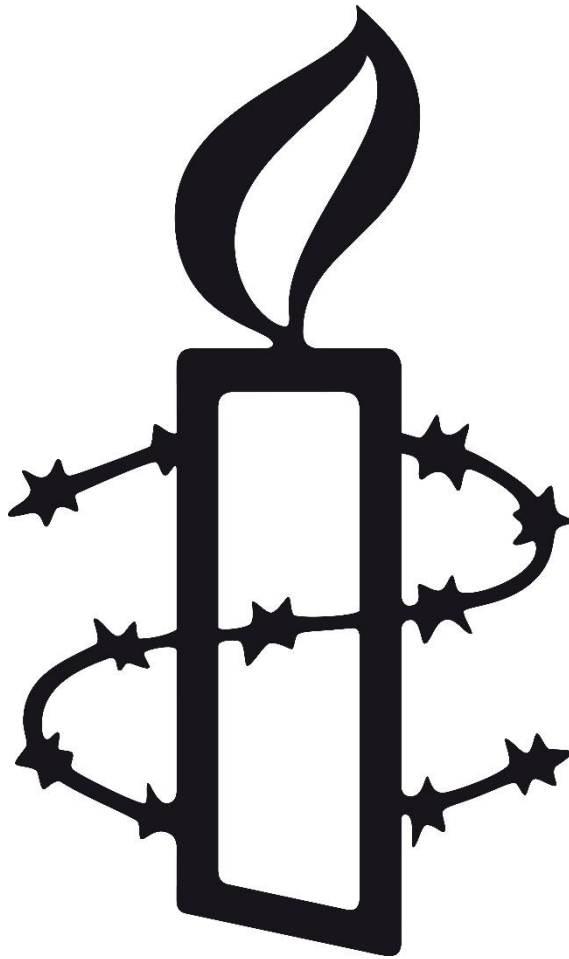


# TÜRKİYE

SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE 142<sup>ND</sup>  
SESSION, 14 OCTOBER – 8 NOVEMBER 2024



AMNESTY  
INTERNATIONAL



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Amnesty International provides the below information to the UN Human Rights Committee in advance of its consideration of the second periodic report<sup>1</sup> of Türkiye at the 142nd session of the Committee to be held between 14 October and 8 November 2024.

# 1. INTRODUCTION

Amnesty International provides the below information to the UN Human Rights Committee (the Committee) in advance of its consideration of the second periodic report<sup>1</sup> of Türkiye at the 142nd session of the Committee to be held between 14 October and 8 November 2024.

This submission focuses on Türkiye's failure to comply with international human rights framework to ensure remedy to major human rights violations in the country, including right to life, prohibition of torture and cruel, inhuman or degrading treatment, counter-terrorism measures, independence of the judiciary and access to fair trial, non-discrimination, protection of freedom of expression, association and peaceful assembly, and human rights defenders. It's not an exhaustive account of the organization's concerns and builds on the submission ahead of the adoption of the List of Issues Prior to Reporting in 2021.<sup>2</sup>

## 2. GENERAL INFORMATION ON THE NATIONAL HUMAN RIGHTS SITUATION

The Human Rights Action Plan adopted by the Turkish government in March 2021 did not contain any concrete action or measures to ensure compliance with the international human rights framework to remedy major rights violations in the country.<sup>3</sup> In particular, the Action Plan did not introduce measures to ensure the independent functioning of the judiciary which is critical to ensuring state compliance with human rights principles, particularly in implementing the decisions of domestic high courts and decisions of the European Court of Human Rights (ECtHR). Furthermore, the Plan did not foresee any concrete action to prevent politically motivated and punitive pre-trial detention and convictions under over broadly defined anti-terrorism laws that opposition politicians, political activists, journalists, and human rights defenders continue to face solely for peacefully exercising their human rights.<sup>4</sup>

Following the Human Rights Action Plan, the Turkish government introduced a series of judicial packages, which fell short of addressing the most significant and systemic issues that lie at the root of the persistent erosion of human rights in Türkiye, including the lack of judicial independence and the continued interference of the executive in the work of judges and prosecutors.<sup>5</sup>

Amnesty International has documented cases where the binding Constitutional Court rulings pertaining to legal provisions are not fully implemented in legal changes introduced by the

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<sup>1</sup> Second periodic report submitted by Türkiye under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2022, 28 April 2023,

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhshMktQJn68GxgXXTdAYdq%2Fuxji8cHnV2TWhzrSyixUDzKUJ5%2BORTJeyGfMW5FvFcGqCdvH5sdl8OMqLQwkoONUFJL9Y%2B5YU1mGA17L1r31M>.

<sup>2</sup> Amnesty International, "Turkey: Submission to the UN Human Rights Committee 132nd session, 28 June -23 July 2021, List of Issues Prior to Reporting," (Index: EUR 44/4165/2021), 21 March 2021,

<https://www.amnesty.org/en/documents/eur44/4165/2021/en/>

<sup>3</sup> Amnesty International, "Turkey: The New Action Plan is a missed opportunity to reverse deep erosion of human rights" (Index: EUR 44/3883/2021), 26 March 2021, <https://www.amnesty.org/en/documents/eur44/3883/2021/en/>.

<sup>4</sup> Amnesty International, Turkey: Baseless prosecution of Öztürk Türkođan an "attack on all those who speak out for human rights", 21 February 2022, <https://www.amnesty.org/en/latest/news/2022/02/turkey-baseless-prosecution-of-ozturk-turkdogan-an-attack-on-all-those-who-speak-out-for-human-rights/>; Amnesty International, Urgent Action: Türkiye: Free Prof Şebnem Korur Fincancı, (Index: EUR 44/6317/2022) <https://www.amnesty.org/en/documents/eur44/6317/2022/en/>; Amnesty International, "Türkiye: Convictions of Osman Kavala & four others needs urgent international response," 11 October 2023, <https://www.amnesty.org/en/latest/news/2023/10/turkiye-convictions-of-osman-kavala-four-others-needs-urgent-international-response/>.

<sup>5</sup> Amnesty International, "Turkey : 4th Judicial Reform Package Fails to Address Deep Flaws in the Judicial System," (Index: EUR 44/4726/2021), 15 September 2021, <https://www.amnesty.org/en/documents/eur44/4726/2021/en/>; Amnesty International, "Türkiye: New judicial package leaves people at continued risk of human rights violations," (Index: EUR 44/7765/202429), February 2024, <https://www.amnesty.org/en/documents/eur44/7765/2024/en/>.

Parliament.<sup>6</sup> Domestic courts and other authorities have ignored Constitutional Court rulings in several emblematic cases.<sup>7</sup>

## RECOMMENDATION

Amnesty International recommends that Türkiye:

- Guarantees the independence and impartiality of the judiciary in law and in practice, including through constitutional and legislative changes that would remove the executive's control over the judiciary.

## 3. COUNTER-TERRORISM MEASURES (ARTICLES 2, 9 14, AND 15)

The definition of terrorism in Türkiye's anti-terrorism law continues to be overly broad, vague and lacks the level of legal certainty required by international human rights law, leaving the definition open to misuse.<sup>8</sup> Far too often, judicial authorities launch criminal investigations that lead to prosecutions and convictions of people under overly-broad and undefined anti-terrorism laws without credible and sufficient evidence and on the sole basis of their real or perceived political opinions.<sup>9</sup> Ensuring that individuals can enjoy their rights to freedom of expression, association and peaceful assembly in Türkiye requires a wider overhaul of the country's anti-terrorism legislation.<sup>10</sup>

Several articles of the Anti-terrorism Law (Law No. 3713) list vague "terrorist" offences that are punishable under relevant articles of the Turkish Penal Code. Definitions of "terrorism" in Article 1<sup>11</sup> and "terrorist offender" in Article 2 of the Law No. 3713, enable the criminalization of acts protected by international human rights law and standards in the absence of any strong evidence of criminal wrongdoing.<sup>12</sup> According to Article 2, persons can be found guilty of membership of a terrorist organization without being a member of the organization if found to have committed a crime "in the name of such an organization."<sup>13</sup>

Article 6/1 of the Law no. 3713 (disclosure of the identity of civil servants participating in anti-terrorism operations) have been misused by the authorities frequently to target journalists for their work.<sup>14</sup> Article 6/2, which criminalizes "printing or publishing of declarations or statements of terrorist organizations" also includes vague concepts of threat and coercion without requiring that these acts are linked with violence. Article 6/2 allows for the prosecution of individuals for publishing statements

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<sup>6</sup> Amnesty International, "Türkiye: New judicial package leaves people at continued risk of human rights violations," (previously cited).

<sup>7</sup> See Chapter 4 in this document on Gezi Park defendant Can Atalay, Chapter 8.2 on Saturday Mothers/People and May Day solidarity demonstrations.

<sup>8</sup> Amnesty International, "Turkey: "Judicial reform" package is a lost opportunity to address deep flaws in the justice system," (Index:EUR 44/1161/2019), 8 October 2019, <https://www.amnesty.org/en/documents/eur44/1161/2019/en/>, page 2.

