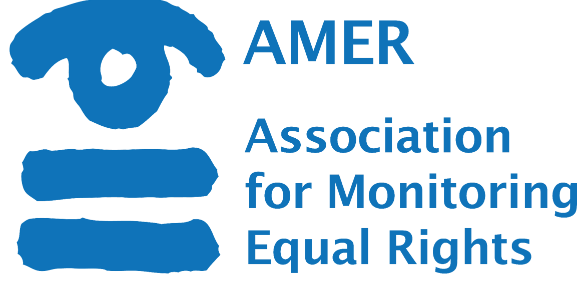

Submission to the UN Human Rights Committee before the Consideration in its 142nd Session of Turkey State Report Submitted Under Article 40 of the Covenant

16 September 2024

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Introduction

1. Association for Monitoring Equal Rights (*Eşit Haklar İçin İzleme Derneğ*i/AMER) was established in 2010 by a group of activists working in different areas with the aim of systematic monitoring and reporting of human rights. The association's main areas of work include access to justice for disadvantaged groups, anti-discrimination and equality, rights to freedom of peaceful assembly and organization and the right to vote and stand for election.
2. This submission covers general information on the Human Rights Action Plan, State reservation to Article 27 of the Covenant, compliance of the Human Rights and Equality Institution of Turkey with the Paris Principles, non-discrimination, peaceful assembly and association and participation in public affairs.

I. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

A. Human Rights Action Plan

3. The Human Rights Action Plan, which was in force for 2021-2023, failed to address Turkey's most fundamental and vital issues in the field of human rights. During the preparation process of the Plan, recommendations and criticisms of civil society organisations (that are working in the field of anti-discrimination and human rights) regarding the deep-rooted problems in the field of judiciary and fundamental rights were not taken into consideration. In this regard, the Action Plan was not prepared with a participatory and pluralistic approach and was not implemented in terms of many targets defined by the Plan. A strong political will to solve the fundamental problems in these areas has not been observed.
4. The Action Plan did not include any measures or constitutional amendments to ensure the independence of the judiciary from the executive branch. The anti-terrorism legislation, which is overly broad and vaguely defined, and often used against dissenting politicians, journalists, activists, human rights defenders, and critics of government policies, was not reviewed during the period the Plan was in force, and no measures were taken to prevent its arbitrary application.

B. Reservation to Article 27 of the Covenant

5. The reservation made by the Turkish Government to Article 27, citing Article 10 of the Constitution and the 1923 Treaty of Lausanne, removes the obligation to guarantee the rights recognized under the treaty for all individuals within its territory and subject

to its jurisdiction without discrimination, and therefore contradicts the spirit of the treaty.

6. Turkey recognises only the Jewish, Armenian and Greek peoples as minorities under the Lausanne Peace Treaty of 1923. There is no provision in the Treaty that prevents other ethnic or religious groups living in Turkey from being recognised as minorities or from exercising the rights granted to minority status. Turkey interprets the provisions of the Treaty narrowly.[1]

II. Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the previous recommendations of the Committee

A. Constitutional and legal framework within which the Covenant is implemented (art. 2)

a. Human Rights and Equality Institution (TİHEK)

aa. legal framework: structure, tasks and duties

(Paragraphs 19-25 of the State Party Report)

7. TİHEK was established in 2106 with the aim of protecting and promoting human rights, preventing discrimination, combating torture and ill-treatment and fulfilling its duty as a national prevention mechanism in this regard. In 2020, TİHEK's duties were expanded to include acting as the National Reporting Authority under the Council of Europe Convention on Action against Trafficking in Human Beings.
8. TİHEK was established by Law No. 6701 and its duties and tasks are clearly and broadly defined in the law. Listed grounds of discrimination in the TİHEK law excludes sexual orientation and gender identity.
9. The Board, consisting of a chairperson, a vice-chairperson and 9 members, serves as the decision-making body of TİHEK. The provisions in Article 10 of the Law on the election of the Board members and ensuring pluralism and expertise within the Board, as well as the criteria for Board membership were amended by the Presidential Decree No. 703 issued in 2018.[2]
10. With this amendment, the President, who is also the leader of a political party (AK Party), is authorized to appoint the chairperson, vice-chairperson and 9 members of the Board. Being a civil servant has become the sole and sufficient criterion to be a member of the Board. With the amendments, the structure of the Board has been rendered completely incompatible with the Paris Principles.
11. In the General Elections held in 2023, 2 members of the Board applied for parliamentary candidacy to the AK Party, 1 member of the Board was elected as an MP and left the Board, while the other member continues to serve in the Board since

