

Report on Human Rights Advocacy and Repressive Policies against İHD¹

(Info Note)

In the last decade in Turkey, three turning points have had a dramatic effect on a climate that has been restricting rights and freedoms through various means of repression increasing its intensity day by day and imposing itself on all social groups. The first of these was the İstanbul Taksim Gezi Park Protests² that started on 28 May 2013. These protests, which were not affiliated with any political party or structure and developed spontaneously, were a collection of protests that reflected on the streets the totality of all kinds of victimization arising from the past of all social groups that were ignored, whose freedoms were restricted, whose right to life was interfered with, and who were sensitive to their city and environmental issues. Social reactions have emerged as a product of a common response against the interventions of the state and political powers against human dignity for years. In the aftermath of the Gezi Park Protests, which lasted for nearly 3 months, the government imposed restrictions on the exercise of many rights, especially the freedom of peaceful assembly and protest. The government's attempt to pin all responsibility on the protesters by labeling the protests as a "coup attempt" resulted in the lawsuit known as the "Gezi Trial" which has no legal basis whatsoever. As in other cases related to the Gezi Park Protests, many civil society organizations, including human rights organizations, were targeted directly or indirectly in this trial as well.

As a result of the changes in social dynamics following the Gezi Park Protests, the coalition governing Turkey sustained a setback in the general elections held on 7 June 2015, however, another process that would result in re-elections began. Thus, the public was faced with the reality that the results of the elections could be ignored by those in government, and the path to the second turning point, an important threshold in Turkey's political and democratic life, was opened up. On 24 July 2015, the process that had begun in 2013 to resolve Turkey's most important problem, the "Kurdish Issue", through democratic means came to an end. The restart of the conflict marks the second breaking point. The consequences of the collapse of the peace process have been quite devastating, especially during the curfews, gross human rights violations were committed, and these were documented by different human rights organizations. Following the public disclosure of the reports drafted by these NGOs, President Erdoğan, in his speech on 7 April 2016 on the occasion of the 171st anniversary of the

¹ This info note updates İHD's special report on "Human Rights Advocacy and Repressive Policies against İHD" published on 13 April 2020. For further info, see: <<https://ihd.org.tr/en/ihd-special-report-on-human-rights-advocacy-and-repressive-policies-against-ihd/>>

² For further info, see: "Report on Incidents during the Gezi Park Resistance." 2013, <<https://ihd.org.tr/en/report-on-incidents-during-the-gezi-park-resistance-27-may-2013-10-july-2013/>>

establishment of the police organization, targeted human rights organizations saying: “Those who published these reports should be given a hard time. What reports are you publishing?”³

During this process, however, Turkey reached a third turning point: The 15 July 2016 attempted coup d'état. The state of emergency (SoE) declared immediately afterwards turned into a very useful tool in the hands of the political power against civil society organizations. With the constitutional referendum held on 16 April 2017, the de facto start of a new order of government led to an authoritarian one-man regime, the principle of separation of powers was suspended, while checks and balances were rendered dysfunctional. Although the state of emergency was lifted on 19 July 2018, the Law No. 7145 on the Amendment of Some Laws and Decree Laws made the SoE permanent. In March 2020, with the COVID-19 pandemic, Turkey began to be governed by prohibition measures under the name of various administrative measures.

Turkey is moving further and further away from the rule of law, particularly with the presidential system of government. In this system, the constitutional structure centralizes powers at the presidential level without ensuring a strong and effective separation of powers between the executive, legislative and judicial branches of government. The targeting of opposition parties has continued, including the Constitutional Court's acceptance of the indictment of the Chief Public Prosecutor's Office of the Court of Cassation to dissolve the second largest opposition party in Turkey, the Peoples' Democratic Party (HDP), contributing to the weakening of political pluralism.⁴ Moreover, judicial independence remains only an article of the Constitution in this system. In addition to the erosion of the independence of judges and the steps directly affecting their independence, such as dismissal and recruitment outside the guarantees provided for them, the European Court of Human Rights (ECtHR) in its many judgments on Turkey points to the increasing bias of the judiciary towards political interests.⁵

