

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	710
Land:	Tyrkiet
Kilde:	Human Rights Association (IHD)
Titel:	Submission to the Human Rights Committee on Türkiye 142 nd Session, 14 October – 7 November 2024
Udgivet:	September 2024
Optaget på baggrundsmaterialet:	22. april 2025

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

**CCPR - International Covenant on Civil and Political Rights
142nd Session (23 - 24 October)**

**From
Human Rights Association**



Table of Contents

- I. Introduction**
- II. Methodology**
- III. General information on the national human rights situation including the new measures and developments regarding the implementation of the Covenant**
 - A. Background**
 - B. Action Plan on Human Rights**
- IV. Specific information on the implementation of Articles 1 to 27 of the Covenant including the former recommendations of the Committee**
- V. Prohibition of discrimination (Articles 2, 3, 6, 25 and 26)**
- VI. Human rights defenders (Articles 6, 17, 19, 20, 21, 22 and 26)**
- VII. Freedom of expression, freedoms of peaceful assembly and association (Articles 19, 21 and 22)**
 - A. Freedom of Association**
 - B. Freedom of Assembly**
 - C. Freedom of Expression**
- VIII. Anti-terrorism measures (Articles 2, 4, 6, 7, 9, 14 and 17)**
- IX. Participation in public affairs (Articles 2, 3, 19, 21, 25 and 26)**

I. Introduction

1. This report, submitted to the UN Human Rights Committee by the Human Rights Association, provides a detailed analysis of Türkiye's compliance with the International Covenant on Civil and Political Rights and addresses the main human rights concerns in Türkiye according to the "List of Issues" provided by the UN Human Rights Committee. İHD will submit a further joint report with the coalition to the Human Rights Committee.

2. The Human Rights Association (İHD) is the oldest and largest human rights organisation in Türkiye. As a non-governmental and voluntary organisation, the association works to protect and promote fundamental human rights and freedoms without discrimination based on race, ethnic origin, language, religion or sect and belief, colour, gender, sexual orientation and gender identity, political affiliation. The head office of the association is located in Ankara, Türkiye and it has 26 local branches, 10 representative offices, and 7,910 members. İHD is also one of the founders of the Human Rights Foundation of Turkey (HRFT) and the Coalition for the International Criminal Court (CICC), a founding member of the Human Rights Joint Platform (HRJP) and a member of the International Federation of Human Rights (FIDH), EuroMed Rights (EMHRN), the World Organisation Against Torture (OMCT), the World Coalition against the Death Penalty, and the European Implementation Network (EIN).

3. This report aims to respond to Türkiye's state report, to reflect the current human rights environment in Türkiye through its findings, and to focus on issues affecting democracy, freedom of expression, civic space, and anti-discrimination policies that İHD considers urgent.

II. Methodology

4. This report has been prepared in the light of evaluations of human rights mechanisms, news sources, court files, international reports, special and annual reports issued by İHD, and data received from İHD's local branches and representative offices.

III. General information on the national human rights situation including the new measures and developments regarding the implementation of the Covenant

A. Latest developments and legislative framework

5. The peace and resolution process in Türkiye, which started in March 2013 and ended in April 2015, led to important political developments. Unfortunately, the democratic solution process to the “Kurdish Issue,” which is Türkiye’s most important problem, ended in failure. When it became clear that this process would not work, various special laws and decisions were implemented. The most important of these is the establishment of special courts to try crimes within the scope of the Anti-Terror Law, instead of the courts assigned by Article 10 of the Anti-Terror Law, which were closed with the decision of the Supreme Board of Judges and Prosecutors published in the Official Gazette dated 17 February 2015. The other is the domestic security package law numbered 6638 dated 27 March 2015 which was published in the Official Gazette dated 4 April 2015. The de facto authoritarian period has thus begun and the authoritarian process has progressed step by step.

6. The unresolved Kurdish issue and armed conflict have been going on since 2015. Türkiye’s military operations have also continued uninterrupted within the country and have been extended to the north of Iraq, and attempts have been made to take certain regions in the north of Iraq under control following Syria, and the area of conflict has expanded. The policy of appointing trustees to the municipalities in Kurdish cities with a dense Kurdish population and ignoring the will of the people in local governments has eliminated even the minimum of local democracy. In this regard, the Congress of Local and Regional Authorities of the Council of Europe published a report in 2017 criticising Türkiye for its trustee practices, which clearly contravene the European Charter of Local Self-Government.¹

7. A special characteristic of the parliamentary elections held in June 2015 was that the HDP, which was predominantly voted for by Kurdish voters, participated in the elections as a party for the first time and received 13.6% of the votes and 80 parliamentary seats, passing the high election threshold of 10%. In this election, the AKP, which had been in power alone since 2002, lost its majority in the government. When the political parties that entered the Turkish Grand National Assembly and had a group in the Grand National Assembly failed to reach a coalition agreement, re-elections were called. In this process, re-elections were held on 1 November 2015 under a wave of violence that deeply shook the society, particularly the 20 July 2015 Suruç massacre in Şanlıurfa, the killing of two policemen in Şanlıurfa, Ceylanpınar on 22 July 2015, the resumption of armed clashes on 24 July 2015, the beginning of a period of prolonged curfews in Muş, Varto on 16 August 2015 and armed clashes in urban centres (publicly known as trench and barricade incidents), and the 10 October Ankara Train Station Massacre.

8. In May 2016, temporary Article 20 was added to the Constitution by Law No. 6718 dated 20.06.2016, abolishing parliamentary immunity. Immediately after the adoption by the Turkish Grand National Assembly of the provisional Article 20 on the abolition of parliamentary immunity, AKP Chairperson and Prime Minister Ahmet Davutoğlu was forced to resign as Prime Minister and resigned on 22 May 2016.² The constitutional amendment was published in the Official Gazette on 6 June 2016 and entered into force.³

¹ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2017\)021-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)021-e)

² <https://www.resmigazete.gov.tr/eskiler/2016/05/20160522M1-1.pdf>

³ <https://www.resmigazete.gov.tr/eskiler/2016/06/20160608-1.htm>

9. On 15 July 2016, a coup attempt was staged by the Fethullah Gülen organisation (FETÖ/PDY) organised within the state, the coup was suppressed on 16 July 2016, and 5 days later, on 21 July 2016, a state of emergency was declared all over Turkey.⁴

10. The state of emergency (SE), which was initiated on 21 July 2016 and ended on 19 July 2018 on the grounds of the armed clashes that started on 24 July 2015 and the subsequent coup attempt on 15 July 2016, was made permanent with the “decree laws” enacted during the SE, and the SE regime was made permanent with the specially enacted Law No. 7145. The SE was lifted on 19 July 2018, but was extended for almost 3 years through Law No. 7145, which entered into force on 31 July 2018, and was extended for another year with Law No. 7333 enacted in 2021, and the most important SE measures were implemented for another 4 years.

