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## 1. Background

The environment in which civil society operates in Turkey has been progressively deteriorating since 2013. Although different segments of civil society suffered from governmental repression long before 2013, the crackdown gradually intensified following the protests known as the “Gezi Park protests” in 2013<sup>1</sup> and the collapse of the peace process between the Government and the PKK (Kurdistan Labour Party<sup>2</sup>) in 2015,<sup>3</sup> reaching an alarming level after the attempted coup on July 15, 2016.<sup>4</sup> Following the coup attempt, and in order to quell the uprising, the authorities in Turkey enacted a state of emergency, which was renewed seven times before finally ending on July 18, 2018, and which resulted in severe restrictions to human rights and fundamental freedoms, along with a narrowed space for civil society.

The end of the emergency rule did not fundamentally alter the situation. The erosion of the rights of civil society actors, which is symptomatic of a wider degradation of the rule of law and of democratic checks and balances, including judicial independence, in Turkey, continues. Freedom of association, along with freedom of assembly and freedom of speech, has been the target of retrogressive laws and policies, in complete disregard of Turkey’s constitutional obligations and international engagements, and the environment in which civil society operates remains far from hospitable. The present submission aims to give an overview of the situation in which civil society and human rights defenders (“HRDs”) operate in Turkey as well as the rights violations under the International Covenant on Civil and Political Rights (“ICCPR”) that they have been experiencing since the coup attempt in 2016.

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1 The Gezi Park protests began on May 28, 2013 to protect Gezi Park against the construction of a replica of 19th-century Ottoman barracks, that was to contain a shopping mall, a cultural centre, and a mosque. They then sparked a wave of anti-Government demonstrations across Turkey demanding basic rights and freedoms, in reaction to the police violence against the peaceful protestors. Please see, FIDH, Gezi, One Year on: Hunting the Protestors Down (May 27, 2014). Available at: <https://www.fidh.org/en/region/europe-central-asia/turkey/15401-gezi-one-year-on-hunting-the-protestors-down>; also see, Amnesty International, Turkey: Gezi Park Protests: Brutal Denial of the Right to Peaceful Assembly in Turkey (October 2, 2013). Available at: <https://www.amnesty.org/en/documents/EUR44/022/2013/en>.

2 The PKK is an armed group listed as a terrorist organisation by Turkey, the EU, and NATO.

3 See, BBC, PKK to ‘resume fighting’ against Turkish army (November 5, 2015). Available at: <https://www.bbc.com/news/world-europe-34732235>; also see, FIDH & Euromed Rights, High-Level Solidarity Mission to Turkey 20-24 January 2016 – Human Rights Under Curfew (February 24, 2016). Available at: <https://www.fidh.org/en/region/europe-central-asia/turkey/turkey-human-rights-under-threat>.

4 See, FIDH, FIDH condemns coup attempt in Turkey and calls for response which respects the rule of law and human rights (July 19, 2016). Available at: <https://www.fidh.org/en/region/europe-central-asia/turkey/fidh-condemns-coup-attempt-in-turkey-and-calls-for-response-which>.

## 2. Articles 19 & 22: Shrinking civic space and the violation of the rights to freedom of association and expression

The state of emergency had a devastating impact on the civic space in Turkey, and more specifically on the freedom of association through the closure of many human rights associations in addition to other forms of harassment. More than two and a half years since the state of emergency ended in July 2018, civil society remains under siege in Turkey. Civil society actors and HRDs are being stigmatised, judicially harassed, and arbitrarily detained on a regular basis for their legitimate human rights activities and for exercising their fundamental rights. An overwhelming number of high-profile civil society actors and HRDs have been, or are still subject to criminal investigations and/or prosecutions that have been launched against them.

### a. Stigmatisation and Discrediting of Civil Society Actors

HRDs and civil society actors have long been portrayed in Turkey as pursuing foreign interests, posing a threat to national security, and/or promoting the objectives of “terrorist organisations,” by Government officials and on pro-Government media. This narrative gained ground following the 2015 collapse of the peace process between the Government and the PKK, especially against Kurdish HRDs and all those who bring attention to the rights violations in the South-East, and reached an alarming level in the aftermath of the attempted coup in 2016. Since then, anyone expressing criticism towards the Government has been portrayed as a potential “internal enemy” striving to overthrow the Government of Turkey.

Smear campaigns by State officials<sup>5</sup> and on pro-Government media against civil society actors and HRDs have taken various forms, such as pointing to their relationship with international actors and donors, which is referred to as a proof of their alleged ties to foreign powers; suggesting connections with terrorist organisations and other “enemies of the State”; and feeding conspiracy theories with inaccurate and false information. These campaigns often call on the authorities to take action against this allegedly incriminating behaviour and its “perpetrators.” In many cases, smear campaigns on pro-Government media go hand-in-hand with a delegitimising narrative by high-level Government officials, both aimed at discrediting civil society actors, as well as their legitimate human rights work, in the eyes of the general public. These campaigns are very often followed by harassment of civil society actors and HRDs, both by public authorities and non-State actors, including judicial harassment, physical attacks, and even, in the most extreme cases, killings.<sup>6</sup>

Most recently, Human Rights Association (*İnsan Hakları Derneği* – İHD), FIDH’s member organisation and the co-author of this submission, was targeted<sup>7</sup> after it held the State accountable for

5 For instance, Şebnem Korur Fincancı, a forensic physician and the former chair of TIHV, was directly targeted by the President after she was elected as chair of the Turkish Medical Association (*Türk Tabipler Birliği* – TTB). In a speech at an AKP meeting in October 2020, the President condemned TTB for electing “someone from the terrorist organisation” as their chair. See, Bianet, Erdoğan calls Turkish Medical Association Chair ‘a terrorist’, hints at new law (October 14, 2020). Available at: <https://bianet.org/english/politics/232726-erdogan-calls-turkish-medical-association-chair-a-terrorist-hints-at-new-law>. For TIHV’s press release in response to the President’s accusations, see, TIHV, Press Release on Our President Professor R. Şebnem Korur Fincancı (October 15, 2020). Available at: <https://tihv.org.tr/basin-aciklamalari/press-release-on-our-president-professor-r-sebnem-korur-fincanci>.

6 Tahir Elçi, a Kurdish HRD and the former chair of the Diyarbakır Bar Association, was assassinated on November 28, 2015, during an outdoor press conference in Sur, Diyarbakır, that was organised to draw attention to the damage done to cultural heritage during the armed clashes in the city. Prior to his assassination, he was the target of a smear campaign by nationalist groups after he stated on TV that “the PKK is not a terrorist organisation; although some of its activities could qualify as terrorism, it is a political movement, and it is a movement with a broad-based support, making political demands.” He was later investigated for “terrorist propaganda” for his statement and briefly detained in early November 2015. For more details, see, Keep the Volume Up for Rights Defenders in Turkey, Tahir Elçi (last update on November 10, 2020). Available at: <https://www.sessizkalma.org/en/defender/tahir-elci-2>.

