

# TURKEY: GEZI, ONE YEAR ON

**Witch hunt, impunity of law enforcement officials and a shrinking space for rights and freedoms**

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel,





INTRODUCTION .....	4
METHODOLOGY .....	5
CONTEXTE .....	6
SECTION I: An attempted “witch hunt”: Arbitrary arrests, detention and criminalisation of the protesters .....	11
SECTION II: Attacks to freedom of expression and of information .....	15
SECTION III: Passivity, indulgence or impunity in crimes against protestors .....	19
SECTION IV: Shrinking space for rights and freedoms: legal reforms strengthen executive power over the judiciary, independent bodies and individual freedoms .....	24
CONCLUSION .....	29

# Introduction

One year since on the spark of the « Gezi protests », demonstrations that began on 28 May 2013 to protect Gezi Park but then turned into protests spreading across Turkey demanding basic rights and freedoms in reaction to the violence committed by the police, the willingness of Turkish authorities to address their accountability to citizens, and to lead their country into a democracy respectful and of its own citizens rights remains under question.

Beyond mass demonstrations in the streets, the struggle for fundamental freedoms, human and social rights, has now transferred to courts, with the beginning of a legal saga. Peaceful protesters who were claiming for their rights in the streets or in the media, without any form of violence, are now being prosecuted for having caused disorder, and risk heavy penalties.

On the other hand, victims of severe and systematic police violence are also confronting courts to claim justice and work through legal recourse procedures, yet but with a much lesser level of willingness and much lower determination from the public prosecutor to bring about justice. Thus the impunity over human rights violations prevails.

In the meantime and at the Turkish Grand National Assembly, the Executive's powers are being strengthened at the expense of the rights and freedoms of individuals, at the expense of independent professions' roles in societies, in either the health of urbanism sectors, and taking over the judiciary, at the expense of fundamental principles of independence of the judiciary within the rule of law.

This report aims to document, throughout the year following the Gezi park protests, what has been the fate of the requests made from the very beginning of the protest, citizens' quest for rights, freedoms, justice and for the rule of law.

# Methodology

(description of FIDH mission and methodology)

The present report is the result of an investigation on the conditions in which protests in Turkey, which erupted on May 28 2013 in Istanbul, have spread throughout the country, were met with police violence, and are subsequently being prosecuted.

The analysis drawn hereunder takes into account both official declarations and actions, and accounts from local civil society and affected persons, notably reports of FIDH's two member organisations in Turkey, the Human Rights Association (IHD) and the Human rights foundation of Turkey (HRFT). A field mission to Turkey, which was deployed between June 25 to 30, 2013, in Ankara and Istanbul, provided an opportunity to gather a significant portion of evidence. The mission was composed of Ms Maryam Abdul-Hadi Al-Khawaja, Acting President of the Bahrain Center for Human Rights and Co-Director of the Gulf Center for Human Rights ; Ms Rusen Aytac, Lawyer at the Paris Bar ; and Antoine Madelin, FIDH Director for International Advocacy.

During its mission, FIDH met with victims of human rights violations, human rights defenders, civil society organisations, medical workers, journalists, lawyers, as well as families of individuals killed and injured. While a number of meetings were sought with the authorities, only a few were granted : the Governor of Istanbul Huseyin Avni Mutlu and the Ombudsman of Turkey Mehmet Nihat Ömeroglu. FIDH acknowledges those who have responded to our interrogations on how they implemented their respective mandates and responsibilities in light of the unfolding events. Other meetings with authorities were not possible under strange pretexts: the Governor of Ankara, Alaaddin Yüksel excused himself from meeting with us, due to the fact that he was "out of the city", at a moment when demonstrations were out-bursting in his city on a daily basis.

Following the mission, contacts undertaken with lawyers and activists enabled FIDH to track updates regarding the elements documented in the report.

FIDH wishes to thank its member organisations for their valuable cooperation and organisational help during FIDH's mission into Turkey and subsequent to that, as well as the individuals, institutions and organisations who agreed to share their analysis with us.

FIDH, IHD and HRFT set out recommendations at the conclusion of this report directed at Turkish officials and the international community, which it hopes can help to move the situation in Turkey from one where the denial of fundamental rights is common-place, to a place where all Turkish citizens enjoy the protection of and respect for their rights and freedoms.

# Context

## **The trees that hide the forest: Gezi events sparked indignation and outrage throughout the country**

On May 27 2013, a small group of environmentalists, town planners and architects took the streets to block a contested redevelopment plan of Taksim square and its neighbouring Gezi park, located steps away from Beyoğlu, a major and popular tourist center.

The group challenged the redevelopment plan which foresaw to destroy the Gezi park and to build in replacement a replica of 19th century Ottoman barracks, containing a shopping mall, a cultural center and a mosque.

Beyond, they challenged how the project had been forcibly imposed in violation of anti-seismic regulation and of legally required public and institutional consultations.<sup>1</sup> In addition, procedural and safety requirements on site had been violated, such as the need for a precisely defined construction site, the compulsory presence of security experts and of the works foreman.

Following this intervention, the construction company suspended its work, and the activists called upon supporters to join them in a sit-in of the park, which the next morning had gathered 50 individuals and journalists.

The gathering was soon dispersed by the police, in an outbreak of police violence which appeared clearly disproportionate to the necessity of the situation. The demonstration of force shown by the authorities in response to the Gezi activists was yet another manifestation of abuse of power, in particular with regard to the rights to freedom of assembly.<sup>2</sup>

The violence shown by the police on the one side, and the peaceful resistance of the activists in response sparked a popular protest of indignation which unfolded across the country in the subsequent weeks. People went to the streets demanding basic rights and freedoms, notably freedom of expression, transparent governance, and protesting against the abuse of police force. The Security directorate of Turkey issued a report<sup>3</sup> covering a 112 day period of protests between May 28 until the first week of September, where it measured that 5532 protests were organised across all (81) provinces of Turkey with the only exception of Bayburt. Approximately 3,600,000 people attended the protests, and 5513 were detained by the police, 189 were arrested. 4329 were wounded and 5 demonstrators were killed. Regarding the police forces, one officer died and 697 officers was wounded.

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1. Town planning regulations foresaw it compulsory to consult and obtain the approval of Union of Chambers of Turkish Engineers and Architects (TMMOB) - Türk Mühendis ve Mimar Odaları Birliği) and TMMOB had rendered an opinion against the project

2. Article 34 of Turkey's constitution provides for the right to demonstrate peacefully, without obtaining prior authorisation, and subject to limitations proscribed by the law with the intention of protecting national security, public order, the prevention of crime and the protection of the right and freedom of others. At the beginning of the Gezi protests, the Law on Meetings and Demonstrations N° 2911, which regulates the conditions in which demonstrations may be organised or are prohibited, foresaw how these should be organised, notably should the organisers fail to send a notification. It is noteworthy that Law N° 2911 has been recently amended in 13 March 2014 through which the scope of restrictions has been significantly increased, e.g. the number of authorities that would need to approve a public demonstrations, the limitation of duration of indoor meetings and outdoor demonstrations etc. In addition to Law N° 2911, the ruling of the ECHR on Oya Ataman v. Turkey, provided guidance: the Court had already condemned the violent dispersal of a demonstration although it had not been notified, underlining the importance for public authorities to "show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly is not to be deprived of all substance".

3. See Bianet, Police Releases Gezi Resistance Report, 25 November 2013, <http://www.bianet.org/english/crisis/151583-police-releases-gezi-resistance-report>

The report, which was only fully published in April 2014, waived the responsibility of the government and of the law enforcement officials in the outbreak of violence. According to the Interior Ministry, it was the demonstrators who were not interested in reaching a compromise. Police were eventually “forced” to use water cannon and tear gas by the demonstrators, while Gov. Hüseyin Avni Mutlu’s “positive messages and initiatives” went unheard by the protesters. Interestingly enough, the report excludes any human rights violation committed by law enforcement officials: following the ministry of Interior, there is no need for an investigation as “no act contrary to law was found” during the police raids.

In fact, beyond the dates analysed by the report (which covers events till September 2013), and up till the publication of this Report, many more protests were staged, that were closely associated with Gezi events. The reason of each these protests have been varying, from public’s protests against restrictions on internet access rights, the police violence manifested before and after on the occasion of hearings of defendants imprisoned and/or detained during Gezi events, in response to outbreaks of police violence manifested around the hearings of these defendants, or in reaction to anonymous allegations of corruption of the Prime Minister and Members of the Grand National Assembly from the AKP party. Despite differing contexts, the protests all over Turkey were closely related to the “Gezi soul” (Gezi Ruhü) and the protestors were more or less the same crowd that triggered Gezi events in May and June 2013.

In fact, contrary to the Ministry of interior’s “findings”, violations did occur, in a large and widespread fashion.

### **Criminal and disproportionate use of force: A heavy toll of police violence**

Interviews undertaken throughout our mission, video evidence and reports published by Turkish and international human rights organisations as well as international human rights mechanisms confirm that throughout the demonstrations, law enforcement officials made use of their force in blatant violation of their own regulations and international obligations, leading to a broad range of human rights violations.

The evidence collected shows that a variety of crowd-dispersion and armed material were used,<sup>4</sup> in clear violation of Turkish and international regulations on the use of force by armed officials<sup>5</sup>:

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4. These included tear gas canisters, and tear-gas spray guns, sticks, rubber bullets or “pepper-ball” guns (Pelargonic Acid Vanillylamide ball guns), Flash-bangs, firearms with live ammunitions, and water canons.

5. International and regional human rights instruments, which Turkey adhered to, provide for the absolute prohibition of torture and ill-treatment by law enforcement officials. Among them, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials of 1979 (A/CONF.144/28/Rev.1 at 112 of September 1990) and Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169, annex, of 17 December 1979), though voluntary and non-binding, provide for key guidance. In 2010, the UN Committee Against Torture, concerned about the abuse of force by the police to disperse demonstrations had called upon the Turkish government to abide by and respect the UN Principles (CAT/C/TUR/CO/3, para 13, of 20 January 2010).

