

Statement on the Situation in Turkey
by the Council of Europe Civil Society Summit (CSS)
The Hague, Netherlands, 28 February – 1 March 2023

The Council of Europe (CoE) and its human rights instruments have played a key role in defending the rule of law and human rights in Turkey. Despite this, Turkey's unprecedented crackdown on human rights defenders, civil society and opposition continues. There are major impediments in exercising the rights to freedom of expression, peaceful assembly and association. Civil society has been targeted, and several human rights defenders and political opponents remain behind bars. Discrimination and violence against marginalised groups worsened, and independent media have been silenced. The Committee of Ministers (CM) used its powers to initiate infringement proceedings for the second time in its history in the case *Kavala v. Turkey*. This infringement proceedings judgement remains unimplemented eight months after its delivery.

In this context, the CoE should remain committed to strengthening democratic institutions and the rule of law in Turkey, including by:

- Committee of Ministers: Taking adequate, concrete and urgent steps to react to the failure to implement European Court of Human Rights (ECtHR) judgements, including by requesting a timeline from Turkish authorities on specific measures to be taken by the government for full compliance with judgements, increasing the speed of reacting to proposed Action Plans, of pointing out insufficiencies in Action Plans, of failures in carrying out agreed Plans and of reacting to evasive steps by the government by recognising that Turkey's failure to implement ECtHR judgements risks irrevocably damaging the credibility and effectiveness of not only the ECtHR and its role in the protection of fundamental rights and freedoms but the whole of the CoE;
- Parliamentary Assembly of the Council of Europe (PACE): Monitoring the upcoming parliamentary and presidential elections in Turkey and the situation of freedom of expression, media, assembly and association in the period leading up to the elections through the deployment of a full election observation mission in cooperation with the OSCE Office for Democratic Institutions and Human Rights (ODIHR), to help ensure democratic, free and fair elections and report abuse, particularly in the ten provinces impacted by the earthquake where a three-months long state of emergency has been declared;
- Deploing, both in public resolutions and statements and bilateral meetings with Turkish authorities, the systematic harassment against human rights defenders, journalists, dissidents, opposition politicians and political parties through abuse of counter-terrorism, emergency and disinformation laws to curb dissent, monitoring and reporting on cases

and calling on authorities to immediately put an end to abusive practices and amend provisions of these laws that pave the way for abuse¹;

- Supporting Turkish authorities in full implementation of the Council of Europe Action Plan on protecting vulnerable persons in the context of migration and asylum in Europe (2021-2025), particularly with regard to promoting non-discrimination and diversity by countering hate speech targeting refugees and migrants;
- Urging the government to re-join the CoE Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) and to cooperate with the CoE and member states in fighting against the retrogression in gender equality, women's rights and LGBTIQ+ rights.

¹ Venice Commission, Türkiye Urgent Joint Opinion on the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft Amendments to the Penal Code Regarding the Provision on "False or Misleading Information", CDL-PI(2022)032, [www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2022\)032-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2022)032-e); Venice Commission, Turkey – Opinion on the compatibility with international human rights standards of Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction, CDL-AD(2021)023cor, [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)023cor-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)023cor-e); Venice Commission, Opinion on articles 216, 299, 301 and 314 of the Penal Code of Turkey, CDL-AD(2016)002, [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2016\)002-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2016)002-e).

Explanatory Note

The collapse of the peace process in 2015, the escalation of the armed conflict, the 2016 coup attempt, the following 2016-2018 state of emergency and the “Turkish style” presidential system lacking checks and balances that came into force in July 2018 worsened the decline in rule of law and the integrity of democratic institutions in Turkey².

The ECtHR has noted the erosion of the independence of judges in several judgements on Turkey. Turkey's refusal to implement ECtHR judgements, in particular in the cases of Osman Kavala and Selahattin Demirtaş, raises further concerns about its commitment to European standards on the rule of law and judicial independence. The failure to comply with these judgements, despite the infringement procedure started by the Committee of Ministers in February 2022 following the non-compliance with the Kavala judgement, restricts the activities of both civil society and the opposition in Turkey and sends a dangerous message narrowing the scope for free democratic debate. Despite repeated calls from the PACE³, Turkey insists on not implementing the ECtHR decisions and has declared that it does not recognise ECtHR judgements⁴.

