

Submission to the UN Human Rights Committee  
Written contribution for Türkiye under review (2nd)

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From



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## **Abbreviations**

Art.	: Article
AMER	: Association for Monitoring Rqual Rights
APC	: Alevi Philosophy Centre
ASAV	: Association for Struggle Against Sexual Violence
CC	: the Constitutional Court
CM	: Committee of Ministers
CTA	: Communication Technologies Authority
CRC	: Child Right Centre
CHP	: Cumhuriyet Halk Partisi - Republican People's Party
CJP	: Council of Judges and Prosecutors
DIAYDER	: Religious Scholars Assistance and Solidarity Association
FWS	: The Foundation for Women's Solidarity
FAF	: Federation of Alevi Foundations
FIDH	: International Federation for Human Rights
GNAT	: Grand National Assembly of Türkiye
GRECO	: the Council of Europe Group of States Against Corruption
GÖÇİZDER	: Migration Monitoring Association
HRAA	: Human Rights Agenda Association (HRAA)
HREIT	: Türkiye Human Rights and Equality Centre
HRC	: Human Rights Committee
HDP	: Halkların Demokrasi Partisi (People's Democracy Party)
İHD	: Human Rights Association
İHOP	: Human Rights Joint Platform
İFÖD	: Association of Freedom of Expression

Kaos GL	: Kaos Gay and Lesbian Cultural Research and Solidarity Association
KCDP	: We Will Stop Femicide Platform
MLSA	: Media and Law Studies Association
PACE	: Parliamentary Assembly of the Council of Europe
para.	: paragraph
Romani Godi	: Romani Memory Studies Association
RIA	: Rights Initiative Association
RTÜK	: Radio and Television Supreme Council
SPOD Association	: Social Policy, Gender Identity and Sexual Orientation Studies Association
SoE	: State of Emergency
Turkstat	: Turkish Statistical Institute
TI	: Transparency International
TMSF	: Savings Deposit Insurance Fund
TTM	: Tarlabasi Community Centre
TPC	: Turkish Penal Code

## I. Executive Summary

1. This report, submitted to the UN Human Rights Committee, provides a detailed analysis of Türkiye's adherence to the International Covenant on Civil and Political Rights. The report is prepared by a coalition including Alevi Thought Centre (ATC), Human Rights Association (İHD), Diyarbakır Bar Association Child Rights Centre (Diyarbakır Bar Association CRC), Kaos Gay and Lesbian Cultural Research and Solidarity Association (Kaos GL), 17 May Association, Romani Memory Studies Association (Romani Godi), Rights Initiative Association (RIA), The Foundation for Women's Solidarity (FWS), Media and Law Studies Association (MLSA), Social Policy, Gender Identity and Sexual Orientation Studies Association (SPOD), Association for Struggle Against Sexual Violence (ASAV), Human Rights Joint Platform (İHOP), as per the topics outlined in the "List of Issues"<sup>1</sup> provided by the UN Human Rights Committee.

2. This report outlines the significant deterioration of human rights in Turkey, particularly following the 2016 coup attempt. Since the declaration of the State of Emergency (SoE), many emergency measures have been absorbed into permanent legislation, creating long-lasting impacts on civil liberties and democratic governance. These changes violate Turkey's commitments under the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR), eroding key protections for the rights to freedom of expression, assembly, and association. Furthermore, Türkiye's disregard for rulings from both international and national courts, despite the constitutional mandate under Article 90 to respect international treaties, exacerbates this decline in democratic standards, signalling a troubling disregard for the rule of law.

3. The report calls for the repeal or amendment of these emergency measures, urging the Turkish government to respect the judgments of international human rights bodies, including those related to prominent figures like Selahattin Demirtaş, Osman Kavala, and Can Atalay. Moreover, the Municipality Law, particularly Articles 45 and 46, has enabled the arbitrary appointment of trustees in place of elected officials, particularly in opposition-held municipalities. This practice, often justified under broad anti-terrorism laws, undermines the right to elect and be elected, a cornerstone of democratic governance. The independence of the judiciary has also been compromised by constitutional changes in 2017, which have given the executive undue control over the appointment of judges and prosecutors. The Council of Judges and Prosecutors (CJP) is largely influenced by the executive, and the legal reforms following the coup attempt have further entrenched this control.

4. The Turkish government's approach to civil society has also raised serious concerns, as demonstrated by the threat of closure of several NGOs, such as the Migration Monitoring Association (GÖÇİZDER) and the We Will Stop Femicide Platform (KCDP). These closures appear politically motivated, targeting organizations that challenge the government or support marginalized groups. The report urges Turkey to cease these arbitrary actions and create a

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<sup>1</sup> Human Rights Committee (HRC), List of issues prior to submission of the second periodic report of Türkiye, CCPR/C/TUR/QPR/2, 25 August 2021.

more enabling environment for civil society, where freedom of association and peaceful assembly are respected.

5. In terms of minority rights, the report highlights the continued marginalization of Kurdish, Roma, non-Muslim and non-Sunni Muslim communities. Despite international calls, Turkey maintains a reservation on Article 27 of the ICCPR, which guarantees minority rights, and continues to limit the use of minority languages such as Kurdish in public services, education, and media. Article 81 of the Law on Political Parties and Article 42 of the Constitution, which prohibits the teaching of non-Turkish languages as mother tongues, further restricts the linguistic and cultural freedoms of minority groups. The report recommends amending these laws to allow for greater linguistic diversity and to protect the cultural heritage of these communities.

6. In the field of freedom of expression, the report details how Turkish citizens face prosecution under anti-terror laws, the Law on Disinformation, and other restrictive legal provisions such as TPC Articles 125/3-a, 215, 216, 299, 301, 314, and the Law on Meetings and Demonstrations. Besides, the Radio and Television Supreme Council (RTÜK) works as a censorship tool, their decisions reflecting its political bias. Furthermore, concerns over privacy violations are rising, particularly the way of Law No. 5651 is used for broad surveillance of internet traffic through the Information and Communication Technologies Authority (CTA). Alongside mass surveillance, a major data breach exposed the personal information of over 100 million Turkish citizens, including sensitive health and financial records. Despite the scale of the breach, the government has yet to take significant action to investigate the incident or compensate the affected individuals.

7. Lastly, the report addresses the challenges faced by LGBTI+ individuals, women, and other vulnerable groups. It highlights the persistent discrimination and hate speech directed toward LGBTI+ communities, particularly in the legal framework, where protections against discrimination based on sexual orientation and gender identity are conspicuously absent. The withdrawal from the Istanbul Convention further weakens protections against gender-based violence, with no official data available on the prosecution of such crimes.

8. Therefore, as a coalition, in this report, we request the Committee to urge Türkiye to;

- revise post-State of Emergency (SoE) legislation that became permanent, ensuring it aligns with international human rights standards and the nation's constitution. Türkiye should comply with international judgments, hold public officials accountable for non-compliance, and compensate victims.

- revise Articles 45 and 46 of the Municipality Law to prevent the arbitrary appointment of trustees, ensuring transparency, democratic integrity, and stopping the misuse of terrorism-related investigations. Revise anti-terror and defamation laws, reform the powers of the Radio and Television Supreme Council (RTÜK). Public Procurement Law to increase transparency and accountability, especially in the awarding of government contracts, and allow the judiciary to investigate high-profile corruption cases independently. Reform the

judicial appointment process, ensuring independence from executive influence and establishing safeguards for the protection and review of judges and prosecutors against arbitrary removal. Revise the process of appointing members to the Human Rights and Equality Institution of Türkiye (HREIT) to guarantee independence from executive control and explicitly protect against discrimination based on sexual orientation and gender identity. Introduce inclusive anti-discrimination legislation, including specific laws to combat antigypsyism, anti-gender and anti-LGBTI+, and provide disaggregated data on hate crimes and discrimination cases under the Turkish Penal Code (Article 122).

- withdraw Türkiye's reservation on Article 27 of ICCPR and protect ethnic, religious, and linguistic minority rights. Formally recognize minority languages (e.g., Kurdish, Romanes, Domari) in public services and education, and ensure equal rights and support for places of worship for minority communities like the Alevi.

- cease unlawful surveillance practices, ensure data privacy, and strengthen cybersecurity measures to protect citizens' personal information.

## **II. Methodology**

9. The report draws on observations of international human rights mechanisms, individual news stories, court files, and data from coalition members to respond to Türkiye's state report<sup>2</sup>, addresses key human rights concerns in Türkiye, as per the topics outlined in the "List of Issues (LoI)"<sup>3</sup> provided by the UN Human Rights Committee (HRC). The primary sources of information and data presented in this report are derived from the monitoring activities of the coalition members within their respective areas of expertise.

10. The cases and examples of human rights violations highlighted in this report are based on firsthand interviews, legal assistance provided by coalition members, and a thorough review of court files, international reports, and evaluations by human rights mechanisms. This comprehensive approach ensures that the findings reflect the current human rights landscape in Türkiye, focusing on the most pressing issues affecting democratic values, freedom of expression, civic space, and anti-discriminatory policies.

## **III. General Information on the National Human Rights Situation**

### **A. Recent Developments and Legal Framework**

11. The coalition is deeply concerned about the worsening human rights situation in Türkiye, particularly since the failed coup attempt in 2016<sup>4</sup>. This decline began with the government's

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<sup>2</sup> Second periodic report submitted by Türkiye under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2022 [received on 3 August 2022] CCPR/C/TUR/2.

<sup>3</sup> Human Rights Committee (HRC), List of issues prior to submission of the second periodic report of Türkiye, CCPR/C/TUR/QPR/2, 25 August 2021.

<sup>4</sup> Human Rights Association (İHD). (2016). *Human Rights Violations of Türkiye in Figures 2016*. <https://ihd.org.tr/en/2016-human-rights-violations-of-turkey-in-figures/>.

harsh response to the Gezi Park protests in 2013<sup>5</sup> right after HRC's concluding observation in November 2012<sup>6</sup> and the corruption investigations in December of that year<sup>7</sup>. Tensions escalated further with the collapse of the pseudo-peace process between the government and the PKK in 2015<sup>8</sup>, ultimately peaked at following the coup attempt, leading to an intensified crackdown on dissent and civil liberties<sup>9</sup>. Despite Türkiye's claims of legal reforms and improvements, the human rights landscape has significantly deteriorated, with emergency measures from the post-coup state of emergency now embedded into permanent law, further eroding civil liberties<sup>10</sup>. This entrenchment has severely undermined human rights protections, shrinking civic space and creating a chilling effect on freedom of expression.

12. Under the post-July 2016 legal framework, hundreds of thousands have been marginalized through a vague and punitive concept of 'affiliation,' which has led to widespread social and legal disenfranchisement. The principle of individuality in crime and punishment has been overturned, with individuals being punished collectively alongside their spouses, and descendants through presidential decrees<sup>11</sup>. With the 'trustee' policies<sup>12</sup>, a "part" of the society's right to elect and be elected have been suspended for years and their leaders unlawfully imprisoned despite court judgements. Recent legislative changes have further eroded human rights protections. These include amendments to the electoral legislation<sup>13</sup> the Penal Code, the Civil Code, and laws regulating associations<sup>14</sup> and bar associations<sup>15</sup>, which have increased government control over civil society and introduced new criminal offenses,

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<sup>5</sup> Amnesty International, *Gezi Park Protests: Brutal Denial of the Right to Peaceful Assembly in Türkiye*. <https://www.amnesty.org/en/documents/eur44/022/2013/en/>

<sup>6</sup> HRC, Concluding observations on the initial report of Turkey adopted by the Committee at its 106th Session (15 October - 2 November 2012), CCPR /C/TUR/CO/1.

<sup>7</sup> Amnesty International. (2015). *Annual Report 2015/16: The State of the World's Human Rights*. <https://www.refworld.org/reference/annualreport/amnesty/2015/en/103975>.

<sup>8</sup> Aftermath of the Dolmabahçe Consensus between Government and HDP delegations, which aimed to address long-standing conflicts, dated on 28 February 2015, which was a key moment in the pseudo peace process between the Turkish government and the Kurdistan Workers' Party, then, tensions escalated due to political shifts, particularly after the June 7, 2015, elections. This period saw the breakdown of negotiations, with violence resuming between the state and Kurdish factions, contributed to the eventual derailment of the peace process, affecting Kurdish rights and the broader political landscape in Türkiye, <https://bianet.org/haber/dolmabahce-mutabakati-sonrasi-neler-yasandi-240074>

<sup>9</sup> International Federation for Human Rights (FIDH) / İHD, United Nations Human Rights Committee- 132nd session Joint Submission for the adoption of the list of issues, p. 1.

<sup>10</sup> İHD. (2022). *The Impact of Decrees Issued Under the State of Emergency (SoE) on Human Rights* <https://www.ihd.org.tr/wp-content/uploads/2022/06/OHAL-KHKlar%C4%B1-Raporu.pdf>

<sup>11</sup> Parliamentary Assembly of the Council of Europe (PACE). (2017). *The functioning of democratic institutions in Türkiye* <https://pace.coe.int/en/files/23665/html>

<sup>12</sup> PACE. (2017). *The functioning of democratic institutions in Türkiye*

<sup>13</sup> European Commission for Democracy through Law (Venice Commission). (2022). *Türkiye - Opinion on the Draft Amendments to the Electoral Law*. [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2022\)016-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2022)016-e).

<sup>14</sup> European Commission for Democracy through Law (Venice Commission). (2021). *Türkiye - Opinion on the Amendments to the Constitution*, [Venice Commission :: Council of Europe \(coe.int\)](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)016-e)

<sup>15</sup> European Commission for Democracy through Law (Venice Commission). (2020). *Türkiye - Opinion on the Amendments to the Law on the Judiciary*, [Venice Commission :: Council of Europe \(coe.int\)](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)016-e)





observation. There is no evidence that the government conveyed anything. And questions also arise that “Did the government translate and share the concluding observations to all government departments? Did the concluding observations be used in human rights training for government personnel?” The fact that the answers of all of these answers are no. For instance, regarding Committee’s Alakuş view<sup>24</sup>, the applicant, on 05.12.2022 and 14.12.2022 submitted the Committee’s decision to the Manisa 3rd Assize Court, which had convicted him, and requested a retrial taking into account the decision of violation and his release. The court of first instance decided on 15.12.2022 to reject the applicant’s request<sup>25</sup>.