In addition, article 3 of the European Convention on Human Rights on the prohibition of torture or inhuman or degrading treatment, coupled by the monitoring of the Committee for the Prevention of Torture of the council of Europe provide another set of norms, monitoring mechanisms, legal recourse and jurisprudence on the use of force by police. Through these mechanisms and jurisdictions, Turkey had been condemned as violating Article 3 of the ECHR in several case of abuse of tear gas or pepper spray against demonstrators (See Ali Günes v. Turkey, 9829/07, 10th April 2012 ; Oya Ataman v. Turkey, 74552/01, 5th December 2009).

In response to the pattern of abuse of force, national legislation and regulations had been adopted, which frame the use of force by law enforcement officials in respect of international human rights standards. In particular Article 16 of the Law no 2559 on Duties and Powers of the Police of July 4<sup>th</sup> 1934, was amended in June 2007 to explicit the limitations to the use of force by law enforcement officials, and the related principles of necessity and proportionality. In addition a specific regulation was adopted on 15 February 2008 (See “Gas Circular,” dated Feb. 15, 2008 (“EGM Genelge No: 19”), which details the conditions under which law enforcement officials may disperse crowds of demonstrators, in a thorough description of behaviours that are compatible with international standards.

- While Turkish regulations provide that tear gas canisters should be shot from a minimum of 120 metres and in the air, grenades were being shot directly at the head or the body of the protestors, in violations of obligations to minimise harm.
- Initially and in the majority of situations, tear gas grenades and rubber bullets were used, without pre-emptive notice, against crowds of peaceful and unarmed demonstrators who were not displaying any force or violence, in violation of the principles of necessity and proportionality (corrective measures should be proportionate to the severity of the crime) and necessity (the measures should be necessary to prevent some greater harm and to safeguard an essential interest from a grave and impending danger) ;
- on many occasions, the protestors were encircled by policemen who dispersed tear-gas, without any possibility for the protestors to leave or evacuate the scene;
- on some occasion, the police attacked bystanders outside of demonstrations; on several instances, police officers were chasing demonstrators as they were fleeing the scene, and appeared to thus be violating proportionality and necessity principles, turning the dispersion of the demonstration into a punishment against the protestors;
- lastly, on numerous occasions, tear-gas canister were being shot or planted inside confined areas, notably infirmaries or hospitals where protestors were receiving first aid.

The pattern of abuse of force to disperse demonstrators, which had been denounced by the ECHR and UN treaty bodies<sup>6</sup> thus repeated itself, even during the funerals for the victims. Thus human rights violations proliferated at a large scale.

### ***Violations of the right to life***

Police violence lead to the death of six protestors

- **Mehmet Ayvaltı**, 21 years old, died on June 2nd, after being crashed by a car which was driven into a crowd demonstrating in Ümraniye, Istanbul, on June 2<sup>nd</sup>, 2013
- **Ethem Sarısülük**, 27 years old, died on June 12. He was shot in the head by a live bullet shot by a police officer during the demonstrations held in Ankara on June 1st, 2013. His cerebral death was declared on June 12<sup>th</sup>, 2013.
- **Abdullah Cömert**, 22 years old, died on June 22<sup>nd</sup>, after being hit in the head on the occasion of demonstrations held in Hatay on June, 3<sup>rd</sup> 2013. Five medical reports confirmed that Abdullah died of a skull fracture, likely to have been caused by a hit from a tear gas canister at the back of his head shot from one of the police vehicles surrounding the demonstration.
- **Ali İsmail Korkmaz**, 19 years old, died on July 9th. He was severely beaten and wounded with sticks, by four suspects, in the margins of a demonstration held on June 3<sup>rd</sup> in Eskişehir. A policeman and three bakers were subsequently arrested.
- **Ahmet Atakan**, 23 years old, died on September 9 from a skull fracture, following his participation in a demonstration in Antakya, Hatay, to commemorate the death of Abdullah Cömert. The crowd was dispersed violently, using similar patterns of violations of Turkish and international regulations documented in June.
- **Berkin Elvan**, 15 years old, died on 11 March 2014. He was shot in the head by tear gas canister shot by a police officer in June 2013, allegedly as he was going to buy bread early in the morning, outside of a demonstration. He was 14 years old when he was shot, and entered his 15<sup>th</sup> birthday in coma, which overall lasted for 269 days.

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6. Ibid.



Beyond these six individuals, three individuals lost their lives following the inhalation of quantities of tear gas:

- **Irfan Tuna**, 47 years old, was a caretaker at work aside of demonstrations in Kizilay square in Ankara which were being dispersed with a heavy dose of tear gas. He died on June 5<sup>th</sup> from a heart attack resulting from the inhaling of the tear gas.
- **Zeynep Eryaşar**, 55, who attended the protest, died from a heart attack suffered after having been exposed to tear gas in Avcılar, İstanbul.
- **Selim Önder**, 88 years old, was a bystander of demonstrations held in Taksim, Istanbul, a neighbourhood where he used to live. He suffered strong breathing problems following the dispersal of tear gas on May 31<sup>st</sup>, which subsequently caused his heart attack and death on June 16<sup>th</sup>.

In addition, **Mustafa Sarı**, a police officer, fell down from a bridge and lost his life while running after protestors in Adana on June 5<sup>th</sup> 2013.

**Ahmet Küçüktağ**, a police officer, had a heart attack due to the heavy usage of tear gas by his colleague police officers, and lost his life on the occasion of demonstrations in Tunceli on 12 March 2014 held in connection with protests against the death of Berkin Elvan,

#### *Violations of the right to physical integrity*

NGO reports on the first months of the Gezi events have abundantly documented the violations of the rights to physical integrity.

According to the figures gathered by IHD, bar associations and medical associations, between May 31<sup>st</sup> 2013 and July 15<sup>th</sup> 2013 only, 8163 individuals were wounded as a result of the abuse of force in the demonstrations across Turkey. The Ministry of Interior recognized much less, although an already significant figure of 4329 wounded demonstrators, and of 697 members of the police force.<sup>7</sup> Among them, 64 individuals were either heavily wounded or lost organs, notably the eye.

The pattern of violence shown by the police, from the misuse of tear gas canisters, to the chasing, beating and forced arrest of demonstrators who were often not showing any form of violence, repeated the pattern following which the European Court of Human rights recognised these acts as forms of torture and other cruel, inhuman or degrading treatment or punishment<sup>8</sup>.

#### *Violations of the right to health, attacks against medical personnel and medical infrastructures*

While demonstrations were severely repressed, public emergency services to protesters were difficult to access or prevented from deploying. Public authorities failed to deploy sufficient emergency services on the site of the demonstrations amidst the scores of people in the streets and of wounded from the repression. On several occasions people calling the 112 emergency phone line, were being answered by ambulance personnel that the ambulances were not allowed to come.

In addition, people were afraid to seek help, for the fear of being identified as protesters and charged by the authorities. To feed that fear, on June 3<sup>rd</sup> 2013, the Minister of Health issued an ordinance to all public, private and university hospitals ordering them to monitor and report on all individuals who would seek emergency relief from the demonstrations, thus asking doctors to violate their ethical principle of medical neutrality.

7. Ibid, see Bianet Police Releases Gezi Resistance Report, 25 November 2013

8. Ibid. see Ali Günes v. Turkey, 9829/07, 10th April 2012 ; Oya Ataman v. Turkey, 74552/01, 5<sup>th</sup> December 2009

Doctors in hospitals also reported on the heavy presence and interference of police officers in ER services. In interviews carried in hospitals, medical personnel also told FIDH how some of the medical professionals were prevented from providing medical care to some of the wounded of the Gezi protests.

Lastly, suspicion built and spread in the social media that public ambulances would have, on some occasions, transported weapon supplies to the law enforcement services, which resulted in protesters avoiding ambulances.

As a consequence, groups of doctors and physicians spontaneously set up makeshift infirmaries throughout the cities where demonstrations were taking place. Inspired by medical ethical duties to care for the wounded, their mobilisation was fed by the *de facto* absence of *in situ* public emergency services.

These infirmaries were all established impromptu. They received medical supply and aid from private individuals, pharmacies and or institutions. Doctors and infirmaries volunteered to attend and relief the wounded. Medical students also contributed to this process.

The deployment of doctors to support demonstrators and the setting-up of infirmaries was publicly condemned and denounced by Turkish authorities, who called for their dismantlement. Rapidly, doctors, infirmaries and medical students who were wearing white blouses for identification got attacked. In addition, the makeshift infirmaries became the target of police repression, contrary to international humanitarian principles. On numerous occasions, tear gas grenades were shot at and/or planted in closed areas that had turned into public shelters and makeshift infirmaries. Numerous videos documented these attacks. FIDH mission was able to verify some of these allegations in visiting makeshift infirmaries in Ankara and Istanbul and interviewing health professionals.

In addition, on the night of June 15/16, 2013, in Istanbul, police entered and raided the Divan hotel, and shot tear gas grenades inside the premises of the building, which was used as an infirmary for Taksim square protesters<sup>9</sup>. On that same night and many nights further ahead, the Police also shot water canons on a private hospital, Alleman hospital<sup>10</sup>.

### ***Sexual violence***

Lawyers also reported on gender-based violence and sexual harassment of woman protesters by police forces. In particular, women detained in police vans pending their transfer, were exposed to verbal and physical attacks and sexual assaults by security forces. In addition, some men and boys were also subject to sexual harassment but social constraints lead to such cases not being formally reported.

### ***Violations of the rights of the child***

Several minors were victims of police violence, such as Belkin Elvan, whose case is detailed hereunder. Minors were also detained in riot police vehicles, and beaten. Some were charged of violating the laws regulating the rights to freedom of reunion and demonstration. Lastly inspectors of public schools have investigated on the behaviours of the members of the teaching corps regarding the protests, and in doing so, have been interrogating children within the schools.

