in Istanbul, 3 August 2016.

<sup>(672)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

covering the year 2014, ILGA-Europe notes that LGBTI NGOs documented several cases of police mistreating trans women. In particular, ILGA-Europe reports the murder of five trans women in the year 2014 <sup>(673)</sup>.

The US DoS Report for the year 2015 observes that police and prosecutors frequently ‘failed to pursue aggressively cases of violence against transgender persons’, referring to few arrests and reduced sentences for those arrested <sup>(674)</sup>.

According to the newspaper Daily Sabah, President Erdoğan met with the famous transsexual Turkish singer Bülent Ersoy, during fast breaking dinner in June 2016 during the Ramadan period <sup>(675)</sup>.

On 12 August 2016, the body of transgender woman and well-known LGBTI activist Hande Kader was found, raped, tortured and killed. Her violent death shocked communities and led to demonstrations attended by hundreds in several cities <sup>(676)</sup>. Turkey has a higher rate of trans murders than anywhere in Europe. In addition, within one week two trans persons committed suicide as they said they could not live with the oppression and discrimination any longer <sup>(677)</sup>.

### **LGBTI organisations**

There are a number of LGBTI organisations in Turkey, some of which have played a key role in proposing recent legislative changes <sup>(678)</sup>.

The US DoS report for the year 2015 notes that ‘[g]roups reported harassment by police and government authorities. Many university groups in small cities complained that rectors had denied them permission to organize’ <sup>(679)</sup>.

As noted previously, the head of the Red Umbrella, a transgender-support NGO, was attacked and raped in Ankara, on 5 July 2015 <sup>(680)</sup>.

### **5.4.7 Trafficked persons**

2016 has seen further legal and administrative developments in the area of the fight against human trafficking. Turkey has adopted the draft law ratifying the Council of Europe Convention on Action against Human Trafficking. A specific by-law on the Prevention of Human Trafficking and Protection of Victims, complementing already existing provisions, entered into force on 17 March 2016 <sup>(681)</sup>.

The OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings commended recent changes to the legislative framework that will improve victim protection

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<sup>(673)</sup> ILGA-Europe, Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe, May 2015.

<sup>(674)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(675)</sup> Daily Sabah, Transsexual singer Bülent Ersoy attends iftar dinner hosted by President Erdoğan, 20 June 2016.

<sup>(676)</sup> BBC, Hande Kader: Outcry in Turkey over transgender woman's murder, 21 August 2016.

<sup>(677)</sup> The Guardian, The shocking murder of trans activist Hande Kader says much about Turkey today, 23 August 2016.

<sup>(678)</sup> OFPRA, Turquie, La situation des minorités sexuelles et de genre, 19 May 2015.

<sup>(679)</sup> US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(680)</sup> UN News Centre, Turkish authorities urged to tackle anti-LGBT violence and discrimination – UN rights office, 14 July 2015; US DoS, Country Reports on Human Rights Practices for 2015 - Turkey, 13 April 2016.

<sup>(681)</sup> EC, Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap, 4 May 2016, p. 21.

and identification. According to the OSCE Special Representative, 'Turkey has amended its regulations so that it fully complies with guidelines from the Council of Europe' <sup>(682)</sup>.

Separate units in charge of the fight against migrant smuggling and human trafficking have been established within the Turkish National Police and the Turkish Gendarmerie following the example from the unit already set up within the Turkish Coast Guard. Operational cooperation between the above-mentioned law enforcement structures is still to be developed. Higher penalties for migrant smugglers were proposed by the government for parliament's approval. The amendment to the Turkish Penal Code provides for a prison sentence of up to 10 years and a penalty of maximally TRY 15 000 <sup>(683)</sup>.

The government has demonstrated improved human smuggling prevention efforts <sup>(684)</sup>. Turkey has pledged to reduce smuggling out of its borders, and authorities are cracking down, but the trade still continues. According to the Turkey office of the Organization for International Migration (IOM), in 2015 Turkish police arrested or detained more than 2 000 smugglers and organisers <sup>(685)</sup>, while the figure provided by a governmental source is 3 694 <sup>(686)</sup>. Another 275 smugglers and organisers were apprehended in January 2016. The Turkish coast guard reported that it apprehended an additional 52 smugglers and organisers in the first three months of 2016 <sup>(687)</sup>.

Turkey is a destination and transit country, and to a lesser extent source country, for women, men and children subjected to sex trafficking and forced labour <sup>(688)</sup>. Refugees from Syria and other conflict areas are especially vulnerable to exploitation <sup>(689)</sup>. According to HRW's evaluation for 2015, 'the authorities' efforts to combat trafficking largely fail to match the seriousness of the problem' <sup>(690)</sup>.

US Department of State's Office to Monitor and Combat Trafficking in Persons states in its report for 2015 that 'the Government of Turkey does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so'. In terms of prosecution, the government demonstrates increased anti-trafficking law enforcement efforts, including complicit government officials, to combat sex trafficking, but it does not take direct action to address forced labour crimes. As far as protection is concerned, the government has increased efforts to identify trafficking victims, but in 2015 there were still problems with providing protection services. NGOs alleged there were cases where sex trafficking victims were arrested, detained, and deported for crimes committed as a result of being subjected to trafficking. Moreover, in 2015 the government denied children and Turkish nationals being among trafficking victims <sup>(691)</sup>.

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<sup>(682)</sup> OSCE, OSCE Special Representative praises Turkey's government for improving legal protection for human trafficking victims, 13 May 2016.

<sup>(683)</sup> EC, Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap, 4 May 2016, pp. 18, 21-22.

<sup>(684)</sup> US DoS, Office to Monitor and Combat Trafficking in Persons, Turkey, n. d.

<sup>(685)</sup> RFE/RL, Migrant Smugglers Shrug Off Turkey's Clampdown, 6 April 2016.

<sup>(686)</sup> Daily Sabah, Turkey to establish special unit to combat human trafficking, 2 March 2016

<sup>(687)</sup> RFE/RL, Migrant Smugglers Shrug Off Turkey's Clampdown, 6 April 2016.

<sup>(688)</sup> US DoS, Office to Monitor and Combat Trafficking in Persons, Turkey, n. d.

<sup>(689)</sup> Freedom House, Freedom in the World 2016, 27 January 2016.

<sup>(690)</sup> Freedom House, Freedom in the World 2016, 27 January 2016.

<sup>(691)</sup> US DoS, Office to Monitor and Combat Trafficking in Persons, Turkey, n. d.

## 6. The attempted military coup

### 6.1 The events of 15-16 July 2016

On 15 July 2016, in the evening, a faction of the Turkish army launched an attempt to topple President Erdoğan. Two major bridges over the Bosphorus in Istanbul were closed, while armoured units were seen moving through the city. International airports of both Istanbul and Ankara also fell under the control of the plotters. In the sky over Ankara, fighter jets and helicopters were reported, and gunfire was heard. The prime minister announced that an attempt to overthrow the government by part of the military was under way. The chief of staff of the Turkish military, General Hulusi Akar, and several other highest military commanders were arrested and taken hostage by the coup plotters, and later rescued. After soldiers stormed its building, the state-run TRT announced that Turkish Armed Forces had ‘completely taken over the administration of the country to reinstate constitutional order’ and to protect democracy. A new constitution was to be prepared; curfew and martial law were imposed across the country. Later in the night, the parliament and presidential buildings were bombed and the Intelligence (MİT) headquarters was fired upon by helicopters. A special commando tried to capture (or kill) the President who was on holiday in the seaside resort town of Marmaris, but narrowly missed him <sup>(692)</sup>.