16. The fact that insisting to not implement the ECtHR's judgements in Yalçinkaya<sup>26</sup>, Kavala<sup>27</sup>, Demirtaş (2)<sup>28</sup>, Gurban<sup>29</sup>, Vedat Şorli<sup>30</sup>, Alparslan Altan<sup>31</sup>, HRC’s views in Alakuş<sup>32</sup> and Özçelik<sup>33</sup>, and the Constitutional Court's two judgements in Atalay<sup>34</sup>, Keskin Kalem Yayıncılık<sup>35</sup>, Artı Media<sup>36</sup>, the Republic of Türkiye creates a regime of exception where the law does not touch certain individuals. As the principle of the rule of law increasingly diverges for certain individuals, a regime of exception has become more prevalent, fostering a culture where legal accountability is disregarded, further undermining democratic governance and the protection of human rights. Also, there is a resistance by the whole judiciary and prosecution authorities to the interpretations and assessments of human rights mechanisms and the Constitutional Court. Whilst some courts have respected these judgements, many courts have ignored them. Moreover, the Constitutional Court lacks harmonisation of its

<sup>24</sup> HRC, Alakuş v. Türkiye, CCPR/C/135/D/3736/2020, <https://juris.ohchr.org/casedetails/3737/en-US>

<sup>25</sup> Memory Freedom Association. (2023). *From Eskişehir to Geneva: The Pursuit of Justice - Mukadder Alakuş Report*, p. 19, <https://yasambellekozgurluk.org/wp-content/uploads/2023/12/ESKISEHIRDEN-CENEVREYE-UZANAN-HA-K-ARAYISI-MUKADDER-ALAKUS-RAPORU.pdf>,

<sup>26</sup><https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2215669/20%22%5D,%22itemid%22:%5B%22001-227636%22%5D%7D>

<sup>27</sup> ECtHR, Kavala v. Türkiye, no. 28769/18, 10.12.2019, <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-199515%22%5D%7D>

<sup>28</sup> ECtHR, Selahattin Demirtaş (2) v. Türkiye, no. 14305/17, 22.12.2020 <https://hudoc.echr.coe.int/eng?i=001-207173>

<sup>29</sup> ECtHR, Gurban v. Türkiye, no. 4947/04, 15.12.2015 <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-159194%22%5D%7D>

<sup>30</sup> ECtHR, Vedat Şorli v. Türkiye, no. 42048/19, 19.11.2021, <https://hudoc.echr.coe.int/eng?i=001-212868>

<sup>31</sup> ECtHR, Alparslan Altan v. Türkiye, no 12778/17, 16.04.2019, <https://hudoc.echr.coe.int/eng?i=001-192804>

<sup>32</sup> HRC, Alakuş v. Türkiye, CCPR/C/135/D/3736/2020, <https://juris.ohchr.org/casedetails/3737/en-US>

<sup>33</sup> HRC, Özçelik et. al. v. Türkiye, CCPR/C/125/D/2980/2017.

<sup>34</sup> CC, Şerafettin Can Atalay, no. 2021/9387, 19.01.2023, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2021/9387>, CC, Şerafettin Can Atalay, no. 2023/53898, 25.10.2023, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2023/53898>

<sup>35</sup> CC, Keskin Kalem Yayıncılık ve Ticaret A.Ş. ve diğerleri [GK], B. No: 2018/14884, 27/10/2021, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2018/14884>

<sup>36</sup> CC, Artı Media Gmbh [GK], B. No: 2019/40078, 14/9/2023, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2019/40078>

jurisprudence with that of the Human Rights Committee and the European Court of Human Rights<sup>37</sup>.

#### **D. Regarding Reservation to Article 27**

17. In committee's concluding observations, the committee urged the state to withdraw the reservation on covenant<sup>38</sup>. However, the state party argued that Article 10 of its constitution, titled 'Equality Before the Law', conflicts with the minority rights provisions of the Covenant, illustrating the state's majoritarian perspective and its failure to reflect modern human rights standards<sup>39</sup>. Additionally, ensuring people's rights envisaged in the Covenant shall not be understood as to conflict with the principle of equality. Article 27 ensures the rights of ethnic, religious or linguistic minorities, however, it is absurd that the government argues to justify the reservation to this article, and denying people's rights under the name of "equality".

18. Türkiye often invokes the 1923 Lausanne Peace Treaty to justify its stance on minority rights. However, the Lausanne Treaty refers to non-Muslim minorities and is interpreted by Türkiye to address the rights of ethnic minority communities of Greek, Armenian, and Jewish descent, along with the rights of Christian and Jewish communities within these groups. In other words, according to the interpretation of Türkiye, the treaty does not recognise or protect the rights of other ethnic minorities, such as Kurds and Caucasian communities, nor does it extend protections to other Christian groups like Assyrians or non-Sunni Muslim communities including Alevi and Bektashi communities. Consequently, the rights of these groups are neither specifically acknowledged nor safeguarded, let alone promoted. These issues include compulsory religion courses, a lack of diversity in the curriculum, restrictions on places of worship for different religions and beliefs, centralised, government-oriented management of ethnic and religious communities, and the indoctrination of pupils and students through a unified understanding of ethnicity and religion.

### **IV. Constitutional and Legal Framework within which the Covenant is Implemented**

#### **A. Human Rights and Equality Institution of Türkiye (HREIT)**

19. Second para. of LoI citing the previous recommendation of the Committee's 7. para., concerned the national human rights institutions' appointment of its members being done by the prime minister's office. However, the HREIT appointment is being done by the

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<sup>37</sup>Memory Freedom Association. (2023). *From Eskişehir to Geneva: The Pursuit of Justice - Mukadder Alakus Report*, p. 11, 21-32.

<sup>38</sup> HRC, Concluding observations on the initial report of Türkiye adopted by the Committee at its 106th session (13 November 2012), CCPR/C/TUR/CO/1, 5th para., <https://www.ohchr.org/en/documents/concluding-observations/ccprturco1-concluding-observations-initial-report-turkey-adopted>

<sup>39</sup> Second periodic report submitted by Türkiye under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2022 [received on 3 August 2022] CCPR/C/TUR/2, 17th para.

presidential decrees<sup>40</sup>. The coalition is particularly concerned about the lack of significant progress in strengthening Türkiye's national human rights and Equality institution to comply with the Paris Principles<sup>41</sup>. However, Türkiye's current framework lacks the necessary independence and efficacy, rendering it ineffective in providing adequate human rights protections. Considering that all members of the Board is appointed by the President<sup>42</sup>, its budget, internal management structure, decision-making body, it is not possible to approve this institution as a National Preventive Mechanism in accordance with UN-OPCAT due to its lack of independence and administrative financial autonomy<sup>43</sup>.

20. Moreover, when the draft law on the establishment of HREIT was being discussed in 2016, CHP and HDP political parties demanded that the terms "sexual orientation" and "gender identity" be added to the draft law, but these demands were not accepted<sup>44</sup>. For instance, in the application no. 2022/1042, decision no. 2022/602 to HREIT on ground for the Governor of Gaziantep's statements regarding LGBTI+ citizens as 'deviant', this application was found inadmissible on the grounds that discrimination based on sexual orientation and gender identity is not included in the founding law of the institution<sup>45</sup>.

21. On 22.02.2023, the Board member who wrote a dissenting opinion to the Board decision stated in his dissenting opinion: *'It is only possible to prevent perversions such as illegitimate relationships and LGBT from taking place in society by giving importance and encouragement to the concept of family in society.'*<sup>46</sup> Another board member expressed HREIT's institutional support for the phobic constitutional amendment in a meeting held in January 2023 at the GNAT Constitutional Commission on the proposed constitutional amendment: *'Our teachers, heads of education unions, mukhtars, mothers are outraged in this sense, especially about this LGBT issue, and they expect solutions from us.'*<sup>47</sup> And moreover, even in cases HREIT found discrimination mandate, there is no systematic follow-up of the corrective measures taken<sup>48</sup>.

22. HREIT is not an effective mechanism for Roma, as it is shown on Mehmet Bozan, who is a Roma prisoner claiming that he was tortured by the administration, and the application

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<sup>40</sup><https://www.tihек.gov.tr/kategori/pages/baskan#:~:text=14%20Temmuz%202021%20tarihinde%20Resmi,E%20C5%9Fitlik%20Kurumu%20Ba%C5%9Fkan%C4%B1%20olarak%20atanm%C4%B1%20C5%9Ft%C4%B1r>

<sup>41</sup> According to Global Alliance of National Human Rights Institution, HREIT is partially compliant with the Paris Principle.

<sup>42</sup> Law on Human Rights and Equality Institution of Turkey, Law no. 6701, Article 10/2.

<sup>43</sup> Committee Against Torture (CAT), Concluding observations on the fifth periodic report of Türkiye, CAT/C/TUR/CO/5, para. 11,

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6OkG1d%2FPPrICAqhKb7yhsnvJXP2%2B500L9O36biF%2F9eYNUWIF4vseeSBQGdDwKcDhXeQvdpWBxS7faNQojzGppZgo7ezhxcynNXnQrXBJVp4KtXtnRild%2FkR2B08jzYHj> <https://tihv.org.tr/basin-aciklamalari/bukanunlaolmaz-tiheke-karsi-imza-kampanyasi/>

<sup>44</sup> <https://kaosglidernegi.org/images/library/2017tihek.pdf>

<sup>45</sup> <https://www.tihек.gov.tr/public/images/kararlar/16rikg.pdf>

<sup>46</sup> <https://www.tihек.gov.tr/public/images/kararlar/kuwwsf.pdf>

<sup>47</sup> [https://www5.tbmm.gov.tr/develop/owa/komisyon\\_tutanaklari\\_goruntule?pTutanakId=3097](https://www5.tbmm.gov.tr/develop/owa/komisyon_tutanaklari_goruntule?pTutanakId=3097), p. 64.

<sup>48</sup> European Commission, Commission Staff Working Document, Türkiye 2023 Report, p. 39, [https://neighbourhood-enlargement.ec.europa.eu/document/download/eb90aefd-897b-43e9-8373-bf59c239217f\\_en?filename=SWD\\_2023\\_696%20T%C3%BCrkiye%20report.pdf](https://neighbourhood-enlargement.ec.europa.eu/document/download/eb90aefd-897b-43e9-8373-bf59c239217f_en?filename=SWD_2023_696%20T%C3%BCrkiye%20report.pdf)

finalized following 5 months of his death, found inadmissible<sup>49</sup>. It shows that the ‘ex officio’ visits that HREIT is required to carry out in cases of suspicious deaths were not carried out and thus did not ensure a fair investigation process. After the 6 February 2023 earthquake, especially asylum seekers and Roma people faced discrimination in the earthquake region. HREIT published 2 documents on the earthquake process. However, in both publications, HREIT did not include discriminatory practices and cases of discrimination against Roma communities.

## **B. Independence of Judiciary - Departure from Universal Human Rights Law**

23. According to article 14 of ICCPR, all persons shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. Despite Türkiye’s assertions, the coalition finds that the judiciary’s independence is severely compromised. The 2017 constitutional changes have given the executive branch undue influence over the judiciary, leading to biased trials and arbitrary dismissals of judges and prosecutors who are perceived as not aligning with the government’s agenda. Above ECtHR, HRC’s and CC’s not implemented and respected decisions can be taken as an example. Regarding 2017 Constitution amendments, the Venice Commission and UN High Commissioner for Human Rights analyzed the envisaged amendments, and recommended that Türkiye should not amend the Constitution under the state of emergency<sup>50</sup>. However, the opinions of the Venice Commission were not taken into consideration and with 51% public support in the referendum, a new regime was established which abolishes the parliamentary regime, weakens the fundamental principles of a democratic order such as the rule of law and the separation of powers, strengthens the control of the executive over the legislature and the judiciary, and feeds authoritarianism with a Presidential system equipped with very broad powers.

24. For the second time in its history, Türkiye was placed under ‘supervision’ with the decision of the Parliamentary Assembly of the Council of Europe in the face of constitutional amendments, state of emergency practices and delays in the execution of ECtHR judgements. In its resolution 2156 of April 2017 on the functioning of democratic institutions in Türkiye, the Parliamentary Assembly of the Council of Europe decided to reopen the monitoring procedure and engage in a strengthened dialogue with Türkiye<sup>51</sup>. As of 2024, this supervision is still ongoing.

25. In 2017, during the SoE, Article 159 of the Constitution, which was amended by controversial referendum in which non-stamped bullets have been accepted as valid, reorganised the structure of the Council of Judges and Prosecutors (CJP). Consisting of 13 members, 6 members of Council are directly appointed by the President, and 7 members by the Parliament. Since the 2017 constitutional amendment does not limit the membership of

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<sup>49</sup> HREIT, App. No. 2021/1773.

<sup>50</sup> [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)005-tur](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)005-tur), <https://news.un.org/en/story/2018/05/1009232>

<sup>51</sup> Res. 2156 (2017), <https://pace.coe.int/en/files/23665/html>



the President of the Republic in a political party, 7 chairs of the appointments to be made by Parliament are also highly influenced by the President. As a result, the Court of Cassation and the Council of State are composed of judges appointed by the CJP, the majority of whom are appointed by the President. According to Article 147 of the Constitution, 12 members of the Constitutional Court, which consists of 15 members, are elected by the President of the Republic and three by the Parliament.

26. Two recent appointments to the Constitutional Court clearly show the control of the President over the judiciary, namely the CJP, the Court of Cassation, the Court of Audits and over the Parliament. The first example is the appointment of Mr. İrfan Fidan as a member of the Constitutional Court. Mr Fidan was Istanbul's Chief Public Prosecutor between 26.07.2016 and 26.11.2020. The president wanted to appoint him to the CC. But the vacancy at the CC was from the Court of Cassation quota. He was then elected as a member of the Court of Cassation by CJP on 27.11.2020. Mr. Fidan was issued with the certificate of election as a member of the Court of Cassation on 11.12.2020. During this process, the General Assembly of the Court of Cassation scheduled to hold an election on 01.12.2020, to determine the three candidates to the CC to be proposed to the President. However, the Presidency of the Court of Cassation postponed the election to 17.12.2020, due to Covid-19-related reasons. Subsequently, on the day of the elections, two candidates declared their withdrawal from candidacy. Mr. Fidan, who was only a judge at the Court of Cassation for six days and who has not handled or decided a single appeal case announced his candidacy and was included in the three candidates who received the highest number of votes. On 22.01.2021, the President appointed Mr. Fidan, as a member of the Constitutional Court<sup>52</sup>. The appointment of Mr. Fidan generated a heated debate. Prof. Gözler, a prominent constitutional law professor in Türkiye, found that on average, the 44 former Constitutional Court judges who were elected and appointed from the Court of Cassation served nine and a half years before joining the CC<sup>53</sup>. This appointment process clearly shows that members of the CJP and the Court of Cassation abide by the wishes of the President.

27. Another example is the appointment of Mr. Muhterem İnce as a member of the CC. While Mr. İnce was holding the position of Deputy Minister of Interior, on 23.05.2022, he applied as a candidate for the Court of Audit membership. He was elected as a member of the Court of Audit on 29.06.2022 by the Parliament just before the term of office of a member the CC from the Court of Audit quota expired. Three months later he became a candidate for membership to the CC and he was then nominated by members the Court of Audit, and later elected by the Grand National Assembly of Türkiye on 05.10.2022, after almost three months of being appointed to the Court of Audit. This is yet another fast-track politically motivated

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<sup>52</sup> İFÖD - Freedom of Expression Association. (n.d.). *ECtHR Third-Party Intervention: Urfa Case*. [https://ifade.org.tr/reports/IFOD\\_ECtHR\\_Urfa\\_Third\\_Party\\_Intervention.pdf](https://ifade.org.tr/reports/IFOD_ECtHR_Urfa_Third_Party_Intervention.pdf).

<sup>53</sup> Kemal Gözler, "Elveda Anayasa Mahkemesi: İrfan Fidan Olayı", Annex-1, (available at: [www.anayasa.gen.tr/irfan-fidan-olayi.htm](http://www.anayasa.gen.tr/irfan-fidan-olayi.htm)) (Published: 23 January 2021); See also, Şen, İlker Gökhan: *The Final Death Blow to the Turkish Constitutional Court: The Appointment of the Former Chief Prosecutor*, *VerfBlog*, 2021/1/28, <https://verfassungsblog.de/death-blow-tcc/>, DOI: [10.17176/20210128-222654-0](https://doi.org/10.17176/20210128-222654-0).

appointment to the CC and shows how the president is influential over the Court of Audit and members of the Parliament<sup>54</sup>.