9. <http://www.youtube.com/watch?v=wtUHmiG29ts&feature=youtu.be>

10. <http://www.youtube.com/watch?v=h1RirGnGedw&feature=youtu.be>

# SECTION I – An attempted “witch hunt”: Arbitrary arrests, detention and criminalisation of the protesters

From the early days of the Gezi protests, authorities arrested and prosecuted protesters and leaders of the demonstrations, often in violation of the national and international human rights provisions.

According to figures gathered by the Security Directorate under the Ministry of Interior between June and September 2013, the number of people who were detained across Turkey in the early months of the “Gezi protests” was significantly high, with 5341 people put in custody.<sup>11</sup>

A large majority of them were subsequently prosecuted. Early March 2014, the Human Rights Foundation of Turkey registered 82 cases against 5235 individuals and against the Hatay and Ankara Medical Chamber’s Executive Board.

Among those arrested and subsequently prosecuted, some were among the most peaceful demonstrators, using pots and chants, or just standing in a public place as a show of protest (the ‘standing man’). In July 2013, HRFT<sup>12</sup> reported how ten individuals who took part in the protests by banging pots and pans on their balconies, received a fine of 88 TRY, on the basis of breaching the Misdemeanour’s Law. Nine students were also fined 1000 TRY on the basis of breaching this law.

## ***Mass arrests and lack of due process in searches and arrests***

Individuals, who were arrested during demonstrations, were often arrested ‘*en masse*’. The majority of them were subsequently released without any procedure.

In some cities, notably Ankara and Istanbul, demonstrators were arrested and put in the sports halls of the Security Directorate. Individuals were also arrested and kept in busses for several hours with no ventilation and with the heating on.

IHD reported on the conditions of some of these mass arrests, where individuals were handcuffed among each other, some were beaten, food and water not provided. On some occasions, individuals were forced to take their clothes off. On some, they were insulted as well as their lawyers. On June 16, 2013 a group of arrested individuals were forced to watch the AKP demonstrations held in Kazlıçeşme Square.

11. Ibid, see Bianet Police Releases Gezi Resistance Report, 25 November 2013

12. See HRFT Fact Sheet dated on 16 July 2013, [http://www.fidh.org/IMG/article\\_PDF/article\\_a13688.pdf](http://www.fidh.org/IMG/article_PDF/article_a13688.pdf)

In numerous cases of arrests, people were not informed of the charges against them and were not given access to their lawyers through the first 24 hours of their detention. In addition, lawyers were not able to look at their client's files, as the records were restricted due to the arrests being regulated by anti-terrorism legislation.

Lack of due process also characterised several hundreds of house searches carried out by special security forces. The procedures did not respect many of the legal requirement. Although lawyers were allowed to be present, they weren't able to intervene to prevent illegal practices. Warrants were presented but when lawyers were not already present, suspects were not able to seek their assistance as their phones were immediately seized. Security forces also seized all that was electronic, as well as books.

#### ***Police violence against lawyers at Istanbul Çağlayan Courthouse***

On June 11<sup>th</sup>, 2013 many lawyers protested the police violence during Gezi events and manifested their solidarity for the ongoing protests. Police forces attacked the lawyers dressed in their official attire and detained them. 45 lawyers were detained for eight hours incommunicado against the Law on Legal Profession and were released thereafter. The police violence was condemned by Istanbul Bar Association and thousands of lawyers on June 12<sup>th</sup>, 2013. Lawsuits are pending against the relevant lawyers for breach of Law No. 2911 and resistance to police officers.

#### ***Prosecution of Taksim Solidarity (Taksim Dayanışması) leaders***

On July 8<sup>th</sup>, 2013 fifty people participating to demonstrations in Taksim square were arrested and taken into custody, 35 of them members of Taksim Solidarity. They were kept in detention till July 12<sup>th</sup>, 2013. **Mücella Yapıcı**, architect and coordinator of the Taksim Solidarity movement, and **Ali Çerkezoğlu**, general secretary of the Istanbul Medical Association, active in coordinating medical assistance for injured protesters, were detained respectively for 48 and 72 hours.<sup>13</sup>

Twenty-six members of Taksim Solidarity were subsequently prosecuted for forming a "criminal organisation", "violating the law on meetings and demonstrations" and "resistance to public officials". On February 10<sup>th</sup> 2014, the Istanbul Penal Court of First Instance No 33 (*İstanbul 33. Asliye Ceza Mahkemesi*) rejected the Public Prosecutor's Indictment on the grounds of insufficient characterisation of the criminal nature of the organisation (Taksim Solidarity) and the insufficient characterisation of the criminal nature of the activities they undertook within such organisation. The Court also determined that Prosecutor's allegation of resisting public officials were not substantiated with enough evidence of physical coercion or threats for the 26 standing trial, nor with any names of public officials which would allegedly had been subjected to violence or threats.

The Public Prosecutor Hüseyin Nazmi Okumuş objected to the ruling of the Istanbul Penal Court of First Instance No 33 to the higher Criminal Court. In its capacity as the higher ranking court, the Istanbul High Criminal Court No. 21 (*İstanbul 21. Ağır Ceza Mahkemesi*) rejected the Public Prosecutor's objection and approved the Istanbul Penal Court of First Instance No 33's findings on grounds of deficiencies of the indictment. The Court ordered amendments and completion of the latter.

13. The people from Taksim Solidarity who were arrested and held in detention were Mücella Yapıcı (Chamber of Architects), Ali Çerkezoğlu (Turkish Doctors Union General Secretary), Beyza Metin (Chamber of Electric Engineers Istanbul Branch Chairwoman), Süleyman Solmaz (TMMOB Istanbul Coordination Council Secretary), Akif Burak Atlar (Chamber of City Planners Istanbul Branch Secretary), Sabri Orcan (Chamber of Architects Istanbul Chamber) Ender Imrek (People's Democratic Congress executive board member), TKP MYK member Erkan Baş, Haluk Ağabeyoğlu from HDK, Hakan Dilmeç from Kaldıraç Magazine, EHP Istanbul Chamber Chairman Emre Öztürk. (NV/BM)

In the meantime, the Public Prosecutor Hüseyin Nazmi Okumuş was replaced by Public Prosecutor Mesut Erdiñ Bayhan<sup>14</sup>, who has eventually revised and completed the indictment. In the revised indictment, twenty-six members of Taksim Solidarity, including **Mücella Yapici** and **Ali Çerkezođlu** were once again accused of forming a “*criminal organisation*”, “*violating the law on meetings and demonstrations*” and “*resistance to public officials*”. The Istanbul Penal Court of First Instance No 33 accepted the revised version of the indictment and commenced the legal proceedings against the defendants. The first hearing for this case is scheduled for June 12<sup>th</sup>, 2014, and they face from 1 to 13 years imprisonment.

### ***Prosecution of health workers***

After publicly criticizing the work of health professionals and physicians who had ethically provided health care to demonstrators and bystanders injured during the Gezi park protests, on 27 January 2014, the Minister of Health filed a legal actions against members of the Turkish Medical Association (TMA) and requested their removal on the grounds that they “established healthcare units called infirmaries illicitly and without control and supervision and thus engaged in activities out of their mission.”

The move was condemned by a coalition of medical health workers organisations and Physician for Human Rights, which filed a legal brief in support of the defendants.<sup>15</sup> As mentioned in the physicians’ brief, the TMA not only followed international standards of medical ethics at great personal risk, they also acted in accordance with the Turkish Penal Code, which makes it a crime for medical personnel to neglect their duty of providing emergency medical care to those in need.

### ***Prosecution of minors***

Among individuals prosecuted, a 13 year old child has been prosecuted and ordered to stand trial for writing wall slogans ‘Government resign’ and ‘Death to fascism’ in the North-western Province of *Çanakkale*. He was charged with Article 152/1 for constituting « state property damage » and Article 301 of the Turkish Penal code on « Insulting Turkish values », thus facing prison sentence from 2 up to 6 years.

The child had stated to the prosecutor he doesn’t know what fascism nor that writing on a wall was a crime. Forensics Institute also reported that the defendant is « unable to conceive the judicial meaning and the consequences of the charge », thus arguing he isn’t eligible for criminalisation. Nevertheless Prosecutor Ozan Kaya indicted him and the *Çanakkale* Court of first instance held two hearings on November 27<sup>th</sup>, 2013 and on January 21<sup>st</sup>, 2014. He was ultimately acquitted.

### ***Prosecution of some demonstrators***

According to HRFT, on 27 September 2013 Istanbul Penal Court of First Instance No. 50 (*Istanbul 50. Asliye Ceza Mahkemesi*) declined the Public Prosecutor’s Indictment regarding 36 people in connection with the protests in Istanbul Province on charges of “opposing to the Law No. 2911 on Meetings and Demonstrations”, “harming public goods”, “resisting public officers due to his duty”. They were first tried on 27 September 2013 by Istanbul Penal Court of First Instance which rejected the Indictment on the grounds that the evidences –mask, helmet, sea mask, motor biker’s helmet, etc.- mentioned in the indictment are not the weapons cited in the Law No. 2911.

14. Following a prosecution initiated against a number of Members of the Parliament’s immediate family members and renowned businessmen on the ground of embezzlement and corruption on 17 December 2013, the Government expressed its discontent “for not being informed about the investigation process beforehand”. The Government replaced high ranking judiciary officials, including Public Prosecutors and Judges and police forces all over Turkey. The replacement of the Public Prosecutor was one of the relevant actions carried during the December 2013 mobilization.

15. See <http://physiciansforhumanrights.org/press/press-releases/phr-files-legal-brief-in-support-of-turkish-medical-association.html>

Subsequently, the Public Prosecutor revised the Indictment and claimed that the suspects had occupied the Gezi Park; harmed the public and private property; attacked on the law-enforcement with sticks, homemade explosives, sound bombs and sling.

Despite the accusation, Istanbul Penal Court of First Instance No. 50 acquitted 23 defendants on 12 December 2013.

Thus, for many of these prosecutions, the indictments were either unsubstantiated, gross, and appear to be a mere attempt from Turkish authorities, through the prosecution arm, to curtail dissent, and unfold a “witch hunt” that targets leaders of a peaceful and popular movement which has mobilised more than 3 million people around the streets of Turkey.

