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Monitoring Turkey's progress with regard to Human Rights Defenders

Despite major reforms and progress over the past decade, in today's Turkey, those who speak out on “sensitive” human rights issues remain the target of intense criminalisation due to the existence of repressive administrative practices and criminal provisions left unchanged by reform packages, notably in the Turkish Penal Code (TPC) and the Anti-Terrorism Law (ATL). These “sensitive” issues include promoting the right to alternative identities (ethnic and religious minorities' rights, particularly the Kurdish issue, and sexual minorities) and criticising the State and its institutions (the functioning of the institutions, including the independence of the judiciary and the impunity of the State and the army regarding human rights violations). Key categories of civil society active in the defence of human rights are affected by this policy: members of non-governmental organisations (NGOs) but also lawyers, trade unionists, journalists, intellectuals and academics, writers, advocates of the right to conscientious objection and family members of victims of serious violations, etc.

The Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), has published on 5 June 2012 a report entitled “Turkey: Human Rights Defenders, guilty until proven innocent”, which documents this criminalisation and provides recommendations for improvement. (see <http://www.fidh.org/IMG/pdf/obsrapporttr05062012eng.pdf>).

FIDH, HRFT and IHD ask the EU to urge Turkey to implement the report's recommendations, to support efforts Turkey should undertake to this end, and to monitor the progress made relating to the Human rights defenders situation. For that monitoring, we would like to propose indicators that should be linked to programs, progress reports, positive agenda and dialogues.

Yours Sincerely,

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OBJECTIVES	INDICATORS	SOURCES OF VERIFICATION
Stop using counter-terrorism provisions and TPC to investigate and prosecute human rights defenders peacefully advocating for improvements in human rights	<p><i>Legal reforms</i></p> <ul style="list-style-type: none"> - <i>Constitution</i>: Reforms to ensure that fundamental rights take precedence over the interests of State and national security as a principle, the only exceptions being those allowed under international human rights law; - <i>Anti-Terrorism Law</i>: Reform and/or repeal of the provisions that do not comply with international standards (notably art 1, 2, 6, 7) - <i>Turkish Penal Code</i> : withdrawal of article 215; Revision of the articles of the TPC which stipulate that when an offence is committed through the print press or any mass media, then the penalty shall be automatically increased (as articles 218, 220, 226, 266, 268, 297, etc.) - <i>Laws and/or provisions</i> to ensure freedom of expression and media <p><i>HRDs's Participation</i></p> <ul style="list-style-type: none"> - Number, inclusiveness and quality of consultations having taken place during the legislative process - Number and quality of journalists, academics, associations and foundations represented - Proportion of proposals and inputs proposed by HRDs retained in the final text adopted - Proportion of proposals and inputs proposed by HRDs rejected in the final text adopted 	<ul style="list-style-type: none"> - Legislative texts - HRDs reports, press articles - official reports & minutes
	<p><i>Law enforcement bodies, prosecutors and judges</i></p> <ul style="list-style-type: none"> - For each category, the proportion of <i>law enforcement bodies, prosecutors and judges</i> (including those of the Heavy penal courts) receiving guidance (circulars and training) on laws and their interpretation to ensure that they do not abusively restrict HRDs rights in the framework of their work <p>Check whether those circulars and/or trainin courses:</p> <ul style="list-style-type: none"> o pay specific attention to the provisions of the ATL and TPC that are wrongly applied against human rights defenders (e.g. art 1, 2, 6, 7 ATL & 125; 134; 214; 216 ; 217; 218 ; 220; 222; 267; 277; 285; 288; 299; 300; 301; 314; 318; 334 TPC) o deal with the legislative reforms of the constitution, ATL and TPC when adopted <ul style="list-style-type: none"> - Relative importance of the budget dedicated to those training courses <p><i>HRDs's Participation</i></p> <ul style="list-style-type: none"> - Number of consultations having taken place during the drafting process of the circulars - Number of press articles informing about the consultation processes undertaken and their results - Number of journalists, academics, associations and foundations having participated in the training of the law enforcement bodies, prosecutors and judges 	<ul style="list-style-type: none"> - administrative guidelines and circulars on laws and their interpretation – published and easily accessible to public - official & published reports on seminars, training - Budget - official reports & minutes - HRDs reports and articles
	<p><i>outcomes</i></p> <ul style="list-style-type: none"> - the number of persons arrested, adjudicated, convicted or serving sentence for violation of the Anti-Terrorism Law per 100,000 population in the reporting period; number of defenders (including journalists, lawyers, trade unionists, academics members of associations and foundations members, etc.) arrested, adjudicated, convicted or serving sentence for violation of the ATL; number of defenders arrested, adjudicated, convicted or serving sentence for activities undertaken in the framework of their profession and linked to minority issues - number of person per 100,000 population arrested, adjudicated, convicted or serving sentence for violation of the Articles 125; 134; 214; 216 ; 217; 218 ; 220; 222; 267; 277; 285; 288; 299; 300; 301; 314; 318; 334 Turkish penal code (the main provisions of the TPC used to restrict or criminalise freedom of expression of defenders arrested, adjudicated, convicted or serving sentence for activities undertaken in the framework of their profession and linked to minority issues) - reported cases of misuse of ATL et TPC to pursue HRDs - perceived levels of freedom of expression and media freedom - perceived level of confidence in the judiciary and law-enforcement authorities 	<ul style="list-style-type: none"> - official reports & statistics - UN, CoE and NGOs reports - Public surveys
Stop violence and arrests during peaceful demonstration	<ul style="list-style-type: none"> - proportion of law enforcement bodies receiving guidance (circulars and training courses) in order to guarantee the smooth running of demonstrations, public meetings, marches, press conferences - proportion of law enforcement officials subject of complaints, that are formally investigated for physical and non-physical abuse or crime, including arbitrary arrest and detention - proportion of formal investigations of law enforcement officials resulting in disciplinary actions or prosecution in the reporting period - number of demonstrations, public meetings, marches, press conferences and how many of them are being repressed . 	<ul style="list-style-type: none"> - administrative guidelines and circulars - official reports & statistics - UN, CoE, NGOs reports - Press articles
Address the problem of lengthy criminal proceedings and pre-trial detention	<ul style="list-style-type: none"> - law's amendments to limit the resort to pre-trial detention - proportion of pending cases and average duration of criminal trials - proportion detainees awaiting trial or verdict (50% of the total number of inmates now) 	<ul style="list-style-type: none"> - legislative texts - official reports & statistics - UN, CoE, NGOs reports