28. No changes were made to the system described above in the period 2020-2023 and the administration of the judiciary and the judicial system continued to be fully dependent on the executive power and to violate the principle of separation of powers. Indeed, the Council of Europe Group of States Against Corruption (GRECO), in its fourth assessment of Türkiye, noted that the recommendation ‘to take decisive measures to strengthen the independence of CJP with regard to possible threat to its independence from executive power and political influence’ had not been fulfilled<sup>55</sup>. The above-mentioned structure of the CJP, none of whose members are elected by judges, has further increased the control and influence of the executive power in the selection, recruitment, promotion and transfer processes of judges.

29. The pressure on the judiciary is particularly evident in critical cases. Judge Sercan Karagöz, who voted in favour of the release of civil society and human rights activist Osman Kavala, was transferred from Istanbul to Ağrı, while Ayşe Sarısu Pehlivan, President of the Judges' Union, was disciplined and relocated due to her statements in a 2017 interview with Evrensel newspaper. The ECtHR found a violation of her freedom of expression<sup>56</sup>. It should also be noted that Türkiye’s highest appeal courts (the Court of Cassation and the Council of State) have undergone four separate structural reforms to their composition and functioning between 2011 and 2017. The number of members of both the Court of Cassation and the Council of State and their structure were substantially altered in 2011, 2014, 2016 and 2017.<sup>57</sup> All members of the Court of Cassation and the Council of State have been re-appointed following the coup attempt and mass dismissals of judges and prosecutors realised. One of the most important indicators of the problems with the separation of powers is the withdrawal of the legislature from the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), which was ratified by Law No. 6251 on November 24, 2011<sup>58</sup>, with the Presidential Decree published in the Official Gazette on March 19, 2021. According to Article 90 of the Constitution, the Istanbul Convention, which is an international convention that is superior to laws in case of conflict, has not been in force in Türkiye since July 1, 2021<sup>59</sup>.

## **V. Non-discrimination (Articles 2, 3, 6, 25, and 26)**

30. The committee, in its previous recommendations, concerned that the current legislation is not comprehensive, lack of its specific reference to the prohibition of discrimination on the basis of gender identity and sexual orientation, and that the restrictions suffered by members

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<sup>54</sup> İFÖD - Freedom of Expression Association. (n.d.). *ECtHR Third-Party Intervention: Urfa Case*

<sup>55</sup> Council of Europe. (2023). *4th Interim Compliance Report of Türkiye - GRECO RC4(2023)12*, para. 13-16, <https://rm.coe.int/greco4-2023-12-final-tr-4th-interim-compliance-report-turkiye-conf-t/1680ada70b>

<sup>56</sup> ECtHR, Sarısu Pehlivan v. Türkiye, no. 63029/19, 06.06.2023, <https://hudoc.echr.coe.int/eng?i=001-225309>

<sup>57</sup> ICJ, Türkiye’s Judicial Reform Strategy and Judicial Independence, Briefing Paper, Geneva, November 2019, p. 7

<sup>58</sup> <https://www.resmigazete.gov.tr/eskiler/2011/11/20111129-2.htm>

<sup>59</sup> <https://www.resmigazete.gov.tr/30.04.2021>

of minorities, such as the Kurds and the Roma, affecting their right to enjoy their own culture and use their own language. In the government's second periodic report, not even the word “sexual orientation” is mentioned. Moreover, with regard to restrictions on other cultures other than Turks, we have not seen anything other than copied soulless general law text in the Government's reply. This is one of the indicators of how the state takes into account of the Committee’s considerations. The coalition is deeply concerned about the persistent discrimination against LGBTI+ individuals and the suppression of minorities. The government's narrative that the İstanbul Convention "normalizes homosexuality" is both unfounded and dangerous, exacerbating discrimination against vulnerable groups. Moreover, the ‘Justice Statistics for 2023’ published by the Ministry of Justice, General Directorate of Judicial Records and Statistics in March 2024 did not include any statistics on Article 122 of the TPC. There is no official data on investigations and prosecutions for hate and discrimination offences<sup>60</sup>.

### **A. Discrimination Against Kurds**

31. Since the proclamation of the Republic, discriminatory policies against the Kurds have been built, and the state's main policy towards the Kurds has been assimilation and serious crimes against humanity. In 2012, President Tayyip Erdoğan even called for the confrontation of the crimes against humanity committed by the state against the Kurds and stated that the Dersim massacre should be recognised<sup>61</sup>. 12 September 1980 Junta Regime had found a way to ban Kurdish language without using the word ‘Kurdish’. Law no. 2931 regulated that “The expression, dissemination and publication of ideas in any language other than the first official languages of the states recognised by the Turkish State shall be prohibited”. This is where we can start to understand the patterns of discriminatory policies against Kurdish people by the state though it was annulled in 1991.

#### **1. Discriminatory Legal Regulations**

32. Article 81 of the Law no. 2820 on political parties regulates the prevention of the creation of minorities, stating that

Article 81 - Political parties

a) shall not assert that there are minorities on the territory of the Republic of Turkey based on differences of national or religious culture or sect or race or language.

b) They shall not aim to disrupt the unity of the nation by creating minorities on the territory of the Republic of Türkiye through the protection, development or dissemination of languages and cultures other than the Turkish language or culture and shall not carry out activities in this direction.

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<sup>60</sup> Republic of Türkiye, Ministry of Justice, General Directorate of Criminal Records and Statistics. *Justice Statistics 2023*. March 2024.

<sup>61</sup> [https://www.bbc.com/turkce/haberler/2011/11/111123\\_dersim](https://www.bbc.com/turkce/haberler/2011/11/111123_dersim)



c) They may not use languages other than Turkish in the writing and publication of their statutes and programmes, in their congresses, open or closed hall meetings, rallies and propaganda; they may not use or distribute banners, signs, plaques, records, audio and video tapes, brochures and declarations written in languages other than Turkish; they may not be indifferent to the fact that these actions and transactions are carried out by others. However, their statutes and programmes may be translated into a foreign language other than **the languages prohibited by law**.

33. Article 81 of Law No. 2820 on political parties in Türkiye explicitly prohibits political parties from recognizing or promoting the existence of minorities based on national, religious, linguistic, or cultural differences. This law prevents the use of languages other than Turkish in political party activities and publications, reinforcing a monolithic national identity. As we can see, even though the law no 2931 was annulled, its soul lives in law on political parties, and “the language prohibited by law” actually refers to that law. Additionally, article 42 of the Constitution stated that “...No language other than Turkish shall be taught to Turkish citizens as their mother tongue in education and training institutions.” These provisions disproportionately impact Kurdish and other minority communities, limiting their linguistic and cultural expression.

## 2. Discriminatory Policies

34. Türkiye not only prevents Kurds from using their mother tongue, but also inhibits them from enjoying the cultural field. Since 2019, MLSA has identified that at least 28 cultural events (*concerts, theatre plays, literary events or stand-ups*) have been banned by administrative authorities<sup>62</sup>. No substantial evidence was provided by the administrative authorities in these cases. The Kurdish cultural activity bans are still a pressing issue in Türkiye limiting the scope of freedom of expression in artistic forms. Subsequently, the arbitrary bans on these cultural activities restrict the access of the public to Kurdish artistic and cultural content.

35. In Mardin, Diyarbakır, and Van, local municipalities introduced Kurdish traffic warnings to promote linguistic inclusivity. However, the Central Government ordered the removal of these signs, claiming they did not meet "standards," despite no specific legal regulations justifying the erasure. This action reflects broader tensions between local governments' efforts to acknowledge minority languages and the central authority's restrictive approach to linguistic diversity, particularly concerning Kurdish rights<sup>63</sup>.

36. Kurdish people in Türkiye face systemic discrimination in accessing public services, such as healthcare and airports, where services are offered in multiple languages, yet Kurdish is notably excluded. This exclusion not only violates the rights of Kurdish speakers but also perpetuates their marginalization within Turkish society. Besides, Kurdish people in Türkiye face significant barriers to using their language across various domains. They are unable to

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<sup>62</sup> MLSA Türkiye (2024) '*Türkiye's bans on Kurdish cultural events in focus on World Music Freedom Day*', MLSA Türkiye. Available at: <https://www.mlsaturkey.com/en/turkeys-ban-on-kurdish-cultural-events-faces-legal-challenges>

<sup>63</sup> <http://mardin.bel.tr/kurtce-trafik-uyari-yazi-ve-levhalarin-silinmesi-ile-ilgili-basin-aciklamasi>, [https://ankahaber.net/haber/detay/diyarbakirda\\_dem\\_partili\\_belediyenin\\_kurtce\\_trafik\\_yazilari\\_valilik\\_emriyle\\_bir\\_kez\\_daha\\_silindi\\_190975](https://ankahaber.net/haber/detay/diyarbakirda_dem_partili_belediyenin_kurtce_trafik_yazilari_valilik_emriyle_bir_kez_daha_silindi_190975)

receive education in Kurdish, use it in commercial or public matters, participate in the political scene, or engage in academic work in their native language. This widespread exclusion has led to the erosion of the language's richness and vibrancy, contributing to its gradual decline and threatening its survival for future generations.

### 3. Hate Crimes Committed Against Kurds

37. The most concrete example of discriminatory policies against Kurds can be pointed as the attacks against Dedeoğulları family, a Kurdish family, in Meram district of Konya on 12 May 2021 and 30 July 2021 and the massacre that resulted in the death of 7 people from the same family with racist motives<sup>64</sup>. Although the first attack on the Dedeoğulları family on 12 May was reflected in the national press and drew public reaction; the murder of Hakim Dal<sup>65</sup>, who was allegedly attacked and killed on July 21 in the same district because he was a Kurd, also drew a reaction from the national public. In this process, the Dedeoğulları family has applied to both the judicial and administrative authorities<sup>66</sup>. However, despite this, neither the local judicial and administrative authorities nor the central authorities have made any efforts to take any measures<sup>67</sup>, then the massacre took place. Moreover, the public authorities preferred to hide the racist dimension of the incident from the public<sup>68</sup>.

38. Moreover, after the massacre the murderer called the 155 (Police hotline), and a 35 minute telephone conversation took place between police and the murderer but most of the conversation is not submitted to the Court<sup>69</sup>, only a small portion of it was submitted to the Court. In this small part it is seen that the police officer on the phone said to Mehmet Altun(murderer) that 'my brave', 'brother, we know why you did it, we understand you, we know what they are'<sup>70</sup>. Besides, it is reflected in the court scripts that in the murderer's family whatsapp group created for this massacre that expressed the prosecutor had said to the 9 arrested murderer that 'Let 2 people take the blame, the rest will be released'<sup>71</sup>. The RIA observer indicated that in the trials concerning the murder of the Dedeoğulları family, the evidence was not collected and even important and critical evidence was submitted properly by the official authorities.

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<sup>64</sup><https://www.ihd.org.tr/konyada-dedeoglu-ailesine-yapilan-irkci-katliami-kiniyoruz-nefret-saldirilarini-ve-sidde-ti-durdurun/#:~:text=Konya'n%C4%B1n%20Meram%20il%C3%A7esinde%20d%C3%BCn,u%C4%9Fram%C4%B1nC5%9F%20ve%206%20ki%C5%9Fi%20yaranan%C4%B1nC5%9F%C4%B1>

<sup>65</sup> <https://www.gazeteduvar.com.tr/konyadaki-irkci-saldirida-oldurulen-hakim-dal-defnedildi-haber-1529287>

<sup>66</sup> RIA, Dedeoğulları Massacre Report, p. 6,

<https://hakinsiyatifi.org/konya-meramda-kurt-bir-aileden-yedi-kisinin-katledilmesine-iliskin-inceleme-ve-arastirma-raporu.html>

<sup>67</sup> RIA, Dedeoğulları Massacre Report, p. 6.

<sup>68</sup><https://www.dw.com/tr/konyada-katliam-bu-sald%C4%B1r%C4%B1n%C4%B1n-gelece%C4%9Fi-belliydi/a-58717837>

<sup>69</sup> Transcript of 4. hearing, p. 10.

<sup>70</sup><https://www.evrensel.net/haber/473300/dedeogullari-ailesi-katliaminda-sanik-altunun-telefon-gorusmesi-15-ay-sonra-dosyada>

<sup>71</sup> Transcript of 4. hearing, p. 19, 30.

## **B. Discrimination Against Roma**

39. Roma communities in Türkiye face pervasive discrimination across various sectors, significantly exacerbated by structural inequalities. According to the "Roma Communities in Türkiye During the Recovery from the COVID-19 Pandemic" report, Roma people encounter severe challenges in accessing basic rights such as healthcare, education, housing, and employment<sup>72</sup>. Although a number of assistance programmes have been implemented by the public and private sectors during the pandemic, Roma have not benefited equally from many of them<sup>73</sup>. According to the Roma Communities and Poverty in Türkiye Survey, only 37.8 % of Roma were able to receive assistance from public or private institutions during the pandemic, and 83.7 % of this assistance was only in-kind<sup>74</sup>. On 25.02.2021, the rejection of the motion of a Roma MP from the main opposition party to open a parliamentary research to investigate the economic problems experienced by Roma citizens during the pandemic and to determine the measures to be taken is a striking negative example<sup>75</sup>.

40. Despite legal guarantees, many Roma have limited or no access to adequate healthcare services. It is estimated that 10-15% of Roma have no access to healthcare, and 20-30% only have partial access, making them more vulnerable to health crises<sup>76</sup>. In terms of housing, many Roma live in substandard housing, often in segregated neighborhoods with poor infrastructure. The lack of access to clean water and sanitation services, coupled with the risks posed by urban transformation policies, leaves Roma communities vulnerable to both health risks and displacement<sup>77</sup>. After the 6 February 2023 earthquake, especially asylum seekers and Roma people faced discrimination in the earthquake region. According to the Romani Godi's data, 60.6 % of the respondent earthquake survivors stated that there was discrimination against Roma after the earthquake<sup>78</sup>. In response to the question 'Did public officials discriminate against you or did you witness discrimination?', 83 respondents said that they were discriminated, and 55 survivors said that they witnessed discrimination<sup>79</sup>.

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<sup>72</sup> Roma Memory Studies Association, (2023), Roma Communities in Türkiye During the Recovery from the COVID-19 Pandemic, p. 3-4.

<sup>73</sup> Roma Memory Studies Association, (2023), Roma Communities in Türkiye During the Recovery from the COVID-19 Pandemic, p. 5.

<sup>74</sup> Roma Memory Studies Association, (2023), Roma Communities in Türkiye During the Recovery from the COVID-19 Pandemic, p. 36.

<sup>75</sup> Roma Memory Studies Association, (2023), Roma Communities in Türkiye During the Recovery from the COVID-19 Pandemic, p. 38.

<sup>76</sup> Roma Memory Studies Association, (2023), Roma Communities in Türkiye During the Recovery from the COVID-19 Pandemic, p. 21.

<sup>77</sup> Roma Memory Studies Association, (2023), Roma Communities in Türkiye During the Recovery from the COVID-19 Pandemic, p. 25-35.