<sup>9</sup> Amnesty International, *Weaponizing Counter-terrorism: Turkey's exploitation of terrorism financing assessment to target civil society*, (EUR 44/4269/2021), 18 June 2021, <https://www.amnesty.org/en/documents/eur44/4269/2021/en/>, page 11.

<sup>10</sup> Amnesty International, "Turkey: "Judicial reform" package is a lost opportunity to address deep flaws in the justice system," (previously cited).

<sup>11</sup> Anti-Terrorism Law No. 3713, Article 1: "Terrorism is any kind of act done by a person or persons belonging to an organization with the aim of changing the characteristics of the Republic as defined in the Constitution, the political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation, endangering the existence of the Turkish State and Republic, weakening, destroying or seizing State authority, eliminating fundamental rights and freedoms, damaging the internal and external security of the State, public order or general health by means of coercion and violence; pressure, intimidation, deterrence, suppression or threats."

<sup>12</sup> Amnesty International, "Turkey: The new action plan is a missed opportunity to reverse deep erosion of human rights," (previously cited).

<sup>13</sup> Amnesty International, "Turkey: The new action plan is a missed opportunity to reverse deep erosion of human rights," (previously cited).

<sup>14</sup> Reporters Without Borders, "Türkiye must stop using its terrorism law to silence journalists," <https://rsf.org/en/turkiye-must-stop-using-its-terrorism-law-silence-journalists>, (accessed on 31 July 2024).

that do not amount to incitement to violence.<sup>15</sup> Article 7/2, which criminalizes “making propaganda for an armed terrorist organization” is routinely used to prosecute those who express their dissenting opinions, and it is also used against civil society organizations and foundations.<sup>16</sup>

The provisions of the Turkish Penal Code, such as Articles 314 (membership of an armed/terrorist organization), 220/6 (committing a crime in the name of an armed/terrorist organization without being its member) and 220/7 (assisting an armed/terrorist organization without being its member) are routinely used by the prosecuting authorities to bring charges and by the courts to convict individuals without evidence beyond any reasonable doubt that the alleged criminal acts were committed by those individuals.<sup>17</sup>

In 2024, the 8th Judicial Package by the authorities introduced amendments to Article 220/6 of the Turkish Penal Code. However, the amendment did not fully address the concerns previously raised by the Constitutional Court, namely the need to amend the law to ensure clarity and foreseeability and to ensure that the rights and freedoms of those accused of such crimes are protected.<sup>18</sup> The revised article continues to lack clear criteria for when “committing a crime in the name of an armed/terrorist organization” can be criminalized, and therefore does not offer safeguards against arbitrary arrest and detention and unfair prosecutions and convictions.<sup>19</sup>

Türkiye has exploited a 2019 Financial Action Task Force (FATF) assessment report to supplement its arsenal of counterterrorism laws,<sup>20</sup> many of which are routinely used to target civil society organizations.<sup>21</sup> In response to the report that Türkiye was not in full compliance with the FATF recommendations concerning terrorism financing and potential risks associated with the not-for-profit sector, on 31 December 2020 the Turkish Parliament introduced the “Law on the Prevention of the Financing of the Proliferation of Weapons of Mass Destruction” (Law No. 7262) purportedly to combat money laundering and terrorism financing, without any consultation with civil society.<sup>22</sup> The Law No. 7262 has gone far beyond the FATF requirements and undermined the principle of legality with its overly broad and vague provisions and continues to undermine freedoms of association and expression in Türkiye with ongoing attacks on independent civil society actors and organizations.<sup>23</sup> FATF policy and practice require a targeted risk-based approach and proportionate risk mitigation measures to ensure that legitimate non-profit organization’s (NPOs) activity is not disrupted, criminalized or penalized. However, Law No. 7262 subjects all NPOs in Türkiye to the same disproportionate risk mitigation measures, including those groups at little or no risk of vulnerability to involvement in “terrorism” financing.<sup>24</sup>

## RECOMMENDATIONS

Amnesty International recommends that Türkiye:

- Brings the anti-terrorism legislation in line with international human rights law and standards.

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<sup>15</sup> Amnesty International, “Turkey: “Judicial reform” package is a lost opportunity to address deep flaws in the justice system,” (previously cited).

<sup>16</sup> Amnesty International, *Weaponizing Counter-terrorism*, (previously cited).

<sup>17</sup> Amnesty International, *Turkey: Decriminalize Dissent*, (EUR 44/001/2013), 27 March 2013, <https://www.amnesty.org/en/wp-content/uploads/2021/06/eur440012013en.pdf>; Amnesty International, “Türkiye: New judicial package leaves people at continued risk of human rights violations,” (previously cited).

<sup>18</sup> Constitutional Court Decision, Judgement No: 2023/183, 26 October 2023, paragraph 22, page 5, <https://normkararlarbilgibankasi.anayasa.gov.tr/Dosyalar/Kararlar/KararPDF/2023-183-nrm.pdf>.

<sup>19</sup> Amnesty International, “Türkiye: New judicial package leaves people at continued risk of human rights violations,” (previously cited).

<sup>20</sup> FATF, *Anti-money laundering and counter-terrorist financing measures, Turkey Mutual Evaluation Report*, December 2019, <https://www.fatf-gafi.org/en/publications/mutualevaluations/documents/mer-turkey-2019.html>.

<sup>21</sup> Amnesty International, *Turkey: Terrorism Financing Law Has Immediate ‘Chilling Effect’ on Civil Society - Impact of Law No. 7262 on Non-Profit Organizations*, (Index: EUR 44/4864/2021), 19 October 2021, <https://www.amnesty.org/en/documents/eur44/4864/2021/en/>, page 4.

<sup>22</sup> Official Gazette, No: 31351, <https://www.resmigazete.gov.tr/eskiler/2020/12/20201231M5-19.htm>, 31 December 2020. Amnesty International, *Weaponizing Counter-terrorism*, (previously cited), page 4.

<sup>23</sup> Amnesty International, *Weaponizing Counter-terrorism*, (previously cited), page 4.

<sup>24</sup> Amnesty International, *Turkey: Terrorism Financing Law Has Immediate ‘Chilling Effect’ on Civil Society*, (previously cited), page 4.

- Amends the definition of “terrorism,” in Article 1 of the Anti-Terrorism Law (Law no. 3713).
- Repeals or amends Article 6/1, Article 6/2 and Article 7/2 of the Anti-Terrorism Law to ensure they are precisely and clearly formulated.
- Repeals Article 220/6 and amend Article 220/7 of the Turkish Penal Code (Law no. 5237) to set out clear criteria for when assisting an armed organization can be criminalized, including the requirement that such acts must also be an internationally recognizable offence, including when it directly involves the planning or commission of such a crime.
- Repeals or significantly amends Law No. 7262 and ensure that any restrictions on the right to freedom of association with the aim of protecting national security are both necessary and proportionate to achieve that aim and are implemented in compliance with the principle of non-discrimination and other international human rights law and standards.

## 4. LIBERTY AND SECURITY OF PERSON, TREATMENT OF PERSONS DEPRIVED OF THEIR LIBERTY, INDEPENDENCE OF THE JUDICIARY AND FAIR TRIAL (ARTICLES 2, 7, 9, 10 AND 14)

The executive’s control and grip over the judiciary has continued to deepen. Despite the initiation in July 2022, of infringement proceedings against Türkiye in the Council of Europe following the non-implementation of the *Kavala v Turkey*, the 2019 European Court of Human Rights (ECtHR) judgment,<sup>25</sup> domestic courts have persisted in their refusal to immediately release human rights defender Osman Kavala, further confirming the politically motivated nature of his imprisonment. The former leaders of the People’s Democratic Party (HDP) Selahattin Demirtaş and Figen Yüksekdağ also remain in prison since 2016 despite the ECtHR rulings ordering their immediate release. ECtHR found Article 18 violations in these cases and determined that the detention of Demirtaş, Yüksekdağ and 12 other former members of parliament was politically motivated to silence them.<sup>26</sup>

Lawyer and prisoner of conscience Can Atalay, who was detained in April 2022 following his conviction in the politically motivated Gezi Park prosecution, was elected to the Turkish Parliament to represent the southern province of Hatay at the 14 May 2023 legislative elections. Following his election as a member of Parliament, the Court of Cassation denied his appeal for release and determined that he was not protected by parliamentary immunity under Article 83 of Turkish Constitution, despite existing jurisprudence. In September 2023, the Court of Cassation upheld Can Atalay’s conviction and sentence along with those four other Gezi Park trial defendants. In October and December 2023, the Constitutional Court twice ruled that Can Atalay’s continued detention was a violation of his rights to liberty and security, to be elected and to be politically active, in line with existing jurisprudence.<sup>27</sup> Despite these binding decisions of Türkiye’s top court, the trial court refused to make a decision and referred the ruling to the Court of Cassation, which then refused to implement the binding Constitutional Court ruling. In an unprecedented move, the Court of Cassation accused the Constitutional Court of ‘acting unconstitutionally’ and made a criminal complaint against the

<sup>25</sup> Execution of the judgment of the ECtHR, *Kavala against Turkey*, Interim Resolution CM/ResDH (2022)21, adopted by the Committee of Ministers on 2 February 2022 at the 1423rd meeting of the Ministers’ Deputies, [https://search.coe.int/cm/#\[%22CoEIdentifier%22:\[%220900001680a56447%22\],%22sort%22:\[%22CoEValidationDate%20Descending%22\]\]](https://search.coe.int/cm/#[%22CoEIdentifier%22:[%220900001680a56447%22],%22sort%22:[%22CoEValidationDate%20Descending%22]]).