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[1] Also see CERD/C/TUR/CO/4-6 https://documents.un.org/doc/undoc/gen/g16/003/50/pdf/g1600350.pdf

[2] Decree Law No. 703 on the Amendment of Certain Laws and Decree Laws to Ensure Compliance with the Amendments to the Constitution, published in the Official Gazette dated 9.7.2018

he could not be elected as an MP. The President of the Republic appointed a new member, who served as Deputy Minister of Defence in previous governments, to replace the member who left the Board. There are only 2 female members in the current board.

12. With its decision dated 7/12/2023, the Constitutional Court revoked a significant part of the amendments made to Article 10 of the TİHEK Law by the Decree Law No. 703 as unconstitutional. The Court gave a 12-month period of time to make legal arrangements regarding some of the revoked provisions, and decided that some of them would enter into force on 4/06/2024, the date the decision was published in the *Official Gazette.*
13. TIHEK receives a share from the general budget. The Law on TİHEK does not include any ratio regarding the share to be allocated from the general budget. The share to be allocated to the Institution from the general budget is at the discretion of the government. This situation renders the institution financially insecure and threatens its independence. TİHEK has the authority to select its own personnel, but the authority to allocate the necessary staff for the recruitment of personnel belongs to the government.
14. Although the exact number of centers in Turkey is unknown, the number of centers falling within the scope of TİHEK's mandate as a national prevention mechanism is more than 15,000. TİHEK published reports on 223 centers in total, 19 in 2018, 29 in 2019, 8 in 2020, 52 in 2021, 54 in 2022, 44 in 2023 and 17 as of April 2024. TİHEK states that 129 of the 223 visits were unannounced visits. A total of 17 staff work in the National Preventive Mechanism unit of TİHEK.[3] With its current financial and human resources, it is not possible for TİHEK to be an effective torture prevention mechanism.
15. TİHEK does not have a strategy and protocol for visits to these centers. The institution's own reports show that before many ‘unannounced’ visits, the governorships of the provinces where the visits would be made were asked in advance to allocate personnel such as doctors, psychologists, etc to the TİHEK delegation.
16. Considering that approximately 75% of its annual budget is spent on personnel expenses, according to its financial reports, it is seen that the Institution does not have the financial resources to fulfill its three different duties (protection and promotion of human rights, fight against discrimination and National Prevention Mechanism).
17. There is no parallelism between the institutions where the allegations of torture made public and the institutions visited by TİHEK. It did not visit any of the centers subject to the allegations during the period when the allegations were made public.
18. The institution lacks constitutional basis and guarantees subject to the legislative organ. Some other powers granted to the President of the Republic in its founding law, apart from the election of members, show that the institution is not independent from the executive branch. For instance, the opening of offices affiliated to the Institution and the preparation of the working regulations of these offices are only possible with the approval of the President of the Republic.

[3] https://www.tihek.gov.tr/public/editor/uploads/ENg6W4jE.pdf

19. Ensuring TİHEK's compliance with the Paris Principles has been among the recommendations in Turkey reports prepared by several UN Committees and Council of Europe mechanisms. The government is also aware that TİHEK is not in compliance with the Paris Principles. For this reason, the Human Rights Action Plan (HRAP) announced in 2021 included among its targets the full alignment of the TİHEK and the Ombudsperson's Office (KDK) with the Paris Principles.
20. However, despite the fact that no improvements were made in the founding law and institutional structure of TİHEK in line with the goals of the HRAP, TİHEK applied for accreditation to the Accreditation Sub-Committee of the Global Alliance of National Human Rights Institutions (GANHRI) on 1.6.2022, six years after its foundation.. In October 2022, GANHRI recognised TİHEK as a Class B national institution incompatible with the Paris Principles.[4]
21. Monitoring the national implementation of human rights conventions to which Turkey is a party is among the legal duties of TİHEK. However, the Institution has not monitored the implementation of any convention within the scope of this duty.
22. Turkey was a party to the Istanbul Convention when TİHEK was established. In 2021, Turkey withdrew from the Convention by a Presidential Decree. TİHEK did not express any opinion on the decision to withdraw from the Convention; on the contrary, the president and board members of the institution lobbied in favor of the withdrawal decision.
23. TİHEK did not make any recommendations to the government on becoming a party to the human rights conventions to which Turkey is not a party or on the lifting of the state's reservations to the conventions.
24. Although its founding law gives TİHEK the duty to monitor the legislative work related to its field of work and to make recommendations to the relevant authorities, TİHEK has not prepared any opinions or recommendations on any draft law discussed in the legislative organ to date.
25. TİHEK did not express any opinion on the policies or measures developed by the government during the Covid 19 Pandemic and the earthquake on 6 February 2023, which increased the risk of discrimination against disadvantaged groups.
26. TIHEK received a total of 10,063 applications in 2017-2023. It found 98% of these applications as inadmissible or not to be examined. The number of its decisions that resulted with a violation accounts for 107 during this period.[5]