<sup>78</sup> Association for Monitoring Equal Rights, Sivil Düşün Association, Roma Memory Studies Association, Roma Earthquake Report 2023, p. 16, 69.

<sup>79</sup> Association for Monitoring Equal Rights, Sivil Düşün Association, Roma Memory Studies Association, Roma Earthquake Report 2023, p. 70.

### C. Discrimination of LGBTI+ Rights and Gender Equality:

41. The coalition is deeply concerned about the persistent discrimination against LGBTI+ individuals and the regression in women's rights following Türkiye's withdrawal from the Istanbul Convention. The government's narrative that the Istanbul Convention "normalizes homosexuality" is both unfounded and dangerous, exacerbating discrimination against vulnerable groups.

42. LGBTI+ persons are targeted both in the last presidential election and in the general administration of President Erdoğan. The negative social and political climate towards LGBTI+ persons in Türkiye is fuelled by the discriminatory discourses of government officials. This situation has also become the subject of criticism of Türkiye by the Council of Europe Commissioner for Human Rights<sup>80</sup>. Homophobic and transphobic discourses, which increase especially during election periods, trigger hatred against LGBTI+ persons in society and make it more difficult for these individuals to exist in the public sphere<sup>81</sup>. In addition, the state institution called the Presidency of Religious Affairs, which has a very high budget, produces a magazine called "Family" that targets LGBTI+ people in particular<sup>82</sup>. HREIT falls short in ensuring justice, especially for LGBTI+ individuals, and deepens interpersonal inequality instead of preventing discrimination.

43. For transgender, the gender recognition process is fraught with obstacles, including invasive medical and hormonal requirements and bureaucratic delays. The process often lacks respect for personal dignity, further marginalizing transgender individuals within the legal system. Similarly, bodily interventions in intersex births, which are carried out only with parental consent and without any medical necessity, constitute a violation of the right to personal integrity.

44. As a discriminatory policy, pride marches in Türkiye have been banned for 9 years since 2015. Looking at the last 3 years, 19 people were detained due to Pride marches in Istanbul in 2021, 374 people, including 34 children, were detained due to the march in 2022, and at least 237 people, including 4 children and 7 lawyers, were detained due to the Pride march in 2023. In 2022, the intervention to the march was in the form of rubber bullets, sound bombs and pepper spray. In 2024, the route of the march was changed, but 11 people were still detained<sup>83</sup>. Even if the lawsuits filed for the annulment of the Governorate's decisions banning these marches are later cancelled, these decisions have no effect on the outcome. It has not led to a change in the attitudes of the governorships. Despite numerous annulment decisions, governorates ban pride marches every year.

45. Recently, the European Court of Human Rights, in an application communicated to the Republic of Türkiye, raised questions regarding the decisions of the Ankara Governor's

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<sup>80</sup> <https://rm.coe.int/letter-to-mr-suleyman-soylu-minister-of-interior-and-mr-abdulhamit-gul/1680a2e486>

<sup>81</sup> <https://www.hrw.org/news/2022/08/02/pride-month-Türkiye-showcased-homophobia-resistance>

<sup>82</sup> <https://kaosgl.org/haber/diyamet-aile-dergisi-lgbti-lari-hedef-gosteriyor>

<sup>83</sup> SPOD, HRFT. (2022). *22nd Istanbul Pride March Observation Report*. <https://spod.org.tr/22nd-istanbul-pride-march-observation-report-is-online/>

Office regarding both the decision to ban the general ban in Ankara province for many years and the decision to prevent the International Day Against Homophobia Transphobia Biphobia march on 17 May 2015. The Court asked what was the legitimate aim and legal basis of these banning decisions and referred to the case law on discrimination<sup>84</sup>.

46. As a result of the devastating earthquake in Türkiye on 06.02.2023, LGBTI+ individuals faced severe challenges in accessing essential services. Their ability to obtain healthcare, adequate housing, employment, education, social security, information, communication technologies, and justice was critically compromised. The already marginalized LGBTI+ community experienced heightened vulnerability during the disaster recovery efforts, underscoring the need for inclusive policies and targeted support to ensure their rights and needs are adequately addressed in times of crisis<sup>85</sup>. Those living with an openly homosexual identity did not even try to contact the help centers for fear of discrimination and ill-treatment<sup>86</sup>. Additionally, shelters had a limited supply of essential medications, failing to provide PReP drugs for HIV prevention, HIV treatment drugs, ART, or hormones critical for the transgender transition process. Health personnel frequently lacked the awareness or ability to meet the specific needs of LGBTI+ individuals or to refer them to appropriate medical units, further exacerbating their vulnerability.

47. Similar to the fact that the founding law of HREIT does not include content on sexual orientation and gender identity, Article 122 of the Turkish Penal Code titled ‘Hate and Discrimination’ does not include sexual orientation and gender identity among the forms of discrimination. While actions such as refraining from the sale of goods and services, refraining from renting goods and services with certain motives are regulated as criminal acts, there is impunity when these actions are carried out against LGBTI+ persons.

#### **D. Discriminatory Policies Against Women**

48. Discriminatory policies against women in Türkiye manifest in various forms, affecting their rights and participation in society. In 2021, Türkiye withdrew from the Istanbul Convention, a landmark international treaty designed to prevent and combat violence against women. Although Türkiye has laws that aim to promote gender equality, their implementation is often weak. For example, the Law No. 6284 on the Protection of Family and Prevention of Violence Against Women is not uniformly enforced, resulting in inconsistent protection for women facing domestic violence.

49. The surname of married women continues to be a problem. As article 187 of the Turkish Civil Code did not allow a married woman to bear her maiden name alone –without her husband's surname– after marriage, the ECtHR found a violation of Article 14 of the ECHR

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<sup>84</sup> ECtHR, *KaosGL v. Türkiye*, no. 5797/22, 27507/23, <https://hudoc.echr.coe.int/?i=001-234812>

<sup>85</sup> EŞİK. (2023). *Deprem Raporu: TCE Bakış Açısından Geleceğe Notlar*. [https://esik.org.tr/s/2547/i/ESIK\\_DepremRaporu\\_TCE\\_BakisAcisindan\\_GelecegeNotlar.pdf](https://esik.org.tr/s/2547/i/ESIK_DepremRaporu_TCE_BakisAcisindan_GelecegeNotlar.pdf), Kaos GL. (2023). *Deprem Raporu*. <https://kaosgldernegi.org/images/library/deprem-raporu.pdf>

<https://m.bianet.org/biamag/diger/274772-cadir-ev-gida-yok-dayanisma-mucadele-var>

<sup>86</sup> <https://kaosgl.org/haber/marasli-trans-kadin-depremzede-ece-sana-gucleri-yetiyor>

in conjunction with Article 8 in 2004.<sup>87</sup> After a long-debated period, the Constitutional Court annulled article 187 of the Civil Code in 2023<sup>88</sup>, but the government is willing to enact the same provision annulled by the CC. Both 8<sup>th</sup> and 9<sup>th</sup> judicial reform packages included the draft provision, but as a result of public reaction the government withdrew the draft provision.

50. Women in Türkiye face a significant gender pay gap and are often concentrated in low-paying, informal jobs. Discriminatory hiring practices, lack of access to childcare, and social expectations that prioritize women's roles as caregivers further limit their economic opportunities. The data released by the Turkish Statistical Institute (TurkStat) in 2023 supports this grim picture. According to the statistics, although women make up 49.9 percent of the population, their participation rate in the labor force and employment is less than half that of men. According to the latest labor force statistics released by TurkStat, 65.8 percent of men over the age of 15 were employed in Türkiye in October 2023, while this rate for women remained at 31.6 percent. According to the data, while women's employment participation rates increase with higher levels of education, men's employment rates are higher than women's, regardless of their current level of education. There is also a significant difference between men and women in labor force participation rates. While 70.8 percent of men above 15 years of age participate in the labor force, this rate is only 35.7 percent for women. There is a similar gap in education. According to data released in 2022, the share of those aged 25 and above who have completed at least one level of education in the total population is 91.1 percent, while this rate is 97.1 percent for men and 87.3 percent for women. The proportion of illiterate persons aged 25 years and above in the total population is 3.5 percent, while the majority of this proportion is women<sup>89</sup>.

51. Within the framework of the implemented family protection policy, discussions on women's vested rights under the civil code have been initiated since 2018. The most important of these discussions is the proposal to introduce a time limit on poverty alimony. In the current research on poverty alimony conducted by the Kadın dayanışma Vakfı (Women's Solidarity Foundation) in 2024, instead of a time limit on poverty alimony, it was found that the amount of alimony is low and collection is difficult, and that the social position of women who are parties to the cases in the files examined within the scope of the research is behind men in line with the general country data. The research also shows that in the case files with alimony requests, the courts accept alimony requests made for children more than alimony requests made by women<sup>90</sup>.

## **VI. States of Emergency**

52. The coalition emphasizes that the emergency measures introduced post-2016, and now embedded in ordinary law, continue to infringe upon basic human rights. During the two-year

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<sup>87</sup> ECtHR, Ünal Tekeli v. Türkiye, no. 29865/96, 16 November 2004.

<sup>88</sup><https://www.anayasa.gov.tr/en/leading-judgments/decision-annulling-the-provision-entailing-the-married-woman-to-bear-her-husbands-surname/>

<sup>89</sup> Turkish Statistical Institute (Turkstat) Women Data 2023, <https://data.tuik.gov.tr/Bulten/Index?p=Istatistiklerle-Kadin-2022-49668>

<sup>90</sup> The Foundation for Women's Solidarity website, <https://www.kadindayanismavakfi.org.tr/>



State of Emergency declared on 20 July 2016, more than a thousand amendments were made to the existing legislation with 32 State of Emergency Decrees, which should have been temporary and issued without being subject to the supervision of the Constitutional Court, some improvements made with the ‘democratisation packages’ implemented before the State of Emergency were reversed, and vague crime definitions were added to the Turkish Penal Code. The State of Emergency Decrees have been enacted into law by the Turkish Grand National Assembly, where the political party headed by the President and its alliances form the majority, and have become permanent by being placed in the legislation of the ordinary order<sup>91</sup>.

53. As a result of the Constitutional Court ignoring its own jurisprudence, these amendments formed the cornerstones of the establishment of a new order. In addition to the lack of effective mechanisms to redress the injustices caused by the decisions taken and measures implemented during the State of Emergency without any judicial decision, the ‘irresponsibility’ of those who took and implemented such decisions, as well as the strengthening of impunity, led to the deepening and continuation of victimisation<sup>92</sup>.

54. The State of Emergency ended on 19 July 2018, two years after it was declared. Following the lifting of the State of Emergency, with the Provisional Article 35 added to the Decree Law No. 375 on 25 July 2018 the power to ‘dismiss from public office’, which was given to the public administration without any judicial decision during the State of Emergency period and led to the dismissal of at least 150,000 people and the cancellation of their work licences, was extended for three more years<sup>93</sup>.

55. Later, with Article 23 of Law No. 7333 dated 18/7/2021, the phrase ‘three years’ in this paragraph was increased to ‘four years’. During this period, thousands of public officials, including judges and prosecutors, were dismissed from public office by administrative decisions without any judicial decision<sup>94</sup>.

56. The SoE Commission opened on 17 July 2017, the application system was closed on 22 January 2023. In more than 6 years, a total of 127.292 applications were made to the Commission. As of 31/12/2022, 109 thousand 332 of the decisions made about all of the applications within a period of 5 (five) years as of 31/12/2022 were rejected (86%), while 17 thousand 960 (14%) of them were decided positively and the cautionary decisions were removed<sup>95</sup>.

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<sup>91</sup> Human Rights Joint Platform (İHOP), Türkiye’de Olağanüstü Hal Uygulama ve Tedbirleri, December 2020, p. 7.

<sup>92</sup> İHOP, Türkiye’de Olağanüstü Hal Uygulama ve Tedbirleri, December 2020, p. 7.

<sup>93</sup> <https://tr.euronews.com/2020/07/15/verilerle-15-temmuz-sonras-ve-ohal-sureci> , 375 no. decree, Provisional Art. 35- (Ek: 25/7/2018-7145/26 md.) [Mevzuat Bilgi Sistemi](#)

<sup>94</sup>

<https://tr.euronews.com/2023/01/20/ohal-inceleme-komisyonu-tum-basvurulari-karara-bagladi-istatistiklerle-kabul-ve-ret-orani> (SoE COmmission rejected 84% of applications)

<sup>95</sup><https://tr.euronews.com/2023/01/20/ohal-inceleme-komisyonu-tum-basvurulari-karara-bagladi-istatistiklerle-kabul-ve-ret-orani#:~:text=OHAL%20%C4%B0nceleme%20Komisyonu'na%2031.ilk%20iki%20senede%20karar a%20ba%C4%9Flad%C4%B1>.

57. As the ECtHR's finding of violation of Article 7 in *Yüksel Yalçınkaya*<sup>96</sup> judgement shows, non-derogable rights such as the principle of *nullum crimen sine lege* were breached extensively during the extended state of emergency (see Articles 4 and 15 of the ICCPR).

58. During the Covid 19 Pandemic, no state of emergency was declared in Türkiye, but lengthy curfews were applied without any legal basis. Especially, freedom of elderly people to go out to the street was restricted unproportionately depriving them of reaching basic daily needs.<sup>97</sup>

## VII. Right to Life

### A. Child Deaths in Kurdish Geography

59. According to the report on Violations of Children's Rights due to Armoured Vehicles, Mines and Conflict-Warfare Wastes prepared by the Diyarbakır Bar Association Child Rights Centre, children's right to life in the Eastern and Southeastern Anatolia regions of Türkiye is violated by the actions of the Turkish State in violation of the conventions to which Türkiye is a party and national legislation<sup>98</sup>.

60. As a result of the conflict situations in cities and the State of Emergency, the number of armoured vehicles in urban traffic, streets and neighborhoods is gradually increasing and these vehicles, which do not comply with the legal speed limits, narrow the living and playing spaces of children<sup>99</sup>. Children are killed or permanently disabled as a result of being hit by armoured vehicles in children's living and play areas or as a result of fire from armoured vehicles.

61. The report documents numerous incidents involving armored vehicles in urban areas, where children were killed or injured. Between 2011 and 2021, at least 49 cases of death and injury due to armored vehicles were recorded<sup>100</sup>. The majority of these incidents occurred during or after the state of emergency, with a significant concentration in Southeast Türkiye<sup>101</sup>.

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<sup>96</sup> Yüksel Yalçınkaya v. Türkiye, [GC], no. 15669/20, 26.09.2023, available at: <https://hudoc.echr.coe.int/eng?i=001-227636>

<sup>97</sup> See, Türkiye: Legal Response to Covid-19, <https://oxcon.ouplaw.com/display/10.1093/law-occ19/law-occ19-e33>

<sup>98</sup> Diyarbakır Bar Association, 2022, Violations of Children's Rights due to Armoured Vehicles, Mines and Conflict-Warfare Wastes Report, p. 11, [https://www.diyarbakirbarosu.org.tr/public/uploads/files/BARO%20%C3%87ALI%C5%9EMA%20DOSYASI%20%20%20\(1\)\\_compressed.pdf](https://www.diyarbakirbarosu.org.tr/public/uploads/files/BARO%20%C3%87ALI%C5%9EMA%20DOSYASI%20%20%20(1)_compressed.pdf).