After having successfully escaped his pursuers, Recep Tayyip Erdoğan addressed the nation via the FaceTime app on his iPhone, calling on the public to take to the streets to protest against the coup. The address of the President was broadcast by the CNN Türk TV Channel (a member of the oppositional Doğan Media Group) <sup>(693)</sup>. The President’s call was followed by thousands of supporters who marched in Istanbul and Ankara to oppose the coup, and in some cases confronted soldiers and tanks <sup>(694)</sup>.

Later in the night, President Erdoğan was able to reach Istanbul’s airport and to speak to a crowd of supporters outside the airport <sup>(695)</sup>. According to International Crisis Group’s analysts, ‘a broad social and political alignment emerged against the attempted coup, including rare unison among all the country’s main political parties and media voices’ <sup>(696)</sup>. CHP invited the ruling party AKP members to join its anti-coup rally in Istanbul on 24 July <sup>(697)</sup>. Turkish authorities held Fethullah Gülen and his followers responsible for this coup and requested that the US government deport or arrests the exiled cleric. From his home in Pennsylvania, Fethullah Gülen rejected these accusations and condemned the coup <sup>(698)</sup>. The four parties (AKP, CHP, MHP and HDP), represented at the parliament, also signed a common declaration to condemn the coup <sup>(699)</sup>.

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<sup>(692)</sup> Hürriyet Daily News, Troops sent to grab Erdoğan told target was ‘terrorist’, 19 July 2016.

<sup>(693)</sup> Hürriyet Daily News, Anatomy of a failed coup attempt, 17 July 2016

<sup>(694)</sup> Al Jazeera, Turkey timeline: Here’s how the coup attempt unfolded, 16 July 2016; BBC, Turkey’s coup attempt: What you need to know, 17 July 2016; New York Times, Erdogan Triumphs After Coup Attempt, but Turkey’s Fate Is Unclear, 17 July 2016; The Guardian (UK), Turkey coup attempt: Erdoğan demands US arrest exiled cleric Gülen amid crackdown on army – as it happened, 16 July 2016.

<sup>(695)</sup> Al Jazeera, Turkey timeline: Here’s how the coup attempt unfolded, 16 July 2016.

<sup>(696)</sup> ICG, Erdoğan’s Pyrrhic victory, Hugh Pope, Nigar Göksel, 17 July 2016.

<sup>(697)</sup> Hürriyet Daily News, « Ruling AKP to join main opposition CHP’s anti-coup rally in Istanbul », 22 July 2016.

<sup>(698)</sup> The Guardian (UK), Turkey coup attempt: Erdoğan demands US arrest exiled cleric Gülen amid crackdown on army – as it happened, 16 July 2016.

<sup>(699)</sup> New York Times, Erdogan Triumphs After Coup Attempt, but Turkey’s Fate Is Unclear, 17 July 2016; BBC, Turkey’s coup attempt: What you need to know, 17 July 2016; Observatoire de la vie politique turque, Turquie: les enjeux de «l’après-coup d’Etat», by Jean Marcou, 20 July 2016.

Later in the night, and in the early hours of next day (16 July), troops involved in the coup started surrendering, while security forces were able to take back key installations and bases <sup>(700)</sup>. On 17 July, nearly 85 000 mosques recited a prayer for those who died as ‘martyrs’ and called for people to continue protesting against the plotters <sup>(701)</sup>.

Estimates on the number of casualties vary depending on the sources. It is estimated that more than 200 people died in the clashes and at least 1 440 were wounded <sup>(702)</sup>. According to the Prime Minister, out of the official estimate of 208 killed, 60 were police officers, three were soldiers and 145 were civilians. Moreover, 24 coup plotters were killed and 50 wounded <sup>(703)</sup>. According to Amnesty International, some of the coup plotters ‘were reportedly lynched while unarmed and trying to surrender’ <sup>(704)</sup>.

## 6.2 The aftermath of the attempted coup

In the days following the coup, authorities proceeded with a wave of arrests and detentions, but also suspensions and removal from jobs. The European Council, European Parliament, and human rights organisations have voiced concerns over the failed coup and over actions following the coup as well.

The EC strongly condemned the attempted coup and gave its full support to the legitimate institutions of the country. It added:

‘The EU calls for restraint to be shown by Turkish authorities, including by the police and security forces. All must be done to avoid further violence, to protect lives and to restore calm. The EU calls for the full observance of Turkey’s constitutional order and stresses the importance of the rule of law prevailing. It is crucial to ensure full respect for all democratic institutions of the country including the elected government and the Turkish Grand National Assembly. The EU underlines the need to respect democracy, human rights and fundamental freedoms and the right of everyone to a fair trial in full compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms, including Protocol 13 on the abolition of the death penalty. In this context, the EU recalls that the unequivocal rejection of the death penalty is an essential element of the Union acquis’ <sup>(705)</sup>.

Kati Piri, the rapporteur for Turkey at the European Parliament, questioned in August 2016 the arrest of ‘thousands of people (...) who definitely were not involved in the coup’ and added that respect of human rights and the rule of law, including access to lawyers and fair trials, would be ‘a crucial test for the state of Turkey’s democracy’ <sup>(706)</sup>. After visiting Turkey in September 2016, Kati Piri added that Brussels ‘had made a mistake against the Turkish people’

<sup>(700)</sup> Al Jazeera, Turkey timeline: Here’s how the coup attempt unfolded, 16 July 2016; BBC, Turkey’s coup attempt: What you need to know, 17 July 2016; The Guardian (UK), Turkey coup attempt: Erdoğan demands US arrest exiled cleric Gülen amid crackdown on army – as it happened, 16 July 2016.

<sup>(701)</sup> New York Times, Erdogan Triumphs After Coup Attempt, but Turkey’s Fate Is Unclear, 17 July 2016.

<sup>(702)</sup> Al Jazeera, Turkey timeline: Here’s how the coup attempt unfolded, 16 July 2016; BBC, Turkey coup arrests hit 6,000 as Erdogan roots out ‘virus’, 17 July 2016; New York Times, Erdogan Triumphs After Coup Attempt, but Turkey’s Fate Is Unclear, 17 July 2016; The Guardian (UK), Turkey coup attempt: Erdoğan demands US arrest exiled cleric Gülen amid crackdown on army – as it happened, 16 July 2016. Hürriyet Daily News, 208 people killed by coup attempters: Turkey’s PM, 18 July 2016; UN News Centre, UN human rights chief urges Turkey to uphold rule of law in response to attempted coup, 19 July 2016.

<sup>(703)</sup> Hürriyet Daily News, 208 people killed by coup attempters: Turkey’s PM, 18 July 2016.

<sup>(704)</sup> Amnesty International, Turkey: Human rights in grave danger following coup attempt and subsequent crackdown, 18 July 2016.

<sup>(705)</sup> EC, Press Release, Council conclusions on Turkey, 18 July 2016.