7 For more details see, the Observatory, Statement – Turkey: Stigmatisation and targeting of the Human Rights Association (İHD) must stop! (February 26, 2021). Available at: <https://www.fidh.org/en/region/europe-central-asia/turkey/turkey-stigmatisation-and-targeting-of-the-human-rights-association>.

the death of 13 hostages held by the PKK during a Turkish military operation on February 10, 2021. The Interior Minister, during a speech addressing the members of the parliament, targeted IHD and its executives, and referred to IHD as “canı çıkasica” association (a curse commonly used to wish that great evil, misery, and death befall someone). He also falsely accused IHD of not condemning the massacre of civilians by terrorist organisations, which was denied by the latter in a public statement on February 18.<sup>8</sup> Following the Interior Minister’s intervention, IHD began receiving threats through various channels, including by emails, phone, and on social media. In the upcoming weeks, its Co-President Öztürk Türkdöğän faced judicial harassment and arbitrary detention<sup>9</sup>. On March 19, 2021, early in the morning, police officers raided the house of Mr. Türkdöğän in Ankara, and he was taken into police custody on the charge of “membership to an illegal armed organisation” (Article 314/2 of the Criminal Code). The prosecutor asked him questions related to several statements he had made to the press in his capacity as IHD’s Co-President, as well as to his phone conversations with international organisations, members of the Parliament, state officials and international delegations. On the same day in the evening, he was released under judicial control, pending investigation, and imposed an international travel ban.

### **b. Closure of Associations During the Emergency Rule**

During the emergency rule, 1,410 associations,<sup>10</sup> 109 foundations,<sup>11</sup> 19 trade unions, and 149 media entities<sup>12</sup> (news outlets, newspapers, TV and radio channels, periodicals, and publishers) were closed down by emergency decrees and without a court decision.<sup>13</sup> While the emergency decrees primarily targeted organisations with alleged connections to the coup attempt of July 2016, human rights groups also became a target later on. Those numbers include associations working on human rights – including women’s rights and children’s rights – cultural associations, lawyers’ associations, and those fighting against poverty. The assets of these organisation were confiscated by the authorities without any form of compensation.

The emergency decrees could not be legally challenged before the courts, and the affected civil society actors did not have access to meaningful judicial remedies. Following consistent criticism by various bodies of the Council of Europe, particularly the Venice Commission, in January 2017, the Inquiry Commission for the State of Emergency Measures was established to serve as a remedial mechanism against the emergency measures.<sup>14</sup> However, the Inquiry Commission’s legitimacy, independence, and transparency have been criticised by many civil society actors, as it is not seen as an independent body that can provide a meaningful, effective, and impartial remedy to the victims.<sup>15</sup>

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8 For IHD’s statement see, IHD, İHD’s Answer to Interior Minister Süleyman Soylu (February 18, 2021). Available at: <https://ihd.org.tr/en/ihds-answer-to-interior-minister-suleyman-soylu>.

9 See, the Observatory, Urgent Appeal – Turkey: Arbitrary detention and subsequent release of İHD Co-Chairperson Mr. Türkdöğän TUR 002 / 0321 / OBS 039 (March 26, 2021). Available at: <https://www.fidh.org/en/issues/human-rights-defenders/turkey-arbitrary-detention-and-subsequent-release-of-ihd-co>

10 188 out of 1,598 initial decisions relating to associations were later overturned by emergency decrees.

11 20 out of 129 initial decisions relating to foundations were later overturned by emergency decrees.

12 21 out of 170 initial decisions relating to foundations were later overturned by emergency decrees.

13 Inquiry Commission, Activity Report 2019, p. 14 (January 31, 2020). Available at: [https://soe.tccb.gov.tr/Docs/OHAL\\_Report\\_2020.pdf](https://soe.tccb.gov.tr/Docs/OHAL_Report_2020.pdf). According to the information released by IHOP, combined with the most recent data published after the release of their report, during the emergency rule, approximately 1,619 associations, 168 foundations, 19 trade unions, and 203 media entities (news outlets, newspapers, TV channels, periodicals etc.) were shut down by emergency decrees. At least 188 decisions in relation to shutting down of associations, 23 decisions in relation to foundations, and 25 decisions in relation to media entities were later overturned. See, IHOP, 21 July 2016-20 March 2018 State of Emergency in Turkey: Updated Situation Report, pp. 43-56 (April 17, 2018). Available at: [https://ihop.org.tr/wp-content/uploads/2018/04/SoE\\_17042018.pdf](https://ihop.org.tr/wp-content/uploads/2018/04/SoE_17042018.pdf). For additional data in relation to the period from March 20, 2018 until the end of the emergency rule, see, Emergency Decree no. 701 published in the Official Gazette no. 30472, dated July 8, 2018 and entered into force through its publication.

14 Kerem Altıparmak – IHOP, Is The State of Emergency Inquiry Commission, Established By Emergency Decree 685, An Effective Remedy?, p. 3 (February 2017). Available at: <https://www.ihop.org.tr/wp-content/uploads/2017/03/IS-THE-STATE-OF-EMERGENCY-INQUIRY-COMMISSION.pdf>.

After more than four years since the establishment of the Inquiry Commission, many affected individuals and organisations have not been provided with meaningful remedies.<sup>16</sup> According to the data released by the Inquiry Commission, while a total of 2,761 organisations (including associations, foundations, media institutions, private universities, and others with legal personality) were shut down by emergency decrees, only 944 applications were received by the Inquiry Commission. 215 of those applications were reviewed as of December 31 2020; only 61 of those were admitted and 729 applications still remain pending.<sup>17</sup> To date, no decision was given in the cases of human rights organisations shut down by emergency decrees, according to the testimonies of civil society actors.

Furthermore, the harassment of civil society actors did not end with the closure of associations by emergency decrees, and their former members experienced various forms of harassment, including at the judicial level, based on their past membership in those associations. Civil society actors reported that a list of former members of those associations were distributed among public institutions, and that they were labelled as criminals and refused employment opportunities despite there being no court order confirming either the association's or the members' involvement in any criminal activities. Furthermore, particularly in the South-East of the country, membership and/or involvement in those organisations, such as Sarmaşık Association for Sustainable Development and Struggle against Poverty (*Sarmaşık Yoksullukla Mücadele ve Sürdürülebilir Kalkınma Derneği*), was included as incriminating evidence in the criminal cases against many Kurdish lawyers, civil society actors, and politicians.<sup>18</sup> This phenomenon is a clear violation of the freedom of association, and the violation is even more severe considering that the closure of associations was not based on a judicial decision but rather on the emergency decrees issued by the Executive, the lawfulness of which is questionable in the first place, and has not yet been examined by an independent court of law in the course of a regular judicial proceeding.