### ***Prosecution on grounds of counter terrorism offences***

On June 11th, 2013 while a particularly violent police operation designed to evacuate Taksim Square was taking place, 74 people were arrested during a raid against the Social Democracy Party (SDP). While most were released after four days of detention, four remain imprisoned and criminal proceedings were initiated against them for having participated in organised criminal activities. As a procedural rule, the status of imprisonment is reviewed by the courts periodically, before commencement and during criminal proceedings. As per such procedural rule, on 12 March 2014, the Istanbul High Criminal Court No 22 ruled release of four of the imprisoned defendants pending criminal proceedings.

These particular individuals, in addition to being arrested, had their homes searched and were prosecuted under anti-terrorism legislation. FIDH is concerned about the use of criminal provisions that are in place to counter terrorism, that have been repeatedly condemned by the United Nations’ mechanisms of protection of human rights and by the European Court of Human Rights. In a report published on June 2012<sup>16</sup> in the context of its joint programme with the OMCT the Observatory for the protection of human rights defenders, FIDH had documented how those who speak out on “sensitive” human rights issues remain the target of an intense criminalisation, notably through the Anti-terrorism Law No 3713. Nothing today justifies this use of special judicial procedures or the use of vague charges of organised criminal activities instead of the law governing demonstrations.

On March 6<sup>th</sup>, 2014, the Law No. 6526 amended a number of laws in force, including the Anti-Terrorism Law No. 3713 and abolished Criminal Courts that are established as per Article 10 of the Anti-Terrorism Law. Since the SDP members are charged as per the Anti-Terrorism Law, the Criminal Court that reviews their case is currently abolished. The new authorized court for this case is not determined. The hearing date is yet to be scheduled.

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16. See report of 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), June 2012, Turkey: Human Rights Defenders, Guilty Until Proven Innocent, <http://www.fidh.org/en/europe/turkey/Turkey-Human-Rights-Defenders>

# SECTION II – Attacks to freedom of expression and of information

Beyond physical violence, attacks on freedom of expression and information were significant throughout the “Gezi resistance” movements.

As the revolt spread throughout the country and reached its peak at the end of May, media coverage by ‘mainstream’ news television was seriously lacking. On May 31<sup>st</sup>, 2013 one of the evenings when the clashes between protesters and the police were at their peak and broadcasted live on international news channels, Turkish 24/7 news CNN/Türk broadcasted a documentary on penguins, while another major channel Habertürk TV, was broadcasting a debate on schizophrenia.

Such coverage clearly angered the crowd of protesters, which responded in caricaturing themselves as penguins, criticized abundantly the main media in the social media circles, and demonstrated against some of the major media outlets. Incidents of violence were reported, such as the destruction of an NTV news van outside of Taksim square by a group of protesters.<sup>17</sup>

Turkey’s record of violations on freedom of expression is unfortunately not new. A number of reports also demonstrate how in Turkey, proliferating and powerful private media outlets have developed from economic conglomerates, active in the telecommunication, energy or public works sectors, which sectors rely upon State or government patronage. Thus while media sector has been booming economically, it has not been in respect for and cherish of an independent and free information.<sup>18</sup>

Within this context, citizen-journalists developed alternative media to fill the absence of relevant information on the demonstrations.<sup>19</sup> In addition, numerous journalists and media professionals attempted to document and report on the demonstrations and the police violence. They were met with a series of human rights violations, in a systematic crackdown ranging from direct physical attacks, to arrests, fines and dismissals.

Thus, the Gezi events evidenced the failure of the Turkish media and its dependency to the executive power, amidst the courage of numerous and professional journalists.

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17. In a comprehensive investigation on the Gezi protests lead by Esra Ercan Bilgic et Zehra Kafkasli of Bilgi university, the researchers noted that 84,7% of the individuals participating to demonstration whom they interrogated said that they had participated to demonstrations to protest against the media self-censorship and/or mutism, Gencim, Özgürlükçüyüm, Ne İstiyorum?, #direnceziparkı Anketi Sonuç Raporu, June 2013 <http://istifhane.files.wordpress.com/2013/06/direncezi.pdf>

18. See Committee for the protection of Journalists, Turkey’s press freedom in crisis, 2012 ; TESEV, Caught in the wheels of Power, 2012; Carnegie endowment for Democracy, Press Freedom in Turkey, 2012.

19. See for example the establishment of the dedicated Television <http://www.capul.tv/> and dedicated online news agency <https://otekilerinpostasi.org>

### ***Attacks, arrests and prosecution of journalists and media professionals in relation to their coverage of the protests***

A number of journalists and media professionals who were reporting during the demonstrations, were physically attacked or had their work damaged by the police while reporting.

In a thorough report<sup>20</sup> documenting instances of violations and attacks against journalists and media professionals between May 27, 2013 and September 30, 2013, Bianet reported that 153 Turkish and international journalists and media professionals were injured by the police, either hit by tear gas canisters or physically injured during the demonstrations. 39 were detained. These figures were corroborated by the Turkish Association of Journalists. Others had their equipment seized, destroyed, or their recordings erased by the police.

After the end of demonstrations, a large number of journalists maintained their coverage of the Gezi events, enquiring about the official investigations into some of the most important human rights violations. In doing so, they were subject to criticism and threats, including by high level officials. In an email he received from Eskişehir's governor Azim Tuna, daily Radikal correspondent **İsmail Saymaz** was threatened with retribution if he did not stop reporting on the investigations (or absence of) on the death of Gezi protester Ali İsmail Korkmaz. The journalist received an email blaming him for being prejudiced on the course of the trial of Korkmaz: "*Even [the punishment of the suspects with] life sentence wouldn't please you. If you discuss this subject by interpreting it again, you're vile and inglorious. Don't forget there is [the life to come], we will see each other there sooner or later.*"<sup>21</sup> Reacting to the outcry caused by the threatening email, Interior Minister Muammer Güler vowed to launch an investigation against the governor's remarks, but there is no public knowledge of whether Güler has initiated any administrative action in this respect<sup>22</sup>. Saymaz filed a complaint against the governor Azim Tuna on account of the threatening nature of the latter's email. The proceedings are pending.

**Hafize Kazıcı**, Editor-in-Chief of the daily Sol, was tried in connection with the news articles of 11 and 12 September 2013 concerning Gezi Park demonstrations. She is indicted on charges of "praising crime and criminals" and "provoking people to hatred and enmity". She risks imprisonment for up to 12 years. The case is pending before Istanbul Penal Court of First Instance No 2.

### ***Prosecution of TV channels***

Beyond attacks against individual professionals, several independent Turkish media channels that relayed the information during the demonstrations were subsequently prosecuted by the Supreme Council of Radio and Television (RTÜK) for "*inciting violence, violating broadcasting principles by means of programmes which contents undermines the physical, moral and mental development of children and young people*", for having broadcast and reported on the events, in violation of the right to freedom of expression and information.

The Supreme Council ultimately sentenced Halk TV, Ulusal TV and Cem TV to huge fines. Halk TV, for example, was sentenced to 146,000 Turkish lira.

20. See BIA Media Monitoring, Gezi report, 23 October 2013 <http://bianet.org/bianet/medya/150728-habercinin-dort-aylik-isim-isim-gezi-seruveni>

21. See Hurriyet Daily News, Eskişehir governor threatens journalist over reports on Gezi protester's murder, October 2nd 2013, <http://www.hurriyetdailynews.com/eskisehir-governor-threatens-journalist-over-reports-on-gezi-protesters-murder-.aspx?pageID=238&nID=55547&NewsCatID=341>

22. Following 17 December 2013 corruption investigation, Minister Muammer Güler resigned from his post. He still maintains his position as the MP.



### ***Editors, columnists and journalists dismissed or resigned***

According to CPJ sources, at least 22 journalists and columnists were dismissed and 37 were forced to quit for their reporting of the Gezi events<sup>23</sup>.

**Yavuz Baydar** was fired from his position of ombudsman for the pro-government daily *Sabah* on July 23, just 4 days after he published an Op-Ed in the New York Times on the corruption of the media over freedom of expression, analysing the consequences for the coverage of the Gezi protests.<sup>24 25</sup>

**Can Dündar**, was fired from the daily newspaper Milliyet in late July 2013 for his reporting on Gezi protests and his criticism of the Government on his personal blog.

**Gürsel Öncü**, the Editor-In-Chief of NTV History (*NTV Tarih*) publication resigned due to the fact that a day before its release NTV cancelled the publication of History Written Whilst Lived (*Yaşarken Yazılan Tarih*), a documentary review of Gezi protests. The History Written Whilst Lived was later published by a private publication company.

In addition to the foregoing veterans, many junior and senior journalists working for mainstream TV channels protested against the editorial content of their channels that intentionally avoided coverage of Gezi protests and resigned from their duties.

### ***Social media***

While Turkey's main broadcast media have been criticised for shunning the coverage of police brutality at the protest, many people turned to social media to keep up to date with the developments. Thus Twitter and Facebook, played an important galvanising role during the events, enabling demonstrators to rapidly exchange information on the demonstrations, to circumvent what demonstrators perceived as inadequate local media reporting.<sup>26</sup> Thus, Gezi became synonymous with freedom of opinion and expression.

Yet, as much as mainstream media were being controlled, the social media became the target of strong criticism from the Turkish authorities. Prime minister Erdogan, in the peak of the repression, referred to the social media as “the worst menace to society” or “the scourge of Twitter”. Government officials subsequently drafted amendments to the already restrictive Internet Law (see section 4), Twitter and Youtube were also subsequently blocked.

### ***Prosecution of social activists***

The curtail on the social media translated in individuals being arrested for the posts they had published, in violation of their freedom of opinion and expression. According to IHD's report on the Gezi events, 34 people were arrested in Izmir on June 4<sup>th</sup>, 2013, 13 in Adana on June 8, for allegedly “inciting violence” by means of their websites.