Recommendations:

27. A comprehensive amendment should be made to the law on TİHEK by taking the opinions of all relevant parties into consideration. The Constitutional Court's decision to annul the amendments to the law provides a suitable ground for this.
28. TİHEK should be accountable to the Parliament and the Law should be amended accordingly.

[4] https://www.tihek.gov.tr/kategori/pages/BM-ve-Ulusal-insan-Haklari-Kurumlari
[5] This information is compiled from the decisions published on the website of TIHEK. The Institution does not publish the statistics of its decisions on applications.

29. The authority of the President of the Republic to appoint the members of the Board should be removed from the law, pluralism and expertise should be accepted as the main criteria for the members of the Board, and NGOs, universities, bar associations and the Parliament should be included in the selection process of its members.
30. The duties and tasks of TİHEK should be limited to human rights violations and the prevention of discrimination, and an independent body should be established as the National Prevention Mechanism.

Non-discrimination (Articles 2, 3, 6, 25 and 26)

Legislation

31. There is no comprehensive anti-discrimination legislation that defines discrimination and types of discrimination in accordance with international standards, that shifts the burden of proof, imposes penal sanctions and establishes effective redress mechanisms.
32. Existing regulations are in the form of general equality regulations. The non-discrimination regulations in many laws either do not cover all grounds of discrimination, do not contain definitions of discrimination or do not include criminal sanctions.For example, although the Law on Persons with Disabilities prohibits discrimination on the basis of disability, there are no criminal sanctions for cases where discrimination occurs.
33. Discrimination is criminalized in Article 122 of the Turkish Penal Code (TPC). The scope of the article is limited to access to public services, recruitment, leasing and prevention of economic activities. With the 2014 amendment, the phrase "and similar" at the end of the grounds of discrimination specified in the law was removed and the phrase "hate" was added, and grounds of discrimination such as ethnic origin, sexual orientation and gender identity were excluded. With this amendment, the scope of the offense of discrimination has also been narrowed and only the existence of a motive of hate has paved the way for punishment. The article has ceased to be applicable and effective.
34. Investigation authorities do not conduct effective investigations into allegations of discrimination offenses and cases of discrimination often result in impunity. To date, no court judgment has been issued in accordance with Article 122 of the TPC.
35. Similarly, although TİHEK has the authority to hear witnesses and conduct on-site investigations in discrimination applications, it does not use this authority and does not conduct effective investigations.
36. Turkish legislation includes regulations that institutionalize discrimination. Specifically, Law No. 2527, which governs the employment of foreigners of Turkish descent in both public and private sectors, creates discriminatory practices based on ethnicity. This law, along with related regulations and circulars, enables direct discrimination against non-citizens based on their ancestry. The purpose of this law, which includes the procedures and principles to be applied to foreigners of Turkish descent working in the public or private sector in Turkey, is stated in Article 1 as

follows “... The purpose of this Law is to ensure that foreigners of Turkish descent residing in Turkey can freely practice their professions and arts, and that public institutions and organizations, except the Turkish Armed Forces and the Security Organization, and private to ensure that they can be employed in organizations.”

Recommendation:

37. A comprehensive anti-discrimination law should be adopted in full compliance with the Covenant which includes the definition, types, basis and penal sanctions for the effective prohibition of discrimination.