On 11 September 2016, 28 mayors were removed from office and replaced with persons appointed by the central government with the trustee practices paved by the decree law no. 674 of the state of emergency.

11. With the constitutional amendment introduced under the state of emergency and declared adopted on 16 April 2017, the regime was changed and this regime was named the “Turkish Type Presidential Model” or the “Presidential Cabinet.” This regime is characterised by an authoritarian approach to governance. Before the constitutional amendment was submitted to the referendum, the Venice Commission visited Türkiye and released its opinion report on 13 March 2017, which contained very important caveats. The Venice Commission’s “Opinion on the amendments to the Constitution adopted by the Grand National Assembly on 21 January 2017 and to be submitted to a National Referendum on 16 April 2017” (CDL-AD (2017) 005) found that the principle of separation of powers was seriously undermined in the country.⁵

12. Presidential and parliamentary early general elections were held under the state of emergency in 2018 in Türkiye. Before the elections, Law No. 298 on Basic Provisions on Elections was amended in favour of the government.

13. İHD’s 31 March 2019 election observation report on the local elections held on 31 March 2019 contains serious allegations of violations.⁶ In the elections held on 31 March 2019, 101 municipalities (94 of which were HDP municipalities), which were seized by the government with SE decrees and appointed trustees while the mayors of İstanbul, Ankara, Bursa, Düzce, Niğde and Balıkesir that belonged to the ruling party were forced to resign and the people went to the polls with mayors elected by the municipal councils, that is, mayors were appointed in some way.

14. The authoritarian government based on one-person rule in Türkiye, when faced with the pandemic, tried to manage its authoritarian practices under the name of various administrative measures and with prohibition measures in violation of the Constitution. In other words, the management of the pandemic in March 2020 and 2021 was mostly based on the prohibition decisions taken by the Ministry of Interior and governorships in violation of the “principle of legality.”⁷

⁴ <https://www.resmigazete.gov.tr/eskiler/2016/07/20160721-4.pdf>

⁵ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)005-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)005-e)

⁶ <https://www.ihd.org.tr/31-mart-2019-yerel-secim-sureci-raporu/>

⁷ https://www.ihd.org.tr/wp-content/uploads/2020/08/20200811_IHD-Kovid19TedbirleriRaporu.pdf

15. One of the most important incidents of 2023 and one of the most important events to be focused on is the two earthquakes that occurred on 6 February, one after the other. On 6 February 2023, two earthquakes centred in Kahramanmaraş killed and injured thousands of people in Türkiye and Syria, destroyed villages and cities, and left survivors displaced and without shelter under harsh winter conditions. The problems, grievances and violations of rights caused by the earthquakes continue with all their gravity even though one and a half years have passed. İHD has formed delegations many times to observe and report the consequences of the earthquakes of 6 February, in which İHD also lost 14 members and executives, and has shared its observation reports with the public.^{8, 9}

16. Another important issue of 2023 was the presidential election held on 14 May 2023 (and the second-round election on 28 May 2023) and the parliamentary elections for the 28th term. İHD closely monitored this election process and the violations of rights and shared its observations with the public in its reports.

17. The government's restrictions on freedom of thought and expression, in particular the alarmingly increasing pressure and control over the press and human rights defenders, continued in 2023. In addition to the laws preventing the exercise of freedom of thought and expression, the pressure and restrictions on journalists in particular and on anyone who wants to exercise freedom of expression increased further with Law No. 7418, known commonly as the "Disinformation Law." This law, which entered into force after being published in the Official Gazette dated 18 October 2022 and numbered 31987, introduced some amendments to the Press Law.

18. The Kobani trial, known as the "Kobani Conspiracy Case," in which HDP co-chairs, elected HDP politicians, members of the party's executive committee, and executives are on trial, was postponed to a later date due to the earthquake of 6 February 2023. The request to postpone the hearing to a later date was not accepted because most of the lawyers of the politicians on trial in the Kobani case lived in the provinces affected by the earthquake and were unable to practice their profession due to the earthquake, but the court had to postpone the hearing after the lawyers could not be present at the hearing. Although all those on trial were not able to have their defences heard, in the prosecutor's final opinion consisting of 5,268 pages, all the evidence in favour of the politicians on trial since the beginning of the trial was disregarded. In the final opinion, hundreds of years of imprisonment were asked for the politicians, yet lawyers and politicians were prevented from defending themselves. On 16 May 2024, with the verdict given in the last hearing,¹⁰ heavy sentences were delivered unlawfully and many rights of the politicians on trial such as the right to a fair trial, the right to liberty and security, freedom of expression, the right to an effective remedy, the prohibition of discrimination, the right to vote, to be elected and to engage in political activities were violated.

19. Developments in the national human rights situation in Türkiye from 2015 to 2024 show that the country's process of harmonisation with the Covenant on Civil and Political Rights has not been bright and that insufficient progress has been made on the issues listed in the "List of Issues."

⁸ <https://www.ihd.org.tr/hatay-deprem-bolgesi-gozlem-tespit-degerlendirme-raporu/>

⁹ <https://www.ihd.org.tr/ihd-fidh-omct-tarafindan-ortak-aciklama-depreme-mudahale-sirasinda-insan-haklarini-koruyun/>

¹⁰ <https://www.ihd.org.tr/toplumsal-barisi-ve-demokratik-siyaseti-savunanlar-cezalandirilamaz/>

B. Action Plan on Human Rights (APHR)

20. Although the 15 July 2016 coup attempt ended in failure, it had devastating consequences in terms of the effects of the measures taken afterward. With the constitutional referendum held on 16 April 2017, while the state of emergency was still in effect, a new order of government and an authoritarian one-man regime was introduced, the principle of separation of powers was shelved, and the mechanisms of checks and balances were rendered dysfunctional.

21. The state of emergency, which was in effect since 21 July 2016, was not extended and lifted on 18 July 2018. However, the government adopted “Law No. 7145 on the Amendment of Some Laws and Decree Laws” on 25 July 2018 which rendered the state of emergency permanent. This law was ratified by the president on 31 July 2018 and entered into force. During the state of emergency period, 32 state of emergency decree laws were issued. Thousands of amendments were introduced to hundreds of laws with these decrees. Almost all of these amendments continue to be implemented after the end of the state of emergency.¹¹ All the powers granted and practices implemented through these decree laws are contrary to the UN International Covenant on Civil and Political Rights. On 30.06.2022, the Constitutional Court delivered a partial rejection and partial cancellation ruling on the rules of Laws No. 7145 and No. 7333 in its file numbered E.2018/137. The decision was announced to the public on 12.01.2023. This situation shows that the state of emergency practices continued in 2023 as well.