<sup>(706)</sup> European Parliament, Turkey: handling of aftermath of coup attempt is a crucial test, say MEPs, 30 August 2016.

by quickly criticising Ankara's post-coup crackdown while not mentioning the civilian victims of the coup plotters and the bombing of the Turkish Parliament during the night of 15 July<sup>(707)</sup>. Directly after the failed coup, the government started to arrest, dismiss and suspend people in governmental positions, including police, judges and prosecutors. Numbers quoted in press and other sources range considerably. By the end of July, Amnesty International estimated that more than 45 000 people had been suspended or removed from their jobs<sup>(708)</sup>. Figures from other press sources indicate that these figures rose further in August and September. People affected by dismissal, suspension or arrest were governors, military staff, police, judges and other members of the judiciary, teachers at private and governmental schools, deans and professors at universities, ministry staff, Diyanet staff (the religious affairs directorate), journalists, employees of the Turkish airlines and football federation.<sup>(709)</sup>

According to the prime minister, cited by a press report of 19 August 2016, 40,029 state employees have been detained since the night of the coup attempt, of whom 20,355 have been formally arrested. Of those in detention, 4,262 are awaiting a decision on whether they will be formally arrested or released. The overwhelming majority of those arrested are police officers and military staff, including 157 generals. Furthermore, 4 262 institutions have been closed (of which about 2 000 schools, 1 200 associations – clubs, trade groups, NGOs and 100 charities)<sup>(710)</sup>. The passports of 75 000 people had been cancelled to prevent them from leaving the country<sup>(711)</sup>. In addition, tens of thousands people allegedly linked to Gulen have been suspended or dismissed from their jobs in the judiciary, media, education, healthcare, military and local government<sup>(712)</sup>. On 8 September, arrest warrants were issued for 114 businessmen, accused of financing the Gülen movement<sup>(713)</sup>. At the moment of writing it is unknown whether some arrested persons have been released, nor the exact number of dismissed and suspended employees.

In order to make space for the tens of thousands arrested persons linked to the coup attempt, on 17 August Turkish authorities started to release what was expected to amount to 38 000 prisoners (33 838 had been released as of 2 September 2016). According to the Minister of Justice, this was not meant as an amnesty and 'convicts were not being pardoned but released "on parole"'<sup>(714)</sup>.

### 6.2.1 Emergency decrees

On 21 July, a three-month state of emergency entered into force under Article 120 of the Turkish Constitution, made possible 'in the event of serious indications of widespread acts of

<sup>(707)</sup> Hürriyet Daily News, We make a mistake after Turkey's coup attempt : European Parliament rapporteur Piri, 15 September 2016.

<sup>(708)</sup> HRW, Turkey: Rights Protections Missing From Emergency Decree, 26 July 2016; Reuters, Turkey detains 42 journalists in crackdown as Europe sounds alarm, 26 July 2016; AI, Turkey: Turkey crackdown by the numbers: Statistics on brutal backlash after failed coup, 26 July 2016.

<sup>(709)</sup> BBC, Turkey coup attempt: Who's the target of Erdogan's purge?, 20 July 2016; Observatoire de la vie politique turque, Turquie: les enjeux de «l'après-coup d'Etat», by Jean Marcou, 20 July 2016 ; BBC, Turkey coup attempt: Police and officials purged, 18 July 2016; AI, Turkey: Human rights in grave danger following coup attempt and subsequent crackdown, 18 July 2016; RFE/RL - Radio Free Europe/Radio Liberty: Turkey Formally Charges 99 Generals, Admirals For Coup Attempt, 20 July 2016; TRT, Gulen-linked staff fired from Turkish Football Federation, 3 August 2016; Hürriyet Daily News, 1,500 more judges and prosecutors to be suspended from judiciary, 9 August 2016.

<sup>(710)</sup> The Guardian, Turkey's post-coup crackdown – in figures, 19 August 2016.

<sup>(711)</sup> The Guardian, Turkey's post-coup crackdown – in figures, 19 August 2016; Independent, Turkey coup attempt: Government cancels 50,000 passports as global concern grows over crackdown, 30 July 2016.

<sup>(712)</sup> Al Jazeera, Turkey: Ex-police chief, others detained in coup probe, 30 August 2016

<sup>(713)</sup> Daily Shabab, Arrest warrants issued for 114 businessmen for financing Gülenist terror cult, 8 September 2016.

<sup>(714)</sup> Al Jazeera, Turkey frees prisoners to make room for coup detainees, 2 September 2016.

violence aimed at the destruction of the free democratic order' <sup>(715)</sup>. The order was extended for another three months on 3 October 2016 <sup>(716)</sup>.

On 21 July, the Secretary General of the Council of Europe was informed by the Turkish authorities that 'Turkey will notify its derogation from the European Convention on Human Rights under the Convention's Article 15' <sup>(717)</sup>. The EC's Vice President reacted:

'We are following the developments regarding the State of Emergency Turkey has declared after the attempted coup, which the European Union condemned, very closely and with concern. This declaration comes in the wake of the recent unacceptable decisions on the education system, judiciary and the media. (...) [W]e call on Turkish authorities to respect under any circumstances the rule of law, human rights and fundamental freedoms, including the right of all individuals concerned to a fair trial <sup>(718)</sup>.

The state of emergency, ratified by the Turkish Parliament, places Turkey under exceptional rule. According to President Erdoğan, cited by Anadolu Agency, the state of emergency 'is not martial law', adding that '[t]his is a movement to clear terror members from state institutions to process democracy better (...) The purpose of the state of emergency is to most effectively and swiftly take steps necessary to eliminate the threat to democracy in our country, the rule of law, and the rights and freedom of our citizens'. Erdoğan added: 'There is no limitation on fundamental rights and freedoms during the state of emergency. We are the guarantors of it' <sup>(719)</sup>. A state of emergency coordination committee was formed, chaired by Prime Minister Binali Yıldırım, and comprising of 'representatives from Turkish ministries of interior, justice, labor and social security, foreign affairs, finance, defense and national education'. The decisions taken by the committee will be carried out immediately by all relevant ministries and public institutions <sup>(720)</sup>.

The first emergency decree under Turkey's state of emergency, Decree Law No 667, was passed on 23 July 2016. The decree aims to 'establish measures that must necessarily be taken within the scope of attempted coup and fight against terrorism under the state of emergency declared throughout the country' and orders the closure of thousands of private educational institutions, hospitals and clinics, businesses and associations allegedly linked to Fethullah Gülen, listed in five annexes. In addition, the decree allows the permanent dismissal of judges, prosecutors, and civil servants, and the possibility of a period of custody to a maximum of 30 days before being taken before a judge <sup>(721)</sup>.

The second decree law no. KHK/668, published on 27 July, brings, amongst others, the Gendarmerie General Command and the Coast Guard Command under the Minister of Interior<sup>722</sup>. On 31 July, the third decree (Decree Law no. 669) under the state of emergency introduces major changes to the army <sup>(723)</sup>. With this decree, the president and prime minister

<sup>(715)</sup> AA, Three-month state of emergency declared in Turkey, 20 July 2016.

<sup>(716)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 10.

<sup>(717)</sup> Council of Europe, Press release - DC132(2016), Secretary General receives notification from Turkey of its intention to temporarily suspend part of the European Convention on Human Rights, 21 July 2016.

<sup>(718)</sup> EEAS, Statement by High Representative/Vice-President Federica Mogherini and Commissioner Johannes Hahn on the declaration of the State of Emergency in Turkey, 21 July 2016.

<sup>(719)</sup> AA, Three-month state of emergency declared in Turkey, 20 July 2016.

<sup>(720)</sup> AA, Turkey forms state of emergency coordination committee, 24 July 2016.

<sup>(721)</sup> Decree on measures to be taken under State of Emergency, Decree Law No. KHK/667, 22 July 2016; Human Rights Watch, Turkey: Rights Protections Missing From Emergency Decree, 26 July 2016.

<sup>(722)</sup> Republic of Turkey, Decree on measures to be taken under the State of Emergency and arrangements made on certain institutions and organizations, Decree Law No. KHK/668, 27 July 2016.