Disaggregated Data Collection

38. Despite recommendations from various treaty bodies, Turkey does not collect disaggregated data that would allow for specific measures to address discrimination. This situation hinders both the state's and civil society organizations' ability to work effectively and develop solutions. The policy documents and action plans created are also lacking in intersectional perspective, and their success in practice is insufficient.

Freedom of expression, peaceful assembly and association (Articles 19, 21 and 22)

I. Freedom of expression

A. Law No. 7418 on Amendments to the Press Law and Certain Laws

39. The "Law No. 7418 on Amendments to the Press Law and Certain Laws," also known as the "Censorship Law," was published on 18 October 2022. It introduced Article 217/A to the Turkish Penal Code, criminalizing the dissemination of misleading information related to national security, public order, or health with the intent to create fear or panic. Those found guilty can be sentenced to one to three years in prison, with harsher penalties if the offender conceals their identity or acts within an organization.
40. With the aforementioned law, the balance between public order and freedom of expression is disproportionately shifted against freedom of expression. First of all, it is not easy for people to be sure whether an information is untrue or not when sharing it, considering the conditions of social media; thus, there is a risk that people may choose not to share any information because they cannot be sure whether it is true or not, which might create a “chilling effect” in the context of freedom of expression on social media.

41. This law criminalises the dissemination of false information under certain conditions. Accordingly, the court will determine which information is "untrue". Therefore, what is true will also be determined by the court. The possibility of criminalising the dissemination of information without the court deciding whether it is untrue or not poses a problem in terms of the principle of legal certainty in limiting freedom of expression. In the implementation of this law, opposition journalists were targeted; Tolga Şardan, Cengiz Erdinç and Batuhan Çolak, opposition journalists from different political backgrounds, were detained.

II. Freedom of Peaceful Assembly

42. There are significant areas of concern regarding issue 26(a) of your committee's list. In Turkey, the right to peaceful assembly is protected under Article 34 of the Constitution. This constitutional provision is in line with international standards. However, the primary legislation on peaceful assembly, the Law on Meetings and Demonstrations, significantly narrows the framework set by the Constitution. In addition, the Provincial Administration Law and the Law on the Duties and Powers of the Police grant broad powers to public authorities and law enforcement concerning peaceful assembly. There is no effective remedy mechanism against the arbitrary or abusive use of these powers. Furthermore, Law No. 6638, which came into force in March 2015, has provided an additional set of broad powers to both governors and law enforcement agencies.
43. In conclusion, the legal framework concerning the right to peaceful assembly does not include provisions related to the positive obligations of States Parties to facilitate and protect peaceful assemblies and their participants. For example, contrary to the approach of the Convention and the Committee's General Comment No. 37, Article 3 of Law No. 2911 states that foreigners must obtain permission from the Ministry of Interior to organize meetings and demonstrations, and their participation in peaceful assemblies is subject to the permission of the Ministry of Interior and a notification to the governorates 48 hours before the meeting. According to Article 9, only persons with legal capacity and over the age of 18 may be part of organizing committees.
44. As regards question 26(b) of your Committee's list, there are also significant problem areas. In practice, the notification regime set out in Law No. 2911 operates as a permit regime where permission must be obtained prior to demonstrations. In every case where the notification requirement is not complied with, this is used as a justification for the intervention of law enforcement officers. This also neutralises spontaneous demonstrations or counter-demonstrations, both of which are protected by Article 21.
45. The legal issues concerning peaceful assembly, addressed in the committee's list under sections 26(a) and 26(b), also manifest in a discriminatory and intersectional manner. Interventions, often in violation of international law, largely target opposition groups, women's movements, and the LGBTQI+ movement. In its response to the committee (response 264), the government justifies the ban on the "Pride March" in Istanbul's İstiklal Street, citing concerns about disrupting daily life and affecting businesses. However, İstiklal Street holds symbolic importance, and allocating it for a few hours once a year for the Pride March is in line with the principles of a democratic society.

46. Specifically, through the broad powers granted to the administration by Laws No. 5442 and No. 2559, meetings and demonstrations are restricted by provincial or district governorships. These restrictions can involve prohibiting meetings and demonstrations for specific periods or indefinitely across a province or district, or banning specific events such as May Day celebrations or Pride Month events.