22. As can be seen from the EU progress reports, accession negotiations between Türkiye and the EU have effectively stalled. While conducting these negotiations, Türkiye has made commitments under the Copenhagen Political Criteria, known as “democracy, rule of law, human rights and minority rights.” However, in the current process, instead of the Copenhagen Political Criteria, an anti-democratic understanding of governance has become dominant. The perspective on human rights was determined entirely within the framework of security-oriented policies and was implemented as “security first and human rights second.” Türkiye is the only country of the Council of Europe to be placed under political supervision again by the Parliamentary Assembly of the Council of Europe in its resolution 2156 (2017) of 25 April 2017. As long as the recommendations of the Council’s political control decision were not followed, it was not possible to implement the announced judicial reform strategy document and the action plan on human rights was not realised as desired.

23. A “*Monitoring and Evaluation Board for the Action Plan on Human Rights*” has been established for the effective implementation and monitoring of the Action Plan on Human Rights. The Ministry of Justice prepares the “Annual Implementation Report” of the action plan and submits this report for the approval of the Monitoring and Evaluation Board. The report is also submitted to the Human Rights and Equality Institution of Turkey and the Ombudsman’s Office, and these institutions submit the results of their evaluation of the report to the Presidency and the Grand National Assembly of Türkiye. The Annual Implementation Report is publicised by the Presidency.¹²

24. However, since the Action Plan on Human Rights was made public on 2 March 2021, the promised annual implementation reports until 2024 have not been made public. Due to the lack of transparency by the government, it is not possible to monitor the Action Plan on Human

¹¹ <https://www.ihd.org.tr/surekli-ohali-duzenleyen-7145-sayili-kanun-hakkinda/>

¹² <https://insanhaklarieylemlani.adalet.gov.tr/Sayfa/bir-bakista-insan-haklari-eylem-planı>

Rights. There is no information disclosed to the public by the government on whether the activities and targets in the plan have been realised.

25. Although the Enforcement and Bankruptcy Law No. 2004, the Turkish Civil Code No. 4721, the Turkish Criminal Code No. 5237, the Criminal Procedure Law No. 5271, Law No. 6384 on the Settlement of Certain Applications to the European Court of Human Rights by Payment of Compensation and Law No. 6698 on the Protection of Personal Data have been amended to implement the objectives of the Action Plan on Human Rights through the publication of the “Law No. 7499 on Amendments to the Code of Criminal Procedure and Certain Laws” in the Official Gazette dated 12.03.2024 and numbered 32487, most of the promises of the Action Plan on Human Rights have not been realised.

IV. Specific information on the implementation of Articles 1 to 27 of the Covenant including the former recommendations of the Committee

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

26. Since the qualifications of the HREIT, which was supposed to be established for the promotion and protection of human rights in Turkey, are not based on the minimum principles to be followed regarding its mandate, duties and structural conditions, both during the preparation of the founding law and during the debates on the draft prepared by the institution in 2014, civil organisations have shared their concerns on the issue with the public in detail.¹³

27. Leading human rights NGOs in Türkiye have repeatedly shared with the public why the HREIT could not be accredited as a National Preventive Mechanism due to its institutional structure that was not in compliance with the Paris Principles. Nevertheless, in the justification of the draft law, despite the contrary opinions of NGOs, the fact that the National Preventive Mechanism task, which was previously granted to the HREIT by a decree law, is granted to the HREIT, again shows that the opinions of NGOs are ignored. International standards, which are not included in the institutional design and functions proposed for the HREIT, are only mentioned in the justification of the law.

28. All members of its board were designated by appointment; the chairperson and vice-chairpersons of the board were elected by the prime minister; and even the internal regulations of the institution were subject to the approval of the council of ministers. Therefore, such an institution cannot be independent when assessing the executive branch in terms of human rights. Considering its budget, internal management structure, decision-making body, the board and the way the members are designated, it is not possible to approve this institution as a National Preventive Mechanism in accordance with the UN-OPCAT due to its lack of independence and administrative financial autonomy.

29. The definition and grounds of discrimination in the draft law of HREIT and the measures and precautions it introduces against discrimination are significantly deficient. It cannot be expected that an institution that cannot file individual applications regarding human rights violations, that cannot deal with claims other than the limited grounds of discrimination, that

¹³ For the joint press release of the Helsinki Citizens’ Assembly, Human Rights Association, Solidarity Association for Human Rights and Oppressed, Human Rights Foundation of Turkey and Amnesty International-Turkey on 18 April 2012, see: <https://tihv.org.tr/turkiye-insan-haklari-kurumu-kurulmasina-dair-kanun-tasarisi-derhal-geri-cekilmelidir/>

cannot examine public institutions on its own, and that cannot even determine its own working methods, will be able to fulfill the functions expected of it.

30. HREIT's activities are not compatible with the principle of universality of human rights. HREIT also repeats the hate speech adopted by the government against LGBTI+ individuals and its activities as an institution also display a discriminatory attitude. This situation will be analysed in detail under the heading of prohibition of discrimination.

V. Prohibition of Discrimination (Articles 2, 3, 6, 25 and 26)

31. Although Article 10 of the Turkish Constitution lists the grounds for discrimination, it is quite incomplete and not in line with the definitions in international conventions. Article 10 of the Constitution does not include fundamental concepts such as "ethnic origin, gender identity and sexual orientation, non-belief, and all kinds of beliefs."

32. Although there is no typical hate crime law in Türkiye, there are various provisions in the criminal legislation that can be regarded as hate crimes. Hate speech and hate crimes are not regulated under a single title. The "crime of hate and discrimination" in Article 122 of the TPC, which covers only the economic damages of the victim, the "crime of insult" in Article 125, the "crime of preventing the exercise of freedom of belief, thought and opinion" in Article 115, the "crime of damaging places of worship and cemeteries" in Article 153 and the "crime of inciting the public to hatred and hostility and humiliation" in Article 216 are the headings under which hate speech and hate crimes are regulated. Under these types of offences, not all of the conditions that should be included under the grounds of discrimination are listed and therefore there are incomplete regulations in all of these articles.¹⁴

33. Article 122 of the TPC criminalises direct discrimination and excludes indirect discrimination. The offence in question is defined as an offence that can only be committed with direct intent and motivated by hatred. It is very difficult to prove whether the offence was committed due to hatred of differences. This is because "hate" is an abstract concept and regulations on discrimination are generally difficult to prove. Thus, Article 122 of the TPC actually defines an offence that cannot be committed. However, the fact that the offence in the article is one that can be committed with special intent, together with other aspects, has made it almost impossible to prove this offence, except for acts that are clearly against the law. The fact that only certain acts are criminalised in the text of the article and that many other situations that may be encountered in social life are excluded from the scope is a deficiency.