<sup>(723)</sup> Republic of Turkey, *Decree with force of law no. 669*, 31 July 2016.



are given the authority to issue direct orders to the commanders of the army, air force and navy while the military commands are put directly under the Defense Ministry. In addition, the decree announces the discharge of military staff and the shutdown of all military schools, academies and non-commissioned officer training institutes. It establishes a new national defence university to train officers<sup>(724)</sup>. Military hospitals are put under the control of the Ministry of Health<sup>(725)</sup>.

Opposition leaders criticised the restructuration of the military and suggested a leading role for the parliament<sup>(726)</sup>.

The EC Communication 2016 summarised the measures taken by the government as follows:

‘Following the coup attempt, very extensive suspensions, dismissals, arrests and detentions took place over alleged links to the Gülen movement and involvement in the attempted coup. The measures affected the whole spectrum of society with particular impact on the judiciary, police, gendarmerie, military, civil service, local authorities, academia, teachers, lawyers, the media and the business community. Multiple institutions and private companies were shut down, their assets seized or transferred to public institutions’<sup>(727)</sup>.

On 5 August 2016, in a joint press release, several international and Turkish human rights organisations (EuroMed Rights, AEDH<sup>(728)</sup>, FIDH<sup>(729)</sup>, IHD<sup>(730)</sup> and HRFT<sup>(731)</sup>) declared:

‘Our organisations are concerned about the violent and indiscriminate reaction by the State. This has targeted on the one hand the military and the judiciary, with the hasty arrest of several thousands of people allegedly involved in the coup, and on the other hand journalists, lawyers, NGOs and other critical voices, including a blanket ban on travel for academics’. (...) The state of emergency allows the president and the Council of Ministers to rule by decree, therefore bypassing the parliament and undermining democratic standards. It also "partially or entirely" suspends the exercise of human rights and fundamental freedoms, including Turkey’s obligations under the European Convention on Human Rights’<sup>(732)</sup>.

On 19 August, a group of United Nations human rights experts urged the Turkish Government to uphold its obligations under international human rights law, even in its state of emergency following an attempted coup<sup>(733)</sup>.

On 8 November 2016, EU’s High Representative Federica Mogherini expressed her grave concern on the recent developments in Turkey:

‘Renewed considerations to introduce a bill to parliament to reinstate the death penalty; continued restrictions on the freedom of expression, including social media,

<sup>(724)</sup> Republic of Turkey, *Decree with force of law no. 669*, 31 July 2016; AA, Turkey's military restructured after failed coup bid, 1 August 2016.

<sup>(725)</sup> AA, Turkey's military restructured after failed coup bid, 1 August 2016; Hürriyet Daily News, Anti-Gülen operation spreads to Turkey’s largest military hospital, 2 August 2016.

<sup>(726)</sup> Hürriyet Daily News, Turkish opposition lays criticisms over government plans on army, 1 August 2016.

<sup>(727)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 15.

<sup>(728)</sup> AEDH: European Association for the Defence of Human Rights.

<sup>(729)</sup> FIDH: International Federation for Human Rights.

<sup>(730)</sup> IHD: Human Rights Association – Turkey.

<sup>(731)</sup> HRFT: Human Rights Foundation of Turkey.

<sup>(732)</sup> FIDH, Rights groups express deep worries over the state of emergency declared in Turkey, 5 August 2016. See also similar critics by Human Rights Watch. HRW, Dispatches: Turkey’s State of Emergency, 22 July 2016.

<sup>(733)</sup> UN OHCHR, UN experts urge Turkey to adhere to its human rights obligations even in time of declared emergency, 19 August 2016.

with further closures of media outlets and arrest warrants against journalists, (...) and most recently the arrest of the co-chairs of the country's second largest opposition party, HDP, as well as the detention of several of its Members of Parliament are extremely worrying developments which weaken the rule of law, the respect for human rights and fundamental freedoms and compromise parliamentary democracy in Turkey, while exacerbating tensions in the Southeast and further polarising Turkish society in general' <sup>(734)</sup>.

In the EC Communication 2016 this deep concern was reiterated:

'Given the scale and collective nature of measures taken since July, the EU has called on Turkey, as a candidate country, to observe the highest standards in the rule of law and fundamental rights. The Turkish authorities undertook clear commitments to this end. The Commission urges Turkey to implement them in full, including through international monitoring of the detentions, trials and procedures after the coup attempt. (...). The EU is gravely concerned about the arrest of several HDP Members of Parliament on charges alleging support of terrorist activities. (...) Regarding the renewed considerations to introduce a bill in parliament to reinstate the death penalty, the EU recalls that the unequivocal rejection of the death penalty is an essential element of the EU acquis and a central international obligation to which Turkey has committed.'<sup>(735)</sup>.

The EC Communication 2016 added: 'The measures taken under the state of emergency are undergoing scrutiny by the Council of Europe. Turkey should urgently address the recommendations of the Commissioner for Human Rights of the Council of Europe of October 2016' <sup>(736)</sup>.

## 6.2.2 The justice sector

A day after the coup, the Higher Council of Judges and Prosecutors issued a list of 2 745 judges and prosecutors to be suspended on suspicion of their links with Fethullah Gülen. A list was published in the media <sup>(737)</sup> and police began to arrest those listed (judges and prosecutors from lower courts, members of the Council of State, members of the Constitutional Court, members of the Court of Cassation, and members of the Higher council of Judges and Prosecutors). On 19 July, the Ankara prosecutor's office issued a decision to detain 2 790 judges and prosecutors <sup>(738)</sup>.

The United Nations High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, declared on 19 July, that 'the mass suspension or removal of judges is cause for serious alarm, and reports

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<sup>(734)</sup> EC, Declaration by the High Representative on behalf of the EU on the latest developments in Turkey Press release, 8 November 2016.

<sup>(735)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 10.

<sup>(736)</sup> EC, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2016 Communication on EU Enlargement Policy, COM(2016) 715 final, 9 November 2016, p. 15. The recommendations of the Commissioner are, amongst others, to 'immediately start repealing the emergency decrees', 'to revert to the situation before the state of emergency as a matter of urgency' and 'render much more transparent the criteria to be retained to prove membership of FETÖ/PDY and other terrorist organisations'. Council of Europe Commissioner for Human Rights, Memorandum on the human rights implications of the measures taken under the state of emergency in Turkey, (CommDH(2016)35), 7 October 2016.

<sup>(737)</sup> See the list at: TRT, HSYK'nın açığa aldığı hakim ve savcıların isim listesi, 16 July 2016.

<sup>(738)</sup> HRW, Turkey: Judges, Prosecutors Unfairly Jailed, 5 August 2016.

that many have been subject to detention orders also raises concerns of arbitrary detention’ (739).

The Minister of Interior later announced that by 27 July 1684 judges and prosecutors had been jailed (740). This number has risen to 2 131 as of 19 August 2016 (741).

### 6.2.3 The media

The media was also targeted in the aftermath of the attempted military coup. RSF reported on 25 July that ‘more than 300 state media employees had been affected, in particular the national TV broadcaster TRT and the news agency Anatolia’ (742). Twenty news websites, for the most part allegedly close to the Gülen movement, were shut down (743).

On 20 and 21 July respectively, several journalists were arrested, including Levent Kenez and Gülizar Baki, both working for *Meydan*, and Orhan Kemal Cengiz, a journalist and human rights defender (744). Another 25 media houses had their licenses revoked as of 22 July, while dozens of journalists had their press cards cancelled. After an emergency decree, on 27 July, Turkey issued warrants for the detention of 47 journalists of *Zaman* newspaper (745).