III. Freedom of Association

47. In response to the committee's issue 26(c), the government stated that the provisions of Law No. 7262 were implemented with input from civil society organizations (CSOs) to ensure transparency and prevent abuse of charitable activities. Under this law, individuals serving in non-general assembly organs of associations may be suspended by the Ministry of Interior if prosecuted for certain crimes. However, the law does not specify how long the suspension will last, and others within the same organ, even if not prosecuted, may also be suspended. Additionally, if the criminal court’s assessment differs from that of the administration, the ruling does not require the administration to reconsider the suspension. The Constitutional Court of Turkey ruled that this provision of Law No. 7262 constitutes a disproportionate limitation on the freedom of association and annulled it.
48. Under Law No. 7262, when individuals are suspended due to criminal proceedings related to certain offenses, a trustee can be appointed by the court to replace them. However, in a previous ruling (E.2005/8, K.2006/2), the Constitutional Court stated that determining how to replace members of a suspended association organ should be outlined in each association's bylaws, as part of the freedom of association. The Court found that appointing a trustee by court order is not the least restrictive measure to achieve the law’s goal. Allowing associations to replace suspended members themselves is a less invasive option. The Court ruled that the limitation on freedom of association imposed by this provision does not meet the criteria of necessity, and thus, it annulled the provision.

legislation

49. Freedom of association is protected under Articles 33, 51, 53 and 54 of the Constitution, respectively on ‘freedom of association’, ‘right to form trade unions’, ‘collective bargaining, “right to strike and lock-out” and “forming, joining and leaving parties”. However, legislation significantly narrows the scope of the constitutional protection to which freedom of association is subject. Public authorities interfere with freedom of association, contrary to their obligation to respect, protect and fulfil, as well as their obligation to facilitate the exercise of the right. The legislation on CSOs in Turkey is extremely complex and rapidly changing. This situation gives public authorities wide powers over CSOs and paves the way for the arbitrary exercise of these powers.
50. According to the legislation, all associations must have legal personality, a minimum of 7 founders is required to establish an association, and permission is required to use

certain words in association names. The legislation also contains other limitations, such as authorising a large number and variety of public institutions to supervise CSOs and stipulating that foreign CSOs can open branches in Turkey with permission.

51. Additionally, certain public officials, such as police officers or members of the judiciary, are prohibited from joining or forming unions.
52. Additionally, some legislation includes subjective criteria that could lead to arbitrary enforcement, such as being "contrary to national unity or national interests" or "contrary to morality." For example, Article 101 of the Civil Code imposes limitations on the purposes of foundations, stating that it is not possible to establish a foundation with objectives "contrary to the characteristics of the Republic defined by the Constitution, the rules of the Constitution, laws, morality, national unity, and national interests," or with the aim of supporting a specific race or community.
53. In July 2023, the General Directorate of Civil Society Relations published a Guide on the Inspection of Associations. Article 6 of this Guide outlines the objectives of inspections, including not only ensuring legal compliance but also evaluating the "accuracy, efficiency, and effectiveness of their activities and commitments." Granting inspection officials the authority to assess efficiency and effectiveness, typically the domain of association members and their governing bodies, constitutes an infringement on the autonomy of these associations. Incorporating "efficiency and effectiveness evaluations" into the inspections conducted by ministry officials sets the stage for arbitrary interference with civil society organizations (CSOs). This reconfigures CSOs as if they were "state institutions" or subordinates within an administrative hierarchy, rather than independent entities.
54. Legislative developments are announced through the "Official Gazette," but there is arbitrariness and uncertainty regarding the implementation of these regulations. This uncertainty arises from a lack of clear communication with civil society about the administrative processes affecting them. Additionally, the lack of uniformity in these practices contributes to the ongoing ambiguity.

arbitrariness of the audit process

55. CSOs face arbitrary and unpredictable inspection processes. They are often unaware of when, how, by whom, or for how long they will be inspected. Some CSOs are inspected once every few years, while others face multiple inspections within a year. Due to the lack of a common practice in the inspection process, inspectors carry out their duties arbitrarily, and this arbitrariness is used to criminalize or penalize dissenting organizations. LGBT+ associations, women's rights organizations, and human rights groups experience more stringent inspections, both in terms of quality and quantity, and face more administrative sanctions compared to other types of organizations.