The counter-terrorism framework is frequently used to harass dissidents⁵. Kurdish politicians and members of the Peoples’ Democratic Party (HDP), the second largest opposition party, are especially targeted, and former HDP co-chairs and executives, including members of parliament whose immunities were lifted⁶, have been imprisoned for over six years. The criminal cases against HDP members are used as a basis in the dissolution case against HDP before the Constitutional Court, weakening political pluralism in the eve of the 2023 elections. Recent prison sentences against the Turkish Medical Association (TTB) President and human rights defender Şebnem Korur Fincancı, human rights lawyer and Co-Chair of the Human Rights Association (İHD) Eren Keskin and 22 lawyers of the Progressive Lawyers Association (ÇHD) and the People’s Law Bureau (HHB) are a few among many examples of judicial harassment against human rights defenders. At least 54 journalists are currently imprisoned⁷. Only in 2022, two mass arrests of 25 journalists working for Kurdish media outlets took place on terror-related accusations. Despite reiterated requests of the Committee of Ministers, the authorities fail to provide statistical information on criminal proceedings against journalists⁸, arguing that no journalists are persecuted for their work,

² PACE, Resolution 2121 (2016), ; PACE, Resolution 2376 (2021), <https://pace.coe.int/en/files/29189/html>; Venice Commission, Turkey 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, [www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad\(2017\)005-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad(2017)005-e).

³ PACE, Resolution 2483 (2023), <https://pace.coe.int/en/files/31624/html>; Resolution 2459 (2022), <https://pace.coe.int/en/files/31343/html>, par. 8; Resolution 2347 (2020), <https://pace.coe.int/en/files/28818/html>, para. 7.6.

⁴ “Turkey will not respect Council of Europe's ruling on Osman Kavala, says Erdoğan”, Duvar English, Feb. 3, 2022, www.duvarenglish.com/turkey-will-not-respect-council-of-europes-ruling-on-osman-kavala-says-erdogan-news-60291.

⁵ Commissioner for Human Rights of the Council of Europe Dunja Mijatović, Report Following Her Visit to Turkey from 1 to 5 July 2019, CommDH(2020)1, <https://rm.coe.int/report-on-the-visit-to-turkey-by-dunja-mijatovic-council-of-europe-com/168099823e>; Resolution 2459 (2022), para. 10.6.

⁶ Venice Commission, Turkey Opinion on the Suspension of the Second Paragraph of Article 83 of the Constitution (Parliamentary Inviolability), CDL-AD(2016)027, [www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad\(2016\)027-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad(2016)027-e).

⁷ Safety of Journalists Platform, Türkiye, accessed Feb. 25, 2023, <https://fom.coe.int/en/pays/detail/11709592>.

⁸ See e.g. Committee of Ministers, Interim Resolution CM/ResDH(2021)110, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680a2c296.

while numerous news and research reports show otherwise. Despite warnings of the PACE⁹ and the Venice Commission about its “chilling effect” and potential use to stifle dissent and criticism¹⁰, the new disinformation law has been adopted and already used against a journalist to sentence them to imprisonment¹¹.

Peaceful assemblies and demonstrations have practically become impossible, with authorities banning assemblies, using force and targeting specific groups of demonstrators with prosecutions, such as the Boğaziçi protests¹², Saturday Mothers vigils¹³ and March 8 and pride marches¹⁴. Shrinking civic space, stigmatisation and administrative and judicial harassment against civil society organisations, such as the prosecution of members of the Rosa Women’s Association¹⁵ or the closure cases against the Tarlabası Community Center and the We Will Stop Femicides Platform¹⁶, violate the right to freedom of association and aim to silence Turkey’s vibrant civil society through a broader chilling effect¹⁷.

Initiated by a presidential decree in March 2021 and upheld by the Council of State, Turkey withdrew from the Istanbul Convention. CoE leaders called “not to weaken the international system to protect violence against women”, and the PACE criticised the lack of democratic processes for the withdrawal decision¹⁸. The anti-gender rhetoric culminated in a constitutional amendment proposal by the ruling Justice and Development Party (AKP) in December 2022 seeking to redefine marriage as the “union of a man and a woman” amidst hate-filled propaganda against LGBTI+ people.

The devastating earthquake of February 6, 2023 that struck Turkey and Syria was followed by several reports of human rights violations surfacing. Rescue efforts and humanitarian aid by civil society organisations and opposition-run municipalities were blocked. On 8 February, Turkish authorities banned access to Twitter for 9.5 hours, severely impeding rescue efforts¹⁹. The same day, a state of emergency

⁹ PACE urges Türkiye to drop new law criminalising ‘false or misleading information’, Oct. 12, 2022, <https://pace.coe.int/en/news/8846/pace-urges-turkiye-to-drop-new-law-criminalising-false-or-misleading-information-;> Resolution 2459 (2022), para. 10.7.

¹⁰ Venice Commission, “False or Misleading Information”, paras. 32, 72, 75, 92.

¹¹ Committee to Protect Journalists, Turkish journalist Sinan Aygül arrested under new ‘disinformation’ law, Dec. 15, 2022, <https://cpj.org/2022/12/turkish-journalist-sinan-aygul-arrested-under-new-disinformation-law>.

¹² PACE, Written declaration No. 716, Doc. 15227, Apr. 30, 2021, <https://pace.coe.int/en/files/29200/html>.