### c. Judicial Harassment and Criminalisation

Criminalisation and judicial harassment of civil society actors and HRDs is another widespread practice commonly used to stifle their legitimate human rights activities. These groups face the risk of criminal investigation and/or prosecution for any expression of dissent, e.g. through social media posts, press statements, and participation in assemblies, or for taking part in civil society activities such as trainings, seminars, and other events. Many criminal proceedings launched prior to and under the emergency rule remain pending when they haven't already led to the conviction of the accused, and new criminal investigations are constantly being launched against civil society actors and HRDs.<sup>19</sup>

The legal basis for civil society's alleged crimes vary: "terrorist propaganda" under the Anti-Terror Law<sup>20</sup>; "membership in a terrorist organisation," "inciting the public to hatred and enmity," and

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15 See, IHOP, Is The State of Emergency Inquiry Commission, Established By Emergency Decree 685, an Effective Remedy? (February 2017). Also see, Turkey Human Rights Litigation Support Project, Access to Justice in Turkey? A Review of the State of Emergency Inquiry Commission (October 2019). Available at: <https://static1.squarespace.com/static/5b8bbe8c89c172835f9455fe/t/5e13373ddb43712f438077a/1578317708753/State+of+Emergency+Commission+Report+Edited+Version+final.pdf>.

16 For a more detailed analysis of the violations faced by the affected individuals and organisations see, the Observatory & IHD, Turkey's Civil Society on the Line: A Shrinking Space for Freedom of Association (May 2021). Available at: <https://www.fidh.org/en/region/europe-central-asia/turkey/turkey-ongoing-crackdown-poses-existential-threat-to-independent-26851>

17 See, Inquiry Commission, Activity Report 2020, p. 28 (February 5, 2021). Available at: [https://soe.tcgb.gov.tr/Docs/SOE\\_Report\\_2020.pdf](https://soe.tcgb.gov.tr/Docs/SOE_Report_2020.pdf).

18 For example, see, Human Rights Watch, Turkey: Kurdish Mayors' Removal Violates Voters' Rights (February 7, 2020). Available at: <https://www.hrw.org/news/2020/02/07/turkey-kurdish-mayors-removal-violates-voters-rights>.

19 For more examples of this trend see, the Observatory & IHD, Turkey's Civil Society on the Line: A Shrinking Space for Freedom of Association (May 2021). Available at: <https://www.fidh.org/en/region/europe-central-asia/turkey/turkey-ongoing-crackdown-poses-existential-threat-to-independent-26851>

20 Article 7/2 of the Anti-Terror Law no. 3713 (*Terörle Mücadele Kanunu*) published in the Official Gazette no. 20843 (duplicate), dated April 12, 1991 and entered into force through its publication.

“defamation of the President” under the Criminal Code<sup>21</sup>; and “participating in an illegal assembly” under the Law on Assemblies<sup>22</sup> are the most common ones. In particular, the Anti-Terror Law provides a vague and over-broad definition of what constitutes “terrorism” that allows for a loose interpretation, leading to the criminalisation of a wide range of activities, including activities that do not involve violence.<sup>23</sup> Despite various attempts to reformulate certain provisions of the Anti-Terror Law over the years,<sup>24</sup> the Law as it stands is still problematic as it paves the way to criminalisation of, *inter alia*, freedom of expression and freedom of association. The vague wording of the Law, combined with the lack of institutional safeguards ensuring the independence of the judiciary from the political power, makes it a significant tool in the hands of the Government to criminalise any expression of dissent and to target opponents.

An extreme example is the judicial harassment faced by the prominent HRD, Eren Keskin.<sup>25</sup> A total of 143 cases, some of which were later combined, have been lodged against Eren Keskin, including for joining the “co-editor-in-chief” campaign of *Özgür Gündem* (Free Agenda), which was organised between May and August 2016, to support the imprisoned editorial staff of that newspaper. To date, she has been sentenced to a total of 26 years and 9 months in prison, in cases still pending before the Court of Appeals and the Court of Cassation, and assessed over TRY 400,000 (approximately EUR 45,000) in fines. In the cases imposing fines on her, judicial remedies were exhausted for the fines amounting to more than TRY 184,000 (approximately EUR 20,000) – and she had already paid that amount thanks to national and international solidarity – while the remainder of the fines are still pending before the Court of Appeals and the Court of Cassation. Most recently, on February 15, 2021, Eren Keskin was convicted of “membership to an illegal armed organisation” (Article 314/2 of the Criminal Code) in the *Özgür Gündem* trial.<sup>26</sup> The court decision echoes the stigmatising narratives against HRDs by mentioning “the need for more domestic and national human rights” and raises further concerns, notably regarding the politicisation of the judiciary.<sup>27</sup>

Since the attempted coup, in line with the increasingly shrill narrative labelling them as State enemies and/or foreign agents, prominent civil society actors and HRDs have faced progressively more severe criminal accusations. These actors have been facing trumped-up charges such as “espionage,” “attempting to overthrow the Government by use of force,” and “attempting to overthrow the constitutional order,” which are punishable by severe prison sentences, including life imprisonment.<sup>28</sup>

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21 Articles 314, 216 and 299 of the Turkish Criminal Code no. 5237 (*Türk Ceza Kanunu*) published in the Official Gazette no. 25611, dated October 12, 2004 and entered into force on June 1, 2005.

22 Article 28 of the Law no. 2911 on Assemblies and Demonstrations (*Toplantı ve Gösteri Yürüyüşleri Kanunu*) published in the Official Gazette no. 18185, dated October 8, 1983, and entered into force three months after its publication.

23 For a more detailed analysis of the Anti-Terror Law, see, IHD, *Anti-Terrorist Repression in Turkey: Excessive and Unlawful*, pp. 16-19 (October 26, 2017). Available at: [https://ihd.org.tr/en/wp-content/uploads/2017/11/IHD\\_anti-terrorist-repression-excessive\\_and\\_unlawful-ENGLISH.pdf](https://ihd.org.tr/en/wp-content/uploads/2017/11/IHD_anti-terrorist-repression-excessive_and_unlawful-ENGLISH.pdf).

24 The most recent attempt was the amendments enacted by Law no. 7188, adopted in October 2019, to implement the Judicial Reform Strategy introduced by the Ministry of Justice. The Law added the wording, “expressions of thought for the purpose of criticism and within the limits of press reporting do not constitute a crime” in the article on “terrorist propaganda” of the Anti-Terror Law. However, judicial harassment of civil society actors, HRDs, and journalists continues. For more information, see, IHD, *İHD Report and Recommendations on the Judicial Reform Strategy Document* (October 4, 2019). Available at: <https://ihd.org.tr/en/ihd-report-and-recommendations-on-the-judicial-reform-strategy-document>; also see, International Commission of Jurists & IHOP, *Turkey’s Judicial Reform Strategy and Judicial Independence* (November 18, 2019). Available at: <https://www.icj.org/turkey-judicial-reform-strategy-must-do-more-to-promote-independence-of-turkish-judiciary-warns-icj-and-ihop-briefing-paper>.