risk categorization of civil society organizations

56. The Regulation on Amendments to the Associations Regulation, which came into effect on October 21, 2021, introduces a non-objective categorization system for

associations, creating a discriminatory situation regarding freedom of association. According to the regulation, inspections are based on risk analyses, with associations categorized into high, medium, and low-risk groups. Risk criteria are reviewed annually based on new information. High and medium-risk associations are subject to inspection programs prepared by the Ministry of Interior or local administrative officials. The procedures for risk analysis and inspections are determined by the General Directorate. Low-risk associations are inspected only if deemed necessary due to judicial or administrative requests or other evaluations. The regulation leaves discretion to the authorities without objective standards, leading to arbitrary and discriminatory categorizations. For example, human rights and LGBT+ organizations have been disproportionately classified as high risk.

Recommendations:

57. Noting that there are instances where the government and lower courts do not comply with the Constitutional Court's decisions, as seen in the Can Atalay case, and given the uncertainty in Turkey's hierarchy of norms and rule of law due to the lack of recognition of Constitutional Court decisions, we strongly recommend recognizing the Constitutional Court's annulment decision regarding Law No. 7262. Future legislation regarding the annulled parts of the Law shall be contemplated in the light of international human rights agreements and universal principles.
58. To understand the proportion of police interventions, please publicly provide data regarding police intervention in every protest and demonstration (including LGBT+ movement events).
59. Establish clear, transparent, predictable, non-discriminatory, and objective standards to address the deficiencies in standards for the inspections of associations as raised by civil society.
60. Establish clear, transparent, predictable, non-discriminatory, and objective standards for risk categorization in the context of classifying associations.
61. Ensure that the officials conducting audits of associations have adequate training and qualifications. Prevent officials without the necessary qualifications and training from auditing.
62. The broad powers granted by law to provincial or district governorship that allow them to restrict or ban protests and assemblies shall be abolished. And such restrictions shall only be decided by courts.

Participation in public affairs (arts. 2, 3, 19, 21, 25 and 26)

63. The Supreme Election Council (SEC) is responsible for overseeing the entire administration and judicial supervision of the electoral process. It has the authority to manage all aspects of election administration from start to finish, including addressing complaints and objections during and after the election. The SEC also establishes voter registers, creates educational programs for radio and television to inform voters

about their rights and obligations, and takes necessary measures to ensure that disabled voters can participate easily in the voting process.[6]

64. According to the Constitution (Art. 79), the decisions of the SEC cannot be appealed to any authority. Due to this provision, voters cannot apply to the Constitutional Court or to a national human institution for violation of their conventionally and constitutionally protected rights or for discrimination.
65. According to the legislation, those who have been appointed a guardian by the courts cannot vote. This article removes the right to vote for people with mental disabilities. Despite the recommendation of the UN Committee on the Rights of Persons with Disabilities, there has been no progress on this issue.[7]
66. In Turkey, persons convicted of intentional crimes regardless of the gravity of the offense committed and the length of the sentence as well as those serving military service and military students are deprived of their right to vote. These restrictions on the right to vote are contrary to international standards and judgements of the European Court of Human Rights.[8]
67. AMER is a member of the Global Network of Domestic Election Monitors.[9] Despite this, since 2011 the SEC has not accepted accreditation requests from ESHİD and other civil society organizations to act as independent election observers, citing the lack of such provisions in the legislation. In particular, in eastern and southeastern provinces, voters and human rights defenders attempting to observe elections on election day are often prevented by law enforcement officers.[10]
68. According to the State Party Report (para. 278), by Law No. 7102 dated 13 March 2018, voters who are bedridden due to illness or disability were granted the right to vote at their residences in mobile ballot boxes. There is no restriction in the law in terms of the place of residence of the voters. However, the SEC applies this regulation in a discriminatory manner only for bedridden voters residing in provincial and district centers. Bedridden voters residing in towns and villages, which are smaller settlements, cannot vote due to the SEC decision.
69. Under the electoral law, voter registers are compiled using the national address-based population registration system. As a result, homeless individuals, women in shelters, and Roma citizens living in tents are not registered as voters, preventing them from their right to vote.
70. There are citizens who do not speak Turkish or whose mother tongue is not Turkish in Turkey and despite the fact that this was the subject of an application to the SEC in 2015,[11] information and training materials for voters are only prepared in Turkish. No materials are provided in other languages spoken in Turkey, leaving non-Turkish-speaking voters without adequate resources.