In a system of government so far removed from universal law and human rights, the freedoms of expression and association, as well as the right to assembly, are restricted in violation of Turkey's own Constitution and international conventions and covenants to which Turkey is a party, and these rights are granted only to individuals or institutions deemed “reasonable” by the government. The freedom of expression of opposition politicians, journalists, rights defenders, and anyone who criticizes government policies is under constant attack, and those who wish to exercise this freedom are prosecuted for various reasons. As freedom of expression is curtailed, freedom of association is also severely restricted, creating an environment in which the expression of dissenting views is rendered ineffective.

The most challenging problem facing human rights defenders in Turkey is the pervasive pattern of judicial proceedings and criminal cases targeting them for their lawful and legitimate

³ *Bianet*. “Erdoğan'dan STK'lara: Sen Neyin Raporunu Yayınlıyorsun?” 7 April 2016.

<<https://bianet.org/bianet/siyaset/173711-erdogan-dan-stk-lara-sen-neyin-raporunu-yayinliyorsun>>

⁴ European Commission, “2021 Turkey Report.” 19 October 2021. <https://ec.europa.eu/neighbourhood-enlargement/turkey-report-2021_en> p. 3.

⁵ MIJATOVIC, Dunja, Commissioner for Human Rights of the Council of Europe. “Report Following Her Visit to Turkey from 1 to 5 July 2019.” 19 February 2020. <<https://rm.coe.int/report-on-the-visit-to-turkey-by-dunja-mijatovic-council-of-europe-com/168099823e>> p. 4.

activities. Prosecutors in Turkey do not hesitate to bring baseless criminal charges against human rights defenders for their legitimate activities. Cases involving human rights defenders demonstrate a “worrying pattern of silencing people whose work legitimately calls into question the views and policies of the Government.”⁶ In Turkey, the government uses the Anti-Terror Code No. 3713 (ATC) to restrict freedoms and rights partially or fully and to suppress the voices of human rights defenders. The ATC contains vague and overly broad definitions of terrorism and terrorist offenses, which pose a serious threat to freedoms of assembly, expression and opinion.⁷ Most recently, in the trial of prominent civil society figure Osman Kavala and seven other human rights defenders brought on charges of organizing and financing the Gezi protests in 2013, Mr. Kavala was sentenced to aggravated life imprisonment for “attempting to overthrow the government” and seven defendants were sentenced to 18 years in prison for aiding the commission of the crime and were imprisoned.⁸

Turkey’s refusal to implement ECtHR judgments, particularly in the cases of Selahattin Demirtaş and Osman Kavala, has further raised concerns about the judiciary’s adherence to international and European standards. Turkey’s withdrawal from the İstanbul Convention has also called into question its commitment to such standards.⁹ The European Parliament’s Rapporteur on Turkey, Nacho Sanchez-Amor, in his report adopted by the European Parliament on 7 June 2022, stated that the Turkish government was deliberately making efforts to restart the EU accession process impossible by blatantly defying the ECtHR’s final judgments.¹⁰

⁶ MIJATOVIC, Dunja, *ibid.* p.35.

⁷ For further info, see: TÜRKDOĞAN, Öztürk. “Human Rights Defenders in An Iron Cage: The Anti-Terrorism Law in Turkey.” 2022. <https://ihd.org.tr/en/wp-content/uploads/2022/05/OzturkTurkdogan_ATL-Report_OMCT_EN.pdf>

⁸ Human Rights Watch. “Turkey: Life Sentence for Rights Defender Osman Kavala.” 26 April 2022. <<https://www.hrw.org/news/2022/04/26/turkey-life-sentence-rights-defender-osman-kavala>>

⁹ European Commission, “2021 Turkey Report.” 19 October 2021. <https://ec.europa.eu/neighbourhood-enlargement/turkey-report-2021_en> p. 5.