34. In addition to the inapplicability of Article 122 of the TPC, human rights defenders, leaders of labour and professional organisations and politicians are frequently charged and convicted under Article 216 of the TPC.¹⁵

35. As noted in the European Commission's Türkiye 2023 Report¹⁶, anti-discrimination legislation is still not in line with European standards and is not duly implemented in practice

¹⁴ Special Report on Hate Crimes and Recent Racist Attacks in Turkey, Human Rights Association, 20 September 2022 https://www.ihd.org.tr/wp-content/uploads/2020/09/20200922_NefretSucuIrkciSaldirilarRaporu-OrnekVakalar.pdf

¹⁵ <https://www.ihd.org.tr/insan-haklari-savunuculari-nuray-cevirmen-ve-ahmet-adiguzel-serbest-birakilsin/> (Date of access: 27.05.2024)

¹⁶ European Commission. Türkiye 2023 Report. https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2023_en

in the country. Reports on discrimination on ethnic, religious grounds, sexual orientation and gender identity, and hate crimes continued.

36. The HREIT, which is in charge of implementing anti-discrimination legislation, completed the examination of 166 applications in 2022, but received 355 new applications within the scope of its “anti-discrimination” mandate during the year. Final decisions are sent to the relevant public institutions, but there is no systematic follow-up of the corrective measures taken.

37. Protocol 12 to the ECHR, which provides for a general prohibition of discrimination, has not been ratified and the recommendations of the European Commission against Racism and Intolerance (ECRI) have not been implemented. Legislation to combat hate crimes, including hate speech, is not in line with international standards and does not cover hate crimes based on sexual orientation, ethnic origin, age, or gender identity. There was no progress toward the ratification of the Additional Protocol to the Council of Europe Convention on Cybercrime on the criminalisation of acts of racism and xenophobia committed through computer systems.

38. The lack of legal protection against hate speech and hate crimes based on sexual orientation or gender identity has been exacerbated by negative bias in the media and discriminatory statements by high-level officials, including at the highest political level. On 21.03.2021, the Presidential Communications Department stated that Türkiye withdrew from the İstanbul Convention because it was “manipulated by a group of people trying to normalise homosexuality, which was incompatible with Türkiye’s social and family values.”¹⁷

39. Acts of discrimination, intimidation and violence against LGBTIQ persons, particularly transgender persons, increased.¹⁸ Some cases of LGBTIQ people who were killed or seriously assaulted continued.¹⁹

40. The HREIT and the Ombudsman’s Office did not admit applications related to sexual orientation and gender identity. The HREIT continued to refuse to process applications by LGBTIQ individuals on the grounds that discrimination against LGBTIQ individuals does not fall within its mandate, as the organisational law of the HREIT does not recognise “discrimination based on sexual orientation and gender identity” as a criterion of discrimination.²⁰

41. Hate crimes and hate speech against Kurds continued. There are numerous incidents where Kurdish citizens living in Türkiye have been subjected to hate crimes for speaking Kurdish or listening to Kurdish music.²¹ Since Article 122 of the TPC does not define the offence of discrimination based on ethnic group membership, perpetrators cannot be prosecuted for these offences and the courts acquit them.

¹⁷ <https://www.iletisim.gov.tr/turkce/haberler/detay/turkiyenin-istanbul-sozlesmesinden-cekilmesine-iliskin-aciklama>

¹⁸ <https://kaosgl.org/haber/istanbul-da-transfobik-nefret-cinayeti>

¹⁹ https://bianet.org/haber/trans-kadin-derin-s-yi-olduren-failin-davasi-23-mayisa-birakildi-292168#google_vignette

<https://t24.com.tr/yazarlar/yildiz-tar-insan-manzaralari/ecem-seckin-davasi-cebinde-uc-bicakla-geldigi-evde-cinayet-isledi,39468>

²⁰ Discrimination decisions rendered by the HREIT were also concerned with male applicants. (HREIT, Application No: 2021/547, Date of Decision: 17.08.2021)

²¹ <https://www.gazeteduvar.com.tr/kurtce-konustuklari-icin-saldiriya-ugradilar-isten-atilmalari-istendi-haber-1654325>

<https://www.rudaw.net/turkish/middleeast/turkey/0204202320>

<https://manage.rudaw.net/turkish/middleeast/turkey/010620201>

42. A number of attacks on HDP/DEM Party buildings and election offices were reported, including during the 2023 election campaign period. The attacks on the graves of Kurdish militants²² clearly demonstrate a violation of Article 153 of the TPC. Despite attacks on the graves of Kurdish militants, this article of the law is not enforced.

43. Attacks on “cemevi”s, Alevi’s places of worship, take place, but since Alevism is not recognised as a sect, belief or religion, attacks on Alevi belief centres are not processed according to Article 153 of the Turkish Penal Code and prosecutors do not initiate investigations in this direction. After the ECtHR’s ruling²³ on the recognition of cemevis as places of worship in Türkiye, the Court of Cassation’s 2015 ruling that cemevis are places of worship is not implemented and Article 153 of the Turkish Penal Code is clearly violated.

44. Although no official data are available, the general tendency is that Kurds, Syrians (often refugees), Greeks, Armenians, Jews and Alevi are the most targeted and most exposed to hate speech and crimes. The Jewish community and the Chief Rabbi organise annual Holocaust commemoration ceremonies in İstanbul, sometimes attended by local officials. Protestants continued to face problems with the official recognition of their places of worship. Hate speech and insults against atheists and deists continued.²⁴

45. The “2023 Judicial Statistics” published by the Ministry of Justice, General Directorate of Judicial Records and Statistics in March 2024 did not include any data on Article 122 of the TPC. There is no official data on investigations and prosecutions for hate and discrimination offences. Yet, this became official data on the policy of impunity in hate and discrimination offences.

46. According to the data in the “2023 Rights Violations Report” prepared by İHD, 1 Kurdish musician and 1 Assyrian woman were killed as a result of hate crimes and 54 people were injured because they were Kurdish, Alevi or belonged to a different religion or political view.²⁵ These data reveal that deaths and injuries resulting from hate-motivated crimes are one of the fundamental human rights problems in Turkey.

VI. Human Rights Defenders (Articles 6, 17, 19, 20, 21, 22 and 26)

47. Turkey notified all provincial police directorates of the UN Declaration on the Protection of Human Rights Defenders, which it adopted in 2004, with Circular No. 2004/139 of the Ministry of Interior. However, it is observed that the declaration has not been implemented.