<sup>99</sup> Diyarbakır Bar Association, 2022, Violations of Children's Rights due to Armoured Vehicles, Mines and Conflict-Warfare Wastes Report, p. 11.

<sup>100</sup> Diyarbakır Bar Association, 2022, Violations of Children's Rights due to Armoured Vehicles, Mines and Conflict-Warfare Wastes Report, p. 12.

<sup>101</sup> Diyarbakır Bar Association, 2022, Violations of Children's Rights due to Armoured Vehicles, Mines and Conflict-Warfare Wastes Report, p. 13.



62. The presence of landmines and unexploded ordnance in rural areas continued to pose a significant threat, particularly to children. The report notes that 45 children lost their lives and 135 were injured due to such incidents between 2011 and 2021<sup>102</sup>. The state's failure to clear these areas or adequately mark dangerous zones has led to ongoing risks for residents, especially children.

63. A key issue highlighted in the report is the culture of impunity that prevailed during and after the state of emergency. Many incidents involving the death or injury of civilians, particularly children, were not adequately investigated, and perpetrators were rarely held accountable. This lack of justice perpetuated a cycle of violence and fear in affected communities. These data are only the data learned from the press and identified by non-governmental organisations. The state has no official data on this issue.

### **B. Impunity for State Officials**

64. Trials lasting for years stuck the statute of limitations barrier, and this inefficiency in the judicial process allows many cases to remain unresolved, undermining justice and accountability. For instance, in the 'JITEM' case concerning the deaths of 19 people in and around Ankara between 1993 and 1996, including Abdülmecit Baskın, the population director of Altındağ, all defendants were acquitted on 26 May 2023<sup>103</sup>.

65. Caner Sarmaşık, a Roma conscript, tragically committed suicide on 29.04.2021 while on duty in Idlib, Syria. His family called them just before his death and announced that he had been subjected to racist remarks by his commanders because he was Roma, that he had been subjected to mobbing, that he was constantly scolded because he could not read or write, and that he had told them about his commanders' hate speech against Roma. Subsequently, different allegations that Caner Sarmaşık lost his life due to his commander's gun came to the agenda. Following the demands of various civil society organisations to investigate the incident and the parliamentary questions submitted by two MPs, the Ministry of National Defence stated that it would conduct an investigation. The Ministry announced that they would share the results of the investigation with the public, but no subsequent announcement was made. The parliamentary questions were only answered by saying that 'a judicial and administrative investigation will be carried out'<sup>104</sup>.

66. Following the earthquake that took place on 6 February 2023 and caused at least 53.537 deaths and 107.213 injuries,<sup>105</sup> not a single criminal or administrative investigation was

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<sup>102</sup> Diyarbakır Bar Association, 2022, Violations of Children's Rights due to Armoured Vehicles, Mines and Conflict-Warfare Wastes Report, p. 19.

<sup>103</sup> İHD, 2023 Human Rights Violation Report, <https://www.ihd.org.tr/2023-yili-hak-ihlalleri-raporu/>

<sup>104</sup> <https://serbestiyet.com/featured/bu-olay-tum-roman-camiasinin-sinir-katsayisini-had-safhaya-getirdi-58596/>

<sup>105</sup> <https://www.duvarenglish.com/turkish-authorities-update-death-toll-of-feb-6-earthquakes-to-53500-news-63755>, <https://www.undrr.org/news/one-year-anniversary-6-february-earthquakes-turkiye-and-syria>

launched against public officials although the Constitutional Court<sup>106</sup> and the ECtHR<sup>107</sup> clearly established that deaths and injuries caused by natural disasters such as earthquakes, floods and landslides may entail criminal responsibility of negligent public officials.

## VIII. Counter-terrorism Measures

67. The coalition reports that Türkiye's anti-terrorism laws are excessively broad and are routinely used to stifle dissent and target human rights defenders. These laws have led to the unjust detention and prosecution of thousands, including journalists, academics, and activists, on spurious terrorism charges.

68. Regarding the application of Article 2/2 of the Anti-Terror Law, Articles 220/6 and 7 of the TPC and Article 314/3 of the TPC and sentencing under Article 314/2 of the TPC, the ECtHR's *İmret*, *Bakır* and *Işıkırık Türkiye* judgments clearly stated that the principle of legality was not met<sup>108</sup>. The Constitutional Court also annulled TPC 220/6, but the law was passed by the parliament again in the same way. In addition, in the *Demirtaş* judgment of the ECtHR, Article 314/2 of the TPC was explicitly criticized as not being foreseeable<sup>109</sup>.

69. Law No. 7262, known as the Suppression of the Financing of Weapons of Mass Destruction Proliferation, grants Turkish authorities the power to arbitrarily freeze assets. This law, enacted under the pretext of combating the proliferation of weapons of mass destruction, has been criticized for its potential misuse, particularly in targeting civil society organizations, human rights defenders, and political dissidents. The law allows the government to freeze assets without a court order, raising significant concerns about due process and the potential for abuse of power. For instance, *Göç İz Der*, a civil society organization previously acquitted of charges through judicial proceedings<sup>110</sup>, is now facing new challenges due to administrative decision that the organization's assets have been frozen by the authorities without a court order, reflecting the broad discretionary powers granted under this law<sup>111</sup>. Besides, investigations are used against mayors to justify "trustee" on the grounds of a broad definition of 'terrorism' in Türkiye's anti-terror legislation<sup>112</sup>.

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<sup>106</sup> CC, *Serpil Kerimoğlu and others*, no: 2012/752, 17.9.2013.

<sup>107</sup> ECtHR, *Öneryıldız v. Türkiye*, no. 48939/99, 30.11.2004; See also, *Budayeva and Others v. Russia*, nos. [15339/02](#), [21166/02](#), [20058/02](#), [11673/02](#) and [15343/02](#), 20.09.2008 <https://hudoc.echr.coe.int/eng?i=001-85436>; *Kolyadenko and Others v. Russia*, nos. [17423/05](#), [20534/05](#), [20678/05](#), [23263/05](#), [24283/05](#) and [35673/05](#), 09.07.2012, <https://hudoc.echr.coe.int/eng?i=001-109283>

<sup>108</sup> İHD, *Iron cage on human rights defenders, anti-terrorism law*, 2022, p. 8, <https://www.ihd.org.tr/wp-content/uploads/2022/06/TMK-Raporu.pdf>

<sup>109</sup> İHD, *Iron cage on human rights defenders, anti-terrorism law*, 2022, p. 8.

<sup>110</sup> [https://mlsaturkey.com/tr/goecizder-oerguet-ueyeligi-davasinda-beraat#:~:text=G%C3%B6%C3%A7%20%20C4%B0zleme%20Derne%C4%9Fi'ne%20\(G%C3%96%C3%87%C4%B0ZDER,propagandas%C4%B1%E2%80%9D%20yapmaktan%20hapis%20cezas%C4%B1%20verildi](https://mlsaturkey.com/tr/goecizder-oerguet-ueyeligi-davasinda-beraat#:~:text=G%C3%B6%C3%A7%20%20C4%B0zleme%20Derne%C4%9Fi'ne%20(G%C3%96%C3%87%C4%B0ZDER,propagandas%C4%B1%E2%80%9D%20yapmaktan%20hapis%20cezas%C4%B1%20verildi)

<sup>111</sup> 31 August 2024, Official Gazette: 32648

<sup>112</sup> [https://neighbourhood-enlargement.ec.europa.eu/document/download/eb90aefd-897b-43e9-8373-bf59c239217f\\_en?filename=SWD\\_2023\\_696%20T%C3%BCrkiye%20report.pdf](https://neighbourhood-enlargement.ec.europa.eu/document/download/eb90aefd-897b-43e9-8373-bf59c239217f_en?filename=SWD_2023_696%20T%C3%BCrkiye%20report.pdf), p.121.

70. Between 2020 and 2023, a total of 132,456 investigations were commenced under Türkiye's Anti-Terror Law, with the numbers steadily increasing from 26,225 in 2020 to 41,873 in 2023<sup>113</sup>. But these numbers do not reflect the reality of those who have been investigated under anti-terror law. For TPC Article 314, which is a crime of membership of an armed organisation against the Constitutional Order, in 2023, a total of 198,883 individuals have been investigated under this law<sup>114</sup>. In 2022, while the data is not distinguished for Article 314 alone, a combined total of 120,579 investigation files were conducted under Articles 309 to 316 (Offenses Against the Constitutional Order and its Function)<sup>115</sup>.

71. In 2021, 191,964 individuals were investigated under Article 314<sup>116</sup> and in 2020, the number was 208,833<sup>117</sup>. As data shown, millions of people have been under judicial threat as opposed to the ordinary course of life. Otherwise, millions of people would have to be recognised as terrorists.

## **IX. Violence Against Women**

72. While gender-based violence against women has long been a significant problem in Türkiye, the government of Türkiye decided to withdraw from the Istanbul Convention, the relevant human rights regulation of the Council of Europe. Despite government claims of protecting women, incidents of violence against women remain alarmingly high, and the legal framework is now weaker in providing necessary protections. The impact of the withdrawal from the Convention and the family protection policy on violence against women is unclear due to the lack of data sharing. Because the government does not share any data regarding femicide, According to We Will Stop Femicide Platform, which is the only institution in Türkiye gathering data regarding femicides in Türkiye, the only year in which femicides decreased was 2011, when the Istanbul Convention was signed<sup>118</sup>. Withdrawal from the Convention also has weakened legal and institutional mechanisms in terms of sexual violence, increasing the risk of impunity for perpetrators.

73. The National Action Plan for Combating Violence against Women, which was shared with the public on July 1, 2019, the date of departure from the Istanbul Convention, was based on a religion-based family protection policy in the fight against violence. Since 2007, when the action plans on combating violence against women, which have been issued without interruption, are considered as a whole, it is noticeable that there is no coherent legal policy on the issue, there is no measurement of qualified data and statistics and no evaluation of the activities determined in previous plans, and new targets and activities are determined in the

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<sup>113</sup> Republic of Türkiye, Ministry of Justice, *Judicial Statistics, 2020, 2021, 2022, and 2023*.

<sup>114</sup> Unfortunately the Government does not distinguish the data for how many of them were prosecuted. But according to 2023 Judicial Statistics, 66.657 individuals were being prosecuted under Article 314 (*Judicial Statistics, 2023, p. 99*).

<sup>115</sup> According to Judicial Statistics, 2022, 85.311 individuals were being prosecuted under Article 314 (*Judicial Statistics, 2022, p. 87*).

<sup>116</sup> Judicial Statistics, 2021, p. 61.

<sup>117</sup> Republic of Türkiye, Ministry of Justice, *Judicial Statistics, 2020, 2021, 2022, and 2023*.

<sup>118</sup> We Will Stop Femicide Platform, 2023 Report, <https://kadincinayetlerinidurduracagiz.net/veriler/3088/2023-yillik-veri-raporu>

absence of this evaluation. The approach that deals with violence against women at the individual level rather than the social level, which became evident with the withdrawal from the Istanbul Convention, ignores the human rights and gender equality-based approach adopted worldwide in combating violence against women. For this reason, the new plan does not propose any changes in important issues such as the need for an emergency hotline specialized in violence against women, insufficient support and capacity in shelters, the need for financial resources and free legal aid, which are mentioned as deficiencies in many national and international reports, nor does it emphasize ensuring gender equality.

74. The government of the Republic of Türkiye does not share the data on violence against women with the public and publishes limited judicial statistics that could help to form an opinion on these data. Association for Struggle Against Sexual Violence in 2021, an application for access to information was made to 11 state institutions and organisations. The main subject of this application for access to information was whether state institutions already keep data<sup>119</sup>. The last judicial statistics published by the Ministry of Justice belong to the years 2020-2021<sup>120</sup>. Justice Statistics, on the other hand, are shared year by year<sup>121</sup>, but in hundreds of pages there is no data regarding violence against women. A significant portion of the files analyzed in the Poverty Alimony Survey conducted by FWS for the second time contain allegations of violence against women and domestic violence, and the allegations have increased since 2019, when the survey was first conducted<sup>122</sup>. The figures revealed by independent women's organizations and media outlets reveal the extent of gender-based violence. According to statistics compiled by Kadın Cinayetlerini Durduracağız Platformu (We Will Stop Femicide Platform) from publicly available sources and recent data compiled by Bianet (the Independent Communication Network) from local, national and online media reports in Türkiye, gender-based violence and femicide continue to increase unabated in Türkiye.

75. Regarding victims of sexual violence, in Türkiye, survivors of sexual violence often face re-victimization due to practices such as being questioned about their sexual history, facing scrutiny for not reacting immediately during the incident, and being subjected to virginity reports. These practices not only undermine the dignity of survivors but also perpetuate a culture of victim-blaming, making it more difficult for survivors to seek justice and heal from their trauma<sup>123</sup>.

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<sup>119</sup> Only 4 of the applications were answered, while the other applications remained unanswered. The institutions that responded provided information on internal functioning rather than data sharing. The only institution that shared data was the Istanbul Bar Association. [https://cinselsiddetlemucadele.org/wp-content/uploads/2022/02/Destek\\_istemek\\_hakim\\_Raporu.pdf](https://cinselsiddetlemucadele.org/wp-content/uploads/2022/02/Destek_istemek_hakim_Raporu.pdf)

<sup>120</sup> <https://adlisicil.adalet.gov.tr/Home/SayfaDetay/adl-istatistikler-yayin-arsivi>

<sup>121</sup> <https://adlisicil.adalet.gov.tr/Home/SayfaDetay/adalet-istatistikleri-yayin-arsivi>

<sup>122</sup> <https://www.kadindayanismavakfi.org.tr/yayinlar/yoksulluk-nafakasi-raporu-2019/>

<sup>123</sup> In a sexual assault case, the presiding judge asked the victim 'why didn't you shout at the time of the incident?', <https://sendika.org/2021/11/neden-bagirmadin-mehtap-sert-toch-636945>,

## X. Anti-Corruption Measures

76. In Transparency International(TI)'s 2023 Corruption Perception Index, Türkiye had a score of 34, with a change of -2 since the previous year, meaning it ranks 115 out of 180 countries<sup>124</sup>. With this score, Türkiye reached its lowest level declining 8 points since 2015. The basic reason for this decline is a governmental system change to the overly dominant executive branch and few democratic checks and balances<sup>125</sup>. According to the TI, insufficient laws against corruption, reluctance to enforce these laws and lack of judicial independence<sup>126</sup> stand in the way of progress.