¹⁰ European Parliament. “Turkey: Persistently Further from EU Values and Standards.” 7 June 2022. <<https://www.europarl.europa.eu/news/en/press-room/20220603IPR32136/turkey-persistently-further-from-eu-values-and-standards>>

I. The Rights to Freedom of Expression and Association

“There is no single person in Turkey who faces an investigation for posting a tweet.”
(Minister of Justice, Bekir Bozdağ, 22 May 2022)

Overall, Turkey tops the list of countries that restrict freedom of expression among the Council of Europe member states. According to the statistics¹¹ released by the ECtHR on violation judgments between 1959 and 2021, out of a total of 1,010 applications against Turkey for violations of freedom of expression, 418 resulted in violation judgments. Turkey is followed by the Russian Federation with 114 violation judgements.

The cases brought before the ECtHR against Turkey for violations of freedom of expression are mostly those that had been brought under the ATC No. 3713 for membership in an illegal organization and for making propaganda (under Article 314 of the Turkish Penal Code -TPC- and Articles 6 and 7 of the ATC)¹²; publishing articles or books inciting hatred or enmity or praising crime or criminals, or disseminating messages to that effect addressed to the public (under Articles 215 and 216 of the TPC); insulting the President of the Republic, publicly degrading the Turkish nation, State of the Turkish Republic, the Grand National Assembly of Turkey and the judicial bodies of the State, the military or security organizations (Articles 299 and 301 of the TPC); and convictions for crimes under the heading of Offences against Dignity (Articles 125-131 of the TPC).¹³

According to the 2020 statistics released by the Ministry of Justice¹⁴;

Investigations:

Law	Article	Non-Prosecution	Public Cases	Other decisions	Total number of investigations
3713 ATC	6-7	7030	6551	12644	26225
TPC	314	82642	33354	92837	208833
TPC	215	800	555	784	2139
TPC	216	10906	2064	7740	20710
TPC	299	9166	7790	14341	31297
TPC	301	6678	819	5039	12536
TPC	125	538847	348822	68853	946522

¹¹ ECtHR. <https://www.echr.coe.int/Documents/Stats_violation_1959_2021_ENG.pdf>

¹² Investigations and prosecutions brought within the scope of the ATC are those initiated for offenses proscribed in Articles 6 and 7 of this code.

¹³ AKDENİZ, Yaman and ALTIPARMAK, Kerem. “Turkey: Freedom of Expression in Jeopardy.” March 2018. <https://ifade.org.tr/reports/IFOD_Turkey_Freedom_of_Expression_in_Jeopardy_ENG.pdf> p. 4.

¹⁴ Ministry of Justice, Directorate General of Judicial Records and Statistics. “Judicial Statistics 2020.” <https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1692021162011adalet_ist-2020.pdf>

Prosecution:

Law	Article	Conviction	Acquittal	Total number of trials
3713 ATC	6-7	4179	3384	14443
TPC	314	44204	16516	54906
TPC	215	69	313	687
TPC	216	317	899	2058
TPC	299	3325	1335	8769
TPC	301	268	126	791
TPC	125	48911	41078	219857

In its 2020 statistics, the Ministry of Justice provided separate data on investigations and prosecutions initiated under the TPC and other special laws. In the ministry's statistics for 2021, however, data on the articles regulated under the heading of the type of offense are presented collectively, rather than article by article. Therefore, it is not possible to access reliable data on investigations and prosecutions that lead to violations of freedom of expression.

According to the 2021 statistics released by the Ministry of Justice¹⁵;

Investigations:

Law	Article	Non-Prosecution	Public cases	Other decisions	Total number of investigations	Percentage
3713 ATC	6-7	7101	6641	11706	25448	5.2
TPC	213-222	22074	15423	12931	50428	0.6
TPC	299-301	20046	10622	17401	48069	0.6
TPC	125-131	655370	438541	85963	1179874	13.9

Prosecution:

Law	Article	Conviction	Acquittal	Suspension ¹⁶	Total number of trials	Percentage
3713 ATC	6-7	2892	3598	3016	13460	1.5
TPC	213-222	7756	9007	878	27092	0.7
TPC	299-301	4586	2369	4465	13934	0.3
TPC	125-131	97022	76616	78183	375950	9.1

¹⁵ Ministry of Justice, Directorate General of Judicial Records and Statistics. "Judicial Statistics 2021" <<https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/310520221416422021H%C4%B0ZMETE%C3%96ZELK%C4%B0TAP.pdf>> pp. 22-43.