23. [www.cpj.org/2014/02](http://www.cpj.org/2014/02)

24. Yavuz Baydar, My sacking is an attack not just on journalism, but on Turkish democracy, The Guardian, July 29, 2013, <http://www.theguardian.com/commentisfree/2013/jul/29/my-sacking-attack-turkish-democracy>

25. Yavuz Baydar, In Turkey, Media Bosses Are Undermining Democracy, The New York Times, July 19, 2013, [http://www.nytimes.com/2013/07/21/opinion/sunday/in-turkey-media-bosses-are-undermining-democracy.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/07/21/opinion/sunday/in-turkey-media-bosses-are-undermining-democracy.html?pagewanted=all&_r=0)

26. See New Internationalist Blog, Karin Alexander Social media's role in Turkey's dissent, July 4, 2013, <http://newint.org/blog/2013/07/04/social-media-turkey/>

During Gezi event, the Turkish branch of RedHack assisted Twitter and Facebook users about connection problems, access to emergency numbers and facilitated online communication between protesters at different parts of Istanbul and other cities of Turkey. On 22 November 2013, a total of 13 persons were detained on grounds of cyber-criminal activities associated with the Gezi events. One of the detainees, Taylan Kulaçoğlu was accused of acting as the leader of the Turkish branch of RedHack and was imprisoned. He was finally released pending trial.

On 21 February 2014, 29 students have been indicted to stand trial before the İzmir 1st Peace Criminal Court for violating Turkish Penal Code Articles 217/1 and 218/1 on “igniting public not to obey rules”. They are facing prison terms up to 3 years due to the tweets they have sent during the Gezi Protests in Izmir on May 31, 2013.<sup>27</sup>

Prosecutor Özcan Pehlivan, presented the 31 page indictment, claiming that banks, ATMs, vehicles and offices have been damaged within the protests. The only person cited to have “suffered” from the protests is Prime Minister Recep Tayyip Erdoğan.

Some of the tweets for which they are subjected to charges are related to asking to call for ambulance, lemon, vinegar or milk, or just inviting to join protests or releasing public wi-fi passwords and emergency phone numbers. One of the cited tweets say that some individuals were being attacked by thugs armed with batons.

The indictment argues that “The social media shares related to the protests has caused the turmoil to grow as they were impartial, manipulating and provoking. The misinformation made public confront with the police.” “Through the social media, they have informed where the police had put barricades and where they intervened. They have violated the public demonstration law at night.” “They have called the public to demonstrate and encouraged to participate and ignited them to continue protesting...”.

#### ***Administrative Action Initiated Against Academics and Public Servants***

Public and a few private universities in Istanbul and many other cities in Turkey filed administrative action against some members of their academic staff on grounds of their alleged involvement in the Gezi protests. The university administrations relied on the pictures and commentary shared on the relevant staff’s social media accounts and on references made to Gezi events during their classes. It is not possible to estimate the volume of such cases until the relevant damaged parties challenge the university administrations’ dismissal decisions.

Thousands of public servants supported Gezi protests individually or through their associated labour unions. Their employer, public institutions, triggered administrative investigations against their employees for their involvement and/or support of Gezi protests. At this stage, the result of such investigation or the direct impact on the termination of their employment contracts, as the case may be, may not be clearly estimated until such actions are challenged by employee public servants.

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27. See Bianet, Crime: Tweeting, Victim: Prime Minister, 21 february 2014, <http://www.bianet.org/english/youth/153691-crime-tweeting-victim-prime-minister>

# SECTION III - Passivity, indulgence or impunity in crimes against protestors

With an important toll of human rights abuse throughout the Gezi protests, investigating allegations of abuse by law enforcement authorities, particularly restrictions to freedom of opinion and expression and for the human rights violations, and appropriate sanctions for those whose responsibility will be ascertained, are a legal obligation as well as an answer to avoid undermining public trust in the judiciary.

This is the sense of the successive rulings of the ECHR, which condemned Turkey for the abuse of force against demonstrators in *Oya Ataman v. Turkey*, 74552/01, December 5th 2009 and in *Ali Günes v. Turkey*, 9829/07, on April 10th 2012, which repeated the duty of the Turkish authorities to prosecute such crimes.

In 2012, Turkish authorities established the post of “ombudsman”, an office to support him, to receive complaints of rights violations and report on them. FIDH mission met with him, the post is currently held by Mehmet Nihat Ömeroglu, and he committed to investigate into the violations.

On December 31st 2013, Mehmet Nihat Ömeroglu announced he had submitted a 176 page report to the Interior Ministry, Istanbul Governorship and Istanbul Mayor, on the disproportionate use of force by the police. While not disclosing his report, he announced police had made an “excessive” use of force in response to demonstrations. He has received 7116 complaints of rights violations, was able to investigate into 5900 among them, and documented 17 of them in his report. He further declared he had transmitted 8 recommendations to the Turkish authorities on tackling police violence, relating to the typology of the gas used in tear-gas, the conditions of work of the police in the context of tear-gas, the psychological support for police officers, and recommendations for others forms of coercion.

When FIDH met with the Governor of Istanbul in June, he committed to investigate and ensure the appropriate prosecutions of all incidents of police violence committed under his jurisdiction.

However, several months after the spark of the Gezi protest, FIDH regrets the very little prosecution of the human rights violations. Officially, the authorities recognize that “no act contrary to law was found” during the police raids. In practice, in light of the violations, individuals have gone to the courts to file complaints. In response, numerous obstacles have arisen, which currently hamper judicial investigations concerning law enforcement officials. Furthermore, seldom have been suspended the officials who are the subject of credible allegations of human rights violations. This was also regretted by Council of Europe Commissioner for Human Rights Nils Muižnieks, in his report on the Gezi protests : “*Misconduct of law enforcement officials poses a direct threat to the rule of law. In no circumstances can human rights violations committed by them be tolerated or encouraged: progress is needed to ensure that all allegations*

*are investigated adequately and followed by dissuasive sanctions where appropriate”.*<sup>28</sup>

### ***Public denial of violations or praise of human rights violators***

To start, FIDH regrets statements of public authorities who, at the climax of the police violence, publicly lauded the work of the police, even portrayed them as the victims of the unrest, or denied the commission of human rights violations.

Among them, Deputy Prime Minister Bülent Arınç denied the well documented abuse of teargas into the Divan hotel “the police has not entered any hotels, maybe even when it needed to. Divan hotel has become the headquarters of an institution that provides logistical support and food aid to the demonstrators.”<sup>29</sup>

Amidst evidence of the shooting by a policeman, Metropolitan Mayor of Ankara, Melih Gökçek, publicly denied the responsibility of the police in the killing of Ethem Sarısülük, saying he was killed “by a stone thrown at him by provocateurs” and that allegations that he had been shot by the police were “provocation”.<sup>30</sup> In addition, FIDH mission was shocked to hear how at the scene of the killing of Sarısülük, the Mayor had organised the display of a 3 vs. 4 metres poster stating « I congratulate the heroic Turkish police » and signed by himself.

Istanbul Governor Avni Mutlu also denied human rights violations committed under his jurisdiction. On June 10<sup>th</sup>, 2013 while a police raid in Taksim square lead to severe numbers of wounded (14 head traumas, 11 broken bones, 7 asthma attacks, 1 epileptic attack, 5 cuts, 6 gas burns, 340 gas affections, 1 stroke were documented by Gezi Parkı groups), the governor of Istanbul Avni Mutlu twitted information denying strongly such allegations : « *As we promised in the morning, we only removed banners and flag in the area. However, clashes 1 police officer and 1 citizen wounded. (...) Our police officer was wounded in his thighs while our citizen suffered from head trauma. I wish both of them speed recovery.* »<sup>31</sup>

In a meeting with the FIDH mission in June, the Governor of Istanbul denied some of the allegations of abuse of police force, notably rejecting the fact that the police would have thrown gas canisters inside the Divan Hotel. He further praised the work of the police amidst the toll of human rights violations. He proudly stated that the management of demonstration by the police forces « *was exemplary and could be presented as a model for cities around the world* ». That line was the one subsequently echoed in the Ministry of Interior’s report on the events.<sup>32</sup>

### ***Absence of, or slow judicial investigation into rights violations, destruction of evidence and weak qualification of facts***

Across Turkey and for the past nine months, prosecutors have shown passivity if not leniency in the choice of the charges against officials accused of human rights violations. In fact, investigations were launched only after strong public criticism of the impunity. Hence, from the absence of or slow investigations into rights violations, the destruction of evidence and

28. Report by Nils Muiznieks, Commissioner for Human Rights of the Council of Europe, following his visit to Turkey from 1 to 5 July 2013, CommDH(2013)24, 26 November 2013.

29. See Radikal, Arınç: Sokaktaki gösteriler bastırılacak, June 17 2013, [http://www.radikal.com.tr/politika/arinc\\_skaktari\\_gosteriler\\_bastirilacak-1137966](http://www.radikal.com.tr/politika/arinc_skaktari_gosteriler_bastirilacak-1137966)

30. See Haber8, Melih Gökçek: Ethem Sarısülük atılan ta la öldü!, June 15 2013, <http://haber8.com/guncel/melih-gokcek-ethem-sarisuluk-atilan-tasla-oldu/haber-180176>

31. See Bianet, Police Intervention in Taksim Square, June 11th 2013, <http://www.bianet.org/english/crisis/147454-police-intervention-in-taksim-square>

32. See Context

the weak qualification of facts, the quest for justice by victims of human rights violations has remained unsuccessful. Subsequently, when trials were opened -and only after large public outcry regarding the impunity, the conditions for a fair trial were not respected: inadequate courtrooms, harsh conditions were imposed on the defendants accessing to the courtroom, and cases were systemically transferred. The following are three symbolic illustrations.