<sup>26</sup> European Court of Human Rights (ECtHR), *Case of Selahattin Demirtaş v. Turkey (No.2)*, Judgment, (Application no. 14305/17), 22 December 2020, [https://hudoc.echr.coe.int/eng#%7B%22itemid%22:\[%22001-207173%22%7D](https://hudoc.echr.coe.int/eng#%7B%22itemid%22:[%22001-207173%22%7D)]; ECtHR, *Affaire Yüksekdağ Şenoğlu Et Autres C. Türkiye* (Requête no 14332/17 et 12 autres requêtes), Arrêt, 8 November 2022, <https://hudoc.echr.coe.int/eng?i=001-220958>.

<sup>27</sup> Constitutional Court, *Şerafettin Can Atalay Application (2)*, No: 2023/53898, Judgment, 27 October 2023, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2023/53898> and *Şerafettin Can Atalay Application (3)*, No: 2023/99744, Judgment, 21 December 2023, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2023/99744>.

Constitutional Court judges.<sup>28</sup> Can Atalay's MP status was revoked at the Parliament in January 2024. The third decision of the Constitutional Court ruling on the revocation of Can Atalay's MP status and the annulment of the reading of the Court of Cassation decision at the Parliament was published on 1 August 2024.<sup>29</sup> The Constitutional Court emphasized that its "judgments finding violation are not guiding or advisory in nature, but binding judgments that leave no room for discretion by the relevant authorities to take appropriate action."<sup>30</sup> Further, the Court ruled that the decision not to implement the judgment on the violation of rights concerning Atalay lacked "legal value," and thus stated that since it is not legally possible to talk about the existence of a final judgment against Atalay in accordance with the Constitutional Court ruling, it is also not possible for the Court to decide on the revocation of Atalay's status.<sup>31</sup> This continued non-implementation of the binding the Constitutional Court judgments illustrate the deepening erosion of the rule of law in the country.

Turkish authorities have used overly broad anti-terrorism laws to criminalize dissenting opinions, including members of the Progressive Lawyers Association (ÇHD) who have faced criminal proceedings in politically motivated and unfair trials. In March 2019, 18 lawyers who are members of Progressive Lawyers Association and People's Law Bureau, including Selçuk Kozağaçlı (a human rights lawyer imprisoned since November 2017), were convicted on the grounds that they are "members or leaders of a terrorist organisation." Five of the lawyers in pre-trial detention started a hunger strike on 24 January 2019 in protest over the fair trial violations they faced during their prosecution.<sup>32</sup> In February 2024, the Court of Cassation upheld the conviction of Selçuk Kozağaçlı and another lawyer.<sup>33</sup>

As an apparent response to the armed attack that took place outside the Istanbul Palace of Justice on 6 February 2024,<sup>34</sup> the authorities carried out a raid on People's Law Bureau and detained four lawyers and two other people who were present in the office at the time. One lawyer who was remanded in pre-trial detention for alleged "membership of an armed terrorist organization" under article 314/2 of the Turkish Penal Code, was released in June 2024 pending trial. Two other lawyers are still remanded in pre-trial detention for alleged "membership to armed terrorist organization" under article 314/2 of the Turkish Penal Code without any evidence pointing to their involvement in that crime.<sup>35</sup>

## RECOMMENDATIONS

Amnesty International recommends that Türkiye:

- Drops criminal charges and release immediately and unconditionally all imprisoned human rights defenders, lawyers, politicians and journalists who have been imprisoned solely for exercising their human rights.
- Implements the binding judgments of the ECtHR and release immediately and unconditionally Osman Kavala, Selahattin Demirtaş and Figen Yüksekdağ from their prolonged and arbitrary detention.

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<sup>28</sup> Türkiye Court of Cassation 3<sup>rd</sup> Criminal Chamber, Decision, No: 2023/12611, 8 November 2023, <https://s.gazeteduvar.com.tr/storage/files/documents/2024/01/03/serafettin-can-atalaya-iliskin-ik-Or88.pdf>.

<sup>29</sup> Official Gazette, Constitutional Court Judgment No: 2024/61, No: 32619, 1 August 2024, <https://www.resmigazete.gov.tr/eskiler/2024/08/20240801-15.pdf>.

<sup>30</sup> Constitutional Court Judgment No: 2024/6, (Previously cited), para 22.

<sup>31</sup> Constitutional Court Judgment No: 2024/6, (Previously cited), paras 24 and 26.

<sup>32</sup> Amnesty International, "Turkey: Conviction of lawyers deals heavy blow to right to fair trial and legal representation," 20 March 2019, <https://www.amnesty.org/en/latest/press-release/2019/03/turkey-conviction-of-lawyers-deals-heavy-blow-to-right-to-fair-trial-and-legal-representation/>.

<sup>33</sup> Türkiye Court of Cassation 3<sup>rd</sup> Criminal Chamber, Decision No: 2024/2441, 21 February 2024. Document seen by Amnesty International.

<sup>34</sup> Amnesty International, "Türkiye: Uphold human rights in responding to the armed attack outside Istanbul's courthouse," (EUR 44/7710/2024), 14 February 2024, <https://www.amnesty.org/en/documents/eur44/7710/2024/en/>.

<sup>35</sup> Istanbul Chief Public Prosecutor's Office, Terrorism and Organised Crime Investigation Bureau, Indictment No: 2024/7870, 26 July 2024. Document seen by Amnesty International.

- Implements the Constitutional Court rulings to immediately and unconditionally release Can Atalay.
- Introduces and implements constitutional and legislative changes removing the executive's control over the judiciary, including by amending legislation and practice relating to the composition and procedures for appointing members of the Council of Judges and Prosecutors (HSK), in line with the 2017 Venice Commission recommendations to ensure independence and impartiality in law and practice.<sup>36</sup>
- Ensures that government and other state officials refrain from making comments regarding ongoing criminal investigations and prosecutions that may prejudice the outcome of the proceedings.

## 5. NON-DISCRIMINATION (ARTICLES 2, 3 AND 26)

### 5.1 RIGHTS OF LGBTI PEOPLE

Turkish authorities failed to introduce measures to implement the recommendations from the concluding observations on the initial report of Türkiye adopted by the Committee at its 106th session.<sup>37</sup> Turkish legislation on discrimination is not compliant with international standards and falls short of the obligations the Turkish state has under international treaties to which it is party. Although Article 10 of the Turkish Constitution guarantees the right to equal treatment of all individuals without discrimination before the law,<sup>38</sup> Türkiye fails to protect people on all grounds, including sexual orientation, gender identity and/or expression and sex characteristics (SOGIESC).<sup>39</sup> The Law on the Human Rights and Equality Institution in Türkiye (Law 6701) enacted in 2016, states “Everyone shall equally benefit from their rights and freedoms which are determined by law” but limits the scope of the prohibition of discrimination to “sex, race, colour, language, religion, faith, sect, philosophical or political opinion, ethnic origin, wealth, birth, civil status, medical condition, disability or age.”<sup>40</sup>

Politicians and high-level government officials have used increasingly discriminatory and stigmatizing rhetoric against LGBTI people and routinely attack LGBTI people by using harmful terms such as “LGBTI perversion” and “LGBTI terror,” and by calling for a ban on “LGBTI propaganda” and closure of LGBTI organizations.<sup>41</sup> Such discriminatory, sustained rhetoric signals a normalization of discrimination that LGBTI people face in Türkiye and threaten their fundamental rights, including their rights to freedom of expression, assembly, and association.<sup>42</sup>

In 2022 and 2023, Büyük Aile Platformu (the Great Family Platform), a platform composed of different organizations that amplifies discriminatory and harmful rhetoric against LGBTI people, organized gatherings in the country openly calling for a ban on “LGBTI propaganda” and the closure of LGBTI organizations under the pretence of “protecting the family and children.”<sup>43</sup> In its efforts to rally people to join the demonstration, the platform’s video advertisement used discriminatory and

<sup>36</sup> PACE, Venice Commission, Turkey Opinion On The Duties, Competences And Functioning Of The Criminal Peace Judgeships, 13 March 2017, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)004-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)004-e).

<sup>37</sup> UN ICCPR Human Rights Committee, Concluding observations on the initial report of Turkey adopted by the Committee at its 106th session, 13 November 2012, <https://documents.un.org/doc/undoc/gen/g12/475/98/pdf/g1247598.pdf>, para 8.

<sup>38</sup> Türkiye, Constitution of the Republic of Turkey, [https://www.anayasa.gov.tr/media/7258/anayasa\\_eng.pdf](https://www.anayasa.gov.tr/media/7258/anayasa_eng.pdf), Article 10.

<sup>39</sup> Human Rights Committee, concluding observations on the initial report of Turkey adopted by the Committee at its 106th session, 13 November 2012, CCPR/C/TUR/CO/1.