¹⁶ HAGB (Hükmün Açıklanmasının Geri Bırakılması): Suspension of the pronouncement of the judgment with 5 years of supervision.

According to 2021 statistics alone, investigations that resulted in restrictions on freedom of expression accounted for 20.3% of all investigations, and lawsuits for 11.6% of all lawsuits in Turkey. Despite all the judgments of the ECtHR against Turkey for violations of freedom of expression, Turkey is keen on violating the provisions of the Convention and moving away from the case law of the ECtHR. The free flow of dissenting voices and freedom of expression have been negatively affected by increased repressive and restrictive measures. Criminal cases against and convictions of journalists, human rights defenders, lawyers, authors, opposition politicians, students and social media users continued.¹⁷

It has become an established practice in Turkey to subject human rights defenders and civil society representatives to judicial harassment and criminalize their activities.¹⁸ Many rights defenders face the risk of criminal investigation or prosecution simply for exercising their right to freedom of expression through social media posts. Although Minister of Justice Bekir Bozdağ, in his statement dated 22 May 2022¹⁹ on the prison sentence handed down to Canan Kaftancıoğlu, the İstanbul Provincial Chairperson of the Republican People's Party (CHP), claimed that no one has been investigated for their social media posts, the facts reveal that the situation is the opposite. Ms Kaftancıoğlu was sentenced to 9 years, 8 months and 20 days in prison on charges of “insulting a public official,” “insulting the president” and “publicly denigrating the Republic of Turkey” because of her social media posts in 2013. 4 years, 11 months and 20 days of her imprisonment sentence was also upheld by the Court of Cassation.²⁰ Similarly, İHD Co-Chair Eren Keskin and many other İHD members and executives have been/are being investigated and prosecuted for their social media posts.²¹ Finally, a draft law on social media and internet journalism, which will deal a heavy blow to freedom of expression and which has been criticized on the grounds that it would lead to censorship and numerous convictions, was approved by the Justice Commission of the Grand National Assembly of Turkey (GNAT).²²

Turkish authorities regularly stigmatize rights-based civil society organizations and human rights defenders as terrorists and enemies of the people, and have constantly been targeting civil society activists and their legitimate activities. Government representatives and pro-government media are acting in concert and in a hostile manner to target specific civil society organizations in what can be called smear campaigns and insults, sometimes bordering on hate

¹⁷ European Commission, “2021 Turkey Report.” p. 5.

¹⁸ For further info see: OBS and İHD. “Drowned in Procedure, Sentenced to Fail: Administrative Harassment against Civil Society in Turkey.” 2022. <<https://ihd.org.tr/en/wp-content/uploads/2022/06/OBS-TURKEYangweb-final.pdf>>

¹⁹ *BirGün*. “Bozdağ: Tweet attı diye soruşturma açılan bir kişi yok, tweete yazanlardan dolayı açılıyor.” 22 May 2022. <<https://www.birgun.net/haber/bozdag-tweet-atti-diye-sorusturma-acilan-bir-kisi-yok-tweete-yazanlardan-dolayi-aciliyor-388852>>

²⁰ BBC News. “Canan Kaftancıoğlu’na siyasi yasak geldi, hakkındaki hapis cezası onandı.” 12 May 2022. <<https://www.bbc.com/turkce/haberler-turkiye-61426730>>

²¹ For further info see: <<https://ihd.org.tr/en/ihd-special-report-on-human-rights-advocacy-and-repressive-policies-against-ihd/>>