25 See, the Observatory, *Urgent Appeal – Turkey: Turkey: Continuing judicial harassment of Ms. Eren Keskin* TUR 001 / 0120 / OBS 002.1 (June 12, 2020). Available at: <https://www.fidh.org/en/issues/human-rights-defenders/turkey-continuing-judicial-harassment-of-ms-eren-keskin>.

26 See, the Observatory, *Urgent Appeal – Turkey: Sentencing of human rights lawyer Eren Keskin* TUR 001 / 0120 / OBS 002.3 (February 17, 2021). Available at: <https://www.fidh.org/en/issues/human-rights-defenders/turkey-sentencing-of-human-rights-lawyer-eren-keskin>.

27 See, the decision of Istanbul’s 23rd Heavy Penal Court with the case no. 2020/51 and decision no. 2021/11, p. 29 (February 15, 2021).

Another worrying practice is the use of past civil society activities as a basis for criminal investigations. Especially before 2015, when the peace process between the Government and the PKK was still ongoing, many civil society actors felt safer in expressing their criticism through civil society activities, tweets, and participation in assemblies, since the environment was more permissive.<sup>29</sup> Those activities or expressions of dissent from years ago are now being brought to the surface by prosecutors, and used as a pretext to criminalise and judicially harass civil society actors and HRDs long after the incriminating acts have taken place. For example, on March 12, 2020, Mehmet Raci Bilici was sentenced to six years and three months imprisonment for “membership in a terrorist organisation” for his legitimate human rights work between 2011 and 2014 on behalf of IHD as a board member and former chair of IHD’s Diyarbakır branch.<sup>30</sup>

#### **d. Harassment of Associations Through Administrative Measures**

Legislation and regulations impose numerous administrative requirements on civil society organisations. Complex provisions that are open to multiple interpretations and scattered throughout different pieces of legislation, combined with the scarcity of experts focusing on this area, leave civil society organisations in a state of uncertainty while striving to comply with the law. In an environment where civil society actors face generalised hostility and actual harassment on a regular basis, such provisions raise serious concerns for them and their ability to conduct their activities.

In parallel to the increasingly hostile environment, more and more civil society organisations report frequent administrative and financial audits by the authorities in comparison to previous years.<sup>31</sup> Civil society actors reported that when on-site audits are organised, the officials go through every single document, ask questions about their human rights work, spend hours, days or even weeks in the premises of an organisation, and fines are issued even for the slightest non-compliance. Some organisations reported cases where audits lasted for three to four months, and where they were audited again in the following year without any clear justification. During these periods, several staff members were inevitably tied up with the auditing process, and thus unable to conduct their daily work. Furthermore, the adverse psychological effects were felt by all staff members, who were under the impression that the auditors were looking for any excuse to issue a fine.

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28 In the high-profile Gezi Park trial, 16 civil society actors and HRDs were charged with “attempting to overthrow the Government by use of force” for their alleged involvement in the “planning” of Gezi Park protests, an offence punishable by a life sentence. Prominent HRD and businessperson Osman Kavala, who has been arbitrarily detained since October 2017, was also charged in the same case. While he was acquitted of this charge on February 18, 2020, he was re-arrested on the same day, before leaving the prison premises, this time on the grounds of “espionage,” and then “attempting to overthrow the constitutional order,” which are respectively punishable by up to 20 years in prison and by a life sentence. Despite an ECtHR decision recognising that his arbitrary arrest constituted a violation of his rights, the authorities have refused to implement the judgement, and he still remains behind bars facing the above-mentioned charges. For more information on his case, see, Keep the Volume Up for Rights Defenders in Turkey, Osman Kavala (last update on December 29, 2020). Available at: <https://www.sessizkalma.org/en/defender/osman-kavala-2>; and see, the Observatory, Statement – Turkey: Gezi Park defenders acquitted – Osman Kavala faces new charges (February 28, 2020). Available at: <https://www.fidh.org/en/region/europe-central-asia/turkey/gezi-park-defenders-acquitted-osman-kavala-faces-new-charges>. For the ECtHR judgment see, ECtHR, *Kavala v. Turkey*, application no. 28749/18, decision dated December 10, 2019 and finalised on May 11, 2020. Available at: <http://hudoc.echr.coe.int/eng/?i=001-199515>.

29 Numerous IHD executives and members have faced prison sentences and judicial harassment based on terrorism charges for their civil society activities as well as their participation in assemblies and other peaceful activities. For a detailed list of criminal investigation and prosecutions launched against IHD executives and members, please see, IHD, Report on Increased Pressures on Human Rights Defenders, Human Rights Association and Its Executives (May 31, 2019). Available at: [https://ihd.org.tr/en/wp-content/uploads/2019/06/20190531\\_Special-ReportOnHRAHRDs.pdf](https://ihd.org.tr/en/wp-content/uploads/2019/06/20190531_Special-ReportOnHRAHRDs.pdf).

30 See, the Observatory, Joint Statement – Turkey: Human rights defender Mehmet Raci Bilici unfairly convicted (March 24, 2020). Available at: <https://www.fidh.org/en/region/europe-central-asia/turkey/human-rights-defender-mehmet-raci-bilici-unfairly-convicted>.

31 For instance, in 2016 IHD and TIHV were subjected to administrative investigations, which were perceived as a retaliation for their human rights work, and they received administrative fines. For more information, see, IHD, Special Report: Increased Pressure on HRDs, IHD and Its Executives, pp. 6-7 (June 21, 2019). Available at: <https://ihd.org.tr/en/special-report-increased-pressure-on-hrds-ihd-and-its-executives>. IHD reported another audit in February 2020, as a result of which a criminal investigation was launched by the Prosecutor’s Office in Ankara.

### e. Recent Legislative Amendments Threatening Independent Civil Society

A controversial bill came into force on December 31, 2020 under the name of “Law no. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction,”<sup>32</sup> which has a serious potential to further restrict freedom of association and to curb civil society activities in Turkey. The purported objective<sup>33</sup> of Law no. 7262 is to implement a number of UN Security Council resolutions<sup>34</sup> as well as the recommendations of the Financial Action Task Force,<sup>35</sup> but the majority of the articles either do not appear to have any direct connection to this objective, or in fact provide for measures manifestly exceeding this aim. Furthermore, it was elaborated without any meaningful consultation or contribution from stakeholders, particularly from civil society, despite civil society being directly concerned by these amendments.