<sup>40</sup> Law on the Human Rights and Equality Institution of Türkiye, Law no: 6701, <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=6701&MevzuatTur=1&MevzuatTertip=5>

<sup>41</sup> Kaos GL, “Yeniden Refah Nefreti sürdürüyor: 2028’de LGBT derneklerini kapacağız” 12 February 2024, <https://kaosgl.org/haber/yeniden-refah-nefreti-surduruyor-2028-de-lgbt-derneklerini-kapatacagiz>.

<sup>42</sup> Amnesty International, “Türkiye: 2023 Prides Took Place Amid Discriminatory Restrictions and Abuse of the Rights of Protesters” (Index: EUR 44/8049/2024), 17 May 2024, <https://www.amnesty.org/en/documents/eur44/8049/2024/en/>, page 2.

<sup>43</sup> Amnesty International, “Türkiye: 2023 Prides Took Place Amid Discriminatory Restrictions and Abuse of the Rights of Protesters” (previously cited), pages 2-3.



stigmatizing rhetoric against LGBTI people, presenting them as a “threat” to society.<sup>44</sup> In spite of this rhetoric, the advertisement was approved by the state broadcasting authority (RTÜK).<sup>45</sup>

## 5.2 RIGHTS OF PERSONS WITH DISABILITY

Türkiye is a party to the Convention on the Rights of Persons with Disabilities and is required to take measures to promote, protect and ensure the full and equal enjoyments of their human rights and respect their inherent dignity. Article 10 of the Turkish Constitution and Law no. 6701 prohibits discrimination against persons with disabilities. On 6 February 2023, two catastrophic earthquakes devastated 11 provinces, impacting more than 15 million people in south-eastern Türkiye and causing widespread destruction, displacement and dispossession. According to the Ministry of Interior, at least 50,000 people died, including 7,302 refugees and migrants. Hundreds of thousands were left homeless without shelter, food, water, and medical care. The earthquakes and conditions at displacement sites disproportionately impacted people with disabilities. Distribution of food, water and other aid materials did not adequately take into consideration their rights and specific requirements during the earthquake emergency response. People with disabilities struggled to access quality prostheses and assistive devices. Government figures indicated that 70% of the 100,000 people injured in the earthquakes would likely live with a disability.<sup>46</sup>

## RECOMMENDATIONS

Amnesty International recommends that Türkiye:

- Extends non-discrimination provisions in domestic law including Article 10 of the Turkish Constitution and The Law on the Human Rights and Equality Institution in Türkiye (No 6701) to prohibit discrimination on grounds of sexual orientation, gender identity and/or expression and sex characteristics and undertake positive action to ensure equality.
- Ensures that public officials do not engage in any inflammatory, harmful and stigmatizing rhetoric against LGBTI people.
- Condemns smear campaigns directed towards LGBTI rights defenders, and publicly recognize their crucial work.
- Ensures that at-risk groups, including older persons and persons with disabilities, are meaningfully consulted in the development of relief and reconstruction plans that continue in the aftermath of the 2023 earthquake by putting in place mechanisms to facilitate consultation and by ensuring access to information about assistance and to long-term measures that pertain to them.

## 6. VIOLENCE AGAINST WOMEN (ARTICLES 2, 3, 6 AND 26)

Following Türkiye’s withdrawal from the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in 2021, the protection of women and girls from domestic and other types of violence has received a significant blow.<sup>47</sup> Dozens of women’s

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<sup>44</sup> Aile TV, Bu gidişe dur de / Büyük Aile Buluşması, Aile TV <https://www.youtube.com/watch?v=HP05RLJtFmQ>, (accessed on 30 July 2024)

<sup>45</sup> Anadolu Agency, LGBT propagandasına karşı "Büyük Aile Buluşması" 17 Eylül'de düzenlenecek, <https://www.aa.com.tr/tr/gundem/lgbt-propagandasina-karsi-buyuk-aile-bulusmasi-17-eylulde-duzenlenecek/2988825>, 11 September 2023.

<sup>46</sup> Amnesty International, *Türkiye: “We All Need Dignity” – The Exclusion of Persons With Disabilities in Türkiye’s Earthquake Response*, (Index: EUR 44/6704/2023), 26 April 2023, <https://www.amnesty.org/en/documents/eur44/6704/2023/en/>.

<sup>47</sup> Amnesty International, “Here’s why the Istanbul Convention Saves Lives,” 7 May 2021, <https://www.amnesty.org/en/latest/news/2021/05/heres-why-the-istanbul-convention-saves-lives/>.

organizations, bar associations and others repeatedly applied to Türkiye's highest administrative court, the Council of State, to quash the decision but the Court rejected all the applications by 2023.<sup>48</sup>

Women's human rights, including the rights to life and to a life free from violence, are guaranteed in other binding treaties and, indeed, in national law and the Constitution. Türkiye's obligation to respect, protect and fulfil the human rights of women includes upholding women's right to a life free from violence, as well as to remedy their unequal status in society. It also encompasses addressing the current context of discrimination and harmful stereotypes about women that underlie gender-based violence and impact the responses of police and judicial officials to women who try to access protection and justice, further entrenching impunity for these crimes.<sup>49</sup>

## RECOMMENDATIONS

Amnesty International recommends that Türkiye:<sup>50</sup>

- Rejoins the Istanbul Convention, and ensure women and girls have access to the protection afforded by this key instrument designed to prevent domestic violence against all women and girls, without discrimination.
- Ensures Türkiye's laws and practice comply with its international obligations to guarantee women's human rights, including the rights to life and to a life free from violence.
- Fully implements the recommendations issued by UN expert committees including CEDAW, HRC, CAT, CESCR, CRC regarding the right of women and girls in Türkiye to a life free from violence.
- Ensures women and girls have prompt access to the protection and support essential services they need, including those facing multiple and intersecting layers of discrimination by actively reaching out to them, including by supporting and cooperating with NGOs, women's rights groups or other grassroots organizations representing them.

## 7. TREATMENT OF MIGRANTS, REFUGEES AND ASYLUM SEEKERS (ARTICLES 7, 9, 12, AND 13)

Türkiye has ratified the 1951 Refugee Convention and its 1967 Protocol; however, it operates the Convention with a geographical limitation and has not implemented the recommendation from the concluding observations on the initial report of Türkiye adopted by the Committee at its 106th session "to ensure that all persons applying for international protection are given access to a fair and effective refugee determination procedure, regardless of the region of origin."<sup>51</sup> Individuals from non-European countries whose application for international protection has been accepted are called "conditional refugees," while they wait in Türkiye for their resettlement to another country.

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<sup>48</sup> Women for Women's Rights Association, "Kadının İnsan Hakları Derneği olarak İstanbul Sözleşmesi'nden çekilme kararına karşı açtığımız davanın duruşması iki buçuk sene sonra Danıştay 10. Dairesi'nde görüldü," 26 December 2023, <https://kadinininsanhaklari.org/kadinin-insan-haklari-dernegi-olarak-istanbul-sozlesmesinden-cekilme-kararina-karsi-actigimiz-davanin-durusmasi-iki-bucuk-sene-sonra-danistay-10-dairesinde-goruldu/>.

<sup>49</sup> Türkiye – Amnesty International Submission for the European Union Enlargement Package 2024, [https://www.amnesty.eu/wp-content/uploads/2024/05/Turkiye\\_AI-Submission-to-Enlargement-Package\\_2024.pdf](https://www.amnesty.eu/wp-content/uploads/2024/05/Turkiye_AI-Submission-to-Enlargement-Package_2024.pdf).

<sup>50</sup> For an extensive list of recommendations, Amnesty International, "Turkey, turn words into actions: Duty-bound to end violence against women," (Index: EUR 44/5109/2021), 22 December 2021, <https://www.amnesty.org/en/documents/eur44/5109/2021/en>.

<sup>51</sup> And to ensure that they "receive appropriate and fair treatment at all stages in compliance with human right standards. In that perspective, the State party should also promptly enact legislation in line with the Covenant and with the 1951 Convention" See UN ICCPR Human Rights Committee, Concluding observations on the initial report of Turkey adopted by the Committee at its 106th session, (previously cited), para 20.