48. The government uses the Anti-Terror Law No. 3713 (ATL) to partially or fully restrict freedoms and rights and to suppress the voices of human rights defenders. The ATL contains vague and overly broad definitions of terrorism and terrorist offences, which pose a serious threat to freedoms of assembly, expression, and thought.²⁶

²² <https://bianet.org/haber/diyarbakir-da-mezarlara-saldiri-hicbir-toplumda-kabul-gormez-261271>

²³ Mansur Yalçın and Others v. Türkiye, Application No. 21163/11, Date of judgment: 19.09.2017

²⁴ European Commission. Türkiye 2023 Report. https://neighbourhood-enlargement.ec.europa.eu/turkiye-report-2023_en

²⁵ <https://www.ihd.org.tr/2023-yili-hak-ihlalleri-raporu/>

²⁶ Iron Cage on Human Rights Defenders: Special Report on the Anti-Terror Law. <https://www.ihd.org.tr/yeni-rapor-insan-haklari-savunuculari-uzerinde-demir-kafes/>

49. In the trial of Osman Kavala, a prominent civil society figure, and 7 human rights defenders on charges of organising and financing the Gezi protests in 2013, Mr. Kavala was sentenced to aggravated life imprisonment on charges of “attempting to overthrow the government” and the other 7 defendants were sentenced to 18 years imprisonment on charges of aiding the commission of the crime.

50. In the Kobani Case, where 108 people, including former Peoples’ Democratic Party (HDP) Co-Chairs Selahattin Demirtaş and Figen Yüksekdağ, were on trial, Ankara 22nd Assize Court sentenced 24 politicians to prison sentences exceeding 400 years in total at the hearing held on 16 May 2024. On 16 May 2024, with the verdict delivered in the last hearing, heavy sentences were unlawfully imposed and many rights of the politicians on trial such as the right to a fair trial, the right to liberty and security, freedom of expression, the right to an effective remedy, the prohibition of discrimination, the right to vote, to be elected and to engage in political activities were violated.

51. Despite the ECtHR Grand Chamber’s judgment in the case of Selahattin Demirtaş v. Turkey (No.2) that “terrorism offences” under Article 314 of the TPC are not “foreseeable” under the Convention, in 2020 alone, 208,833 investigations and 54,906 cases were conducted under Article 314 of the TPC and 44,204 convictions were handed down.

52. Many investigations and prosecutions have been/are being carried out against İHD Co-Chair Eren Keskin and many other members and executives of the association due to their social media posts. In particular, it has become an established practice in Türkiye to subject human rights defenders and civil society representatives to judicial harassment and criminalise their activities. Many rights defenders face the risk of criminal investigation or prosecution for simply exercising their freedom of expression through social media posts.

53. Attorney Şüheda Ronahi Çiftçi, an executive of İHD Antalya branch and a member of the association’s law and prisons commission, was arrested on 8 November 2023 on the grounds of an interview she conducted on prisoner applications to İHD’s local Antalya branch.²⁷

54. In 2023, a large number of human rights defenders, including executives, members and employees of İHD, faced various pressures. 76 executives and members of İHD were taken into custody, 5 people were prosecuted, 2 people were acquitted in 2 cases, 2 cases are pending, 1 person was sentenced to 6 years and 3 months. Adana Chief Public Prosecutor’s Office issued a decision of non-prosecution in the investigation against 18 members of İHD who were taken into custody during the police intervention in a press conference in support of Saturday Mothers/People in Adana. In addition to the arbitrary violation of the right to liberty and security, it also violates the principle of legal security and certainty.

55. The greatest problem facing human rights defenders in Türkiye is the widespread pattern of judicial proceedings and criminal cases targeting them for their lawful and legitimate activities. Cases involving human rights defenders worryingly exhibit a “pattern of silencing people who legitimately question the views and policies of the government.”

²⁷ <https://www.ihd.org.tr/insan-haklari-savunuculari-uzerindeki-yargisal-tacize-son-verin/>

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

A. Freedom of Association

56. The state of emergency has had a devastating impact on civic space in Türkiye, particularly on freedom of association. At least 1,410 associations, 109 foundations, 19 trade unions and 149 media outlets, including news websites, newspapers, TV and radio channels, magazines and publishing houses were shut down by decree laws without a court order.²⁸ Former members and executives of the NGOs have been blacklisted and harassed in different ways because of their past membership of these associations.

57. Members of many human rights organisations closed down by emergency decrees established new legal entities immediately after their closure, some with the same name, some with different names, and continued their work uninterrupted, while taking legal action against the closure of their organisations before the State of Emergency Inquiry Commission. The Commission, which was established in 2017 as a temporary administrative mechanism for persons dismissed from public office and organisations closed down by emergency decrees, has been criticised on various grounds, including that it was not ineffective, not impartial and independent, and violated the right to a fair trial. The Commission's work ended in January 2023, after rejecting 85.9% of the 127,292 applications it received.²⁹

58. On 31 December 2020, "Law No. 7262 on the Prevention of Financing the Proliferation of Weapons of Mass Destruction" entered into force. The law in question, which has the potential to further restrict freedom of association in Türkiye and hinder civil society activities, was drafted without consulting directly the relevant stakeholders, most notably civil society organisations. However, before the law was adopted, a campaign led by the HRJP member NGOs was organised and some important wording changes were made.³⁰

59. With the Law No. 7262, especially the laws on associations and aid collection were amended, paving the way for the Ministry of Interior to carry out strict inspections and to appoint trustees to associations by using the Law on the Prevention of Terrorist Financing. With these moves, which have been reinforced by the Anti-Terror Law and the Turkish Penal Code, legal regulations and practices that aim to increase the climate of fear and frustration, to smother the breath of rights defenders and civil society organisations, and to make their work more difficult have gradually increased.

60. According to information collected from publicly available sources, at least five associations have faced one or more closure cases and at least one association has been closed down as a result since 2021.³¹ For example, in June 2022, 23 people were taken into custody in a police operation against some members and executives of GÖÇİZDER, 16 of whom were later arrested on charges of "membership of an armed terrorist organisation." The indictment

²⁸ State of Emergency Inquiry Commission, 2019 Activity Report, p. 7 (31 January 2020). https://ohalko-misyonu.tccb.gov.tr/docs/OHAL_FaaliyetRaporu_2019.pdf.

²⁹ Announcement about the decisions delivered by the State of Emergency Inquiry Commission. (12 January 2023). <https://ohalkomisyonu.tccb.gov.tr/>.