Law no. 7262 introduces amendments to seven laws, including the “Law on Associations” and the “Law on Aid Collection,”<sup>36</sup> and grants broad powers to the authorities. Most significantly, the newly-adopted Article 30/A of the Law on Associations allows the Minister of the Interior to suspend staff members and/or executives of civil society organisations who are being prosecuted on charges of financing terrorism, as a temporary measure, and to have a representative appointed by the court in lieu of the suspended person. If this measure is deemed “insufficient,” and the authorities believe that there is an imminent risk pending the outcome of the proceeding (“*gecikmesinde sakınca bulunması durumunda*”), the Minister is also entitled to temporarily suspend the activities of the relevant organisation, a decision which should be approved by a court within 48 hours. Indeed, the conditions set for the Ministry to seek the suspension of an association’s activities are vague enough to open the door to abusive implementation of the provision.

Law no. 7262 also introduces a ban on individuals convicted of financing terrorism or drug trafficking from taking part in the leadership of an association (Article 3 of the Law on Associations, as amended). In a context where terrorism-related offences are by far the main indictments with which civil society actors and HRDs are charged and often convicted, this ban is likely to prevent numerous prominent civil society actors and HRDs from taking, or maintaining, executive positions in associations.

In addition, Law no. 7262 also provides for yearly audits of civil society organisations and their partners, in accordance with the amended Article 19 of the Law on Associations, “based on the risk assessments to be made, audits are organised on a yearly basis and at least once in every three years,” whereas previously audits were ad hoc and upon complaint. This vague provision does not provide sufficient legal certainty and foreseeability, including as to the frequency of the audits that each association is subject to. A civil society representative reported that in practice, more outspoken human rights organisations are likely to be audited every year while others will be subject to looser scrutiny and audited only every three years. In addition, in accordance with the said Article, the Ministry of Interior or the governors may now assign any public officials to conduct these audits. No criteria are provided by the Law regarding the qualifications or the area of expertise of those assigned officials.

Furthermore, the auditors are now entitled to request all relevant documents from related public entities and private persons, within the scope of the auditing of an association, and the latter cannot contest

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32 Law no. 7262 (*Kitle İmha Silahlarının Yayılmasının Finansmanının Önlenmesine İlişkin Kanun*) published in the Official Gazette no. 31351 (5<sup>th</sup> edition), dated December 31, 2020, and entered into force through its publication.

33 See, the Bill on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction and its objective (December 16, 2020). Available at: <https://www2.tbmm.gov.tr/d27/2/2-3261.pdf>.

34 Security Council Resolutions 1267 (1999), 1988 (2011), 1989 (2011), 2253 (2015), and 1373 (2001).

35 Financial Action Task Force, Anti-money laundering and counter-terrorist financing measures: Turkey – Mutual Evaluation Report (December 2019). Available at: <https://www.fatf-gafi.org/media/fatf/documents/reports/reports/mer4/Mutual-Evaluation-Report-Turkey-2019.pdf>.

36 Law no. 2860 on Aid Collection (*Yardım Toplama Kanunu*) published in the Official Gazette no. 18088, dated June 25, 1983 and entered into force through its publication.

orders to submit such documents, even on the basis of exceptions that they would be entitled to by dint of other laws. For instance, this vague provision raises concerns as to whether associations' lawyers would be required to submit all the requested documents, even if this were in violation of the attorney-client privilege to which they are entitled under other laws. Indeed, it is not yet clear how those provisions will be interpreted and implemented by the authorities, but their vague wording, coupled with the overall hostile climate and restrictive regulatory framework for civil society organisations, leaves room for further restrictions on their freedom of association and for further potential harassment. These provisions introduced by Law no. 7262 enhance the concerns that associations will be subjected to further administrative constraints and harassment in the coming years.

Finally, Law no. 7262 also introduces amendments that significantly increase the administrative fines that apply to organisations which collect donations through online platforms without getting prior approval by the authorities (Article 29 of the Law on Aid Collection, as amended). This provision deals a final blow to the already restrictive provisions on fundraising, thus further limiting civil society organisations' access to funding to support their work.

### **Suggestion for questions:**

- i. What measures have been taken to ensure that individuals/organisations affected by the emergency measures have access to timely, impartial and effective judicial remedies? When will the Inquiry Commission issue a decision on the cases of human rights organisations shut down by emergency decrees? What steps have been taken to ensure that the Inquiry Commission meets the independence and impartiality requirements necessary to guarantee the respect for the right to an effective remedy and to a fair trial throughout the proceedings, as recommended by the Council of Europe's Venice Commission?<sup>37</sup>
- ii. What steps have been taken to address the public stigmatisation of civil society actors and HRDs by the State and non-State actors, including by promptly, thoroughly and impartially investigating and prosecuting allegations of hate speech and violence against them and hold perpetrators to account?
- iii. What legislative measures have been proposed to effectively prevent the judicial harassment and criminalisation of civil society actors and HRDs with political motives on the grounds of anti-terrorism and other laws?
- iv. What steps have been taken by the government to amend the Anti-Terror Law in a way to ensure that terrorism-related offences are clearly defined in the legislation through provisions which do not leave room for misinterpretation and abuse, as recommended by, *inter alia*, the Commissioner for Human Rights of the Council of Europe and the United Nations' Special Procedures,<sup>38</sup> and how do the authorities ensure that legislation aimed at countering terrorism is not abused in practice to unlawfully target human rights activities?
- v. What steps have been or will be taken by the authorities to ensure the independence and impartiality of the judicial bodies with competence to judge on cases related to civil society

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37 Council of Europe Venice Commission, Opinion on the Measures provided in the recent Emergency Decree Laws with respect to Freedom of the Media CDL-AD(2017)007, para. 81-88 (March 13, 2017). Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)007-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)007-e).

38 UN Special Rapporteurs, Joint Communication [OL TUR 13/2020](#) (August 26, 2020); UN Human Rights Council, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism: Impact of measures to address terrorism and violent extremism on civic space and the rights of civil society actors and human rights defenders [A/HRC/40/52](#), particularly para. 75 (March 1, 2019); Commissioner for Human Rights of the Council of Europe, [CommDH\(2017\)5](#), Memorandum on freedom of expression and media freedom in Turkey, particularly para. 124 (February 15, 2017).

actors and HRDs, and to ensure that proceedings against them comply with international fair trial standards?

- vi. What measures have been taken to ensure that administrative requirements under current legislation do not create disproportionate burdens on civil society organisations, but rather contribute to creating an enabling environment for civil society and HRDs?
- vii. How do the authorities ensure that CSO audits are not used as a tool to exert pressure on civil society, and that CSOs have access to remedies that allow them to legally challenge them?
- viii. How do the authorities ensure that the Law no. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction do not unreasonably restrict civil society activities and, more generally, freedom of association, in violation of the State's international human rights obligations, including under the ICCPR?