OBJECTIVES	INDICATORS	SOURCES OF VERIFICATION
Stop administrative harassment & undue restrictions of the right to form associations or foundations	<ul style="list-style-type: none"> - Revision of the articles 3 & 42 of the constitution - Revision of the law on association in order to bring it into conformity with international standards - Training courses, seminars and guidance on the application of provisions that are wrongly applied and lead to refuse registration or close down associations - proportion of public expenditure dedicated to those training courses - Amount of the fines for having transgressed administrative regulations - Proportion of NGOs and HRDs submitted to fines, fiscal and administrative procedure - Number of NGOs submitted to fiscal procedures and administrative check; - Number of requests to create new HR NGOs, proportion of authorizations given, proportion of refusals and, among them, proportion of associations defending minority rights (LGBT, Kurds) - Number of NGOs closed on the ground of article 56 of the Turkish Civil Code - Number of NGOs suited on the ground of article 56 of the Turkish Civil Code - Proportion of Human rights organizations receiving funds from Turkey and abroad - Proportion of Human rights organizations receiving funds from Turkey and abroad without prior authorization - Reported cases of harassment, number of official complaints and proportion of investigations 	<ul style="list-style-type: none"> - legislative texts, - Official reports & statistics - Budget - UN, CoE, NGOs reports - Public surveys
Rationalise the domestic institutional framework	<ul style="list-style-type: none"> - Turkish NHRI: Amendments to the draft law to comply fully with the Paris Principles - Regional appeal courts, Turkish NHRI, Turkish Ombudsman, Human Rights Advisory Council, Human Rights Inquiry Commission, human rights boards established at provincial and district level <ul style="list-style-type: none"> o number of received complaints and/or cases treated o perceived level of independence - Human Rights Inquiry Commission: <ul style="list-style-type: none"> o Enlargement of the competences (to be consulted on draft bills and to have right to table legislation) o Enlargement of its membership to human rights experts - new rules to select members of the human rights boards established at the provincial and district level <i>HRDs's Participation</i> - Number of consultations having taken place during the legislative processes - Proportion of journalists, academics, associations and foundations represented - Proportion of proposals and inputs proposed by HRDs retained in the final texts adopted - Proportion of proposals and inputs proposed by HRDs rejected in the final text adopted that received specific motivation to explain the rejection 	<ul style="list-style-type: none"> - Legislative texts - Official reports & statistics - Public surveys - official reports & minutes - HRDs reports and press articles
Open support to defenders	<ul style="list-style-type: none"> - Proportion of civil and military servant receiving formations on the United Nations Declaration on Human Rights Defenders - Number of seminars organized on the United Nations Declaration on Human Rights Defenders - Number of statements, guidelines and seminars to publicly acknowledge the importance and legitimacy of the work of human rights defenders, their essential contribution to public debate in an open, pluralist and fair society and to the promotion of human rights and the rule of law and, especially: <ul style="list-style-type: none"> - to acknowledge the legitimacy of human rights defenders who peacefully campaign for minorities rights, whether ethnic, religious or sexual minorities, and gender-related rights; - to challenge the view that human rights defenders advocating for improvements in the Kurdish regions necessarily have a political agenda or are linked to terrorist organizations - Number of Statements immediately denouncing statements and actions done by non State actors and State actors questioning the credibility of human rights defenders. - proportion of public expenditure for those training courses - number of press releases on these events 	<ul style="list-style-type: none"> - governmental websites - Official reports - press releases on seminars, activities guidelines - press releases on the content of UN declaration - Budgets - EU delegations reports relaying these events