²² Euronews. “Tartışmalı sosyal medya ve internet haberciliği yasasında neler var?” 4 October 2022. <<https://tr.euronews.com/2022/06/15/14-maddesi-daha-komisyon-dan-gecen-sosyal-medya-ve-internet-haberciligi-yasas-neler-getiriyor>>

speech.²³ Most recently, 16 of the 22 rights defenders taken into custody following an operation against the Migration Monitoring Association (GÖÇİZDER) were imprisoned on charges of membership in an illegal organization.²⁴ Despite the ECtHR Grand Chamber's judgment in the case of *Selahattin Demirtaş v. Turkey* (No.2) holding that "terrorism offenses" under Article 314 of the TPC were not "foreseeable" under the Convention, 208,833 investigations and 54,906 cases were brought under Article 314 of the TPC and 44,204 convictions were handed down in 2020 alone.

Restrictions on freedom of expression also restrict freedom of association. During the SoE, 1,410 associations, 109 foundations, 19 trade unions and 149 media outlets (news websites, newspapers, TV and radio channels, journals and publishing houses) were shut down by emergency decrees without a court order.²⁵ Although it is claimed that the decree laws targeted associations that were allegedly connected to the 2016 coup attempt, associations working on human rights violations, women's and children's rights were also among the closed ones.²⁶ Former members and executives of closed NGOs have been blacklisted and harassed in various ways because of their past membership in these associations.²⁷ Even though the SoE has been lifted, its practices are still in effect. Closure lawsuits have recently been filed against the Tarlabası Community Center (Tarlabası Toplum Merkezi),²⁸ which works to establish safe spaces where children and women can come together in İstanbul, Tarlabası, and the We Will Stop Femicide Platform,²⁹ an association founded by women with an eye to put an end to the increasing number of femicide cases in Turkey.

On 31 December 2020, "Law No. 7262 on the Prevention of the Financing of Proliferation of Weapons of Mass Destruction" entered into force. This law, which has the potential to further restrict freedom of association and disrupt civil society activities in Turkey, was drafted without consultation with or input from directly relevant stakeholders, most notably civil society organizations.³⁰ Law No. 7262 contains many other provisions that allow the authorities to unreasonably prevent or restrict the activities of civil society organizations. These include an annual audit of civil society organizations and their business partners (amended Article 19 of the Law on Associations) and a prohibition on persons convicted of offenses under the Law on Prevention of Financing of Terrorism and crimes related to drug trafficking from serving on

²³ MIJATOVIC, Dunja. *ibid.* p. 34.

²⁴ *Bianet*. "Göç İzleme Derneği'nin 16 Üyesi Tutuklandı." 11 June 2022. <https://bianet.org/bianet/goc/263176-goc-izleme-dernegi-nin-16-uyesi-tutuklandi?bia_source=rss>

²⁵ OBS and İHD. "Turkey's Civil Society on the Line: A Shrinking Space for Freedom of Association." May 2021. <<https://ihd.org.tr/en/wp-content/uploads/2021/05/OBS-İHD-TURKEY.pdf>> p. 29.

²⁶ For further info see: ÖNDÜL, Hüsnü, "Emergency Degree Laws and Their Impact on Human Rights in Turkey." 2022. <<https://ihd.org.tr/en/wp-content/uploads/2022/05/EmergencyDecreeLawsReport.pdf>>

²⁷ OBS and İHD. "Turkey's Civil Society on the Line." p. 35.

²⁸ *Bianet*. "Tarlabası Toplum Merkezi'ne kapatma davası: 'Öfke, üzüntü, direnç.'" 13 April 2022. <<https://bianet.org/bianet/kadin/260373-tarlabasi-toplum-merkezi-ne-kapatma-davasi-ofke-uzuntu-direnc>>

²⁹ *Bianet*. "We Will Stop Femicides Platform faces closure for 'immoral' activities." 13 April 2022. <<https://bianet.org/5/102/260418-we-will-stop-femicides-platform-faces-closure-for-immoral-activities>>

³⁰ OBS and İHD. "Turkey's Civil Society on the Line." p. 10.

association bodies (amended Article 3 of the Law on Associations).³¹ An annulment lawsuit filed by the Human Rights Association before the Council of State regarding the violation of the relevant articles is pending.