### **1. Berkin Elvan**

On the occasion of its mission in July, FIDH met with the family of Berkin Elvan, a 14 year old boy who was shot at the back of his head by a tear gas canister, outside of public demonstrations. On the morning of June 16<sup>th</sup>, at approximately 7 a.m., Berkin, left his house in Okmeydanı, an Alevi neighbourhood of Istanbul, to buy bread for the family breakfast, at a shop around the corner and a few meters from his house. Police cars had remained in the streets following a demonstration that had erupted and ended the previous evening. While he was approaching the bakery, Berkin was shot in the back of his head by a tear-gas grenade. He walked a few steps, vomited and collapsed unconscious.

The night before the event, protests had erupted in the neighbourhood with people gathering and banging pans. Belkin, participated to it, alongside his mother uncle and sister and approximately 5000 people. The police had intervened violently using tear-gas and rubber bullets, in confrontations with protesters, firing indiscriminately and without pre-emptive notice, notably inside people's homes. The family members found themselves in the middle of orange and white tear-gas clouds which were thick and did not allow them to breathe.

A young boy known to the family and a lawyer were witnesses to the accident. In writing their testimonies they said that the police had not given any type of warning before shooting and that the policeman were not wearing ID numbers on their helmets. A nearby shop appears to have video evidence of the incident but the owner, a former AKP member, is refusing to share its content.

No medical support was sent on the scene as when calling the emergency 112 number the response was "*you did the demonstrations, you are responsible*". The family rushed Berkin to the ER where medics assessed that he had suffered from a skull fracture and brain haemorrhage. Berkin's father filed a complaint denouncing Berkin's attack on Tuesday 18<sup>th</sup> of June, 2013 for "*attempted murder*". The Public Prosecutor revisited the facts and ruled to initiate the investigation against the police officers for "*disproportionate use of force*", under article 256/1 of the Turkish Penal Code. Berkin's family and crowds of supporters staged numerous demonstrations to condemn the attack and call for the police to be charged for attempted murder. The investigation before the Public Prosecutor is still pending. Despite the police forces' statutory obligation to carry out the investigation properly and determine witnesses, so far all the witnesses were located by the lawyers of the Elvan family. Following the death of Berkin Elvan on 11 March 2014, after a 269 day coma, public protests started in major cities all over Turkey. Thousands of people occupied the main street of İstanbul on 12 March 2014 for the funeral and were met with more police violence.

### **2. Ethem Sarisuluk**

The investigation into Ethem Sarisuluk's death was very belated. Police only started the investigation 6 days after the killing, and only after Ethem's lawyers presented to the Prosecutor video evidence involving a policeman, Ahmet Sahbaz, shooting at him.

The Ankara Security Directorate only communicated the name of the policeman 10 days after the shooting, and the Prosecutor interviewed the policemen only 23 days after the fatal shooting. On 12 July 2013 the indictment was submitted to Ankara 6th Aggravated Felony Court (*Ankara*

6. *Ağır Ceza Mahkemesi*) by the Prosecutor, charging the policeman with allegedly “killing a person by unintentionally exceeding the limits of self-defence due to excusable circumstances” on the basis of article 81 and 27/1 of the Turkish Penal Code. Thus, the Prosecutor alleviated the charges of the “killing” on grounds of “legitimate defense”, amidst reports of several criminal experts’ opinion, who, having screened the video of the killing, heard witnesses and read autopsy reports nevertheless had excluded the “legitimate defense” circumstances.

In addition, several days after their testimony on Ethem’s killing, three witnesses to the deceased protestor were harassed and threatened : Mehmet Can Taysan was the object of an arrest warrant, Sahin Imga placed in detention and Burhan Coban was harassed in phone calls he received.

The policeman, on his side, was released while awaiting trial. While clearly misusing his firearm, as confirmed in a report by court-appointed experts, the police officer remains in his post.

The objection filed by Ethem Sarısülük’s family against the verdict of release was rejected by Ankara 8<sup>th</sup> Criminal Court of First Instance on the basis that “family doesn’t have an authorization to object”.

When the hearings started, the Ankara 6<sup>th</sup> Aggravated Felony Court ruled that its authority to review the case is jeopardized and thus refused to review the case. The Ankara 7<sup>th</sup> Aggravated Felony Court (*Ankara 7. Ağır Ceza Mahkemesi*) reviewed the first instance criminal court’s ruling *ex officio* and quashed it. Despite criminal procedural rules that oblige the Ankara 6<sup>th</sup> Aggravated Felony Court to sustain its review of the case, the Ankara 6<sup>th</sup> Aggravated Felony Court did not commence the proceedings and “conceived” an alternative procedural route. In February 2014, the Ankara 6<sup>th</sup> Aggravated Felony Court took its decision to the review of the Ministry of Justice. There is no legal or procedural basis that enables the Ministry of Justice to grant any ruling on such request but it has not announced its opinion since February 2014. Simultaneously, the Sarısülük family complained about the judges of the Ankara 6<sup>th</sup> Aggravated Felony Court to the High Council for Judges and Prosecutors (*Hakimler Savcılar Yüksek Kurulu*). There are no developments regarding this complaint until this day, either.

### **3. Ali İsmail Korkmaz**

Ali İsmail Korkmaz’s murder is another of the rare yet very slow investigations and prosecutions. Ali İsmail was beaten with sticks by unidentified civilians in the margins of a demonstration held on June 2<sup>nd</sup>, 2013 in Eskişehir. As he fled tear gas and water cannons of the demonstration he was in, he came across a group of people in a side street, who gave him a severe beating. Severely wounded, he managed to make his way to Eskişehir’s Yunus Emre Public Hospital, but doctors declined to treat him and sent him away to make a deposition at the police station. He thus only received medical treatment 20 hours after the beating. He was diagnosed with brain haemorrhage, put in coma and died after 38 days of coma.

The governor of Eskişehir, Güngör Azim Tuna, first declined any role for the police in the beating. Yet, perfectly clear pictures of the murder of Ali İsmail, taken from a hotel surveillance camera were presented to the police, and showed the participation of five individuals, including a policeman. They however became unusable after being seized by the police.

In addition, amidst declarations from the Prosecutor that this was an “isolated incident”, other testimonies and further video evidence showed how the same group had beaten another demonstrator, Dogukan Bilir, in the same street (Sanayi sokak).

On August 7, 2013 a court arrested four suspects (a policeman and three local bakers) for the wilful murder of Ali İsmail. A fifth suspect, a civilian, was also arrested on August 15, 2013. On September 5<sup>th</sup>, 2013 prosecutors completed their indictment on Ali İsmail Korkmaz case,

charging five individuals with life sentence for the “premeditated murder” of Korkmaz.

There has been extensive support for the Korkmaz case on the social media. Due to security concerns, the Eskişehir 1st Aggravated Felony Court (*Eskişehir 1. Ağır Ceza Mahkemesi*) ruled to hear the witnesses and complainants before the Kayseri 3rd Aggravated Felony Court (*Kayseri 3. Ağır Ceza Mahkemesi*) and Hatay Aggravated Felony Court (*Hatay Ağır Ceza Mahkemesi*), respectively. During the hearing on 3 February 2014 the Kayseri 3<sup>rd</sup> Aggravated Felony Court, initially decided to hear witnesses before defendants. Due to Korkmaz family’s lawyers’ objection to such ruling on procedural grounds, the Court accepted to hear the defendants before the witnesses. All five defendants were heard and they accused each other. The police officers claimed that they have no memory of the details of the events and civilian defendants acknowledged their assistance to police officers in preventing the escape of the deceased. The Court rejected Korkmaz family’s request for imprisonment of the defendants. The next hearing is scheduled for May 12<sup>th</sup>, 2014.

In Ali Ismal Korkmaz’s case, while 24 crucial minutes of the surveillance cameras of Hotel Besik have gone missing after the police took hold of the recorded video, and while the video surveillance of the Harman Bakery has been erased, no action has been launched to investigate into the destruction of evidence and determine the responsibility of the public authority in its destruction. No sanction was considered against the Security Directorate.

#### ***A policeman may be condemned for “disobeying orders”***

Beyond these two symbolic cases, a third investigation was conducted against police officer Fatih Zengin (23) for having sprayed tear gas at close range and directly against Ceyda Sungur, the young woman dressed in red attacked on the very first day of the protest, on 28 May 2013, an attack which was filmed and circulated and buzzed around the social media.

The indictment charges the police officer for “misconduct of duty” and he risks up to 2 years imprisonment and his dismissal. While one can welcome the investigation, the indictment appears to blatantly escape Istanbul authorities from their direct responsibility in planning and overseeing the unfolding of the repression, starting with the order that police officers appear anonymously, erasing identification numbers from their helmets, while intervening to tackle protests.

# SECTION IV – Shrinking space for rights and freedoms: legal reforms strengthen executive power over the judiciary, independent bodies and individual freedoms

In the wake of the Gezi protests, a series of legislative proposals were adopted which respectively subjected the judicial profession to the control of the Executive, criminalized emergency health care deployed outside of government authorisation, expanded the Executive's control over the Internet and its capacity to limit freedom of expression and information, and excluded professional experts from urbanism development plans.

While in the same period of time another reform package was presented<sup>33</sup>, which may appear as a step forward in the reform of the Judiciary, the laws described hereunder raise concerns that the Turkish Executive strategically increased its power to limit individual rights and freedoms, limit independent bodies and take control over the judiciary.

## ***Reforming the judicial profession's appointments and disciplinary procedures – the Executive takes over the judiciary's independence***

On February 25 2014, President Gül approved a law that had been adopted by the Turkish Grand National Assembly reforming the Supreme Council of Judges and Prosecutors (Hakimler ve Savcılar Yüksek Kurulu, HSYK), a body responsible for the appointments of the judiciary and the disciplinary procedures against them.

The law revisits a certain number of the powers within the HSYK and transfers them from professionally appointed members to government appointed members. In particular, the head and the deputy heads of the Inspection Board of the HSYK, who were previously elected by the General Assembly of the HSYK, will now be personally appointed by the Minister of Justice. In addition, the head of the Inspection Board, nominated by and reporting to the Minister of Justice, will have increased discretion over disciplinary inspections of the Judiciary. He or she will decide which inspector will be assigned to which incident has to be investigated.