Refugees remain at risk of being unlawfully returned to countries such as Syria, Iran, Eritrea and Afghanistan where they could face serious human rights violations.<sup>52</sup> Such returns would constitute violations of the principle of *non-refoulement*. In 2023, the Ministry of Interior announced that 28,734 Afghans had been returned to Afghanistan in the first 10 months of the year 2023.<sup>53</sup>

The Turkish authorities used unlawful force, including by firing live ammunition, to summarily return to Iran thousands of Afghans seeking international protection. This unlawful use of firearms against Afghans sometimes resulted in deaths or injuries. Under the guise of “voluntary returns,” some people were unlawfully deported via flights to Afghanistan.<sup>54</sup>

In June 2022, the ECtHR ruled in the case of *Akkad v. Türkiye* that the forcible return to Syria of a Syrian man legally residing in Türkiye through the abuse of a “voluntary return” order was a violation of the prohibition of refoulement, the right to a remedy, the right to liberty and security, and a violation of the prohibition of degrading treatment due to the conditions of the applicant’s transfer in the context of the return operation.<sup>55</sup>

There are numerous accounts of refugees and migrants, including people with international protection, being detained for prolonged periods of time in overcrowded removal centres before being forcibly returned. In 2022, Amnesty International found that EU funding was being provided to the building of removal centres of this type, where Afghans were being detained in appalling conditions, before being unlawfully returned.<sup>56</sup>

## RECOMMENDATIONS

Amnesty International recommends that Türkiye:

- Lifts the geographical limitation to the Refugee Convention and ensures that all persons applying for international protection are given access to a fair and effective refugee determination procedure, regardless of their region of origin.
- Respects the principle of *non-refoulement*, including by ending all forcible transfers of Afghans to Iran and to Afghanistan; and stops the forced returns of asylum seekers to Syria and other countries where they may face risks of serious human rights violations and ensuring that anyone forcibly returned is able to safely and legally re-enter Türkiye.
- Ensures that “voluntary return” procedures comply with international law and standards protecting against *refoulement* and guarantee free and informed consent of the potential returnee.

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<sup>52</sup> Amnesty International, Urgent Action: Türkiye: Eritreans at imminent risk of forced return, 6 September 2024, <https://www.amnesty.org/en/documents/EUR44/8493/2024/en/>.

<sup>53</sup> Demirören Haber Ajansı, “Bakan Yerlikaya: 10 ayda 721 terörist etkisiz hale getirildi”, 9 November 2023, <https://www.dha.com.tr/gundem/bakan-yerlikaya-10-ayda-721-terorist-etkisiz-hale-getirildi-2340592>.

<sup>54</sup> Amnesty International, “Afghanistan: “They Don’t Treat Us Like Humans”: Unlawful Returns of Afghans From Turkey and Iran,” (Index: ASA 11/5897/2022) 31 August 2022, [https://www.amnesty.org/en/documents/ASA11/5897/2022/en/?utm\\_source=annual\\_report&utm\\_medium=epub&utm\\_campaign=2021](https://www.amnesty.org/en/documents/ASA11/5897/2022/en/?utm_source=annual_report&utm_medium=epub&utm_campaign=2021).

<sup>55</sup> ECtHR, *Affaire Akkad c. Turquie*, Requête no 1557/19), Arrêt, 21 September 2022, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-217815%22%7D>.

<sup>56</sup> Amnesty International, Afghanistan: “They don’t treat us like humans,” (previously cited).

## 8. FREEDOM OF EXPRESSION, ASSOCIATION AND PEACEFUL ASSEMBLY (ARTICLES 19, 21 AND 22)

### 8.1 FREEDOM OF EXPRESSION

The right to freedom of expression remains severely curtailed in Türkiye, as the authorities continue to detain, launch abusive criminal investigations and unfounded prosecutions against those who peacefully oppose the government, including journalists, human rights defenders, political activists, and other public figures. The crackdown on freedom of expression is made possible by the extensive executive control and political influence over the judiciary which has led courts to systematically accept bogus indictments to arbitrarily detain and convict people that the government regards as political opponents.

In October 2021, in the landmark decision *Vedat Şorli v Turkey*, the ECtHR found that Article 299 of the Turkish Criminal Code, which criminalizes “insulting the president,” was incompatible with the right to freedom of expression and urged the government to align the legislation with Article 10 of the European Convention on Human Rights (ECHR).<sup>57</sup> Türkiye has not implemented the Court’s ruling and human rights organizations have documented subsequent prosecutions under Article 299.<sup>58</sup>

In 2022, the Turkish Parliament adopted the Law on Amendments to the Press Law and Certain Laws, publicly known as the “disinformation law”.<sup>59</sup> The law includes the introduction of a new criminal offence of “publicly spreading disinformation” and increased the powers of the Information and Communication Technologies Authority to force social media companies to take down content, disclose user data or face fines and severe reduction of the bandwidth; and expanded existing stringent requirements on social media companies by adding criminal, administrative and financial liability. In particular, the law holds social media platforms liable for the content posted by their users and has the potential to penalize these platforms over posts by users that target government policies, further reducing the space for people to freely express their ideas and opinions.<sup>60</sup> Since adaptation of the law, journalists are prosecuted and some held in pre-trial detention under the criminal offence of “publicly spreading disinformation” for their journalistic work.<sup>61</sup>

In the immediate aftermath of the 2023 earthquakes, the authorities restricted access to Twitter and TikTok for 12 hours impacting people’s access to vital information during search and rescue efforts.<sup>62</sup> They detained at least 257 people for criticizing the government’s earthquake response, including journalists and some people based solely on their social media posts.<sup>63</sup>

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<sup>57</sup> ECtHR, *Affaire Vedat Şorli c. Turquie*, (Requête no 42048/19), Arrêt, 28 February 2022, [https://hudoc.echr.coe.int/#!%22itemid%22:\[%22001-212394%22\]](https://hudoc.echr.coe.int/#!%22itemid%22:[%22001-212394%22]).

<sup>58</sup> MLSA, *Ifade Özgürlüğü Davaları, Dava İzleme Programı Raporu 2023*, (1 September 2022 – 1 September 2023) <https://www.mlsaturkey.com/images/DAVA%20İZLEME%20PROGRAMI%20RAPORU%202023%201.pdf>, page 21.

<sup>59</sup> Amnesty International, *Türkiye’s disinformation law tightens government control and curtails freedom of expression*, 24 October 2022, (Index: EUR 44/6143/2022), [https://www.amnesty.org/en/documents/eur44/6143/2022/en/?utm\\_source=annual\\_report&utm\\_medium=epub&utm\\_campaign=2021](https://www.amnesty.org/en/documents/eur44/6143/2022/en/?utm_source=annual_report&utm_medium=epub&utm_campaign=2021).

<sup>60</sup> Amnesty International, “Türkiye’s disinformation law tightens government control and curtails freedom of expression”, (previously cited)

<sup>61</sup> MLSA, *Turkey’s “misleading information” law leads to numerous investigations against journalists*, <https://mlsaturkey.com/en/turkeys-misleading-information-law-leads-to-numerous-investigations-against-journalists>, 3 May 2024. Reporters without Borders, *Türkiye’s year-old “disinformation” law has stepped up pressure on journalists*, <https://rsf.org/en/turkiye-s-year-old-disinformation-law-has-stepped-pressure-journalists>, (accessed on 1 August 2024).

<sup>62</sup> Amnesty International, “Türkiye/Syria: A Human Rights Response to the 6 February Earthquakes,” 23 February 2023, <https://www.amnesty.org/en/documents/eur44/6470/2023/en/>, page 5.

<sup>63</sup> Amnesty International, “Amnesty International recommendations ahead of the 20 March Donors’ Conference for the people of Türkiye and Syria,” 17 March 2023, <https://www.amnesty.eu/news/amnesty-international-recommendations-ahead-of-the-20-march-donors-conference-for-the-people-of-turkiye-and-syria/>.

Between 2-10 August 2024, the Turkish authorities arbitrarily blocked access to Instagram in the country, censoring access to information, silencing critical voices and violating people's right to freedom of expression.<sup>64</sup>

Journalists are subjected to detention including pre-trial detention and prosecution with trumped up terrorism related charges. Sixteen journalists from three media outlets and the co-chair of the Dicle Fırat Journalists' Association were remanded in pretrial detention in Diyarbakır in June 2022 and accused of "membership of a terrorist organization." They were conditionally released after being held in pre-trial detention for 13 months and their prosecution continues. In July 2024, five journalists were detained and accused of "targeting a public official involved in the fight against terrorism" under Article 6/1 of the Anti-Terrorism Law. One of the journalists became the first to be remanded in pretrial detention on charges under this legislation. He was subsequently acquitted and released at the first hearing on 31 October 2023.<sup>65</sup>

In September 2023, the Ankara chief prosecutor initiated a criminal investigation against the opposition MP Sezgin Tanrikulu for "denigrating the Turkish nation and state" under Article 301 and "incitement to hatred or hostility" under Article 216 of the Turkish Penal Code, following his critical comments about the Turkish armed forces during a television programme.<sup>66</sup> An LGBTI activist was also arrested under Article 216 for a social media post criticizing the racist attacks against Syrians that took place in Kayseri province in July 2024.<sup>67</sup>

## RECOMMENDATIONS

Amnesty International recommends that Türkiye:

- Ensures that all domestic laws are brought in line with Türkiye's obligations under international human rights law and standards to respect, protect and fulfil the right to freedom of expression.
- Repeals the "disinformation law" and avoid introducing provisions on disinformation that impose blanket prohibitions on the basis of vague concepts such as spreading "untrue information" and intermediary liability on companies that incentivize overbroad censorship. Ensures that credible, reliable, objective, and accessible information is disseminated to all as the best way to address the challenges posed by disinformation.
- Repeals Article 301 of the Turkish Penal Code (denigrating the Turkish nation and state)
- Amends Article 216 of the Turkish Penal Code (incitement to hatred or hostility) to ensure that only advocacy of hatred constituting incitement to discrimination, hostility and violence is prohibited
- Repeals Article 299 ("insulting the president") of the Turkish Penal Code
- Ends the prolonged and arbitrary detention and prosecution of politicians, human rights defenders, lawyers, journalists, activists, and others solely for exercising their rights to freedom of expression, association and peaceful assembly.