³⁰ <https://ihop.org.tr/kitle-imha-silahlarinin-yayilmasinin-finansmaninin-onlenmesine-iliskin-kanun-teklifine-dair-degerlendirme/>

³¹ In addition to DİAYDER, GÖÇİZDER, KCDP and TTM, a closure lawsuit was filed in 2022 against the Association of Families Who Lost Their Relatives in the Cradle of Civilisations (MEBYA-DER), a Diyarbakır-based association that works in all areas related to people who have been unlawfully and arbitrarily killed or forcibly disappeared in violation of international human rights in Türkiye. *Evrinsel*, "MEBYA-DER'e kapatma davasının reddi istendi." (20 April 2022). <https://www.evrinsel.net/haber/459798/mebya-dere-kapatma-davasinin-reddi-istendi>.

alleged that EU funds were used by the association to organise seminars, publish reports denigrating the state and send money to the families of PKK members. In the final hearing held on 9 February 2024, 22 people were acquitted and one person was sentenced to imprisonment for “making propaganda for an illegal organisation.” At the same time, the Prosecutor’s Office filed a dissolution lawsuit against GÖÇİZDER at the Bakırköy 15th Civil Court of First Instance on 11 October 2022 and the lawsuit is ongoing.³²

B. Freedom of Assembly

61. Law No. 2911 on Meetings and Demonstrations entered into force in 1983 and has undergone fundamental changes over the years, particularly during the EU full membership negotiations, which started in 2005 and were effectively suspended in 2018.

62. Despite these amendments, Law No. 2911 still contains serious restrictions on freedom of assembly. Article 10 of Law No. 2911 requires, among other procedural requirements, that organisers notify the authorities for forty-eight hours in advance for meetings and demonstrations to be held indoors or outdoors. Furthermore, Article 6 of Law No. 2911 authorises governors and district governors to determine the places and routes of assemblies. It should be noted that this provision of the law lacks constitutional basis, as the constitutional provision on the authority of the administration to determine the location and routes was repealed in 2001.

63. Finally, pursuant to Article 17 of Law No. 2911, governors and district governors have the power to postpone assemblies for a maximum of one month on grounds of national security, public order, prevention of crime, protection of public health and morals or the rights of others. Governors and district governors are also authorised to ban an assembly if there is a clear and imminent danger of a criminal offence being committed, whether such a danger exists or not shall be assessed by the authorities.³³

64. According to official sources, freedom of assembly is respected and well-protected in Türkiye. Türkiye’s national report submitted to the third cycle of the United Nations Universal Periodic Review (“UPR”) includes the following statements: “Peaceful assemblies and demonstrations were held without any interference in the event of their conformity with the Constitution and national legislation. Accordingly in 2018 46.389 demonstrations and in 2019 (as of October) 39.918 demonstrations were held. Law enforcement officials intervened in only 0.8% of them in 2018 and 0.7% of them in 2019 due to their inconformity with the legislation.”³⁴

65. Despite these optimistic figures provided by the authorities, a closer look reveals a situation that is at best worrying, as there is a large discrepancy between official figures and those released by civil society. Organisations conducting monitoring activities in the field report that the situation is at an alarming level contrary to the figures announced by the authorities, and point out that the real figures hidden behind these small percentages cannot be ignored. According to a study conducted by the HRFT, between 1 January 2019 and 31 January 2020,

³² Belirsiz ve Tekinsiz”: Türkiye’de Derneklere Karşı Açılan Kapatma Davaları Raporu (12 Eylül 2023)https://www.ihd.org.tr/wp-content/uploads/2023/09/Belirsiz-ve-Tekinsiz_DerneklereKarsi-KapatmaDavalari.pdf

³³ Sürekli OHAL: Türkiye’de Toplantı ve Gösteri Özgürlüğüne Yönelik Saldırıları ve Sivil Topluma Yansımaları https://www.ihd.org.tr/wp-content/uploads/2020/11/20201125_OBSTURKEYTURCweb.pdf

³⁴ UN Human Rights Council. National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21.” para. 89. <http://www.mfa.gov.tr/data/ENFORMASYON/duyurular/epim-ulusal-rapor-gayri-resmi-turkce-tercume.pdf>

the authorities issued 147 bans on all meetings and events in 25 provinces for periods ranging from 2 to 395 days.³⁵

66. In some cities, bans on all kinds of meetings and events can last for months or even years without interruption. Although Law No. 2911 authorises governors to postpone demonstrations for a maximum of 30 days and Law No. 5442 authorises them to restrict demonstrations for a maximum of 15 days, governors apply these provisions, which are in essence already restrictive, in an abusive manner. Governors automatically extend the duration of an existing ban order at its expiry, imposing bans lasting much longer than 30 days without interruption.³⁶

67. According to the HRFT Documentation Centre's daily human rights reports, a total of 4,771 incidents of violations of the right to freedom of assembly between 2015 and 2019 were identified.³⁷

Violations occurred in 65 cities, and the top 10 cities with the most frequent violations according to the number of incidents are as follows: Ankara (2,165), İstanbul (837), İzmir (178), Diyarbakır (166), Malatya (130), Van (103), Adana (87), Kocaeli (82), Mersin (68), Mardin (67).

68. In 4,542 cases, which constitute the vast majority of the reports, the violation of the freedom of assembly took place in relation to a specific act. In the remaining 229 notifications, all possible assemblies and demonstrations in a province or district were banned by the local administration for a certain period of time in advance ("blanket event ban"). In 98% of the reports other than the general bans, violations were committed in relation to assemblies and demonstrations on the streets or in open spaces.

69. 20,071 people were taken into custody, 662 people were arrested, 4,907 people were prosecuted, 999 people were sentenced to a total of 13,370 months in prison, 4,450 people were subjected to physical violence by law enforcement forces, 1,022 people were injured as a result of bomb attacks, 19 people died as a result of the intervention of law enforcement forces, 141 people died as a result of bomb attacks between 2015-2019.

70. Despite the diversity in the subject matter of the incidents, it is observed that by far the highest number of violations took place during protests related to the "dismissals by state of emergency decrees," followed by protests related to the "Kurdish issue."

71. Between 2015-2019, a total of 20,781 people were taken into custody in 3,339 incidents for participating in peaceful meetings and demonstrations (383 of these people were under the age of 18). 87.7% of the detentions were made during the protests (through intervention) and 12.3% after the protests (through operations).

72. The distribution of incidents in which demonstrators were taken into custody by year shows that this practice is being resorted to more and more frequently. While 292 incidents in which

³⁵ Human Rights Foundation of Turkey (HRFT), "01 Ocak 2019 ile 31 Ocak 2020 Tarihleri Arasında valilik Yasakları Nedeniyle Kullanılmayan Toplanma ve Gösteri Yapma Hakkı" (9 February 2020). <https://tihv.org.tr/arsiv/01-ocak-2019-ile-31-ocak-2020-tarihleri-arasinda-valilik-yasaklari-nedeniyle-kullanilmayan-toplanma-ve-gosteri-yapma-hakki/>

³⁶ HRFT, "01 Ocak 2019 ile 31 Ocak 2020 Tarihleri Arasında Valilik Yasakları Nedeniyle Kullanılmayan Toplanma ve Gösteri Yapma Hakkı" (9 February 2020).