¹³ Human Rights Association (İnsan Hakları Derneği – İHD), Urgent Appeal: Judicial Harassment against the Saturday Mothers, Feb. 23, 2021, <https://ihd.org.tr/en/ihd-urgent-appeal-judicial-harassment-against-the-saturday-mothers>.

¹⁴ Joint Statement by the Observatory for the Protection of Human Rights Defenders (International Federation for Human Rights – FIDH and World Organisation Against Torture – OMCT), İHD and Human Rights Foundation of Turkey (Türkiye İnsan Hakları Vakfı – TİHV), Turkey: 373 LGBTIQ+ defenders detained during Istanbul Pride March, Jul. 6, 2022, www.fidh.org/en/region/europe-central-asia/turkey/turkey-373-lgbtiq-defenders-detained-during-istanbul-pride-march.

¹⁵ Joint Statement by the Observatory, İHD and TİHV, Turkey: Arbitrary arrest of women’s rights defenders in Diyarbakır, Mar. 30, 2022, www.fidh.org/en/region/europe-central-asia/turkey/turkey-arbitrary-arrest-of-women-s-rights-defenders-in-diyarbakir.

¹⁶ TİHV, Urgent Call for Action: We Will Stop Femicide Platform Association Cannot be Closed, Oct. 4, 2022, <https://en.tihv.org.tr/press-releases/we-will-stop-femicide-platform-association-cannot-be-closed>.

¹⁷ The Observatory & İHD, Turkey Part III, Drowned in Procedure, Sentenced to Fail: Administrative Harassment Against Civil Society in Turkey, June 2022, www.fidh.org/IMG/pdf/obs_turkey_report_administrative_harassment_june_2022.pdf; Resolution 2376 (2021), para. 23.

¹⁸ PACE, Council of Europe leaders react to Turkey’s announced withdrawal from the Istanbul Convention, Mar. 21, 2021, <https://pace.coe.int/en/news/8228/council-of-europe-leaders-react-to-turkey-s-announced-withdrawal-from-the-istanbul-convention>; Resolution 2376 (2021), para. 8.

¹⁹ Media and Law Studies Association (MLSA), Criminal complaint against GSM operators and BTK executives, Feb. 10, 2023, www.mlsaturkey.com/en/criminal-complaint-against-gsm-operators-and-btk-executives.

was declared in 10 affected provinces despite the existence of legislation designed specifically for disaster response, which granted the necessary powers to the executive²⁰. Journalists reported police brutality and obstructions with at least four reporters detained in the earthquake region. As of February 23, 27 people were arrested, 138 detained, and legal action was initiated against 559 social media users for their “provocative posts” allegedly spreading fear and panic²¹.

Meanwhile, far-right politicians and social media accounts spread hate speech against refugees, which worsened after unverified claims about “looting” humanitarian aid. Videos on social media show torture and beatings of alleged “looters”, also by police officers²². At least one person died due to torture in detention, with law enforcement threatening lawyers documenting torture “with the same fate”.

Parliamentary and presidential elections, announced for May 14, 2023, will take place against this backdrop of declining rule of law and state of emergency rule. These impede democratic debate and raise serious concerns about voters’ and opposition politicians’ right to participate in public affairs and to free and fair elections, which were previously highlighted by the PACE²³.

²⁰ İHD, Statement on the Maraş Earthquakes, Feb. 8, 2023, <https://ihd.org.tr/en/ihd-statement-on-the-maras-earthquakes>; Joint Statement by İHD, FIDH and OMCT, Turkey: Uphold human rights during earthquake response, Feb. 10, 2023, www.fidh.org/en/region/europe-central-asia/turkey/turkey-uphold-human-rights-during-earthquake-response.

²¹ Turkey General Directorate of Security, Feb. 23, 2023, <https://twitter.com/EmniyetGM/status/1628723682859225090?s=20>.

²² Joint Statement by TİHV, İHD and the Turkish Medical Association Human Rights Department, No Exceptional Circumstances Justify Torture, Feb. 15, 2023, <https://en.tihv.org.tr/press-releases/no-exceptional-circumstances-justify-torture>.

²³ Resolution 2376 (2021), para. 19; PACE, Elections in Turkey: statement by the pre-electoral delegation, May 31, 2018, <https://pace.coe.int/en/news/7087/elections-in-turkey-statement-by-the-pre-electoral-delegation>; OSCE ODIHR & Parliamentary Assembly and PACE, International Election Observation Mission, Republic of Turkey, Early Presidential and Parliamentary Elections, 24 June 2018, Statement of Preliminary Findings and Conclusions, www.osce.org/files/f/documents/5/f/385671.pdf; OSCE ODIHR, Republic of Turkey, Early Presidential and Parliamentary Elections, 24 June 2018, ODIHR Election Observation Mission Final Report, Sep. 21, 2018, www.osce.org/files/f/documents/9/4/397046_0.pdf.