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[6] Law No. 7062, Article 6.

[7] https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsvOO0RvDbzSfy057%2Flfh1RyuPPMs4u7aeyVVDXGO7kQaXeKOi4HMWsKQKenk8jrFoo0FZVcmmCHHcLleRFN8xZf4sNINqiu43mGrHNXgI14t

[8] See 1990 Copenhagen Document, Article 24; Söyler v. Turkey, Application no. 29411/07, Judgment of 17 September 2013.

[9] https://gndem.org/members/

[10] In its 2023 Election Observation Report, OSCE/ODIHR recommended the following to the Turkish government: "The law should be amended to allow observation by international and citizen observers, in line with Article 8 of the 1990 OSCE Copenhagen Document. Observers should be granted access to all stages of the electoral process, including voting, counting and tabulation. Observers should be allowed to accreditation foradequate Arrangements should be introduced." https://www.osce.org/files/f/documents/1/f/553966.pdf (recommendation 24).

[11] https://www.osce.org/files/f/documents/1/d/179806.pdf

71. Discriminatory discourse and hate speech have been increasingly prevalent during campaign periods, particularly since the 2015 General Elections. These discourses often target ethnic and religious minorities, asylum seekers, and LGBTI+ individuals. Despite the Committee on the Elimination of Racial Discrimination's (CERD) recommendations in 2015,[12] no legal regulations or policy documents have been adopted to address or prevent hate speech and discriminatory rhetoric.
72. AMER submitted separate applications to the SEC and Human Rights and Equality Institution of Turkey (TİHEK) during the three elections held between 2019 and 2024, arguing that the differential treatment of bedridden voters, the denial of voting rights to the homeless, and the lack of voter education materials in other languages violated the prohibition of discrimination. All of these applications were rejected by both institutions. Additionally, AMER submitted three applications to TİHEK, requesting policy recommendations for the media, political parties and candidates to prevent discriminatory discourse and hate speech during election campaigns, but these applications were also rejected.
73. There are no legal guarantees to ensure equality in the financing of election campaigns and the use of public funds by political parties. The guarantees that existed in the past regarding the impartiality of the public broadcasting organ and public officials have been abolished in the last 10 years. There are no legal arrangements to prevent biased and arbitrary use of public facilities and administrative powers.[13]

Recommendations

74. Although the electoral threshold has been reduced to 7 per cent, it is still high and limits citizens' participation in political life and in the governance of the country. The electoral threshold should be reduced to 3 per cent.
75. The SEC's decisions on the administration of elections should be open to judicial review.
76. Legal arrangements should be made to grant voters the right to make individual applications to the Constitutional Court for the decisions of the SEC regarding alleged violations of fundamental rights protected by the Constitution.
77. In line with OSCE/ODIHR recommendations, Turkey should amend its legislation to guarantee the right to vote for students in military schools and those fulfilling their military service.
78. Restrictions on the right of convicted persons to vote must be proportionate to the nature of the offense committed.
79. Restrictions on the voting rights of persons with intellectual disabilities should be in line with the Convention on the Rights of Persons with Disabilities.
80. An alternative registration system should be established by making a legal arrangement in order to ensure that people whose voting rights are prevented due to the address-based voter registry system can exercise their voting rights.

[12] https://www.esithaklar.org/wp-content/uploads/2015/12/CERD_C_TUR_CO_4-6_22500_E.pdf
[13] https://www.osce.org/files/f/documents/1/f/553966.pdf

81. The dismissal of elected local mayors by the decision of the Ministry of Interior contradicts the principles of democratic society and this power is open to arbitrary use. In accordance with the framework recommended by the Venice Commission, the dismissal of local mayors should be possible only in very limited cases and only by a court decision. In the event that courts dismiss elected mayors, municipal councils should have the right to hold internal elections for the selection of the new mayor.
82. Necessary legal arrangements should be made to ensure that voter trainings organised by the SEC are also conducted in different languages used by citizens in Turkey.
83. A provision should be added to Law No. 298 to enable CSOs to conduct independent election observation.
84. Electoral legislation should be amended in line with OSCE/ODIHR recommendations concerning the restrictions on the right to vote and be elected, transparency of campaign financing, and prevention of hate/discriminatory speech in campaigns.