³⁷ HRFT, "Sokağı Kapatmak: Toplanma ve Gösteri Özgürlüğüne Yönelik İhlaller (2015-2019)" <https://tihv.org.tr/ozel-raporlar-ve-degerlendirmeler/bilgi-notu-toplanma-ve-gosteri-ozgurlugune-yonelik-ihaller-2015-2019/>

demonstrators were taken into custody were recorded in 2015, this number almost quadrupled to 1,290 in 2019.

73. According to the reports in the HRFT's database, between 2015 and 2019, at least 4,450 people were subjected to various forms of physical violence, and at least 90 people were injured due to the gunfire by the security forces.

74. In 17 incidents in which law enforcement officers intervened in meetings and demonstrations between 2015-2019, a total of 19 people lost their lives either directly by being shot by law enforcement officers or as a result of the intervention. It was reported that 15 of these people were shot with firearms by the security forces, 2 of them died due to intensive use of tear gas, 1 was hit by a tear gas canister and 1 (11 years old child) died by falling from the building where he was hiding while running away from the police (death under suspicious circumstances).

75. In 148 incidents, a total of 662 persons, 28 of whom were children (under 18 years of age), were arrested, criminal proceedings were initiated against 4,907 persons, 58 of whom were children, 999 persons were sentenced to imprisonment for a total of 13,370 months and 63 persons were sentenced to a total judicial fine of 26,235 TL for reasons arising from the exercise of the right to freedom of assembly and demonstration between 2015 and 2019.

76. Fourteen members of the Saturday Mothers/People were taken into custody on 30 August 2022 when they went to the Altınşehir "Cemetery of the Nameless" on the occasion of the International Day of the Victims of Enforced Disappearances and charged with violating Law No. 2911 on Meetings and Demonstrations. On 26 May 2023, fourteen human rights defenders from the Saturday Mothers/People were acquitted of charges of participating in an illegal demonstration and failing to disperse despite warnings at the Küçükçekmece 1st Criminal Court of First Instance.

77. This case is a new example of efforts to criminalise the Saturday Mothers/People. Forty-six human rights defenders and relatives of the disappeared from the Saturday Mothers/People were tried on similar charges at the İstanbul 21st Criminal Court of First Instance.³⁸ This case relates to the violent police intervention in the 700th gathering at Galatasaray Square on 25 August 2018 and the detention of 46 human rights defenders, four of whom are defendants in both cases.

78. The 23 February 2023 judgment of the Constitutional Court,³⁹ which found a violation in the application of a rights defender from the Saturday Mothers/People on the violation of the "right to hold assemblies and demonstrations" by the state, is not being implemented by the authorities.

79. Rights defenders encountering attempts to criminalise their activities continue to face violent police intervention, detention, and judicial harassment.

³⁸ <https://www.frontlinedefenders.org/tr/organization/saturday-motherspeople>

³⁹ <https://kararlarbilgibankasi.anayasa.gov.tr/BB/2019/21721>

C. Freedom of Expression

80. The government's restrictions on freedom of opinion and expression, in particular its alarmingly increasing pressure and control over the press and human rights defenders, continue.

81. In addition to the laws that prevent the exercise of freedom of thought and expression, Law No. 7418, commonly known as the "Disinformation Law", which introduced some amendments to the Press Law entered into force after being published in the Official Gazette of 18 October 2022 and numbered 31987. This law further increased the pressure and restrictions on everyone who wanted to exercise freedom of expression, especially journalists.

82. A criminal complaint was filed by the Ministry of National Defence against Şebnem Korur Fincancı, former Chairperson of the Central Council of the Turkish Medical Association, after she was targeted by government officials⁴⁰ and high-level politicians⁴¹ for expressing the "need for an effective investigation of the region by independent delegations" after expressing her scientific opinion as a preliminary diagnosis in a TV broadcast in October 2022 regarding the allegations that the Turkish Armed Forces used chemical weapons within the borders of the Iraqi Kurdistan Regional Government. The Istanbul 24th Assize Court accepted the case and in the third hearing held on 11 January 2023, the court sentenced Prof. Fincancı to 2 years, 8 months and 15 days imprisonment on the charge of "making propaganda for an illegal organisation" and ruled to release her.

83. In early 2024, following the custody and subsequent arrest of young people in Mersin who shouted slogans while dancing the halay and were played music with racist content while being taken to prison,⁴² similar detentions and arrests took place in Siirt, Ağrı and İstanbul. A video recorded at a wedding in Kurtalan district of Siirt and shared on social media showing women dancing halay was targeted by racist accounts. Six women were taken into custody during house raids in Batman and Siirt.⁴³

VIII. Anti-terrorism measures (Articles 2, 4, 6, 7, 9, 14 and 17)

84. The Anti-Terror Law No. 3713 dated 12.04.1991 was published in the Official Gazette the same day (no. 20843 bis) on the day it was adopted by the Turkish Grand National Assembly.⁴⁴ To date, the Anti-Terror Law has been amended 58 times and has been subject to the cancellation decisions of the Constitutional Court twice.

85. According to the Judicial Statistics published by the Ministry of Justice, 10,745 people were prosecuted in 2013 under the second paragraphs of Articles 6 and 7 of the ATL, and this number increased continuously every year, amounting to 24,585 in 2017. According to the 2018 statistics, 46,220 people were investigated and 17,077 people were prosecuted. According to the statistics of the Ministry of Justice for 2019, 39,833 people were investigated and 12,417 of these people were prosecuted. According to 2020 statistics, 26,225 people were investigated and 6,551 of these people were prosecuted.

⁴⁰ <https://www.evrensel.net/haber/473000/erdogan-ttb-baskani-sebnem-korur-fincanci-destek-hedef-aldi>

⁴¹ <https://www.evrensel.net/haber/473097/bahceli-ttb-nin-kapatilmasini-sebnem-korur-fincancinin-vatandasliktan-cikarilmasini-istedi>

⁴² <https://www.evrensel.net/haber/524147/mersinde-halay-cek-en-9-genc-tutuklandi>

⁴³ <https://artigercek.com/guncel/halay-cektikleri-icin-hedef-gosterilen-kadinlar-gozaltina-alindi-312388h>

⁴⁴ https://www.resmigazete.gov.tr/arsiv/20843_1.pdf

86. 20,781 investigations were initiated in 2022 and 5,136 people were prosecuted within the scope of the ATL No. 3713. In 2023, 23,214 investigations were initiated within the scope of the ATL and 5,610 people were prosecuted. Within the scope of the Law on Prevention of Financing of Terrorism, 1,845 investigations files were initiated in 2022 while 1,908 investigations were initiated in 2023.