³¹ For further info see: Human Rights Joint Platform (HRJP). “Bill for the Prevention of the Financing of the Proliferation of Weapons of Mass Destruction Violates the Constitution and Freedom of Association.” 22 December 2020. <<https://ihop.org.tr/kitle-imha-silahlarinin-yayilmasin-finansmaninin-onlenmesine-iliskin-kanun-teklifine-dair-degerlendirme/>>

II. Right to Freedom of Assembly

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“This is who they are; they are corrupt, they are sluts; they know nothing about a holy place.”
(President, Recep Tayyip Erdoğan, 1 June 2022)

The right to freedom of assembly has long been arbitrarily restricted in Turkey. Following the 2013 Gezi Park protests, access to public space for those wishing to hold peaceful assemblies has steadily declined. This decline continued after the declaration of the SoE, which dealt a decisive blow to freedom of assembly. The right of citizens, and in particular human rights defenders and NGOs, to assemble and demonstrate was curtailed not only by police brutality and judicial harassment, but also by vague ban orders delivered even before people took to the streets. All kinds of assemblies and demonstrations organized by many human rights defenders and NGOs are frequently prevented on the grounds of public security, public morality and prevention of crime, and when such restrictions are imposed, no justification is even disclosed for the necessity and proportionality of the measure taken, contrary to what is required by national and international legislation. Therefore, different groups, including trade unionists, lawyers, students, LGBTI+, women face smear campaigns, criminalization, judicial harassment, police violence and even police custody for legitimately exercising their right to freedom of assembly. As a result, many people in Turkey reportedly are afraid to exercise their right to freedom of assembly in public spaces now.³³

Turkey has witnessed further serious setbacks in the area of freedom of assembly and association in light of repeated bans on peaceful demonstrations, disproportionate interventions and excessive use of force, investigations, administrative fines and prosecutions of demonstrators on charges of terrorism-related activities. Legislation and its implementation are not in line with the Turkish Constitution, European standards or international conventions and covenants.³⁴ According to the statistics released by the ECtHR on violation judgments delivered between 1959 and 2021,³⁵ out of a total of 354 applications against Turkey for violations of the right to freedom of assembly, 111 resulted in violation judgments. Turkey is followed by the Russian Federation with 79 violation decisions. Like the right to freedom of expression, Turkey tops the list of states that violate the right to freedom of assembly before the ECtHR.

³² *Bianet*. “Erdoğan calls Gezi Park protesters sluts.” 1 June 2022. <<https://m.bianet.org/english/politics/262711-erdogan-calls-gezi-park-protesters-sluts>>

³³ OBS and İHD. “A Perpetual Emergency: Attacks on Freedom of Assembly in Turkey and Repercussions for Civil Society.” July 2020. <https://ihd.org.tr/en/wp-content/uploads/2020/07/20200728_FIDH-OMCTIHD_TurkeyReport.pdf> p. 11.

³⁴ European Commission, “2021 Turkey Report.” p. 5.

³⁵ ECtHR Statistics. “Violations by Article and by State: 1959-2021.” Accessed: 5 June 2022. <https://www.echr.coe.int/Documents/Stats_violation_1959_2021_ENG.pdf>

According to the 2020 statistics released by the Ministry of Justice:³⁶

Investigations:

Law No	Non-prosecution	Public cases	Other decisions	Total number of investigations
2911	2197	3171	1402	6770

Prosecution:

Law No	Conviction	Acquittal	Total number of trials
2911	1389	2975	4810

According to the 2021 statistics released by the Ministry of Justice:³⁷

Investigations:

Law No	Non-prosecution	Public cases	Other decisions	Total number of investigations
2911	3214	3575	915	7704

Prosecution:

Law No	Conviction	Acquittal	Suspension	Total number of trials
2911	1674	3838	829	8312