77. For example, eight consecutive wealth amnesty laws since 2008 created a permissive jurisdiction for a wide range of illicit financial activities, allowing individuals and entities to repatriate previously undeclared offshore assets and to declare previously undisclosed domestic assets without suffering any tax penalties and avoiding legal scrutiny.<sup>127</sup> The leaks of the Panama, Pandora and Paradise papers helped reveal a network of politically connected billionaires who relied on offshore companies to siphon resources out of Türkiye.<sup>128</sup>

78. Lack of transparency in the public procurement system fuels political favouritism, lack of competition and failure to achieve value for money in public procurement contracting. Public Procurement Law (Law No. 4734) has been amended more than 200 times since 2003 and many public bodies like the Presidency have been exempted from the Law<sup>129</sup>. Recently, most of the public tenders have been made according to article 21 of Law No. 4734 which stipulates bargaining procedure in exceptional cases. As a result, President Erdogan's closest allies, in particular a small group of oligarchs known as the "gang of five," receive an overwhelming percentage of government tenders. A CHP report has stated that the government has issued 330.5 billion liras worth of tenders, and 50% of those were won by the same 20 companies—24% of those went to the "gang of five."<sup>130</sup> Research on public procurement in Türkiye has shown that politically connected companies enjoy higher contract prices and a high level of government discretion compared to non connected firms.<sup>131</sup>

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<sup>124</sup> <https://www.transparency.org/en/countries/turkey>

<sup>125</sup> <https://freedomhouse.org/country/turkey/freedom-world/2022>

<sup>126</sup> <https://www.icj.org/turkey-system-of-transfer-of-judges-undermines-judicial-independence-and-must-be-reformed/>

<sup>127</sup> Aykan Erdemir, Erdogan's Wealth Amnesty Offers Illicit-Finance Loophole for the Eighth Time, Foundation for Defense of Democracies, 4 January 2022.

<sup>128</sup> Turkish Democracy Project, no date. Offshore Corruption in Türkiye; Pelin Ünker and Serdar Vardar, Pandora Papers open the box of offshore secrets, Deutsche Welle, 10 March, 2021.

<sup>129</sup> <https://www.birgun.net/haber/kamu-ihale-kanunu-192-kez-degistiriliyor-343171>

<sup>130</sup> Turkish Democracy Project, Understanding the Problem: Financial corruption; Esra Çeviker Gürakar and Tuba Bircan, Political connections and public procurement in Türkiye: Evidence from construction work contracts, Working paper 1053, Economic Research Forum, <https://turkishdemocracy.com/financial-corruption/>

<sup>131</sup> Transparency International, 2024 Report: Accountability, Loading: A survey of open data for enhancing political integrity in the Western Balkans and Türkiye [https://images.transparencycdn.org/images/2024\\_Report\\_AccountabilityLoading\\_EN.pdf](https://images.transparencycdn.org/images/2024_Report_AccountabilityLoading_EN.pdf)

79. The Group of States against Corruption (GRECO) report from 2021 suggests that considerable progress is needed to improve transparency of political finance in Türkiye, considering that only one out of nine recommendations have been fulfilled over a period of one decade.<sup>132</sup>

80. Both the legal framework and the institutional structure continue to allow undue executive influence in the investigation and prosecution of high-profile corruption cases. These need to be improved in line with international standards.

81. In the context of terrorism investigations (mostly FETÖ), more than a thousand private companies were temporarily seized, and trustees were appointed. These companies were then taken under the control of the Savings Deposit Insurance Fund (TMSF) and the TMSF was appointed as a trustee. Some of these companies were liquidated before the legal process was completed, a very small number of them were returned to their owners, and some were transferred to the Türkiye Wealth Fund. Currently<sup>133</sup>, there are around 700 companies under the control of the TMSF currently.<sup>134</sup>

## **XI. Prohibition of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

82. The coalition provides evidence of widespread torture and ill-treatment in detention centers, particularly targeting those accused of terrorism-related offenses. These practices include beatings, sexual violence, and psychological abuse. The coalition underscores the lack of effective investigations and the culture of impunity that protects perpetrators. According to the Human Rights Foundation of Türkiye's (HRFT) Treatment and Rehabilitation Centres Report for 2021, the number of applicants to the HRFT for torture and ill-treatment reached the peak of the last 30 years. In 2021, 984 applications were made to the HRFT<sup>135</sup>. In 2022, 1201 people applied to the HRFT treatment centres, that 1079 out of 1201 applicants were directly subjected to torture and other ill-treatment in Türkiye, and that 756 (70.1%) of the total number of new applicants in 2022 had been subjected to torture or were their relatives in 2022 is an important indicator of the prevalence and seriousness of torture practices<sup>136</sup>.

83. In Türkiye, excluding survivors from forensic interview rooms during sexual assault cases does not protect them but rather re-traumatizes them. This practice, combined with exposing survivors to their perpetrators during the judicial process, places them in psychologically distressing situations and violates international human rights standards, including Article 7 of

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<sup>132</sup> GRECO, Third Evaluation Round, <https://rm.coe.int/third-evaluation-round-second-addendum-to-the-second-compliance-report/1680a1cac1>

<sup>133</sup> <https://www.resmigazete.gov.tr/eskiler/2024/08/20240820-1.pdf>

<sup>134</sup> <https://www.tmsf.org.tr/tr/Sirket/Kayyim?page=1>

<sup>135</sup> HRFT, *Human Rights Report 2021*, p. 20, <https://tihv.org.tr/wp-content/uploads/2022/11/TiH-RAPOR-2021.pdf>,

<sup>136</sup> HRFT, *Human Rights Report 2022*, p. 23, <https://tihv.org.tr/wp-content/uploads/2023/08/tihv-tedavi-raporu-2022.pdf>, p. 23.



the ICCPR, which unequivocally prohibits torture and cruel, inhuman, or degrading treatment. Such practices exacerbate the trauma survivors face, undermining their dignity and access to justice.

84. Widespread anti-Gypsy attitudes among law enforcement can be seen in form of torture and ill-treatment. For example, the Bayır family in Istanbul was subjected to torture by police in 2022, yet their complaints were not effectively pursued by the prosecutor's office, and evidence was mishandled<sup>137</sup>. Similarly, in İzmir, the Korkutan family was violently mistreated by police<sup>138</sup>, with authorities failing to investigate the incident properly. In another case in Manisa, police attacked Roma families uninvolved in a disturbance<sup>139</sup>. These cases highlight the systemic discrimination and impunity that Roma people face in Türkiye.

## **XII. Liberty and Security of Person**

85. The coalition highlights the arbitrary detentions, particularly in the context of post-coup purges. Many victims are held incommunicado, and their families are denied information about their whereabouts. The state's failure to investigate these cases exacerbates the crisis of impunity. Inmates serving aggravated life imprisonment are subjected to conditions that effectively equate to solitary confinement. Under the current execution law, these prisoners are confined for 23 hours a day in isolation<sup>140</sup>, a practice that violates international human rights standards. According to the Mandela Rules (the United Nations Standard Minimum Rules for the Treatment of Prisoners), prolonged solitary confinement, defined as confinement for 22 hours or more per day without meaningful human contact, for a period exceeding 15 consecutive days, is prohibited as it constitutes cruel, inhuman, or degrading treatment. The routine use of solitary confinement for those serving aggravated life sentences in Türkiye starkly contrasts with these international norms, raising significant human rights concerns. Besides, there is absolute incommunicado situation for Abdullah Öcalan, Ömer Hayri Konar, Hamili Yıldırım and Veysi Aktaş<sup>141</sup>

86. Administration and Observation Boards, established by 2020, is a mechanism for preventing the release of prisoners despite meeting parole conditions. The Human Rights Association (İHD) calls for the abolition of the Administration and Observation Boards, which prevent the release of prisoners despite meeting parole conditions. These boards assess prisoners' behavior, often leading to arbitrary decisions that block their release. The İHD argues that this system is unconstitutional and violates international human rights standards, as it often extends imprisonment unjustly, particularly for political prisoners. The association urges immediate reforms to restore justice and legal compliance<sup>142</sup>.

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<sup>137</sup> <https://romanigodi.org/adalet-arayisi-suc-degildir-bayir-ailesi-adalet-ariyor/>

<sup>138</sup> <https://www.egedesonsoz.com/haber/Izmirli-Roman-aileden-polis-siddeti-iddiasi/924956>

<sup>139</sup> <https://www.ihd.org.tr/blon-el-rapor167/>

<sup>140</sup> Execution Law, Article 25.

<sup>141</sup> <https://www.ihd.org.tr/imrali-f-tipi-yuksek-guvenlikli-hapishanesinde-tecrit-ve-mutlak-iletisimsizlik-devam-e-diyor/>

<sup>142</sup> <https://www.ihd.org.tr/mahpuslarin-tahliyelerini-engelleyen-idare-ve-gozlem-kurullari-iptal-edilsin/>

87. The intervention of law enforcement during peaceful assemblies often results in violations of basic freedoms, as seen during Newroz celebrations, which are held every year in spring. More than 100 children were arbitrarily detained on 21 March 2022, more than 50 children on 21 March 2023 and more than 30 children on 21 March 2024 during the Newroz celebrations in Diyarbakır province. 38 children were arbitrarily detained on the grounds that they were wearing only yellow, red, green coloured shawls, traditional motifs and accessories<sup>143</sup>. According to Human Rights Foundation of Türkiye's (HRFT) information note, in 10 provinces (Istanbul, Kocaeli, Izmir, Bingöl/Karlıova, Batman, Şırnak/Cizre, Urfa/Viranşehir, Bitlis/ Tatvan, Mersin, Diyarbakır), at least 327 people, including 63 children, were detained as a result of the interventions of security forces against Newroz celebrations<sup>144</sup>.

### **XIII. Freedom of religion or belief**

88. Türkiye's reluctance to withdraw its reservation to Article 27 of the ICCPR is closely linked to issues of freedom of thought, conscience, and religion. The 1923 Lausanne Treaty, which Türkiye often cites, does not recognize the rights of ethnic minorities such as Kurds, Assyrians, and non-Sunni Muslims. Consequently, the rights of these groups are neither specifically acknowledged nor safeguarded, let alone promoted. These issues include compulsory religion courses, a lack of diversity in the curriculum, restrictions on places of worship for different religions and beliefs, centralised, government-oriented management of ethnic and religious communities, and the indoctrination of pupils and students through a unified understanding of ethnicity and religion.

89. The first wave of Alevi lawsuits began when FAF (Federation of Alevi Foundations) submitted applications prepared by its member CEM Foundation to the relevant ministries in 2005. By 2009, the cases were brought before the European Court of Human Rights (ECtHR), which issued a series of judgments in favor of the Alevi community and other religious groups in the country between 2014 and 2016. However, due to the state of emergency in Türkiye from 2016 to 2018, the Council of Europe could not take any steps to enforce these rulings. It was only in 2019 that the Committee of Ministers (CM) began to include the Alevi case judgments on their follow-up agenda. The cases primarily focused on securing state support and services for the places of worship (*cemevi*)<sup>145</sup>, obtaining equal legal rights for all religious groups<sup>146</sup>, and exempting children from non-Sunni communities from compulsory religious lessons<sup>147</sup>.

90. In 2022, Türkiye finally established a department, “Alevi Bektashi Culture and *Cemevi* Presidency” under the Ministry of Culture. Although the government ignored *cemevi* as an official worship place, promising to provide some support similar to recognised worship

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<sup>143</sup> Association of Lawyers for Freedom, Diyarbakır Bar Association, 2024 Newroz Report.

<sup>144</sup> HRFT, 2024 Newroz Rights Violations Information Note, <https://tihv.org.tr/ozel-raporlar-ve-degerlendirmeler/2024-newroz-hak-ihlalleri-bilgi-notu/>

<sup>145</sup> ECtHR, Cumhuriyetçi Eğitim ve Kültür Vakfı v. Türkiye, Application No. 32093/10.

<sup>146</sup> ECtHR, İzzettin Dogan and others v. Türkiye, Application No. 62649/10.

<sup>147</sup> ECtHR, Hasan Zengin and Eylem Zengin v. Türkiye, no. 1448/04; Mansur Yalçın and others v. Türkiye, no. 21163/11.



places. As a result, the Council of Europe Committee of Ministers decided to close the follow-up procedures for the case of Cemevi electricity bills. (No. 32093/10) in 2023. Nevertheless, the problems related to the status of *cemevis* persists. During its 1501<sup>st</sup> meeting held on June 2024, the CM reviewed Türkiye's situation regarding the freedom of religion and belief issues. The Committee found Türkiye's developments, explanations and further undertakings sufficient for a roadmap and decided to close follow up procedures of ECtHR case No. 62649/10, (Izzettin Doğan and others). This decision was made despite repeated reports from ADO (Alevi Philosophy Centre), The Freedom of Belief Initiative, and a status report co-signed by several CSOs and NGOs, indicating that the judgments in the case had not yet been implemented.

91. The other remaining case since 2014 is on the CM's implementation follow-up agenda is related to compulsory religious courses in the national curriculum. The Committee has requested that the Republic of Türkiye submit explanations regarding the long-standing case of "Mansur Yalçın and others" (No. 21163/11) by the end of 2024.<sup>148</sup> On the other hand Turkish Constitutional Court also had a judgment on Hüseyin El and others case (No. 2014/15345) dated April 7, 2022. Indicating that this educational system violates Turkish Constitution and Turkish Civil Law. Turkish Government have not taken any steps on this matter as well.

92. At the start of the 2023-24 school year, the Directorate of Religious Affairs, the Ministry of National Education, and the Ministry of Youth and Sports signed a protocol (CEDES) which aims to promote religious and traditional values. This protocol allows for clergy members (DRA staff) without any pedagogical training to participate in or even lead educational activities as Value System Club coordinators or advisors in schools. ADO and numerous other Alevi and non-Alevi organizations believe that the Sunni fundamentalist education aims and risks further assimilation and discrimination of Alevi children. Alevi children are not allowed to exempt from these lessons that defends contradictory theories and interpretations than what children witness and learn at home, such as creation theory instead of evolution, a fear-based life instead of love-based life etc. The issue has been highlighted in previous ECtHR judgments and the UN HRC 55<sup>th</sup> session reports of High Commissioner<sup>149</sup> and the UN Special Rapporteur on Freedom of Religion and Belief<sup>150</sup> as potentially leading to increased polarization, stigmatization, and hate speech. In June 2023, the Türkiye's major teachers' union, Egitim-Sen, filed a petition with the Supreme Court of Justice (*Danıştay*) seeking the annulment of a protocol. The union argued that the protocol clearly violates several legal provisions, including the Unified Education Law No. 430, Article 36 of Law No. 657 on State Bureaucracy, a Constitutional Court decision (No. E.1889/1), Article 128 of the

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<sup>148</sup> CM/Del/Dec(2024)1501/H46-33 <https://search.coe.int/cm?i=0900001680b0498b>

<sup>149</sup> A/HRC/55/47: Hatred on the basis of religion or belief – Special Rapporteur on freedom of religion or belief. Published 08 January 2024, <https://www.ohchr.org/en/documents/thematic-reports/ahrc5547-hatred-basis-religion-or-belief-special-rapporteur-freedom>

<sup>150</sup> A/HRC/55/74: Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief, <https://www.ohchr.org/en/minorities/combating-intolerance-against-persons-based-religion-or-belief>

Constitution, Articles 43 and 47 of Law No. 1139 ("Basic Law on National Education"), and Article 28 of Law No. 652 ("Organization and Duties of the Ministry of National Education"), by undermining the authority of the National Board of Education.