87. The ECtHR has started to hold the ambiguity of the definition of terrorism under the ATL and the sentences imposed under various articles of the TPC using articles related to the ATL as violations of rights. The ECtHR's *İmret, Bakır and Işıkkırık v. Türkiye* judgements clearly stated that the principle of legality was not met with regard to the application of Article 2/2 of the ATL, Articles 220/6 and 7 of the TPC, and Article 314/3 of the TPC and sentencing under Article 314/2 of the TPC.⁴⁵

88. The Venice Commission's general opinion on Articles 216, 299, 301 and 314 of the TPC, adopted at its 106th plenary session on 11-12 March 2016, offered fundamental criticisms of these articles, stating that although some progress had been made, it was not sufficient and that these articles and Article 7 of the ATL were applied too broadly, which was contrary to Article 10 of the ECHR and Article 19 of the UN Convention on Civil and Political Rights.⁴⁶

89. Türkiye is a country under political monitoring by the Parliamentary Assembly of the Council of Europe's Resolution 2156(2017) of 25 April 2017.⁴⁷ Türkiye's monitoring process is ongoing. The Parliamentary Assembly consistently adopts resolutions recommending Türkiye to bring its anti-terrorism legislation in line with the protection of human rights.

90. In addition, the situation of human rights defenders received special attention in the country report⁴⁸ by Dunja Mijatovic, the former Council of Europe Commissioner for Human Rights, following her visit to Türkiye from 1 to 5 July 2019. The Commissioner was very concerned at the extraordinary level reached by the situation of human rights defenders. Internationally recognised and respected human rights defenders, many of the Commissioner's long-standing civil society partners in Turkey, were now facing very serious charges and the risk of prolonged imprisonment in the country. The Commissioner emphasised that she was not alone in this assessment. The Commissioner noted, for example, that the Parliamentary Assembly of the Council of Europe had found that the very broad interpretation of the Anti-Terror Law has led to "human rights defenders and lawyers being criminalised and prosecuted" and has called on the Turkish authorities to release them.⁴⁹

91. The ATL has a very broad definition of terrorism and completely restricts the rights to freedom of expression, association, and assembly. There is no distinction between those who resort to violence and those who do not, and the government uses the ATL to keep the social opposition under judicial harassment through prosecutors' offices and courts. Since the problem of the ambiguity of the definition of terrorism has not been resolved in Türkiye, the most recent amendments into to Law No. 3713 in 2019 also fail to solve the problem.

⁴⁵ <https://www.ihd.org.tr/oner-ve-turk-no-51962-12-akcam-no-27520-07-sener-no-38270-11-isikirik-no-41226-09-ile-artun-ve-guvener-no-75510-01-davalarina-iliskin-olarak-ihdnin-yaptigi-madde-9-2-bildir/>

⁴⁶ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)002-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)002-e)

⁴⁷ <https://pace.coe.int/pdf/e4fd6ddb24d36178300d5bf7642acf358b54b3502b3738272a0b7d35a8e9af05/resolution%202156.pdf>

⁴⁸ <https://rm.coe.int/avrupa-konseyi-insan-haklari-komiseri-dunja-mijatovic-1-5-temmuz-2019-/16809c5187>

⁴⁹ <https://pace.coe.int/en/files/23665>

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

92. Decree Law No. 674 was adopted by the Turkish Grand National Assembly on 10.11.2016 and published in the Official Gazette on 24.11.2016, becoming Law No. 6758 on the Amendment and Adoption of the Decree Law on Making Certain Regulations within the Scope of the State of Emergency.

93. In 2016, based on Decree Law No. 674, the co-mayors of 95 DBP-affiliated municipalities were removed from office while governors and district governors were appointed as trustees.

94. The representatives of the government, who wanted to legitimise the illegality of appointing trustees through the concept of “terrorism”, maintained their trustee policies after the 31 March 2019 local elections. Following the 31 March 2019 local elections, trustees were appointed to a total of 48 HDP municipalities, including 3 metropolitan, 5 provincial, 33 district and 7 town municipalities with the decisions of the Ministry of Interior as of 19 August 2019. The fundamental right of citizens to vote and be elected has once again been usurped. The appointment of trustees to 48 HDP municipalities has shown that the will of more than 4.5 million citizens was not recognised by the government.

95. In the 31 March 2024 local elections, Abdullah Zeydan was elected the Co-Mayor of Van Metropolitan Municipality with 55.48% of the popular vote of the people of Van but the decision for the return of his banned rights was unlawfully abolished and an attempt was made to appoint a trustee by ignoring the will of the people of Van.

96. On 03.06.2024, Hakkari Co-Mayor Mehmet Sıddık Akış was removed from office by the decision of the Ministry of Interior.⁵⁰ Two days after the removal, Hakkari 1st Assize Court sentenced Mehmet Sıddık Akış to 19 years and 6 months in prison for leading an illegal organisation. As a result of a 10-year-long prosecution, Mehmet Sıddık Akış was sentenced just 2 days after he was removed from office, which shows that the independence and impartiality of the judiciary are not in question at all.

97. The Ministry of Interior acted on abstract facts in justifying the decision to remove the mayor from office, rendered a judgement by substituting the judicial power, and justified the removal on the basis of files that were under trial and under investigation.

98. Immediately after the decision to appoint a trustee to the Hakkâri Municipality, the governorates of Hakkâri and Diyarbakır issued bans on all kinds of protests, events, demonstrations, etc., and these bans were extended by the governorates.⁵¹

99. On 23 March 2022, the Congress of Local and Regional Authorities of the Council of Europe ruled that the appointment of trustees to municipalities by the Turkish government was contrary to international law.⁵²

100. It is absolutely unacceptable that the ATL was used to legitimise the appointment of trustees and that the co-mayors and elected officials were put under pressure through the judiciary and imprisoned. In this process, the right to personal freedom has been severely

⁵⁰<https://www.icisleri.gov.tr/hakkri-belediye-baskani-mehmet-siddik-akisin-icisleri-bakanliginca-gorevden-uzaklastirilmasina-dair-basin-aciklamasi>

⁵¹ <https://bianet.org/haber/hakkariye-kayyim-atanmasin-ardindan-11-ilde-eylem-yasagi-296111>

⁵² <https://web.archive.org/web/20220531140028/https://www.coe.int/en/web/congress/-/council-of-europe-congress-highlights-generally-degrading-situation-of-local-democracy-in-turkey>

violated. This clear interference with the right to vote and be elected is an anti-democratic attitude and cannot be accepted in a democratic system.