## 8.2 FREEDOM OF PEACEFUL ASSEMBLY

Turkish authorities have intensified the crackdown on protesters, particularly on real or perceived critics, exercising their right to peaceful assembly across the country. Turkish authorities are increasingly restricting the right to peaceful assembly through temporary and/or blanket bans,

<sup>64</sup> Human Rights Watch, Türkiye: Restore Access to Instagram, 8 August 2024, <https://www.hrw.org/news/2024/08/08/turkiye-restore-access-instagram>.

<sup>65</sup> Amnesty International, The State of the World's Human Rights, Türkiye, (Index: POL 10/7200/2024), <https://www.amnesty.org/en/documents/pol10/7200/2024/en/>, page 376.

<sup>66</sup> Ankara Chief Public Prosecutor's Office, Bureau of Parliamentarians, summary of proceedings (fezlike), No: 2023/373, 14 September 2023. Document seen by Amnesty International.

<sup>67</sup> Istanbul Chief Public Prosecutor's Office, Indictment No. 2024/24273, 12 July 2024. Document seen by Amnesty International.

excessive/unlawful use of force, arbitrary detention of protesters and the use of laws to criminalize protesters through criminal investigations, unfair prosecutions, and other punitive measures such as judicial control measures. The crackdown on peaceful protests have also contributed to the chilling effect on the exercise of the right to peaceful assembly, with fewer people on the streets.

Following two decisions of the Constitutional Court in November 2022 and March 2023, finding violations of the rights to freedom of peaceful assembly of the two applicants (Maside Ocak Kışlakçı and Gülşen Yeleri),<sup>68</sup> Saturday Mothers/People returned to Galatasaray Square, the location of their long-standing weekly vigil for truth and justice, on 8 April 2023.<sup>69</sup> However between April and November 2023, police prevented the group from holding their peaceful vigil, using excessive force, subject protesters to torture and other ill-treatment, routinely detaining the participants. A prosecution under the Law on Meetings and Demonstrations was initiated against 20 people detained on 10 June 2023 (the 950<sup>th</sup> weekly vigil). Since 11 November 2023, a small group of the Saturday Mothers/People, limited to ten people, have been allowed to read a short statement near Galatasaray Square, except for 1000<sup>th</sup> vigil on 25 May 2024 where restrictions were lifted for that day only. Whilst this has been an improvement, due principally to the tenacity of the Saturday Mothers/People, it still falls short of their legitimate demand to lift the police barriers, open access to the Square and implement the binding Constitutional Court judgments which required the authorities lift unlawful restrictions on the exercise of their right to peaceful assembly.

Authorities regularly banned and prevented several commemorations of the 2015 bombing by Islamic State, which killed 33 people in the south-eastern town of Suruç.<sup>70</sup> On 20 July 2023, at least 187 protesters were arbitrarily detained in the cities of Istanbul, Izmir and Ankara. In Istanbul, police used unlawful force, including through the containment of protesters, using pepper spray and plastic bullets.<sup>71</sup>

Between July and September 2023, police used unlawful force, water cannon and pepper spray at close range against ecological activists protesting at the felling of thousands of trees to expand a coal mine in Akbelen forest in Muğla province.<sup>72</sup> At least 50 activists were detained. Although they were later released, some activists were subjected to travel restrictions while three were banned from entering Milas district in Muğla province.<sup>73</sup>

In April 2024, people in many cities including Istanbul, Izmir, and Van, took to the streets to protest the decision to overturn the election of the People's Equality and Democracy Party (DEM) candidate to the mayoralty of the province of Van. A two-week blanket ban on meetings and demonstrations in Van and Bitlis were announced by the authorities.<sup>74</sup> Such blanket bans are a disproportionate restriction of the rights to freedom of expression and peaceful assembly. In Van, law enforcement authorities used tear gas, plastic bullets and water cannons against protesters. According to the Bar Association in Van, 264 people, including 10 lawyers, 15 children and one journalist, were detained during the protests. Moreover, 27 people, including two children, were remanded in pre-trial detention for charges including "membership of an armed terrorist organization" (Article 314/2 of the Turkish Penal Code) without presenting sufficient evidence of the individuals' involvement in that crime. The Minister of Interior announced that 340 people had been detained from 14 provinces in relation to the protests connected to the mayoral elections in Van.<sup>75</sup>

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<sup>68</sup> Constitutional Court judgments, Maside Ocak Kışlakçı B. No: 2019/21721, 16/11/2022 <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2019/21721> and Gülşen Yeleri, B. No: 2020/7092, 29/3/2023, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2020/7092>.

<sup>69</sup> Amnesty International, Urgent Action: Türkiye: End protest ban on Galatasaray Square: Saturday Mothers/People, 27 October 2023, <https://www.amnesty.org/en/documents/eur44/7357/2023/en/>

<sup>70</sup> Governorship of Kadıköy, Press Statement, 19 August 2024, <http://www.kadikoy.gov.tr/basin-aciklamasi-190724>; Human Rights Watch, Turkey: Istanbul Police Mistreatment of Peaceful Protesters, 27 July 2023, <https://www.hrw.org/news/2023/07/27/turkey-istanbul-police-mistreatment-peaceful-protesters>.

<sup>71</sup> Amnesty International, The State of the World's Human Rights, Türkiye, (previously cited), page 376.

<sup>72</sup> Human Rights Watch, Turkey Approves New Coal Mining to Feed Power Plants, 5 August 2023, <https://www.hrw.org/news/2023/08/05/turkey-approves-new-coal-mining-feed-power-plants>.

<sup>73</sup> Amnesty International, The State of the World's Human Rights, Türkiye, (previously cited), page 376.

<sup>74</sup> Van Governorship, Ban Decision, <http://www.van.gov.tr/02042024-tarihli-yasaklama-karari>, 2 April 2024; Bitlis Governorship, All Events in Bitlis are banned for 15 days, <http://www.bitlis.gov.tr/bitliste-tum-etkinlikler-15-gun-sure-ile-yasaklanmistir>, 3 April 2024.

<sup>75</sup> Ali Yerlikaya, X post, 4 April 2024, <https://twitter.com/AliYerlikaya/status/1775826036896248051>.

Since Israel's military offensive on Gaza, mass protests in solidarity with Palestinians have taken place across the country which were largely free of undue restrictions or police intervention. However, law enforcement officials prevented protests calling on the Turkish authorities to end trade with Israel. On 6 April 2024, the Youth Movement for Free Palestine, a group that organized a protest in front of the Provincial Directorate of Trade in Istanbul, faced unlawful force and arbitrary detention by law enforcement officials. On the same day, the Ministry of Interior announced on X, that 43 people had been detained.<sup>76</sup>

The authorities, defying a 2023 Constitutional Court ruling, banned the May Day solidarity demonstration in Istanbul's Taksim Square in 2024,<sup>77</sup> and prevented people from gathering. The Constitutional Court had ruled that the bans and forceful dispersals of protesters by law enforcement officials during the 2014 and 2015 May Day celebrations in Taksim violated the right to peaceful assembly of the Confederation of Revolutionary Workers' Trade Unions (DISK)<sup>78</sup> According to Progressive Lawyers Association, 82 people were arrested and held in pretrial detention, even days after the protest.<sup>79</sup>

The authorities have unlawfully and systematically hindered pride marches in Türkiye since 2015 in violation of the rights to freedom of expression, peaceful assembly and non-discrimination. Most prominently, the authorities issued blanket bans on marches and other LGBTI themed events. In addition to the official bans issued by the governors, the authorities increasingly impose de-facto bans on peaceful protests by instructing law enforcement officials to prevent LGBTI people from gathering or imposing other punitive measures on protesters who exercised their rights.<sup>80</sup> Law enforcement officials used unnecessary and arbitrary force, in some cases amounting to torture and other ill-treatment.<sup>81</sup> In 2022, LGBTI rights organizations documented at least 10 Pride events banned across the country and over 530 people were detained.<sup>82</sup> In 2023 Prides, at least 224 people were arbitrarily detained across the country, including not only peaceful protesters but also lawyers, journalists, foreign nationals, and bystanders. Two refugees from Iran and Libya, who were detained and transferred to removal centres, were held in detention and at risk of deportation for 33 and 57 days, respectively.<sup>83</sup> In 2024, likely due to the chilling effect of the hostile environment against LGBTI people, less protesters took it to the streets. 27 people were detained in three provinces.

## RECOMMENDATIONS

Amnesty International recommends that Türkiye:

- Ensures that everyone can enjoy the right of peaceful assembly without discrimination, including 'non-citizens', children, persons with disabilities and others.
- Refrains from imposing blanket bans on protests and instead assess each public assembly on a case-by-case basis, adopting an enabling approach to the exercise of the right to peaceful assembly rather than preventing and restricting it.
- Ensures that the failure to comply with a notification requirement is not used as a justification to disperse or otherwise restrict an assembly. Broad provisions allowing for dispersal based on

<sup>76</sup> Ali Yerlikaya, X post, <https://x.com/AliYerlikaya/status/1776681324444541368>, 6 April 2024.