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33. A law was adopted that abolishes the special courts (ÖYM), authorised by anti-terror laws, which were operating in violation of due process and international standards related to the right to a fair trial.



In doing so, the authorities move back from previous reforms, which had strengthened the Judiciary's independence. While initially the Inspection Board that oversees judges and prosecutors used to be under the Ministry of Justice, in 2010, it was made independent of the ministry and placed under the independent HSYK.

The law also foresaw that when it would come into effect, the jobs of all the chief inspectors, inspectors, investigating judges, the judges and the prosecutors on duty at the HSYK as staff and all the staff of the HSYK would be terminated. In practice and amidst a challenge of the law at Turkey's Constitutional Court, hundreds of officials working at the high court were dismissed following the publication of the law, with no right to appeal to a court to demand their reinstatement. On February 28, the Minister of Justice Bekir Bozdağ swiftly appointed HSYK's new Secretary-General, five of his deputies, members of the disciplinary board and the head of the Justice Academy.

In adopting the law passed by the Grand National Assembly, President Gül has said that he found at least 15 articles in violation of the Turkish Constitution. He however adopted the law, simply expressing his hope that the remaining articles would be examined by the Constitutional court.

With this law, the government gains control over the organisation of the Judiciary's profession, breaching all universally recognised requirements of independence.<sup>34</sup> The reform has been strongly denounced and criticized by bar associations, lawyers, judges' unions, civil society organisations, political parties, human rights NGOs and international human rights monitoring mechanisms. Commissioner for Human Rights of the Council of Europe, M. Nils Muiznieks, deplored a serious blow to the Judiciary's independence qualifying it as a *"huge step backwards that not only undermines the independence and impartiality of the judiciary and basically subordinates certain aspects of its work to the executive, but will seriously undermine public trust and confidence in the judiciary"*.<sup>35</sup>

On April 11th, the Constitutional Court blocked parts of the law, on grounds that it conferred too much power to the Ministry of Justice over the Judiciary, and called for the amendment of the law. At the date of termination of this report, prospects of amendments remained unclear, and the individuals who had been dismissed from HSYK as a consequence of the law remained dismissed.

### ***Criminalizing emergency health care, in violation of the right to health***

During the Gezi demonstrations, the deployment of medical professionals and students to provide urgent health care, notably in the wake of the absence of adequate response by "official" emergency services, had been severely criticised by the Turkish authorities (see Context). In what appeared to be a reaction to the deployment of makeshift infirmaries, the Turkish authorities approved, on January 17<sup>th</sup> 2014, a law that requires doctors to obtain government permission before administering emergency first aid.

34. See UN Human Rights Committee general comment 32 on the right to equality before courts and tribunals and to a fair trial, which within paragraph 19 foresees that "The requirement of competence, independence and impartiality of a tribunal [...] is an absolute right that is not subject to any exception. The requirement of independence refers, in particular, to the procedure and qualifications for the appointment of judges, and [...] the conditions governing promotion, transfer, suspension and cessation of their functions, and the actual independence of the judiciary from political interference by the executive branch and legislature."

35. See Today's Zaman, 16 January 2014, CoE commissioner: HSYK bill will undermine public's confidence in judiciary, [http://www.todayszaman.com/newsDetail\\_getNewsById.action;jsessionid=D7EEF1D8D8F0B3D027811C3F7A99E884?newsId=336812&columnistId=0](http://www.todayszaman.com/newsDetail_getNewsById.action;jsessionid=D7EEF1D8D8F0B3D027811C3F7A99E884?newsId=336812&columnistId=0)

Following the law, health care professionals administering emergency health care without government authorisation will be committing an offence punishable with up to three years in prison or a fine of up to approximately 2 million Turkish Liras. In addition, doctors are banned from practising outside state medical institutions and are prevented from opening private clinics.

As such, the law puts doctors in violation of the International code of medical ethics to provide medical care to the sick and wounded. It criminalises and prevents the obligation to render assistance to a person in danger. It also puts Turkey in violation of its international obligations regarding the right to health. The UN special Rapporteur on the right to health, M. Anand Grover, criticised the law and urged the Turkish Grand National Assembly to refrain from adopting it, stating that international medical and human rights standards make it clear that it is a humanitarian duty of doctors, nurses, paramedics, and other health workers to give emergency care to those in need and that “they must be able to carry out their professional responsibilities without interference or fear of reprisal”, regretting that the law will have “a chilling effect on the availability and accessibility of emergency medical care in a country prone to natural disasters and a democracy that is not immune from demonstrations.”<sup>36</sup>

***Although under judicial control, Turkish authorities expand their administrative control over the Internet and their capacity to limit freedom of expression and information***

On February 26<sup>th</sup> 2014, the Turkish Grand National Assembly adopted amendments to the already restrictive Internet law no. 5651, in a view to tighten freedom of expression and opinion on the Internet and further restrict right to privacy over the Internet.

The draft amendments triggered harsh discontent and demonstrations against them, as well as international criticism, which ultimately convinced President Gül to introduce some amendments to the first proposed legislative changes, without, however, preventing some significant rights violations.

In a comprehensive analysis of the first version of the amendments<sup>37</sup>, the OSCE Representative on Freedom of the Media, Ms Dunja Mijatović, regretted how the amendments were pushed through in an “undemocratic legislative process”, without public debate or without real expertise on the proposal.

The final law enables the government appointed High Council for Telecommunications (TIB) to request from Internet service providers and upon a court decision, to provide them with information from users’ “Internet traffic” such as their IP addresses, the duration of their Internet communication, and subscription details. The law thus makes it compulsory for Internet service providers (ISPs) to keep Internet users’ connection data and records for between one to two years, or else they may receive an administrative fine.

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36. See joint statement of the UN Special Rapporteur on the right to health, Anand Grover, and the World Medical Association (WMA) of 9 December 2013, Turkey: international experts warn against criminalizing independent medical care in emergencies, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14076&LangID=E> ; See also Press Release of Physicians for Human Rights (PHR) of 17 January 2014, Turkish President Signs Bill that Criminalizes Emergency Medical Care, PHR and Leading Medical Groups Oppose the Legislation, <http://physiciansforhumanrights.org/press/press-releases/turkish-president-signs-bill-that-criminalizes-emergency-medical-care.html#sthash.wpt4PuFx.dpuf> as well as the Open Letter to the Turkish President of PHR, the World Medical Association, the British Medical Association, the Standing Committee of European Doctors, and the German Medical Association (Bundesärztekammer), on 9th January 2014 [https://s3.amazonaws.com/PHR\\_other/Letter-to-Turkish-President-January-2014.pdf](https://s3.amazonaws.com/PHR_other/Letter-to-Turkish-President-January-2014.pdf)

37. Representative on Freedom of the Media of the Organisation for the Security and Co-operation in Europe, January 2014, Briefing on Proposed Amendments to Law No. 5651, the Internet Law of Turkey, <http://www.osce.org/fom/110823>

The initial Internet law 5651 already enabled the Presidency of TIB to issue blocking orders of websites on vaguely defined grounds of “*protecting the family, children, and youth from items on the Internet that encourage drug addiction, sexual abuse, and suicide.*” In practice, since its enactment in 2007, approximately 37,000 websites have been denied by court orders and administrative blocking orders, largely in violation of freedom of expression and opinion. The recent amendments broaden the blocking powers of the Presidency of the TIB, if individuals and legal entities claim an alleged privacy violation or if the content is considered “*discriminatory or insulting against certain members of the society*”. Blocking orders will have to be reviewed by a Court within 48 hours<sup>38</sup>. Yet, such broadening and vaguely defined grounds for blocking URLs is contrary to principles of legality and may only raise fear for further abusive or politically motivated restrictions to freedom of expression and opinion.

Access providers will be bound to block access to alternative access means, such as proxy websites, without providing a clear definition of what constitutes such alternative method, in violation of legality principles. Accessing or enabling access to blocked websites will be punishable by sentences which, although not providing for imprisonment, will nevertheless remain disproportionately high, according to the OSCE media representative.

Eventually, on 20 March 2014, the TIB ordered the blocking of the **Twitter** website. The move a few hours after a speech delivered by Prime Minister Erdoğan in Bursa Province, saying that they would “root out the social media network twitter” in Turkey.<sup>39</sup>

As an error message, a legal basis for the restriction was published, making reference to a precautionary injunction of the Istanbul Public Prosecutor dated 20 March 2014. Numerous parties all over Turkey, including the Turkish Bar Association, independent lawyers’ associations, Turkish Journalists Association, individuals and Members of the Parliament filed objections to the decision of the Istanbul Public Prosecutor and requested removal of the restriction. In response to their petitions, they were informed that the Istanbul Public Prosecutor had not issued any such precautionary injunction. Thus, public authorities, including TIB avoided announcing the legal basis of such ban. In this context, the global executives of Twitter travelled to Turkey to meet with TIB officials to settle the problem and simultaneously released tweets that they would support Turkish society’s right to communication. On 3rd April 2014, the Turkish Constitutional Court ruled that the ban violated the freedom of expression and called for its lifting.

Beyond Twitter, on March 27, the TIB announced the blocking of **Youtube**, without a Court decision, in reaction to the publication of recordings of a key security meeting referring to a potential military intervention on Syria. While the TIB justified the ban on “crimes committed against Atatürk”, Foreign Minister Ahmet Davutoğlu claimed the ban was justified by matters of national security<sup>40</sup>.

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38. The head of the TIB will have to seek a court decision within 24 hours to justify his decision to prohibit access to certain websites. The court, to be designated by the Supreme Council of Judges and Prosecutors (HSYK), will have to give its verdict within 48 hours after the appeal of the TIB head.