93. According to the Association of Protestant Churches, 65 foreign protestants have been subjected to deportation orders from Türkiye and re-entry bans since 2019.<sup>151</sup> According to the report, "when the family members of these people are also taken into account, more than 100 people have been affected by these bans". It is claimed that these 65 individuals received an N-82 restriction code on their visa admissions. The Association of Protestant Churches stated that foreigners subjected to the N-82 restriction code had challenged deportation decisions before administrative courts. In those cases, the respondent administrative authority claimed that these individuals had been involved in missionary activities, and added that their activities were threatening public order. By the date of the report, the Association of Protestant Churches stated that none of the cases were concluded in favor of the plaintiffs. It should be noted that administrative authorities never explained what the content of missionary activities was.<sup>152</sup> Recently the Turkish Constitutional Court, in a case submitted by deported foreign nationals because of missionary activities, found no violation of Constitutional rights including freedom of religion.<sup>153</sup>

#### **XIV. Freedom of Expression, Peaceful Assembly, and Association**

##### **A. Freedom of Association**

94. As of 31 December 2017, the number of associations closed down by the Decree Laws No. 667, 677, 679, 689 and 695 reached 1607 and the closure decision was lifted for 183 associations as a result of the objections. As of 31 December 2017, the number of closed associations is 1424. The State of Emergency Inquiry Commission also announced that it has accepted applications for 61 associations, foundations, student dormitories, television channels and newspapers closed down as of 31 December 2021<sup>154</sup>.

95. Religious Scholars Assistance and Solidarity Association (DİAYDER), Migration Monitoring Association (GÖÇİZDER), We Will Stop Femicide Platform (KCDP), and Tarlabasi Community Centre (TTM) is being under closure threat, showing how these cases are part of a broader strategy to stifle civil society and silence dissent. These closure cases are often politically motivated, targeting organizations that challenge government policies or support marginalized groups, illustrating how the legal and administrative actions against these organizations, such as arbitrary inspections, fines, and legal harassment, aim to disrupt their work and create a chilling effect on civil society as a whole<sup>155</sup>. GÖÇİZDER, which

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<sup>151</sup> See Association of Protestant Churches, 2020 Human Rights Violation Report, 22.02.2021, at <http://www.protestankiliseler.org/wp-content/uploads/2021/02/2020-Human-Rights-Violation-Report-.pdf>.

<sup>152</sup> [https://ifade.org.tr/reports/rule9/IFOD\\_Rule9\\_Cox\\_Submission.pdf](https://ifade.org.tr/reports/rule9/IFOD_Rule9_Cox_Submission.pdf)

<sup>153</sup> CC, *Amanda Jolyn Krause ve diğerleri* [GK], B. No: 2019/40761, 15/2/20.

<sup>154</sup> İHD, OHAL KAK'ları ve İnsan Hakları Mücadelesine Etkileri, p. 19, <https://www.ihd.org.tr/wp-content/uploads/2022/06/OHAL-KHKlar%C4%B1-Raporu.pdf>

<sup>155</sup> İHD, *Belirsiz ve Tekinsiz: Derneklere Karşı Kapatma Davaları*, p. 5. <https://www.ihd.org.tr/wp-content/uploads/2023/09/Belirsiz-ve-Tekinsiz-DerneklereKarsi-KapatmaDavalari.pdf>

monitors migration, recently had its assets frozen as part of a broader crackdown on CSOs that challenge government policies. This action reflects the state's ongoing efforts to suppress dissent and restrict the activities of organizations that support marginalized communities and human rights causes.

## **B. Freedom of Assembly**

96. Article 34 of the Constitution guarantees everyone's right to hold unarmed and peaceful meetings and demonstration marches without prior permission. Nevertheless, in practice public authorities consider assemblies without prior permission as illegal despite many decisions of the Constitutional Court to the contrary<sup>156</sup>. Law no. 2911 on Meetings and Demonstrations, which, despite amendments, continues to impose significant limitations on the freedom of assembly. This law requires organizers to notify authorities 48 hours in advance and grants governors the power to determine locations and even postpone or ban meetings on vague grounds like national security. Moreover, pursuant to Article 17 of Law No. 2911, governors and district governors have the authority to postpone assemblies for a maximum of one month on grounds of national security, public order, prevention of crime, protection of public health and morals or the rights of others. In some cities, bans on all kinds of meetings and events can last for months or even years without interruption.

97. According to the findings of the HRFT Documentation Centre, as a result of the decisions taken by the governorates, between 1 January 2019 and 31 January 2020, i.e. in the last 13 months, in 21 provinces and 1 district, protests and events were banned 147 times for varying periods of time, and 64 bans were issued for a certain day, action or event in 2019<sup>157</sup>. Van Governorate has been implementing the ban on demonstrations and events with successive decisions since 21 November 2016. With the latest banning orders, all demonstrations and events in Van have been banned for 1849 days without interruption<sup>158</sup>.

98. Supporters for Women, LGBTI+ persons, Saturday Mothers/People, peace and rights advocates, students, environmentalists, workers and labourers, HDP and Palestine supporters, who wanted to exercise their freedom of assembly and demonstration, which is the basis of a democratic society and guaranteed by the Constitution, were subjected to cruel and shameful violence by law enforcement forces on various occasions<sup>159</sup>. According to the findings of the

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<sup>156</sup> CC, Cihan Tüzün and others [GK], B. No: 2019/13258, 10/11/2022; CC, E.2014/101, K.2017/142, 28/9/2017, §§ 84-86; Songül Korkmaz and others, B. No: 2020/5722, 18/1/2023; Nurten Üzümcü, B. No: 2020/35262, 31/1/2023; Mahmut Konuk, B. No: 2020/7105, 9/2/2023.

<sup>157</sup><https://tihv.org.tr/arsiv/01-ocak-2019-ile-31-ocak-2020-tarihleri-arasinda-valilik-yasaklari-nedeniyle-kullanilamayan-toplanma-ve-gosteri-yapma-hakki/#:~:text=Evet%2C%20Anayasa'n%C4%B1n%2034..hakk%C4%B1%2F%C3%B6zg%C3%BCrl%C3%BC%C4%9F%C3%BC%20g%C3%BCvence%20alt%C4%B1na%20al%C4%B1nmaktad%C4%B1r>

<sup>158</sup><https://tihv.org.tr/arsiv/01-ocak-2019-ile-31-ocak-2020-tarihleri-arasinda-valilik-yasaklari-nedeniyle-kullanilamayan-toplanma-ve-gosteri-yapma-hakki/#:~:text=Evet%2C%20Anayasa'n%C4%B1n%2034..hakk%C4%B1%2F%C3%B6zg%C3%BCrl%C3%BC%C4%9F%C3%BC%20g%C3%BCvence%20alt%C4%B1na%20al%C4%B1nmaktad%C4%B1r>

<sup>159</sup> HRFT, 2022 *Human Rights Violations in Türkiye: Data Report*. <https://tihv.org.tr/ozel-raporlar-ve-degerlendirmeler/verilerle-2022-yilinda-turkiyede-insan-haklari-ihlalleri/>

HRFT Documentation Centre, in the first 11 months of 2022; at least 482 peaceful meetings and demonstrations were intervened by law enforcement officers and 54 events were prevented<sup>160</sup>. As a result of these interventions, at least 5148 people, including 143 children, were detained under torture and ill-treatment and at least 42 people were injured. 24 of the detainees were arrested, 111 people were released on judicial control conditions, 2 people were released on house confinement conditions<sup>161</sup>.

99. Pride marches have been banned for 9 years since 2015<sup>162</sup>, 1th May March for 12 years since 2013<sup>163</sup>, 8th March Women's March for 5 years since 2019, and Saturday Mothers since 2018<sup>164</sup>. Similarly, Newroz celebrations face heavy restrictions. Although Saturday Mothers have been able to gather with a 10 person limit since 18 November 2023, this does not meet the Constitutional Court's decision. Besides, the Gezi Protest is being demonized by the Government, and the defendants of Gezi protest are not being released even though there are court orders for both Can Atalay and Osman Kavala.

100. The protest organized by 1,000 youths for Palestine was violently suppressed by Turkish authorities. Türkiye's commercial activities, including the export of barbed wire, cement, military equipment, and fuels, have sparked protests. During the crackdown, many protesters were subjected to torture while in detention, and several were subsequently arrested<sup>165</sup>. This incident highlights the government's harsh response to public demonstrations, particularly those related to sensitive political issues, raising serious concerns about the treatment of detainees and the violation of their human rights.

### C. Freedom of Expression

101. In Türkiye, those who want to enjoy the freedom of expression, are often charged under Türkiye's anti-terror laws, TPC 125/3-a, 215, 216, 299, 301, 314 or the Law on Meetings and Demonstrations. The MLSA 2023 Trial Monitoring report documents the harsh penalties and widespread use of pretrial detention against these groups, underscoring systemic issues in Türkiye's judicial approach to dissent and freedom of expression.

102. A total of 1646 people were tried in 233 freedom of expression cases between 1 September 2022 and 1 September 2023<sup>166</sup>. In 32 cases, 116 defendants were sentenced to 217

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<sup>160</sup> HRFT, 2022 *Human Rights Violations in Türkiye: Data Report*. <https://tihv.org.tr/ozel-raporlar-ve-degerlendirmeler/verilerle-2022-yilinda-turkiyede-insan-haklari-ihlalleri/>

<sup>161</sup> HRFT, 2022 *Human Rights Violations in Türkiye: Data Report*. <https://tihv.org.tr/ozel-raporlar-ve-degerlendirmeler/verilerle-2022-yilinda-turkiyede-insan-haklari-ihlalleri/>

<sup>162</sup> SPOD, HRFT. (2022). *22nd Istanbul Pride March Observation Report*. [https://tihv.org.tr/wp-content/uploads/2024/07/22\\_Istanbul\\_Onur\\_Yuruyusu\\_Gozlem-Raporu\\_SPoD\\_TiHV.pdf](https://tihv.org.tr/wp-content/uploads/2024/07/22_Istanbul_Onur_Yuruyusu_Gozlem-Raporu_SPoD_TiHV.pdf)

<sup>163</sup> <https://www.amnesty.org.tr/icerik/turkiye-istanbuldaki-1-mayis-kutlamalarina-yonelik-hukuka-aykiri-yasaklar-kaldirilmali>

<sup>164</sup> <https://www.amnesty.org.tr/icerik/taksimde-protesto-yasagina-son-verilsin>

<sup>165</sup> <https://www.evrensel.net/haber/517600/filistin-icin-bin-genc-inisiyatifinden-5-kisi-tutuklandi-soykirima-ortak-olmayin-demek-mi-suc>

<sup>166</sup> MLSA, Trial Monitoring Report 2023, p. 7. <https://www.mlsaTürkiye.com/images/DAVA%20IZLEME%20PROGRAMI%20RAPORU%202023%201.pdf> ,

years, 8 months and 20 days in prison. Among these, 23 journalists were sentenced to 67 years, 8 months and 12 days in 17 journalism cases<sup>167</sup>.

103. In the cases monitored under the programme, 329 activists, 314 journalists and 49 lawyers were among the most targeted defendants out of a total of 1646 defendants<sup>168</sup>. During the reporting period, 30 defendants were in pre-trial detention. 29 of these were journalists. Most of these were cases involving 11 journalists in Ankara and 15 journalists in Diyarbakır<sup>169</sup>.

104. Looking the data, the disinformation law led to 26 journalists being investigated, 6 of whom were detained and 4 arrested<sup>170</sup>. Another trial against Turkish Medical Association (TTB) President Şebnem Korur Fincancı on charges of propaganda for a terrorist organisation, found guilty for her evaluations on the preliminary findings that Türkiye may have used chemical weapons<sup>171</sup>. Additionally, 15 cases were charged with the crime of ‘denigrating the nation, the state and its organs’ under Article 301 of the Turkish Penal Code, which the ECtHR ruled to have a foreseeability problem by stating that it ‘contains too broad and vague expressions’; 12 cases were charged with ‘inciting and humiliating the public to hatred and hostility’ under Article 216 of the Turkish Penal Code; 28 cases were related to the offense of “insulting the president” under Article 299 of the Turkish Penal Code (TCK); and 12 cases were charged with ‘disclosing/disseminating or targeting the identity of persons who took part in the fight against terrorism’ under Article 6/1 of the Anti-Terror Law<sup>172</sup>.

105. Regarding freedom of expression in mass media, the Radio and Television Supreme Council (RTÜK) functions primarily as a censorship mechanism in Türkiye. The government enacted the "*Law on the Establishment of Radio and Television Enterprises and Their Media Services*"<sup>173</sup> in 2011. However, the government has not demonstrated any theoretical or practical advancement with the new law's enactment. The latest amendments, introduced in 2019<sup>174</sup>, extended Radio and Television Supreme Council (RTÜK)'s authority to encompass internet broadcasts. Under this new regulation (Article 29/A of Law No. 6112), in 2021, 25 websites and in 2022, 29 websites including websites of Voice of America, Deutsche Welle (“DW”) and EuroNews (“tr.euronews.com”) were blocked by criminal judgements of peace upon the request of RTÜK.<sup>175</sup>

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<sup>167</sup> MLSA, Trial Monitoring Report 2023, p. 7.

<sup>168</sup> MLSA, Trial Monitoring Report 2023, p. 11.

<sup>169</sup> MLSA, Trial Monitoring Report 2023, p. 8.

<sup>170</sup> MLSA, Trial Monitoring Report 2023, p. 26-29,

<https://www.mlsaTürkiye.com/images/DAVA%20IZLEME%20PROGRAMI%20RAPORU%202023%201.pdf>

<sup>174</sup><https://www.dw.com/tr/%C5%9Febnem-korur-fincanc%C4%B1-s%C3%B6ylediklerimden-pi%C5%9Fman-de%C4%9Filim/a-64388300>

<sup>172</sup> MLSA, Trial Monitoring Report 2023, p. 22,

<sup>173</sup> **DH-DD(2018)673**, Council of Europe *Türkiye's Government Action Report regarding Özgür Radyo-Ses Radyo Televizyon Yapım ve Tanıtım A.Ş.*, Dated 21/06/2018, para. 9-11.

<sup>174</sup> The official gazette, 1 August 2019, *Presidential Decree on the Appointment of Provincial Governors*, Decision No: 2019/8. [1.Ağustos 2019 PERŞEMBE \(resmigazete.gov.tr\)](http://1.Ağustos 2019 PERŞEMBE (resmigazete.gov.tr))

<sup>175</sup> [https://ifade.org.tr/reports/EngelliWeb\\_2022\\_Eng.pdf](https://ifade.org.tr/reports/EngelliWeb_2022_Eng.pdf), p. 135



106. MLSA analyzed all decisions made by the RTÜK in 2023, which included 353 administrative fines and 231 broadcast or program suspensions<sup>176</sup>. In 2023 alone, the Authority levied a total of 88 million, 480 thousand, and 826 Turkish Lira in administrative fines<sup>177</sup>. Furthermore, it sanctioned broadcast suspensions totaling 997 days and ordered the cessation of 292 programs<sup>178</sup>. RTÜK's application of its discretion and execution of its mandate seems politically motivated and arbitrary, as exemplified by the channels upon which the fines were imposed. Notably, the Authority fined the FOX TV channel in excess of 43 million Lira<sup>179</sup>, which constitutes nearly half of all fines combined in 2023<sup>180</sup>. According to one of the RTÜK members, İlhan Taşçı, from 1 January to 31 December, Tele 1, Halk TV, Flash Haber, FOX TV, KRT and SCZ TV (dissident TV channels) received 59 fines amounting to 67 million 850 thousand TL<sup>181</sup>. On the other hand, it imposed 4 fines totaling 2 million 147 thousand TL to Beyaz TV and TGRT Haber and none fine to ATV, A Haber, Ülke TV, Kanal 7, TV-Net (Government-affiliated TV channels)<sup>182</sup>.