<sup>77</sup> Amnesty International, Türkiye: Unlawful ban on May Day celebrations in Istanbul must be lifted, 30 April 2024, <https://www.amnesty.org/en/latest/news/2024/04/turkiye-unlawful-ban-on-may-day-celebrations-in-istanbul-must-be-lifted/>.

<sup>78</sup> Constitutional Court Judgment, Türkiye Devrimci İşçi Sendikaları Konfederasyonu (Disk) Ve Diğerleri Başvurusu (2), No: 2016/14518), 12 October 2023, <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2016/14518>.

<sup>79</sup> Progressive Lawyers Association, ÇHD İstanbul Şube 1 Mayıs 2024 Hak İhlalleri Raporu, 1 July 2024, <https://cagdashukukcular.org/basin/chd-istanbul-sube-1-mayis-2024-hak-ihlalleri-raporu/>.

<sup>80</sup> Amnesty International, Türkiye: 2023 Prides Took Place Amid Discriminatory Restrictions and Abuse of the Rights of the Protesters, (previously cited).

<sup>81</sup> Amnesty International, Türkiye: 2023 Prides Took Place Amid Discriminatory Restrictions and Abuse of the Rights of the Protesters, (previously cited).

<sup>82</sup> Kaos-GL, "Devlet LGBTİ+lara savaş açtı: 37 günde 10 yasak, en az 530 gözaltı!" 27 June 2022, <https://kaosgl.org/haber/devlet-lgbti-lara-savas-acti-37-gunde-10-yasak-en-az-530-gozalti>.

<sup>83</sup> Amnesty International, Türkiye: 2023 Prides Took Place Amid Discriminatory Restrictions and Abuse of the Rights of the Protesters, (previously cited).

a violation of any of the provisions in assembly laws, including a failure to notify, are disproportionate and should be repealed or amended.

- Guarantees in law and in practice the protection and facilitation of spontaneous assemblies in the same way as other assemblies.
- Ensures that decisions to disperse an assembly are taken only as a last resort and in line with the principles of necessity and proportionality. That is, only when there are no other means available to protect a legitimate aim which outweighs the right of people to assemble peacefully. In any such situation, law enforcement officials must, as far as possible, avoid any use of force and, in any event, must always restrict it to the minimum level necessary.
- Ensures that all public spaces are generally available for assemblies. Limiting protests to a few locations within a city or country or to remote designated areas, or similar restrictions, are likely to be unnecessary and/or disproportionate. Blanket bans on protests in areas around courts, parliaments, other official buildings and sites of historical significance should generally be avoided.
- Drops charges immediately and unconditionally against all peaceful protesters who have been charged with criminal offences solely for exercising their right to peaceful assembly.
- Ensures the use of force by law enforcement officials comply with the principles of legality, necessity, proportionality and non-discrimination.
- Ensures any allegations of unlawful use of force and other human rights violations by law enforcement officials, including gender-based violence and torture and other ill-treatment inflicted on protesters, are subject to an effective, impartial and timely investigation.

### 8.3 FREEDOM OF ASSOCIATION

The “Law on the Prevention of the Financing of the Proliferation of Weapons of Mass Destruction” (Law No. 7262) introduced amendments to several laws including the Law on Associations (Law No. 5253) and the Law on Aid Collection (Law No. 2860) in 2020. These amendments are used by the Turkish authorities to hinder the work of civil society through intensified audits, including increased sanctions for organizations who fail to comply with the regulations, which all created a chilling effect on civil society organizations.<sup>84</sup>

On 3 April 2024, the Constitutional Court of Türkiye published its judgment annulling some articles of the Law on Associations (Law No. 5253) and the Law on Aid Collection (Law No. 2860) that had been introduced following the enactment of Law No. 7262.<sup>85</sup> The Constitutional Court annulled Article 30/A that had been added to Law No. 5253 and allowed the Minister of Interior to temporarily suspend staff members and/or executives of civil society organizations if they are prosecuted for terrorism-financing related offences allegedly linked to the association’s activities. It further allowed for a court appointed representative to replace the suspended person. Article 30/A granted the Minister of Interior the power to temporarily suspend the activities of such associations, if the above measure is deemed insufficient. The Court also annulled Article 19/5 of the Law No. 5253, which implied that when one association, which is part of a platform or cooperates under an umbrella organization, is audited, other organizations in that group could also face audits. The Court further annulled Article 9/2 of the Law No. 2860, which leaves the establishment of the procedures and principles of the laws to regulations without a legal framework, and thus according to the Court, grants the executive unlimited, ambiguous, and broad regulatory authority which is incompatible with the principle of non-transferability of the legislative power. The Court’s judgment is significant as it limits certain powers granted to the executive authorities under law No. 7262. Legislative changes following Constitutional

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<sup>84</sup> Amnesty International, *Turkey: Terrorism Financing Law Has Immediate ‘Chilling Effect’ on Civil Society*, (previously cited), pages 4 - 6.

<sup>85</sup> The Constitutional Court Judgment, No: 2024/11, 18 January 2024, <https://normkararlarbilgibankasi.anayasa.gov.tr/ND/2024/11>.



Court rulings are subject to new amendments,<sup>86</sup> proposed and approved by Parliament. However, Amnesty International has documented several cases where binding Constitutional Court rulings pertaining to legal provisions are not implemented by Parliament.<sup>87</sup>

In May 2023, in the case of *Korkut and Amnesty International Türkiye v. Türkiye*, the ECtHR found that there had been a violation of the “right to fair and reasoned trial” under Article 6 of the ECHR and a violation of the right to freedom of assembly and association under Article 11 of the ECHR.<sup>88</sup> The case concerned the administrative fine imposed on Amnesty International Türkiye for allegedly failing to declare funds it had received from its International Secretariat in 2006-2007, to the authorities before using them. The Court ruled that Amnesty International Türkiye was unable to foresee, at the relevant time, whether those declarations would be regarded as out of time and result in an administrative fine. The requirement of foreseeability of domestic law had thus not been satisfied and, accordingly, the interference with Amnesty International Türkiye's right to freedom of association had not been prescribed by law at the relevant time. The authorities introduced amendments to address the lack of foreseeability of the law in 2020 and 2021 but have concerningly introduced more restrictive measures to the operation of civil society organizations by requiring further burdensome and onerous administrative measures that continue to hinder their activities.

The 2021 case to close the opposition party in Türkiye, the People's Democratic Party (HDP),<sup>89</sup> and impose a five-year political ban on 451 former and current members, is still pending.

## RECOMMENDATIONS

Amnesty International recommends that Türkiye:

- Repeals or significantly amend the “Law on the Prevention of the Financing of the Proliferation of Weapons of Mass Destruction” and ensure that any restrictions on the right to association, including those aimed at protecting public order and the rights of others, are carried out in compliance with international human rights law
- Implements the Constitutional Court rulings on Article 30/A and Article 19/5 of Law on Associations (Law No. 5253) and Article 9/2 of the Law on Aid Collection Law No. 2860 to ensure that broad and ambiguous powers granted to the executive are limited and do not unduly interfere with the exercise of the right to freedom of association.
- Ensures that the suspensions or dissolution of associations are measures of last resort, when no less restrictive measures are effective to achieve the legitimate aim pursued and implemented only on the basis of a decision issued by an impartial and independent court, in compliance with international human rights law and standards.

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<sup>86</sup> On 14 August 2024, the Directorate for Relations with Civil Society has made an announcement on its website stating, “Following the annulment decision of the Constitutional Court, it was necessary to amend some of the articles of the Law on Associations Law No. 5253 and the Law on Aid Collection Law No. 2860 to comply with the new regulations and the Recommendation No. 8 of the Financial Action Task Force (FATF), of which our country is a member, updated in November 2023.” The directorate shared the “draft legislative amendments” and invited civil society organizations to comment on the draft proposal by 2 September 2024. Despite some positive amendments, the proposal does not fully address the Constitutional Court ruling and the annulment of the provisions mentioned in this submission are not currently included in the draft. See Directorate for Relations with Civil Society, “Legislative Amendment Drafts” regarding the Associations Law No. 5253 and the Fundraising Law No. 2860, 14 August 2024, <https://www.siviltoplum.gov.tr/mevzuat-degisiklik-taslaklari>.

<sup>87</sup> See Chapter 3 in this document on Article 220/6 of the Turkish Penal Code, Chapter 4 on Can Atalay, Chapter 8.2 on Saturday Mothers/People and May Day solidarity demonstrations.

<sup>88</sup> ECtHR, *Affaire Korkut et Amnesty International Türkiye c. Türkiye* (Application 61177/09), Judgement, 9 August 2023, <https://hudoc.echr.coe.int/eng?i=001-224549>

<sup>89</sup> Amnesty International, “Türkiye: HDP closure would violate rights to freedom of expression and association” 11 April 2023, <https://www.amnesty.org/en/documents/eur44/6663/2023/en/>.