By the end of July, it was estimated that the emergency decree was followed by 89 arrest warrants for journalists, while 40 were detained, and others went into hiding (746). At least six members of the state media were also suspended, while many more journalists received threatening messages, some of them containing death threats (747). The government also ordered the closure of three news agencies, 16 TV channels, 23 radio channels, 45 papers and 15 magazines (748). Pro-Kurdish and Kurdish-language media have also been raided and journalists detained, such as the daily newspaper *Azadiya Welat* in Diyarbakır and *Özgür Gündem* (749).

In a statement issued after this crackdown, David Kaye, the UN Special Rapporteur on the right to freedom of opinion and expression, declared: ‘The attempted coup cannot justify such a broad attack against almost all voices, not just critical ones but analytic and journalistic (...). The widespread and abrupt nature of the measures, lacking even the basic elements of due process, is shocking and unprecedented in recent times in Turkey’ (750).

Platform24, a Turkish initiative for independent journalism, is regularly updating a long list of media outlets (TV and radio stations, newspapers, magazines, publishing houses) shut down

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(739) UN News Centre, UN human rights chief urges Turkey to uphold rule of law in response to attempted coup, 19 July 2016.

(740) HRW, Turkey: Judges, Prosecutors Unfairly Jailed, 5 August 2016.

(741) The Guardian, Turkey's post-coup crackdown – in figures, 19 August 2016.

(742) RSF, Turkey: media purge intensifies in coup attempt’s wake, 23 July 2016.

(743) HRW, Turkey: Protect Rights, Law After Coup Attempt, 18 July 2016; AI, Turkey: Independent monitors must be allowed to access detainees amid torture allegations, 24 July 2016.

(744) RSF, Turkey: media purge intensifies in coup attempt’s wake, 23 July 2016; Observatory for the Protection of Human Rights Defenders (FIDH/OMCT), Turkey: Provisional release of Mr. Orhan Kemal Cengiz and travel ban against him, 26 July 2016.

(745) The Guardian (UK), Turkey issues warrants for 47 journalists as Gülen urges US not to extradite him, 27 July 2016.

(746) AI, Turkey: Intensified crackdown on media increases atmosphere of fear, 29 July 2016; OHCHR, Freedom of expression: UN and OSCE experts deplore crackdown on journalists and media outlets in Turkey, 28 July 2016.

(747) RSF, Turkey: media purge intensifies in coup attempt’s wake, 23 July 2016.

(748) OHCHR, Freedom of expression: UN and OSCE experts deplore crackdown on journalists and media outlets in Turkey, 28 July 2016.

(749) Guardian, Turkish police raid Kurdish-language newspaper office, 30 August 2016.

(750) OHCHR, Freedom of expression: UN and OSCE experts deplore crackdown on journalists and media outlets in Turkey, 28 July 2016.

under state of emergency decrees <sup>(751)</sup>. By 3 September, at least 115 journalists had been arrested (or warrants issued) and more than 100 media outlets closed, of which 45 newspapers, 16 TV channels, three news agencies, 23 radio stations, 15 magazines and 29 publishing houses <sup>(752)</sup>. According to press reports, 2 308 media workers and journalists lost their jobs. An unknown number of journalists had their passports confiscated, thus banning them from any foreign travel <sup>(753)</sup>.

On 3 September, police at Atatürk Airport seized the passport of Dilek Dünder, wife of former *Cumhuriyet* Editor-in-chief Can Dünder. This has raised concerns regarding the treatment of relatives of suspected journalists <sup>(754)</sup>. Dünder himself, who fled to Europe, resigned as editor and said 'he has no longer faith in the judiciary to hear an appeal in a secrecy trial in the current state of emergency' <sup>(755)</sup>.

#### 6.2.4 The education and research sector

More than 15 000 education staff in Turkey were suspended after the coup, while more than 1 500 university deans were ordered to resign and the licences of 21 000 teachers working at private institutions were revoked <sup>(756)</sup>. 1 700 private schools and educational institutions were also closed with 138 000 school children having to transfer to state schools <sup>(757)</sup>. Fifteen alleged gülenist universities were closed <sup>(758)</sup>.

According to press reports, as of 2 September, about 28 163 people working with the Ministry of National Education have been expelled from their jobs for alleged ties to banned organisations <sup>(759)</sup>. By the start of new school year, schools were confronted with about 50,000 vacancies of teachers who had been dismissed or suspended over alleged links with the failed coup, according to the president of the Istanbul teachers' union, quoted by press reports. In addition, another 11,500 teachers with alleged links to the PKK had been suspended in September as well <sup>(760)</sup>.

On 3 August, the police raided the offices of the Scientific and Technological Research Council of Turkey (*Türkiye Bilimsel ve Teknolojik Araştırma Kurumu / TÜBİTAK*) and detained many people during the raid. TÜBİTAK funds science research projects in universities and in the private sectors; it also acts as an advisory agency to the Turkish Government on science and research issues. It employs more than 1 500 researchers in 15 research institutes <sup>(761)</sup>. The day after the raid, 139 staff members were dismissed from their duties <sup>(762)</sup>.

<sup>(751)</sup> Platform24, Journalists in State of Emergency – 16, 5 September 2016.

<sup>(752)</sup> Platform24, Journalists in State of Emergency – 16, 5 September 2016; The Guardian, Stop the press: Turkey's crackdown on its media goes into overdrive, 29 August 2016. As of 5 November 2016, 21 journalists had been released after being held as part of the coup probe under the State of Emergency, and 142 journalists were still in jail. Platform24, Journalists in State of Emergency – 27, 5 November 2016.

<sup>(753)</sup> The Guardian, Stop the press: Turkey's crackdown on its media goes into overdrive, 29 August 2016

<sup>(754)</sup> Platform24, Journalists in State of Emergency – 16, 5 September 2016.

<sup>(755)</sup> The Guardian, Can Dünder announces he is stepping down as editor of Turkish paper, 15 August 2016.

<sup>(756)</sup> BBC, Turkey coup: Purge widens to education sector, 19 July 2016.

<sup>(757)</sup> BBC, Turkey failed coup: Who are the Gulenists?, 29 July 2016; Amnesty International, Turkey: Intensified crackdown on media increases atmosphere of fear, 29 July 2016.

<sup>(758)</sup> Hürriyet Daily News, "Turkish decree increases detention period to 1 month, closes schools, hospitals", 23 July 2016

<sup>(759)</sup> Al Jazeera, Turkey frees prisoners to make room for coup detainees, 2 September 2016

<sup>(760)</sup> Guardian (The), Turkish schools reopen after purge of teachers suspected of coup links, 19 September 2016.

<sup>(761)</sup> Al Jazeera, Turkey police raid science council in post-coup purge, 3 August 2016. Reuters, Turkey sees swift overhaul of intelligence agency, gendarmerie after coup, 3 August 2016; See also: TÜBİTAK, Who We Are, n.d..

<sup>(762)</sup> Anadolu Agency (AA), Turkey's top scientific body dismisses 139 personnel, 5 August 2016.

## 6.2.5 Popular and political support

After the coup attempt, Erdoğan's supporters gathered in Taksim Square (Central Istanbul) night after night to celebrate the failed coup. On 7 August, a large gathering (more than a million), called the 'democracy and martyrs rally', was organised in Istanbul Yenikapı neighbourhood by the President and attended by the two main opposition parties. However, the Kurdish co-leaders of the HDP, already excluded from the inter-party meetings (AKP, CHP, MHP) that followed the failure of the coup<sup>(763)</sup>, were significantly not invited for the 7 August Yenikapı rally<sup>(764)</sup>. During this rally, Erdoğan declared that if parliament approved the reintroduction of the death penalty he would enthusiastically sign it into law<sup>(765)</sup>.