107. Regarding the freedom of expression on the internet, according to Free Web Turkey 2023 Internet Censorship Report, 219.059 URLs were blocked in 2023. While the number of blocked news was 14.680, news on corruption and irregularities were blocked the most<sup>183</sup>. Public officials and people close to the AKP were the ones named in the news on this subject. When the distribution of blocked news items according to their subject matter is analysed, corruption and irregularities (5,881 news items) ranked first, while the persons alleged to have committed the offence in the 5,881 blocked news items were public officials (3,192 news items), people and organisations close to the AKP (1,133 news items) and President Erdoğan and his family (646 news items)<sup>184</sup>.

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<sup>176</sup> [MLSA RTÜK'ün 2023 karnesini çıkardı: 'Her zamanki'lerin yanında deprem, seçimler ve kriz \(mlsaturkey.com\)](https://mlsaturkey.com)

<sup>177</sup> [MLSA RTÜK'ün 2023 karnesini çıkardı: 'Her zamanki'lerin yanında deprem, seçimler ve kriz \(mlsaturkey.com\)](https://mlsaturkey.com)

<sup>178</sup> [MLSA RTÜK'ün 2023 karnesini çıkardı: 'Her zamanki'lerin yanında deprem, seçimler ve kriz \(mlsaturkey.com\)](https://mlsaturkey.com)

<sup>179</sup> RTÜK meeting and decision nos, 2023/51 - 36, 37; 2023/ 23 - 13; 2023/ 08 - 5; 2023/12 - 16; 2023/14 - 23; 2023/ 45 - 18, respectively: [RTÜK | Kararlar \(rtuk.gov.tr\)](https://rtuk.gov.tr), [RTÜK | Kararlar \(rtuk.gov.tr\)](https://rtuk.gov.tr), [RTÜK | Kararlar \(rtuk.gov.tr\)](https://rtuk.gov.tr), [RTÜK | Kararlar \(rtuk.gov.tr\)](https://rtuk.gov.tr), [RTÜK | Kararlar \(rtuk.gov.tr\)](https://rtuk.gov.tr), [RTÜK | Kararlar \(rtuk.gov.tr\)](https://rtuk.gov.tr), [RTÜK | Kararlar \(rtuk.gov.tr\)](https://rtuk.gov.tr)

<sup>180</sup> [MLSA RTÜK'ün 2023 karnesini çıkardı: 'Her zamanki'lerin yanında deprem, seçimler ve kriz \(mlsaturkey.com\)](https://mlsaturkey.com)

<sup>181</sup> [RTÜK'ÜN 2023 KARNESİ... İLHAN TAŞCI: "İKTİDARI ELEŞTİREN KANALLARA 68 MİLYON TL'LİK CEZA KESİLİRKEN İKTİDARI ÖVENLERE 2. ARALARINDA TAM 35 KATLIK BİR FARK VAR" \(ankahaber.net\)](https://ankahaber.net)

<sup>182</sup> [RTÜK'ÜN 2023 KARNESİ... İLHAN TAŞCI: "İKTİDARI ELEŞTİREN KANALLARA 68 MİLYON TL'LİK CEZA KESİLİRKEN İKTİDARI ÖVENLERE 2. ARALARINDA TAM 35 KATLIK BİR FARK VAR" \(ankahaber.net\)](https://ankahaber.net)

<sup>183</sup> Freeweb Turkey, 2023 Internet Censorship Report, p. 22.

<sup>184</sup> Freeweb Turkey, 2023 Internet Censorship Report, p. 36.

## XV. Right to Privacy

108. Even Law No. 5651 in Türkiye does not empower the government to monitor all internet traffic through the Information and Communication Technologies Authority (CTA), according to Medyascope reveal,, the Information and Communication Technologies Authority (BTK) has been collecting detailed internet traffic data from all users, including personal identities and browsing activities, since early 2021<sup>185</sup>. Although the regulation regarding that was annulled by the CC's E. 2014/149, K. 2014/151 decision<sup>186</sup>, the practice is being kept over<sup>187</sup>. Internet service providers (ISPs) are required to send this data to BTK, which raises significant concerns about privacy violations and mass surveillance. The collection and storage of such sensitive information without sufficient safeguards or transparency pose a serious threat to the right to privacy in the country.

109. Moreover, a massive data breach exposed the personal information of over 100 million Turkish citizens, including health records, bank account details, title deed information, names, addresses, and ID numbers, all freely available on the internet<sup>188</sup>. Despite the severity of the breach, the government, first could not protect, then did not taken any significant steps to investigate the incident or compensate the affected individuals, raising serious concerns about the protection of citizens' privacy and the effectiveness of current data security measures<sup>189</sup>.

## XVI. Human Rights Defenders

110. The Government has been using the Anti-Terror Law No. 3713 to partially or fully restrict freedoms and rights and to suppress the voices of human rights defenders. The Anti-Terror Law contains vague and overly broad definitions of terrorism and terrorist offences, which pose a serious threat to freedoms of assembly, expression and opinion.

111. In the Büyükada case, even though all human rights defenders on trial were acquitted, in 2017, a human rights workshop saw several prominent activists facing serious charges, and arrested including terrorism-related accusations<sup>190</sup>. The prolonged legal process reflects the ongoing pressures and legal harassment they face. On the other hand, Gezi Protest defendants, even though for two of them there are ECtHR and CC's judgments, Osman Kavala, who were sentenced aggravated life imprisonment, and Can Atalay, Tayfun Kahraman, Mine Özerden and Çiğdem Mater, who were sentenced to 18 years each for 'aiding the attempt to overthrow the government of the Republic of Türkiye, their convictions

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<sup>185</sup><https://medyascope.tv/2022/07/21/belgeleriyle-btk-gate-turkiyedeki-tum-kullanici-larin-internet-hareketleri-ya-klasik-bir-bucuk-yildir-kimlikleri-ve-kisisel-verileri-ile-birlikte-btkya-akiyor/#:~:text=Belgelere%20g%C3%B6re%20internet%20servis%20sa%C4%9Flay%C4%B1c%C4%B1lar%C4%B1,kullan%C4%B1c%C4%B1n%C4%B1n%20kimli%C4%9Fiyle%20birlikte%20kuruma%20g%C3%B6nderiliyor>

<sup>186</sup> <https://normkararlarbilgibankasi.anayasa.gov.tr/Dosyalar/Kararlar/KararPDF/2014-151-nrm.pdf>

<sup>187</sup> Also the Constitutional Court annulled with its 8.12.2015 dated, E. 2014/87, K. 2015/112 decision, annulled the law to the content provider shall deliver the requested information to the CTA as requested. <https://normkararlarbilgibankasi.anayasa.gov.tr/Dosyalar/Kararlar/KararPDF/2015-112-nrm.pdf>

<sup>188</sup> <https://www.mlsaturkey.com/tr/mlsadan-kisisel-verilerin-calinmasi-skandalinda-yetkililer-ve-sorumlulara-dava/>

<sup>189</sup> <https://www.mlsaturkey.com/tr/mlsa-100-milyonu-askin-kisinin-verisinin-calindigi-skandali-aymye-tasidi>

<sup>190</sup> <https://www.mlsaturkey.com/tr/buyukada-davasinda-yargilanan-tum-hak-savunuculari-beraat-etti>

were upheld by the 3rd Criminal Chamber of Court of Cassation. These cases illustrate the broader climate of intimidation against those advocating for human rights in the country.

112. In 2023, many human rights defenders, including executives, members and employees of İHD, faced various pressures. Şüheda Ronahi Çiftçi, an executive of İHD Antalya branch and a member of the association's law and prisons commission, was arrested on 8 November 2023 on the grounds of an interview she conducted on prisoner applications to İHD Antalya branch<sup>191</sup>. In addition, 76 executives and members of İHD were detained, 5 people were prosecuted, 2 people were acquitted in 2 cases, 2 cases are ongoing, 1 person was sentenced to 6 years and 3 months. Adana Chief Public Prosecutor's Office issued a decision of non-prosecution in the investigation against 18 members of İHD who were detained during the police intervention against the press declaration in support of Saturday Mothers/People in Adana. In addition to arbitrarily violating the right to liberty and security, it also violates the principle of legal security and certainty<sup>192</sup>.

113. According to HRFT, between 1 January 2022 and 31 December 2022, a total of 4819 individuals were subjected to at least one or more of the following interventions: judicial harassment, administrative harassment, physical violence, threats, targeting and reprisals<sup>193</sup>. In the same period, 16 associations, 5 professional organisations and 1 foundation were directly or indirectly targeted and subjected to judicial and administrative harassment due to their activities in the field of human rights.

## **XVII. Recommendations**

The coalition urges the Human Rights Committee to request the State party to:

In the first three years;

1. Urge the state Party to repeal or amend the emergency measures enacted following the SoE that were embedded into permanent legislation to align with international human rights standards. To that end, first and foremost, the state party should abide by its own constitution, ICCPR, ECHR, and other international conventions it signed, and envisaged by these mechanisms' judgements including Selahattin Demirtaş, Osman Kavala, and Can Atalay, take measures against public officials who resist to comply with these judgments, and compensate individuals/organizations whose rights have been violated.
2. Recommend that Türkiye revises the Municipality Law, particularly Articles 45 and 46, to prevent the arbitrary appointment of trustees. The appointment of trustees should only occur under transparent and objective legal criteria, respecting the will of the electorate. The broad use of terrorism-related investigations to justify such

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<sup>191</sup> İHD. (2023). *Human Rights Advocacy and Pressures on İHD: Special Report* <https://www.ihd.org.tr/insan-haklari-savunuculari-uzerindeki-yargisal-tacize-son-verin/>

<sup>192</sup> İHD. (2023). *Human Rights Advocacy and Pressures on İHD: Special Report* <https://www.ihd.org.tr/insan-haklari-savunuculugu-ve-ihdye-baskilar-ozel-raporu/>

<sup>193</sup> HRFT. (2022). *Human Rights Defenders Report 2022*, p. 1, <https://tihv.org.tr/ozel-raporlar-ve-degerlendirmeler/insan-haklari-savunuculari-2022-raporu/>.



appointments undermines democratic principles and must be stopped. Clear procedural safeguards should be established to ensure the use of this provision does not infringe upon the right to elect and be elected, a fundamental democratic right.

3. Urge Türkiye to withdraw its reservation on Article 27 of the International Covenant on Civil and Political Rights (ICCPR) and ensure the full protection of ethnic, religious, and linguistic minority rights in accordance with international human rights standards. Recommend Türkiye to formally recognize and facilitate the use of minority languages such as Kurdish, Romanes, Domari, and Lomavren, and enact legislation to enable the use of them in public services, including healthcare, education, and the justice system, ensure diversity in education, abolish compulsory religious courses for non-Sunni communities, and provide equal legal recognition and state support to all places of worship, including cemevis for the Alevi community. Recommend the government to actively promote cultural activities of minority groups like the Kurds by removing arbitrary bans on cultural events such as concerts, theatre performances, and literary activities, ensure that municipalities can display public signs, traffic warnings, and services in minority languages, as seen with the Kurdish-language traffic warnings, without interference from the central government, and take effective measures who arbitrarily use the public power to ban these.
4. Recommend Türkiye to the founding law of HREIT be amended to explicitly include protections against discrimination based on sexual orientation and gender identity, and ensuring all forms of discrimination are adequately addressed, to be requested in particular what measures are taken for discrimination of LGBTI+.
5. Recommend to Türkiye to publish judicial statistics and data on violence against women on a regular basis, urge from the Ministry of Justice, the Ministry of Interior and the Ministry of Family and Social Services collect and share data on gender-based violence, and re-adoption of the İstanbul Convention.
6. Urge Türkiye to immediately cease the arbitrary closures and legal harassment of civil society organizations (CSOs), such as DİAYDER, GÖÇİZDER, We Will Stop Femicide Platform (KCDP), and Tarlabasi Community Centre (TTM).
7. Urge Türkiye to safeguard the right to peaceful assembly, particularly events like 1th May, 8 March, 25 November, Pride Marches, Newroz, Saturday Mothers and eliminate arbitrary restrictions that violate citizens' fundamental rights.
8. Urge Türkiye to develop specific legislation on the prevention of discrimination and a specific regulation on combating antigypsyism, and hate speech be legislated in the TPC and that the terms sexual orientation and sexual identity be included in the law.
9. Urge Türkiye to revise laws on aggravated life imprisonment to align with international human rights mechanisms' case law.
10. Recommend Türkiye to cease incommunicado detention, ensuring detainees have regular access to legal counsel and visits.

In Middle Term;

11. Recommend Türkiye to implement the Basic Principles on the Independence of the Judiciary, and take immediate steps to reform the process of appointing judges and

prosecutors, ensure that appointments are made independently of executive control, in particular review the system of appointing judges in such a way as to make both the examination and the interview process independent of improper influences from the Ministry of Justice and other executive bodies, and minimise the possibility of judges/prosecutors being replaced against their will and having a review mechanism for this.

12. Urge Türkiye to amend current legislation, particularly Article 81 of the Law on Political Parties, which restricts the recognition and rights of minorities based on language, culture, and religion. Furthermore, Article 42 of the Constitution, which prohibits the teaching of languages other than Turkish as a mother tongue, must be revised to allow for inclusive and diverse language education in schools.
13. Urge Türkiye to ban the use of armored vehicles or with restrict speed limit in urban areas with amending the Road Traffic Regulation, ensuring officers are properly trained and licensed, and provide psychological support to prevent social detachment, investigate and prosecute crimes related to mines, conflict waste, and armored vehicle incidents, focusing on supporting affected children and preventing impunity.
14. Urge Türkiye to urgently revise the appointment process for members of the HREIT to ensure its independence from the President's control, in line with the Paris Principles.
15. Recommend to the state party to reform its Public Procurement Law and ensure greater transparency and accountability in awarding government contracts, especially considering the high concentration of tenders awarded to politically connected firms, and not intervene to the Judiciary in prosecuting high-profile corruption cases, and ensure the judiciary's ability to conduct impartial investigations regarding high-profile corruption cases.
16. Recommend Türkiye to the disclosure of disaggregated data on how many cases have been filed and how many perpetrators have been sentenced in the last 3 years under the Turkish Penal Code 102, 103 and 104 covering sexual violence, .
17. Recommend Türkiye to provide the decisions within prisons, particularly by Administration and Observation Boards, are transparent, with lawyers having full access to legal processes and files.
18. Recommend Türkiye to facilitate and formalise regulations that allow independent CSOs, journalists, medical professionals, and human rights defenders to conduct independent visits to penitentiary or any detention facilities.
19. Urge Türkiye to revise its anti-terror and defamation laws, as well as TPC Articles 125/3-a, 215, 216, 299, 301, 314, and the Law on Meetings and Demonstrations, to ensure they are not used as tools to suppress freedom of expression, reform RTÜK's censorship powers to increase transparency and accountability, preventing arbitrary sanctions and ensuring media freedom is respected.
20. Recommend the State party to take effective measures to end the unlawful surveillance practices of the CTA and ensure that internet data is collected and stored in compliance with constitutional and international privacy standards, and implement stronger cybersecurity measures to protect citizens' personal information from future exploitation, and compensate for the citizens' violated right to privacy.