## 9. HUMAN RIGHTS DEFENDERS (ARTICLES 9, 17, 19, 21, 22 AND 26)

In June 2023, the Istanbul Heavy Penal Court No. 35 overturned the 2020 convictions of four human rights defenders in the so-called Büyükada trial, for “lack of evidence,” in line with the earlier Court of Cassation judgment.<sup>90</sup> An appeal by the prosecution against the acquittal of Taner Kılıç is still pending. The ECtHR delivered its judgment in the case of *Taner Kılıç (N° 2) v. Turkey* on 31 May 2022, finding violations of the applicant’s rights under Articles 5 § 1, 5 § 3, 5 § 5 and 10 of the ECHR.<sup>91</sup>

The authorities continue to fail to implement judgments by the ECtHR in the case of Osman Kavala despite the infringement proceeding and subsequent ECtHR judgment reaffirming the violations found by the Court and the urgent need to release him. In September 2023, Türkiye’s highest court of appeals upheld the life sentence against Osman Kavala and the 18-year jail sentences against four other Gezi Park defendants, Çiğdem Mater, Tayfun Kahraman, Can Atalay, and Mine Özerden, despite the prosecuting authorities’ repeated failure to provide any evidence.<sup>92</sup> In 2022, Amnesty International named Osman Kavala and Gezi Park defendants as prisoners of conscience.<sup>93</sup>

In February 2021, Eren Keskin, prominent human rights lawyer and the co-chair of the Human Rights Association (IHD), was convicted of ‘membership of a terrorist organization’ for which she was sentenced to six years and three months, a baseless conviction which is currently pending on appeal at the Court of Cassation. In 2024, Eren Keskin and a member of the Commission Against Racism and Discrimination at IHD were prosecuted for “insulting the Turkish nation” under Article 301 of the Turkish Penal Code for their participation in a press conference at Human Rights Association on the Armenian Genocide Remembrance Day on 24 April 2021 and acquitted on 2 May 2024.<sup>94</sup>

Prof. Şebnem Korur Fincancı, a prominent forensic medicine physician who has worked for decades in Türkiye and internationally to eradicate torture was sentenced to two years eight months and 15 days in prison for calling for an independent investigation into the alleged use of chemical weapons in the Kurdistan Region of Iraq in 2022. She was released from prison pending appeal in January 2023 after three months in pre-trial detention.<sup>95</sup> In early February 2024, a smear campaign was launched on social media to discredit her work on torture, claiming that she had issued reports without examining individuals who claimed to have been subjected to torture or ill-treatment. She refuted the allegations comprehensively.

## RECOMMENDATIONS

Amnesty International recommends that Türkiye:

- Ensures the creation of a safe and enabling environment for HRDs, and the protection of human rights defenders in line with the UN Resolution adopted by the General Assembly.<sup>96</sup>

<sup>90</sup> Amnesty International, “Türkiye: Justice prevails as four human rights defenders finally acquitted,” 6 June 2023, <https://www.amnesty.org/en/latest/news/2023/06/justice-prevails-as-four-human-rights-defenders-finally-acquitted/>.

<sup>91</sup> ECtHR, *Affaire Taner Kılıç C. Türkiye* (Requête no 208/18), Arrêt, 10 October 2022, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%5C%22001-217625%22%5D%7D>.

<sup>92</sup> Amnesty International, “Türkiye: Convictions of Osman Kavala & four others need urgent international response,” (previously cited).

<sup>93</sup> Amnesty International, “Turkey: Amnesty names Osman Kavala and Gezi Park defendants as prisoners of conscience,” 17 June 2022, <https://www.amnesty.org/en/latest/news/2022/06/turkey-amnesty-names-osman-kavala-and-gezi-park-defendants-as-prisoners-of-conscience/>.

<sup>94</sup> MLSA, “Ermeni Soykırımı’nı anma davasında Keskin ve Yarkin beraat etti” 2 May 2024, <https://www.mlsaturkey.com/tr/ermeni-soykirimini-anma-davasinda-keskin-ve-yarkin-beraat-etti>.

<sup>95</sup> Amnesty International, Urgent Action: Türkiye: Free Prof Şebnem Korur Fincancı, (previously cited).

<sup>96</sup> UN General Assembly, Resolution adopted by the General Assembly on 19 December 2023, <https://documents.un.org/doc/undoc/gen/n23/421/92/pdf/n2342192.pdf>, para

- Ends the prolonged and arbitrary detention, and judicial harassment of human rights defenders and ensure they can carry out their legitimate and peaceful activities without fear of reprisals, arrest, and abusive criminal proceedings.
- Drops abusive criminal charges and prosecutions and release immediately and unconditionally all imprisoned human rights defenders, lawyers, politicians and journalists who have been imprisoned simply for exercising their human rights
- Immediately and unconditionally releases Gezi Park co-defendants and discontinue any ongoing proceedings against them.
- Prevents violations of the rights of human rights defenders including smear campaigns, threats and attacks against them, and other attempts to hinder their work, and ensure the independent and effective investigation of such acts and hold those responsible accountable through appropriate administrative measures or criminal procedures,
- Ensures the existence of effective remedies for human rights defenders whose rights are violated.

## **10. RIGHT TO LIFE, PROHIBITION OF TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT AND COMBATING IMPUNITY (ARTICLES 2, 6, 7, 9, AND 10)**

International law and Türkiye’s own laws forbid torture or other ill-treatment under any circumstances. The Turkish government has long claimed to uphold a policy of “zero tolerance for torture.” On 23 January 2024, the Parliamentary Assembly of the Council of Europe (PACE) adopted a resolution on “Allegations of Systemic Torture and Inhuman or Degrading Treatment of Punishment in places of Detention in Europe.”<sup>97</sup> With regard to Türkiye, the Assembly expressed concern that “there has been a rise in the use of torture and ill-treatment in police custody and prison over the past years” despite the authorities’ commitment to uphold a policy of “zero tolerance”. The assembly called on Türkiye “to address the root causes of the problem, to introduce systematic changes aimed at eliminating abusive and unlawful practices, and to ensure accountability, including in terms of criminal and civil liability of individual perpetrators, high-ranking officials and State bodies, for practising or tolerating torture and ill-treatment.”<sup>98</sup>

In the aftermath of the earthquakes of 6 February 2023, there have been credible reports of police, gendarmes, and military personnel subjecting people they suspected of crimes, such as theft and looting, to violent and prolonged beatings and arbitrary, unofficial detention. At least 34 people have been beaten, tortured and ill-treated, and one person died in custody after being tortured.<sup>99</sup> All incidents occurred in the 10 provinces covered by the state of emergency instituted in the aftermath of the earthquake. In some cases, law enforcement authorities suggested that the declaration of a state of emergency offered a license to subject people to torture and other ill-treatment with impunity. In other instances, law enforcement officials failed to intervene to prevent individuals from violently assaulting people they allegedly suspected of crimes. In four of the cases documented, the victims were Syrian refugees, and the attacks may have had a racist bias. Syrians were found to be

<sup>97</sup> The Parliamentary Assembly of the Council of Europe, “Allegations of Systemic Torture and Inhuman or Degrading Treatment of Punishment in places of Detention in Europe” paragraph 6.3 and 9, Doc. 15880 <https://pace.coe.int/en/files/33339>.

<sup>98</sup> The Parliamentary Assembly of the Council of Europe, “Allegations of Systemic Torture and Inhuman or Degrading Treatment of Punishment in places of Detention in Europe” (previously cited).

<sup>99</sup> Amnesty International and Human Rights Watch, Türkiye: Police and gendarmerie commit abuses in earthquake zone, 5 April 2023, <https://www.amnesty.org/en/latest/news/2023/04/turkiye-police-and-gendarmerie-commit-abuses-in-earthquake-zone/>

particularly reluctant to file official complaints, due to the treatment they were subjected to by law enforcement authorities in Türkiye, and out of fear of further attacks and reprisals.<sup>100</sup>

On 18 June 2023, after the dispersal of the Istanbul Trans Pride March, law enforcement officials used unlawful force amounting to torture or other ill-treatment while detaining at least five LGBTI protesters.<sup>101</sup>

## RECOMMENDATIONS

Amnesty International recommends that Türkiye:

- Eradicates all forms of torture, and inhuman and degrading treatment and conducts full, prompt, independent and impartial investigations into all allegations of death in custody, torture or other ill-treatment perpetrated by police, gendarmerie, and military personnel.
- Ensures that all victims of torture and other ill-treatment have access to justice, remedies and reparations for the harm they have endured.
- Establishes and implement an independent oversight mechanism to investigate allegations of torture and other ill-treatment in line with the recommendations from the concluding observations on the initial report of Türkiye adopted by the Committee at its 106th session.<sup>102</sup>

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<sup>100</sup> Amnesty International and Human Rights Watch, Türkiye: Police and gendarmerie commit abuses in earthquake zone, (previously cited).

<sup>101</sup> Amnesty International, Türkiye: 2023 Prides Took Place Amid Discriminatory Restrictions and Abuse of the Rights of the Protesters, (previously cited).

<sup>102</sup> UN ICCPR Human Rights Committee, Concluding observations on the initial report of Turkey adopted by the Committee at its 106th session, 13 November 2012, <https://documents.un.org/doc/undoc/gen/g12/475/98/pdf/g1247598.pdf>, para 14.



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