However conflicts quickly rose between the government and the opposition regarding the post-coup developments. The Kemalist party CHP criticised the current crackdown and said that it had received 30 000 complaints about the governmental measures after the attempted coup<sup>(766)</sup>. At the beginning of September 2016, CHP and the Union of the Turkish bar associations (TBB) refused to attend the judicial year's opening ceremony because it was held in the presidential palace, i.e., in a place that would symbolically undermine the separation of powers<sup>(767)</sup>.

On 20 September, the CHP urged to hold fair trials for people probed in post-coup cases<sup>(768)</sup>.

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<sup>(763)</sup> Hürriyet Daily News, no invitation to Turkish leaders' summit angers HDP, 25 July 2016 ; Hürriyet Daily News, HDP co-chairs angry at being left out of inter-party meets, 2 August 2016.

<sup>(764)</sup> Hürriyet Daily News, Demirtaş : Yenikapı's flaw was not HDP's absence, but undestanding democracy, 9 August 2016.

<sup>(765)</sup> New York Times, Erdogan Seizes Failed Coup in Turkey as a Chance to Supplant Ataturk, 7 August 2016; CNN, Turkey's Erdogan tells million-strong unity rally: I support death penalty, 8 August 2016.

<sup>(766)</sup> Hürriyet Daily News, CHP registers 30,000 complaints over government's post-coup attempt measures, 14 September 2016

<sup>(767)</sup> Hürriyet Daily News, CHP, TBB not to appear at Turkey's judicial year opening amid impartiality row, 31 August 2016

<sup>(768)</sup> Hürriyet Daily News, CHP urges fair trial, cites 1 million sufferers in post-coup process, 20 September 2016.

## Annex 1. Major security events (2015 - 2016)

### Major events linked to PKK

**20 July 2015**, in Suruç (Syrian border), a suicide bombing killed 33 Kurdish student activists and injured more than 100. The victims had travelled to the south-east town of Suruç to join efforts to rebuild the Syrian town of Kobani<sup>(769)</sup>. While the government imputed this attack on IS, the PKK accused the government of complicity or failure to address the threat from IS<sup>(770)</sup>.

**22 July 2015**, two Turkish policemen were killed by the PKK's military wing 'to avenge the suicide bombing on Monday blamed on Islamic State of Iraq and the Levant (Isil)'<sup>(771)</sup>. Air strikes struck PKK positions in northern Iraq starting on **25 July**, continuing through the end of July with seven waves of bombardment<sup>(772)</sup>.

From **24 to 31 July**, PKK killed 11 Turkish security officers, bringing the total of security officers killed during July to 18<sup>(773)</sup>.

In **August 2015**, confrontation between security forces and PKK intensified in the south-east. Turkish authorities reported 67 members killed in clashes with PKK in the period **between 20 July and 30 August**; PKK reported 53 of its members were killed in same period. 28 civilians were also reported killed<sup>(774)</sup>.

On **10 August 2015**, in the Şırnak province, four police officers were killed by a roadside bomb and a soldier died when gunmen fired on a military helicopter<sup>(775)</sup>. Thirteen waves of air strikes were reported between 24 July and 28 August<sup>(776)</sup>.

Clashes between security forces and Kurdish insurgency PKK worsened in **September 2015** in east and south-east Turkey, while the government launched seven air strikes against PKK positions in Turkey and northern Iraq<sup>(777)</sup>.

In early **September 2015**, Turkish security forces placed the south-east town of Cizre under a blanket curfew for eight days to conduct a military operation against the PKK's youth wing, which had reportedly sealed off three neighbourhoods. An estimated 40-42 militants were killed in the operation. 21 to 23 civilians were reported dead, 16 from firearm injuries<sup>(778)</sup>.

On **6 September**, 17 soldiers were killed in a PKK attack in Dağlıca, Hakkari Province<sup>(779)</sup>.

on **8 September**, in the Iğdır region of eastern Turkey, 14 soldiers were killed in a bomb attack blamed on the PKK. Government declared some 131 'temporary military secure zones' in over 15 eastern provinces<sup>(780)</sup>.

<sup>(769)</sup> US DoS, Country Report on Human Rights Practices 2015 - Turkey, 13 April 2016; HRW - Human Rights Watch: World Report 2016 - Turkey, 27 January 2016; FIDH - EuroMed Rights and FIDH – High-Level Solidarity Mission To Turkey, 20-24 January 2016.

<sup>(770)</sup> Freedom House, Freedom in the World 2016 - Turkey, 27 January 2016.

<sup>(771)</sup> Telegraph (The), Kurdish militants claim 'revenge' killing of two Turkish policemen, 22 July 2015.

<sup>(772)</sup> ICG, Crisis Watch, 1 August 2015, Turkey.

<sup>(773)</sup> ICG, Crisis Watch, 1 August 2015, Turkey.

<sup>(774)</sup> ICG, Crisis Watch, 1 September 2015, Turkey.

<sup>(775)</sup> BBC, Turkey attacks: Deadly violence in Istanbul and Sirnak, 10 August 2015.

<sup>(776)</sup> ICG, Crisis Watch, 1 September 2015, Turkey.

<sup>(777)</sup> ICG, Crisis Watch, 1 October 2015, Turkey.

<sup>(778)</sup> HRW, World Report 2016 - Turkey, 27 January 2016; ICG, Crisis Watch, Turkey, 1 October 2015.

<sup>(779)</sup> ICG, Crisis Watch, Turkey, 1 October 2015.

<sup>(780)</sup> ICG, Crisis Watch, Turkey, 1 October 2015.

On **10 October 2015**, a bombing in Ankara of a peace rally of HDP, various NGOs, trade unions and peace activists left more than 100 dead and hundreds injured. Government officials attributed the attack to IS <sup>(781)</sup>.

Through the month of **December 2015**, 44 civilians, 25 security forces and 11 insurgents were killed in clashes. On **12 December**, the government launched air strikes on PKK positions in the south-east killing at least two civilians <sup>(782)</sup>.

In **January 2016** 35 civilians, 33 security forces and 12 PKK militants were killed in clashes between security forces and PKK <sup>(783)</sup>.

On **5 January 2016**, in the province of Şırnak, three prominent female political activists were killed by security forces <sup>(784)</sup>.

On **14 January 2016**, a PKK car bomb attack killed six people, including two young children, in a suicide attack on police headquarters in Diyarbakir. Thirty nine people, mostly civilians, were reported injured in the attack which destroyed the police station <sup>(785)</sup>.

Some 84 security forces and at least 27 PKK militants were killed in clashes during **February 2016**. A car bomb attack on **17 February** in Ankara killed some 28 high ranking military officials and civil servants, and injured 61. The government blamed the attack on the YPG, however TAK claimed responsibility for the attack <sup>(786)</sup>.

In **March**, an estimated 52 Turkish security forces, at least 40 civilians and at least 25 PKK militants were killed <sup>(787)</sup>.

On **13 March 2016** a suicide bombing in Ankara killed at least 37 people. TAK claimed responsibility for the act on 17 March 2016, as well as for a suicide attack on a bus in Ankara in February 2016 in which 28 persons were killed <sup>(788)</sup>.