### **3. Article 9: Arbitrary Detention and the Violation of the Right to Liberty and Security of Civil Society Actors and HRDs**

Within the scope of criminal investigations and/or prosecutions, many civil society actors and HRDs face the risk of police custody and prolonged arbitrary detention, including pre-trial detention, which has become an additional tool to punish and intimidate civil society actors, HRDs, and others who express criticism. Article 13 of Law no. 7145,<sup>39</sup> which entered into force in July 2018 to ensure that some exceptional powers remain in effect even after the end of the emergency rule, limits the police custody period to four days for terrorism-related crimes, which may be extended twice, allowing for a total of 12 days in police custody without being referred to a judge. This temporary provision remains in force until July 31, 2021, ensuring a *de facto* emergency rule. Article 19 of the Constitution, on the other hand, limits the police custody period, without a judge's order, to four days, for similar crimes in ordinary times.

In addition to prolonged periods in police custody, pre-trial detention is also a serious concern for civil society actors and HRDs. In some cases, they spend months behind bars without an indictment, not even aware of the formal charges against them.<sup>40</sup> Pre-trial detention measures are arbitrarily applied by judges, regardless of whether the conditions under Article 100 of the Criminal Procedure Code – which addresses pre-trial detention, which is treated as an exceptional measure – are fulfilled.<sup>41</sup> The system of criminal peace judgeships, introduced in April 2014, also ensured a closed system of judges issuing pre-trial detention orders, and contributed to the widespread use of pre-trial detention as a tool to harass civil society actors, HRDs, and opponents in general.<sup>42</sup> Under the new system, measures taken during the criminal investigation phase, including pre-trial detention, fall under the exclusive competence of criminal peace judges, whose decisions can only be challenged before another criminal peace judge

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39 Law no. 7145 on the Amendment of Certain Laws and Decree Laws (*Bazı Kanun ve Kanun Hükmünde Kararnamelerde Değişiklik Yapılmasına Dair Kanun*) published in the Official Gazette no. 30495, dated July 31, 2018, and entered into force on the date of its publication.

40 For instance, prominent HRD and businessperson Osman Kavala, spent more than a year behind the bars without an indictment or formal charges. He was first detained on October 18, 2017, and the indictment was issued on February 19, 2019. See, Free Osman Kavala, Judicial Process (last update on December 3, 2020). Available at: <https://www.osmankavala.org/en/judicial-process>.

41 According to Article 100 of the Criminal Procedure Code, a suspect or accused may be detained "if the facts support the existence of a strong suspicion of a crime" and if a "ground for detention" exists. A ground for detention is deemed to exist in cases exhaustively listed by Article 100, which includes suspicion that the suspect or accused may flee; destroy, hide, or change evidence; or put pressure on witnesses, the victims, or other individuals. A ground for detention is also deemed to exist if there is a strong suspicion that certain crimes listed under the same Article have been committed.

42 See, Yaman Akdeniz & Kerem Altıparmak, Turkey: Freedom of Expression in Jeopardy: Violations of the Rights of Authors, Publishers and Academics under the State of Emergency, pp. 9-10 (March 2018). Available at: [https://www.englishpen.org/wp-content/uploads/2020/07/Turkey\\_Freedom\\_of\\_Expression\\_in\\_Jeopardy\\_ENG.pdf](https://www.englishpen.org/wp-content/uploads/2020/07/Turkey_Freedom_of_Expression_in_Jeopardy_ENG.pdf).

rather than a higher court, thus establishing a closed system of appeals, which was openly criticised by the European Commission for Democracy Through Law (“Venice Commission”).<sup>43</sup>

In response to the ongoing international and domestic criticism over prolonged pre-trial detention and other issues affecting the judiciary, the Ministry of Justice released a Judicial Reform Strategy in May 2019. Then, in October 2019, Law no. 7188<sup>44</sup> came into effect, enacting changes in various areas, including prolonged pre-trial detention. According to Article 18 of Law no. 7188, the length of pre-trial detention shall be limited to six months for crimes falling outside the jurisdiction of criminal courts for serious crimes, and one year for crimes within the jurisdiction of the Heavy Penal Courts (courts that handle serious crimes). However, for terrorism-related and certain other crimes, including “attempting to overthrow the constitutional order,” pre-trial detention may last as long as one year and six months, which can be extended for another six-month period. Those limitations only apply to pre-trial detention, and do not concern the detention period during the trial phase, which starts after the issuance of the indictment. Furthermore, considering that many civil society actors and HRDs face trumped-up terrorism-related accusations, lengthy pre-trial detention periods can still be applied and can create a serious chilling effect among civil society actors. Indeed, the reform did not address the main issue, which lies in the systematic abuse by the authorities, including judicial authorities, of the Anti-Terror Law and pre-trial detention measures to target civil society actors, HRDs, and indeed all dissenting voices.

Arbitrary detention is not the only way to deprive individuals of their right to liberty and freedom of movement within the scope of a criminal investigation and/or prosecution. Even in cases where they are not detained, civil society actors and HRDs frequently face measures such as travel bans<sup>45</sup> and/or the obligation to present themselves regularly for their signature at the police station.<sup>46</sup> Those measures effectively restrict their right to liberty and/or their freedom of movement, and also prevent them from conducting their human rights activities freely, including when these take place outside their place of residence and/or outside Turkey.

### **Suggestion for questions:**

- i. What measures are taken to ensure that pre-trial detention is not abused, or used as a punitive measure against civil society actors and HRDs?
- ii. What legislative steps are taken to repeal the provisions that perpetuate a *de facto* emergency rule, including Article 13 of Law no. 7145 relating to prolonged police custody periods?

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43 The Venice Commission issued a report in 2017 which found that “the system of horizontal appeals among a small number of peace judges within each region or courthouse is problematic,” and that “there are numerous instances where peace judges did not sufficiently reason decisions which have a drastic impact on human rights of individuals.” See, Venice Commission, Opinion on the Duties, Competences And Functioning of the Criminal Peace Judgeships CDL-AD(2017)004, pp. 20-21 (March 2017). Available at: <https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD%282017%29004-e>.

44 Law no. 7188 on the Amendment of the Criminal Procedure Law and Other Laws (*7188 Ceza Muhakemesi Kanunu ve Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun*), published in the Official Gazette no. 30928 and dated October 24, 2019.

45 A recent example is the case of Dr. Şeyhmus Gökalg. He was placed in pre-trial detention on November 23, 2020. The alleged justification for his detention was the existence of a “strong suspicion of a crime,” in connection with Dr. Gökalg’s alleged provision of healthcare to members of a terrorist organisation in a hospital during a period he did not work in those premises, as well as with his alleged participation in a meeting considered illegal by public authorities. After more than 80 days of pre-trial detention on the charge of “membership of an armed organisation” (Article 314/2 of the Turkish Criminal Code), on February 10, 2021, Diyarbakır’s 10<sup>th</sup> Heavy Penal Court ordered his release. However, he was banned from leaving the country. See, the Observatory, Urgent Appeal – Turkey: Release and ongoing judicial harassment of Dr. Şeyhmus Gökalg, TUR 010 / 1120 / OBS 135.1 (February 12, 2020). Available at: <https://www.fidh.org/en/issues/human-rights-defenders/turkey-release-and-ongoing-judicial-harassment-of-dr-seyhmus-gokalg>.