39. See Bianet “Twitter is Blocked in Turkey”, 21<sup>st</sup> March 2014, <http://www.bianet.org/english/freedom-of-expression/154328-twitter-is-blocked-in-turkey>

40. See Bianet, “Contradictory Statements from FM and TIB”, 2<sup>nd</sup> April 2014, <http://www.bianet.org/english/politics/154667-contradictory-statements-from-fm-and-tib>

The ban was challenged in Court by the Union of Turkish Bar Associations. On April 4<sup>th</sup> 2014, the Gölbaşı Court of Peace ordered that access be unblocked, with the exception of 15 videos. That ruling was subsequently challenged by the Gölbaşı Prosecutor's Office and on April 5<sup>th</sup>, the Gölbaşı Criminal Court of First Instance reversed the verdict and maintained the ban until the "criminal content" is removed from Youtube.

These two measures, although potentially unrelated to the Gezi demonstrations themselves, confirm the move to further restrict freedom of expression and of information, which had become a symbol of the Gezi movement. The two blanket bans, are a violation of the principle of proportionality required for any restriction of freedom of expression and information. Authorities should have required the removal of the related content, instead of blocking the whole websites. In addition, they confirm the violation of the principle of legality as orders were issued outside of judicial scrutiny.

***Excluding professional experts and guarantees from urbanism development plans***

At the origin of the Gezi demonstrations, the development project over Gezi park had been strongly criticised by professional organisations in charge of urbanisation and by those in charge of cultural heritage. At that time (see Context), organisations had deplored the fact that the urbanisation procedures to consult them, which was compulsory, had not been respected. This notably justified the two administrative rulings, of 31 May 2013 by the Istanbul Administrative Court No. 6 and of 2 July 2013 by the Istanbul Administrative Court No. 1, which rejected the Gezi project and suspended work that had begun in Gezi Park.

In response, the Turkish government introduced a law which was passed on June 9<sup>th</sup> by the parliament, which ruled to relieve them of all obligations in the future to consult professional chambers and obtain their approval for development projects. In addition the law excluded the TMMOB from all urban planning activities<sup>41</sup>. The Government designated a new committee of experts composed of one representative per Ministry, which would oversee and approve the relevant development projects, excluding all professional unions.

In bypassing professional chambers, the Executive not only provides itself free hands to develop whichever urbanisation programme it wants, it also wipes out all potential safeguard to development plans, including professional expertise on the security of the projects, on their conformity with anti-seismic rules, on their impact on the environment, as well as from the scientific analysis of projects with regards to their impact on people's livelihoods.

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41. <http://www.hurriyetdailynews.com/ruling-akp-approves-midnight-bill-to-curb-authority-of-chambers-supporting-gezi-.aspx?pageID=238&nID=50393&NewsCatID=338>

# CONCLUSION

Turkey is facing a crisis unlike any it has had in its life. For the first time, the wrath of the people has been transferred into the streets, and the discontent has amalgamated to resist the hastier control of public space. Citizens have taken hold of their freedom of expression and bypassed all traditional media to express their views and resist the authorities' attempts to control and restrict it.

Yet the authorities' response has been to further restrict rights and freedoms, starting with a systematic repression of the movement in the streets in a massive and disproportionate use of police force. While one would expect that Turkish regulations would have been thoroughly applied and respected, throughout the demonstrations, law enforcement officials made use of their force in blatant violation of their own regulations and international obligations, leading to a broad range of human rights violations. Tear-gas grenades intended for crowd dispersion were turned into lethal weapons against the demonstrators, and this in a systematic fashion.

Beyond demonstrations, protesters have then been prosecuted, in what appears as a systematic 'witch hunt'. Although some judges have been resisting and quashing some of the accusations against demonstrators, prosecutors are determined and systematically re-engage in a legal battle to have protesters condemned. But the 'battle' is unfortunately a political one, as ultimately the European Court on Human Rights will rule against the violations to freedom of expression and freedom of assembly.

This report documents another important downfall, in light of prosecutors and public authorities' unwillingness, passivity or leniency to prosecute perpetrators of human rights violations. In response to a systematic disproportionate use of force, only very few cases are actually being prosecuted, and those prosecuted under charges that appear strongly lenient in light of the facts. As a result, the feeling of impunity has prevailed among security forces, *protected* and indulged by higher-ranking members for whom "no act contrary to law was found" during the police raids.

Beyond the streets and the courts, the repression of the Gezi movement has also transferred through the Turkish Grand National Assembly, with significant laws being adopted which subjected the judicial profession to the control of the Executive, criminalized emergency health care, expanded the Executive's control over the Internet and further curtailed freedom of expression and information.

Amidst international criticism and in violation of their constitutional and international legal obligations, Turkish authorities have reacted to protestors' calls for greater freedoms in shrinking the space for rights and freedoms.

Thus, FIDH and its member organisations in Turkey IHD and HRFT call upon the Turkish authorities to

- Abandon charges and prosecution against against Taksim solidarity leaders, medics, lawyers, academics, journalists, web activists, political party activists and all individuals having participated in Gezi protests and who have not been involved in the commission of violent physical acts;
- Deploy effective, independent and transparent investigations into all cases of human rights violations committed by law enforcement officials in the context of the Gezi protests, notably attacks to the right to life and the right to physical integrity, and the attacks on freedom of expression and information. Bring individuals responsible for HR violations to account in front of independent and impartial tribunals and remove them from law enforcement positions. In light of the regretful reports from the Ministry of Interior on the Gezi events, any such investigation should be organised under international supervision, to ensure their independence from the parties to the unrest;
- Investigate in particular into the violation of the Turkish guidelines on the use of force by law-enforcement officials in the context of the Gezi protest, bringing to light to chain of command in the organisation of the repression of the demonstrations;
- Ensure that law enforcement involved in policing duties carry identification numbers, investigate into the violations of regulations and duties related to the use of such identification in the context of the repression of the Gezi protests;
- Provide adequate reparation to victims of human rights violations and to their families, in accordance with international human rights standards; develop in particular and fund mental and physical health rehabilitation programmes for victims of human rights violations.
- Deploy an independent investigation into the incidents that have been reported around the prosecution of human rights violations, notably the slowness to investigate and incidents of destruction of evidence; bring those responsible to justice and remove them from law enforcement positions;
- Investigate into dismissals encountered in the context of the Gezi protests, notably in the administrative, educational, health and media sectors, and reinstate or call for the reinstatement of those who have been dismissed from their positions ;
- Lift bans on You-tube and Twitter and on Internet websites that are not proportionate and duly decided by an independent tribunal;
- Revise the Law on Internet No. 5651, as recommended by the OSCE representative on Freedom of the media, with a view to ensuring that blocking access to URLs is limited to specific problematic content, in application of proportionality principles, and decided by Independent tribunals; and with a view to limit the right to privacy in exceptional circumstances, in application of proportionality principles and duly authorised by independent tribunals;
- Revise the law on meetings and demonstrations, in accordance with the rulings of the ECHR and recommendations of Council of Europe and OSCE officials, with a view to limiting restrictions to freedom of demonstrations, to reduce sentences for participation in unlawful demonstrations and to prohibit the use of force in the dispersal of peaceful demonstrations;
- Revise the latest reform of the Supreme Council of Judges and Prosecutors (HSYK) with a view to ensuring the appointment of its members by professionals of the judiciary, and to ensuring that the conditions governing promotion, transfer, suspension and cessation of functions be made without governmental interference; reinstate the members of the HSYK who have been dismissed from their position following the latest reform;

- Abolish the law of January 17 2014 that requires doctors to obtain government permission before administering emergency first aid, with a view to enabling the application of the International code of medical ethics to provide medical care to the sick and wounded in emergency situation without government interference;
- Recognize the role of the Turkish Medical association and of the Chambers of Architects, engineers and town planners; reinstate these social institutions into positive governance procedures, seeking and following their expert advise in matters concerning their respective perimetres of professional intervention.
- Free all detained human rights defenders; drop all pending charges against them and engage in constructive dialogue with human rights defenders and NGOs in all initiatives pertaining to human rights including human rights reform processes

FIDH, IHD and HRFT urge the international community to

- Support the establishment and deployment of effective, independent and transparent investigations into all cases of human rights violations committed by law enforcement officials in the context of the Gezi protests, notably attacks to the right to life and the right to physical integrity, and the attacks on freedom of expression and information. In light of the regretful reports from the Ministry of Interior on the Gezi events, such investigation should be organised under international supervision, to ensure their independence from the parties to the unrest;
- Suspend and ban all exports and sales of crowd control material to Turkey, notably tear-gas canister, until investigations have been made regarding their misuse, individual responsibilities be held accountable for their misuse and removed from security forces.









### Establishing the facts

#### Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

### Supporting civil society

#### Training and exchange

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

### Mobilising the international community

#### Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

### Informing and reporting

#### Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.



### Human Rights Foundation of Turkey (Türkiye İnsan Hakları Vakfı - TIHV)

The Human Rights Foundation of Turkey (HRFT), established in 1990, is a non governmental and non-profit organisation providing treatment and rehabilitation services for torture survivors and documenting human rights violations in Turkey. The HRFT grew out of the necessity to further promote the prevention of torture in Turkey where grave human rights violations left thousands of people tortured and traumatised. The establishment process of the HRFT was launched by the Human Rights Association together with the Turkish Medical Association and founded in accordance with the Turkish Civil Code.

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### Human Rights Association (İnsan Hakları Derneği - IHD)

The Human Rights Association (IHD) was founded on 17 July 1986, by 98 people, comprising lawyers, journalists, intellectuals, but mainly relatives of political prisoners. The Human Rights Association works on all kind of human rights, but is mainly focused on abuses in Turkey. In 1992, the statute was changed to cover humanitarian aspects as laid out in the Geneva Conventions. Since then the HRA has also criticized human violations of armed groups.

HRA together with a headquarter and 31 branches and representations is the biggest non-governmental human rights organisation and is member of FIDH since 1996, Euro-Mediterranean Human Rights Network. HRA is also founding member of Human Rights Joint Platform (IHOP) which was established in 2005.

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# FIDH represents 178 human rights organisations on 5 continents



inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest, detention or exile. Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty

## ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

### **A broad mandate**

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

### **A universal movement**

FIDH was established in 1922, and today unites 178 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

### **An independent organisation**

Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

# fidh

Find information concerning FIDH's 178 member organisations on [www.fidh.org](http://www.fidh.org)