On **14 March**, the Turkish armed forces conducted heavy air strikes on PKK camps in northern Iraq <sup>(789)</sup>.

On **31 March 2016**, seven police officers were killed and 23 individuals injured in an attack on a police bus in Diyarbakir <sup>(790)</sup>. The attack, claimed by PKK, took place a day before Prime Minister Ahmet Davutoglu was to make a rare visit to the city <sup>(791)</sup>.

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<sup>(781)</sup> FIDH - EuroMed Rights and FIDH – High-Level Solidarity Mission to Turkey, 20-24 January 2016; BBC News, 'Suicide bomber' hits western Turkey, 27 April 2016; US DoS, Country Report on Human Rights Practices 2015 - Turkey, 13 April 2016.

<sup>(782)</sup> ICG, Crisis Watch, Turkey, 1 January 2016.

<sup>(783)</sup> ICG, Crisis Watch, Turkey, 1 January 2016.

<sup>(784)</sup> Ara News, Turkey assassinates three Kurdish female activists in Şırnak, 6 January 2016.

<sup>(785)</sup> AI, Onslaught on Kurdish areas putting tens of thousands of lives at risk, 21 January 2016; Jamestown Foundation: Turkey's Dance with the Islamic State, 22 January 2016; ICG, Crisis Watch n°154, 1 February 2016, Turkey.

<sup>(786)</sup> ICG, Crisis Watch, 1 March 2016, Turkey.

<sup>(787)</sup> ICG, Crisis Watch, 1 April 2016, Turkey.

<sup>(788)</sup> AI, Turkey: Amnesty International condemns bombing in Ankara's Kızılay, 14 March 2016; BAMF, Briefing Notes, 21 March 2016; BBC News, 'Suicide bomber' hits western Turkey, 27 April 2016; AFP, 4 dead, 20 wounded in Istanbul suicide attack: governor, 20 March 2016; RFE/RL, Turkey Carries Out Air Strikes In Northern Iraq After Deadly Ankara Bombing, 14 March 2016.

<sup>(789)</sup> ICG, Crisis Watch, 1 April 2016, Turkey.

<sup>(790)</sup> AFP, Six police killed in bomb attack in Turkey's Diyarbakir, 31 March 2016; BBC News: 'Suicide bomber' hits western Turkey, 27 April 2016; BAMF, Briefing Notes, 4 April 2016; RFE/RL, Bomb Attack Targets Police Vehicle In Turkey's Diyarbakir, 31 March 2016.

<sup>(791)</sup> Reliefweb, Six police killed in bomb attack in Turkey's Diyarbakir, Report from Agence France-Presse, 31 March 2016.

In **April 2016**, violence continued in south-east provinces with 50 members of security forces, at least 80 PKK-linked militants and some 23 civilians killed <sup>(792)</sup>.

On **2 April 2016**, a bomb attack killed five Turkish soldiers and one police officer in the city of Nusaybin (Mardin province, predominantly Kurdish). The PKK was blamed for the attack <sup>(793)</sup>.

On **11 April 2016**, terrorists affiliated with the PKK carried out a car bombing, in the town of Hani (Diyarbakır region), wounding several people <sup>(794)</sup>.

On **12 April 2016** a vehicle packed with explosives rammed into a police station in the south-east, wounding several people in what state media called a terrorist attack by Kurdish militants <sup>(795)</sup>.

On **24 April 2016**, in the provinces of Mardin and Şırnak, eight PKK militants were killed during clashes between the PKK and Turkish security forces, according to the Turkish General Staff <sup>(796)</sup>.

On **27 April 2016**, a suicide bomber blew herself up outside the Grand Mosque in Bursa, the city's main tourist attraction, injuring 13 people. TAK claimed responsibility for the attack <sup>(797)</sup>.

According to ICG, violence intensified in **May 2016**, with 27 civilians, 70 security forces and 53 PKK-linked militants killed during the month. PKK continued high profile attacks and reportedly used more advanced weapons systems. Turkish military continued air operations against PKK targets in southeast Turkey and northern Iraq <sup>(798)</sup>.

On **1 May 2016**, two car bomb attacks were launched in the south eastern parts of the country. One of them was aimed at a police station in the town of Dicle (Diyarbakır province), injuring at least 10 people, according to media. The other attack was directed against a police station in the city of Gaziantep, apparently killing two police officers and injuring another 19 police officers as well as four civilians. Police later raided the home of a suspected member of the IS group, believed to have carried out the attack <sup>(799)</sup>.

Also on 1 May **2016**, three Turkish soldiers were killed and 14 others injured in an attack in the Nusaybin district of Mardin Province, blamed on rebels of the PKK <sup>(800)</sup>.

On **12 May** a bomb-laden truck detonated in Diyarbakır's Dürümlü, killing three PKK militants and 13 civilians <sup>(801)</sup>.

On **7 June 2016**, a bomb targeting a police bus in Istanbul's Vezneciler neighbourhood killed at least 12 people <sup>(802)</sup>. Officials blamed the PKK for the bombing <sup>(803)</sup>.

On **8 June**, a car bomb which exploded near a police station in Midyat, Mardin killed six. The attack was blamed on PKK <sup>(804)</sup>.

<sup>(792)</sup> ICG, Crisis Watch n°154, 1 May 2016, Turkey.

<sup>(793)</sup> BAMF, Briefing Notes vom 04.04.2016, 4 April 2016

<sup>(794)</sup> Daily Mail On-line, 1 killed in car bomb attack in Turkey, by Associated Press, 11 April 2016; RFE/RL, Several Wounded In Car Bomb Attack On Turkish Police Station, 12 April 2016.

<sup>(795)</sup> RFE/RL, Several Wounded In Car Bomb Attack On Turkish Police Station', 12 April 2016.

<sup>(796)</sup> Hürriyet Daily News, 8 PKK militants killed by security forces in Turkey's southeast", 24 April 2016.

<sup>(797)</sup> BBC, 'Suicide bomber' hits western Turkey, 27 April 2016; BAMF, Briefing Notes , 2 May 2016.

<sup>(798)</sup> ICG, Crisis Watch, 1 June 2016, Turkey.

<sup>(799)</sup> BAMF, Briefing Notes vom 02.05.2016, 2 May 2016; BBC News, Turkey: 'IS' link to deadly Gaziantep blast, 1 May 2016.

<sup>(800)</sup> RFE/RL, Three Turkish Soldiers Killed In PKK Attack, 01 May 2016.

<sup>(801)</sup> ICG, Crisis Watch, 1 June 2016, Turkey.

<sup>(802)</sup> Reuters, Car bomb targeting police kills 11, wounds 36 in Istanbul, 7 June 2016.

<sup>(803)</sup> Reuters, Turkey blames Kurdish militants for Istanbul car bombing, 9 June 2016.

<sup>(804)</sup> CNN, 3 killed by car bomb near police headquarters in Midyat, Turkey, 8 June 2016.



On **30 July 2016**, the army killed 35 Kurdish fighters after they attempted to storm a military base in the south-eastern province of Hakkari <sup>(805)</sup>.

In total, in the month of **July**, clashes between state security forces and PKK killed 42 security force members, 33 PKK militants and eight civilians <sup>(806)</sup>.

On **10 August 2016**, PKK carried out two bomb attacks on police vehicles in Kızıltepe and Diyarbakır killing at least eight people and wounding many more <sup>(807)</sup>.

On **18 August**, two bomb attacks allegedly by PKK militants, one in the city of Elazığ on a police station, and one in Bitlis province, killed seven and wounded 224 people, many of whom were police officers. In Van province, another car bomb exploded near a police station, killing two police officers and one civilian <sup>(808)</sup>.