46 For instance, 18 women’s rights defenders who were detained on the night of March 10, 2021 after their participation in the International Women’s Day demonstration in Taksim, Istanbul on March 8, were released on probation on the following day and some were given a travel ban. The criminal investigation based on the accusation of “insulting the President” for their slogans and chants during the demonstration is still pending. BBC News, Feminist Gece Yürüyüşü sonrası gözaltına alınan kadınlar adli kontrolle serbest bırakıldı (March 11, 2021). Available at: <https://www.bbc.com/turkce/haberler-turkiye-56355921>.

- iii. How does the government intend to respond to international calls to release civil society actors and HRDs arbitrarily detained on political grounds and drop all charges against them?

#### 4. Article 26: Rising Anti-LGBTI+ Narrative and Targeting of LGBTI+ and Women's Rights Organisations and HRDs

The rising anti-LGBTI+ narrative in Turkey is another very concerning issue and it directly affects the activities of LGBTI+ rights organisations. High-level State officials increasingly and openly use hateful language against the LGBTI+ community in public discourse, which in turn fuels, or at best legitimises, intolerance, and encourages hate speech on media and by non-State actors. The frequency and intensity of such statements imply a deliberate position against the LGBTI+ community by the State itself. This includes hateful and stigmatising rhetoric by the President and his Ministers targeting LGBTI+ individuals on a regular basis.<sup>47</sup> In addition, other high-level State officials contribute to the stigmatising narrative.<sup>48</sup> For instance, the President of Religious Affairs, the highest representative of the religious establishment within the central administration, targeted LGBTI+ people and people living with HIV in his Friday khutbah (sermon), on April 24, 2020,<sup>49</sup> equating diverse sexual orientations with disease,<sup>50</sup> which has a serious potential to further stigmatise LGBTI+ individuals and communities, especially in the current context of the Covid-19 pandemic. In the aftermath of the Friday khutbah, several human rights organisations and bar associations issued statements condemning the discriminatory language used by the President of Religious Affairs. Yet the President of Turkey himself echoed the narrative heard in the khutbah, by publicly accusing the Ankara Bar Association of intentionally attacking Islam in their statement.<sup>51</sup> Subsequently, as a result of their criticism, a criminal investigation was launched against the Ankara and Diyarbakir Bar Associations on the accusation of “degrading religious values.”<sup>52</sup> Those developments further strengthen fears that the Government and State officials deliberately target those who defend LGBTI+ rights, both within and outside the LGBTI+ community.

Similarly, on pro-Government media, the LGBTI+ community is frequently linked with concepts like “perversion,” and organisations defending LGBTI+ rights are accused of facilitating “Western

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47 Most recently, on January 30, 2021, the Ministry of the Interior called LGBTI+ individuals “deviant” in his tweet concerning the police custody of four individuals over an artwork depicting LGBTI+ flags alongside the sacred site of Islam, the Kabaa, displayed on campus during the student protests at Bosphorus University in Istanbul. The artwork was deemed insulting to religious beliefs by the authorities and a criminal investigation was launched for “inciting people to hatred.” Twitter flagged the tweet as it violated its rules about hateful conduct. Similarly, within the context of student protests at Bosphorus University, the President also contributed to the stigmatising narrative when he addressed the members of his party on February 1 in the following words: “you are not the LGBT youth, and not the youth who commit acts of vandalism.” See, DW, Twitter’ dan Süleyman Soylu’nun tweetine kısıtlama (February 2, 2021). Available at: <https://www.dw.com/tr/twitterdan-s%C3%Bcleyman-soylunun-tweetine-k%C4%B1s%C4%B1tlama/a-56412692>; also see, BBC, Turkey’s Erdogan denounces LGBT youth as police arrest students (February 2, 2021). Available at: <https://www.bbc.com/news/world-europe-55901951>.

48 For more examples of the stigmatising narrative against LGBTI+ individuals see, the Observatory & IHD, Turkey’s Civil Society on the Line: A Shrinking Space for Freedom of Association (May 2021). Available at: <https://www.fidh.org/en/region/europe-central-asia/turkey/turkey-ongoing-crackdown-poses-existential-threat-to-independent-26851>.

49 For more information, see, Joint statement – End hate speech and targeted attacks against LGBTI people in Turkey (May 12, 2020). Available at: <https://www.fidh.org/en/region/europe-central-asia/turkey/end-hate-speech-and-targeted-attacks-against-lgbti-people-in-turkey>.

50 “People! Islam considers adultery as a major sin. It curses Luts [the people of Lut is a group of people who practiced homosexuality according to Quran] and homosexuality. What is the reason behind this? The reason is that it brings diseases and consumes generations. Hundreds of thousands of people a year are exposed to the HIV virus caused by immoral life without marriage, which is a great haram and qualifies as adultery in the Islamic Literature.” See, Diyanet Haber, Cuma Hutbesi 24 Nisan 2020 (April 24, 2020). Available at: <https://www.diyanethaber.com.tr/hutbeler/cuma-hutbesi-24-nisan-2020-h10239.html>.

51 Presidency of Turkey Communications Directorate, Cumhurbaşkanı Erdoğan: “Küresel bir felaket halini alan Kovid-19 hastalığının üstesinden gelerek, inşallah Ramazan’ın sonunda çifte bayram yapmayı niyaz ediyoruz” (April 27, 2020). Available at: <https://www.iletisim.gov.tr/turkce/haberler/detay/cumhurbaşkanı-erdogan-küresel-bir-felaket-halini-alan-kovid-19-hastalığının-üstesinden-gelerek-insallah-ramazanin-sonunda-cifte-bayram-yapmayı-niyaz-ediyoruz>.