On **26 August**, an explosives-laden truck was detonated at a police checkpoint in Cizre, south-east Turkey, killing at least 11 police officers and wounding 87 people <sup>(809)</sup>.

## Major events linked to IS and affiliates

The government held IS responsible for a **20 July 2015** suicide bombing that killed 33 Kurdish and Turkish student activists and injured more than 100 in Suruç (Syrian border). The victims had travelled to the south-east town of Suruç to join efforts to rebuild the Syrian town of Kobani <sup>(810)</sup>.

On **1 and 9 September 2015**, two soldiers were killed, two injured following cross-border fire from IS in provinces of Kilis and Hatay along Syrian border <sup>(811)</sup>.

**November/December 2015** saw a continuing crackdown on Islamic State (IS) militants, while 67 IS-linked persons were charged on 18 December of IS activities <sup>(812)</sup>.

On **12 January 2016**, a second terrorist attack was carried out by a suspected IS suicide bomber in a touristic district of Istanbul, , killing 12 Germans and wounding another 15 <sup>(813)</sup>.

**Mid-January 2016**, 45 rockets, fired from an area of Syria controlled by IS, have hit the Turkish border town of Kilis, killing at least 18 people <sup>(814)</sup>.

On **19 March 2016**, four persons were killed in a suicide bombing on one of Istanbul's most famous avenue (İstiklal Caddesi) and at least 36 persons were wounded. The Turkish Government blamed IS for the attack <sup>(815)</sup>.

IS-attributed strikes from Syria intensified in **April**, hitting Kilis province eleven times <sup>(816)</sup>.

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<sup>(805)</sup> Al Jazeera, Turkey: PKK fighters killed in attempt to storm base, 30 July 2016.

<sup>(806)</sup> ICG, Crisis Watch, July 2016.

<sup>(807)</sup> BBC, Turkey-PKK conflict: Eight killed in twin bomb blasts, 11 August 2016.

<sup>(808)</sup> The Guardian, Security forces killed and scores injured in Turkey bombings, 18 August 2016.

<sup>(809)</sup> The Guardian, Turkey: deadly truck bomb hits Cizre police checkpoint, 26 August 2016.

<sup>(810)</sup> US DoS, Country Report on Human Rights Practices 2015 - Turkey, 13 April 2016; HRW, World Report 2016 - Turkey, 27 January 2016; FIDH - EuroMed Rights and FIDH – High-Level Solidarity Mission To Turkey, 20-24 January 2016.

<sup>(811)</sup> ICG, Crisis Watch, 1 October 2015, Turkey.

<sup>(812)</sup> ICG, Crisis Watch Bulletin, cw 149, 1 January 2016.

<sup>(813)</sup> Jamestown Foundation, Turkey's Dance with the Islamic State, 22 January 2016; BBC News: 'Suicide bomber' hits western Turkey, 27 April 2016.

<sup>(814)</sup> AFP, One killed, 26 wounded as Syria rockets hit Turkish town, 24 April 2016; RFE/RL, Fire From Syria Lands In Turkey Again, 13 April 2016.

<sup>(815)</sup> BBC News, Istanbul shopping area hit by suicide bomber, 19 March 2016.

<sup>(816)</sup> ICG, Crisis Watch, Turkey, 2 May 2016.

In April 2016, the government intensified its clampdown against IS and Jabhat al-Nusra networks. On **13 April 2016**, Defence Minister İsmet Yılmaz reported that 146 IS targets were shelled by the Turkish artillery, while 362 IS militants were killed in Turkish military operations in retaliation to rockets landing in Kilis <sup>(817)</sup>.

On **24 April 2016**, five rockets killed one person and wounded 26 <sup>(818)</sup>.

On **28 June 2016** three suicide bombers (of whom two holding Russian passports) arrived by taxi at the Istanbul Atatürk International Airport and fired randomly at people and detonated their bomb vests near the entrance and the security check. 47 people were killed and 239 wounded <sup>(819)</sup>.

On **29 June** a car bombing in Midyat in south-eastern Turkey killed three people. This was the fifth attack attributed to IS in the past year <sup>(820)</sup>.

On **21 August** a teenage suicide bomber detonated explosives at a wedding party in the south-eastern city of Gaziantep. Officials blamed IS for the blast, which killed 56 and injured at least 94. This is the first time that IS uses a child in a suicide bomb attack in Turkey <sup>(821)</sup>.

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<sup>(817)</sup> ICG, Crisis Watch, Turkey, 2 May 2016.

<sup>(818)</sup> AFP, One killed, 26 wounded as Syria rockets hit Turkish town, 24 April 2016; RFE/RL, Fire From Syria Lands In Turkey Again, 13 April 2016.

<sup>(819)</sup> BBC, Istanbul Ataturk airport attack: 41 dead and more than 230 hurt, 29 June 2016.

<sup>(820)</sup> Time, Deadly Bombings in Turkey More Evidence Terror Has Come Home, 8 June 2016.

<sup>(821)</sup> Al Jazeera, Turkey: Suicide bomber kills more than 50 at wedding, 22 August 2016; The Guardian, Erdoğan blames Isis for suspected suicide attack at wedding in Turkey, 22 August 2016.

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## Terms of Reference

Acknowledgments (EASO)

Disclaimer (EASO)

Abbreviations and acronyms (EASO)

Introduction/Context (incl. EU accession process) – Methodology – 3 pages (EASO)

Map (EASO)

### 1. State structure

#### 1.1 Constitution

#### 1.2 Executive branch

- o President
- o Government

#### 1.3 Legislative branch

- o Parliament (assembly, senate?)

#### 1.4 Administration

### 2. Socio-political landscape (= level of democracy)

Note: General statements about the socio-political landscape (for example, crackdown on Turkish political activists) can be made, but no detailed references to human rights violations as this will be covered in Chapter 5. Human rights situation – Cross-link statements to Chapter 5).

#### 2.1 Political parties

#### 2.2 Elections

#### 2.3 Opposition/ Armed groups

#### 2.4 Civil society

#### 2.5 Media

### 3. Rule of Law and State Protection

Note: General statements about the rule of law and availability of state protection (for example, unlawful detention) can be made, but no detailed references to human rights violations as this will be covered in Chapter 5. Human rights situation – Cross-link statements to Chapter 5).

3.1. Law enforcement (include information about: Capacity to protect civilians; Corruption; Abuse of power; Internal mechanisms to deal with these issues - where relevant)

#### 3.1.1 Police

#### 3.1.2 Army



### 3.1.3 Intelligence/Security forces

3.2 Judiciary (include information about: Capacity to protect civilians; Corruption; Abuse of power; Internal mechanisms to deal with these issues - where relevant)

#### 3.2.1 Courts system (state courts, religious courts, military courts, etc.)

## 4. Security situation (general, regional)

4.1 Short description of the (regional) situation

4.2 Amount of violence (chronology of main incidents)

4.3 Actors in the conflict

4.4 Areas of control/influence

4.5 Impact of the violence to the population

## 5. Human rights situation

5.1 Legal context (relevant legislation: constitution, treaties, citizenship, etc.)

5.2 General situation (arbitrary arrests, detention, torture, disappearances, situation in detention facilities, deportation/*refoulement*)

5.3 Specific groups (e.g., ethnic/religious minorities, journalists, human rights defenders, children, women, LGBT, victims of trafficking, returnees, etc.)

Bibliography

Terms of Reference