52 Bianet, Investigation Against Diyarbakir Bar Association for ‘Degrading Religious Values’ (April 28, 2020). Available at: <https://bianet.org/english/lgbti/223536-investigation-against-diyarbakir-bar-association-for-degrading-religious-values>.

propaganda aimed at corrupting Turkish society,” and/or of “being related to terrorist organisations.” An LGBTI+ rights organisation reported a dramatic increase in 2019 in the hateful content on media against LGBTI+ individuals.<sup>53</sup> According to their 2019 media monitoring report, at least half of the relevant content in the written press was discriminatory against LGBTI+ individuals, and LGBTI+ events and assemblies were systematically targeted, while the bans on such events were praised.<sup>54</sup> In 2020, hateful content against LGBTI+ individuals gained further momentum, especially in the aftermath of the discriminatory khutbah by the President of Religious Affairs,<sup>55</sup> testifying to the increase in stigmatising discourse in the media in parallel to the targeting of LGBTI+ people by high-level State officials.<sup>56</sup> Smear campaigns on public media included open calls to shut down all LGBTI+ organisations, and other calls for the violation of their fundamental rights.<sup>57</sup>

Furthermore, the anti-LGBTI+ narrative is also used more and more often to discredit other human rights issues and groups, particularly women’s rights defenders, who are in close touch with the LGBTI+ movement.<sup>58</sup> For instance, the Council of Europe Convention on preventing and combating violence against women and domestic violence (“Istanbul Convention”) was openly targeted on media and by conservative public figures on the grounds that it would allegedly promote LGBTI+ rights and other “values alien to Turkish culture.” This was followed by high-level Government officials’ statements about re-considering being a party to the Convention, and finally resulted in Turkey’s withdrawal from the Istanbul Convention on March 20, 2021, by a Presidential decision based on similar grounds.<sup>59</sup>

According to civil society actors, judicial mechanisms are ineffective against smear campaigns and other degrading narratives. While the courts interpret any expression of criticism as defamation in cases against the President or other Government officials, content and/or speech stigmatising and vilifying civil society actors and HRDs is usually considered by the courts to be a legitimate exercise of freedom of speech.<sup>60</sup> Some civil society actors reported that they usually refrain from challenging the media outlet and/or Government official behind the stigmatisation, due to a lack of trust in the legal system. It should be noted that except for a few provisions of the Penal Code – which in themselves do not provide adequate protection and redress to victims<sup>61</sup> – there is no specific and comprehensive legislation concerning hate speech in Turkey which could be used by civil society actors as an

53 KAOS GL, Smear campaigns targeting LGBTI+s becomes widespread in 2019 (April 12, 2020). Available at: <https://kaosgl.org/en/single-news/smear-campaigns-targeting-lgbti-s-becomes-widespread-in-2019>.

54 For the full report please see, KAOS GL, 2019 Medya İzleme Raporu (March 2020). Available at: <https://kaosgldernegi.org/images/library/2020medya-izleme-raporu-2019web.pdf>.

55 For more information, see, KAOS GL, “After the khutbah of Diyanet, LGBTI+’s were shown as hostile on the media” (October 28, 2020). Available at: <https://kaosgl.org/en/single-news/after-the-khutbah-of-diyamet-lgbti-s-were-shown-as-hostile-on-the-media>. For the full report in Turkish see, Diyanet’in Hutbesi Medyaya Nasıl Yansıdı? (October 2020). Erişim: <https://kaosgldernegi.org/images/library/diyamet-in-hutbesi-2020.pdf>.

56 The 2020 monitoring report of the same organisation also confirms that the smear campaigns on pro-Government media are part of a deliberate and organised campaign against the LGBTI+ community and have increased in parallel to the hateful rhetoric of State officials. KAOS GL, 2020 Media Monitoring Report: Hostility against LGBTI+s is not a coincidence, it is organized! (January 22, 2021). Available at: <https://kaosgl.org/en/single-news/2020-media-monitoring-report-hostility-against-lgbti-s-is-not-a-coincidence-it-is-organized>.

57 KAOS GL, 2020 Media Monitoring Report: Hostility against LGBTI+s is not a coincidence, it is organized! (January 22, 2021).

58 For examples of anti-LGBTI narrative used to discredit Istanbul Convention on media please see, KAOS GL, Akit’in Ekim ayı nefret söylemi listesi (November 11, 2020). Available at: <https://kaosgl.org/haber/akit-in-ekim-ayi-nefret-soylemi-listesi>; for the President’s speech about reconsidering being a signatory to Istanbul Convention see, Cumhuriyet, Erdoğan: İstanbul Sözleşmesi’ni gözden geçireceğiz (February 19, 2020). Available at: <https://www.cumhuriyet.com.tr/haber/erdogan-istanbul-sozlesmesini-gozden-gecirecegiz-1721710>.

59 Directorate of Communications of the Presidency of the Republic of Turkey, Statement regarding Türkiye’s withdrawal from the Istanbul Convention (March 22, 2021). Available at: <https://www.iletisim.gov.tr/english/haberler/detay/statement-regarding-turkeys-withdrawal-from-the-istanbul-convention>.

60 For instance, the Prosecutor’s Office in Küçükçekmece recently refused to launch a criminal investigation against a media outlet that used hateful language against LGBTI+ individuals on a daily basis, and deemed the hateful content to be mere criticism. See, KAOS GL, Savcılığa göre “onursuz ibneler” demek ifade özgürlüğü! (January 15, 2020). Available at: <https://kaosgl.org/haber/savciliga-gore-onursuz-ibneler-demek-ifade-ozgurlugu>.

instrument to legally challenge hateful discourse against them, and that set the limits within which free expression can be exercised without disproportionately impinging upon the speakers' rights and freedoms.

**Suggestion for questions:**

- i. What steps are taken to ensure the safety and security of LGBTI+ individuals and organisations given the rising hostile narrative against them, and to promptly, effectively and thoroughly investigate and prosecute allegations of hate speech and hate crime against LGBTI+ individuals and organisations and ensure that perpetrators are brought to justice?
- ii. Which legislative measures are proposed in order to fully recognise in the legislation the bias motive as an aggravating circumstance in cases of hate speech and crime committed against civil society actors and HRDs belonging to a minority, including those against LGBTI+ individuals or groups, by both State and non-State actors?
- iii. What measures are taken, or how does the government intend to address allegations of hate speech by politicians and other public figures?
- iv. How does the government intend to ensure that women and girls in Turkey are adequately protected against gender-based and domestic violence, now that Turkey has withdrawn from the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)? How does the government's position, as publicly expressed, with regard to the Convention, which would promote values, including gender equality, inclusion and diversity, contrary to the ones on which, according to the authorities, Turkish society is built, reconcile with Turkey being a party to regional and international human rights treaties and conventions, including the ICCPR, that protect and promote them?

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61 For example, see, Article 122 "hate and discrimination," Article 125 "insult," Article 115 "prevention of the exercise of freedom of belief and thought," Article 153 "damaging places of worship and cemeteries," and Article 216 "inciting people to hatred and enmity." For a more detailed analysis of hate crimes and relevant legislation in Turkey see, IHD, Special Report on Hate Speech and Hate Crimes in Turkey (September 22, 2020). Available at: [https://ihd.org.tr/en/wp-content/uploads/2020/09/sr20200922\\_Hate-Crimes-and-Racist-Attacks-Report\\_Sept-2020.pdf](https://ihd.org.tr/en/wp-content/uploads/2020/09/sr20200922_Hate-Crimes-and-Racist-Attacks-Report_Sept-2020.pdf).