The pressures, threats and coercion faced by human rights defenders largely take place during or in connection with assemblies and demonstrations. The freedoms of expression and association, as well as the freedom of assembly, which constitute the foundation of a democratic society, are essential means and methods of defending human rights. When peaceful assemblies and demonstrations become impossible because of bans and interventions, it also makes it impossible for citizens to express their views.³⁸ Particularly since the beginning of 2020, peaceful protests of students, workers, political opposition parties, and women and LGBTI+ human rights activists have been banned by governors' offices, using the COVID-19 pandemic as an excuse.³⁹

³⁶ Ministry of Justice, Directorate General of Judicial Records and Statistics. "2020 Judicial Statistics." 2020. <https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/1692021162011adalet_ist-2020.pdf>

³⁷ Ibid. <<https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/310520221416422021H%C4%B0ZMETE%C3%96ZELK%C4%B0TAP.pdf>> pp. 23-47.

³⁸ Human Rights Foundation of Turkey (HRFT). "Information Note on Repression, Obstacles and Challenges Faced by Human Rights Defenders in Turkey (1 January-30 April 2022)." 2022. <<https://en.tihv.org.tr/alternative-shadow-reports/information-note-on-repression-obstacles-and-challenges-faced-by-human-rights-defenders-in-turkey-1-january-2022-30-april-2022/>> p. 5.

³⁹ Human Rights Watch (HRW). "World Report: Events of 2021." 2022. <https://www.hrw.org/sites/default/files/media_2022/01/World%20Report%202022%20web%20pdf_0.pdf> p. 666.

In Van, a city in eastern Turkey, protests and collective activities have been banned by the governors' office for six years in consecutive 15-day periods since the 2016 SoE.⁴⁰ On 25 August 2018, the 700th vigil of the Saturday Mothers, who have been peacefully gathering in Galatasaray Square since 1995 to learn the fate of their relatives who were forcibly disappeared and to access justice, was prevented and Galatasaray Square in central İstanbul has been closed to all protests since then. 46 people who exercised their right to freedom of expression and peaceful assembly were charged with "participating in unlawful meetings and demonstrations without weapons and not dispersing on their own accord despite warnings." Saturday Mothers' 900th vigil to be held in Galatasaray Square on 25 June 2022 was also prevented and many human rights defenders, including İHD Co-Chairs Öztürk Türkdogan and Eren Keskin, were taken into police custody. Moreover, in the context of the government's increasingly anti-LGBTI+ policies, LGBTI+ events are still subject to bans all over Turkey. Most recently, before the İstanbul Pride March on 26 June 2022, the roads leading to Taksim Square were blocked by the governor's office's decision while 373 people were taken into custody having been subjected to torture and ill-treatment.⁴¹ Similarly, during student protests against President Erdoğan's appointment of a rector at Boğaziçi University, the police responded with excessive force, taking protesters into custody without question and raiding homes. Hundreds of students participating in the Boğaziçi protests were taken into police custody, many of whom were issued travel bans and house arrest orders. Eleven students were detained for participating in these protests.⁴² Also since the declaration of the SoE, bans have been imposed on protests and events organized on Yüksel Street in central Ankara. In 2017, a prefabricated police station was built on Yüksel Street to intervene quickly in assemblies and demonstrations to be staged on the street.⁴³

According to data collected by the Human Rights Foundation of Turkey's (HRFT) Documentation Center, 163 peaceful assemblies and demonstrations were intervened in while 43 were banned between 1 January and 30 April 2022. 1,488 individuals were taken into custody while at least 17 were wounded during these interventions.⁴⁴

In Turkey the shield of impunity granted particularly to law enforcement officers is a factor that increases police brutality and hinders protesters' exercise of their right to freedom of assembly and access to justice in the event of violations. Law No. 4483 on the Prosecution of Civil Servants and Other Public Officials makes the investigation of any police officer subject to the permission of the relevant governor, which is not granted in most cases of police violence, while

⁴⁰ *Evrensel*. "Van'da eylem yasakları 15 gün daha uzatıldı, yasaklar 6. Yıla yaklaştı." 12 June 2022. <<https://www.evrensel.net/haber/463584/vanda-eylem-yasaklari-15-gun-daha-uzatildi-yasaklar-6nci-yila-yaklasti>>

⁴¹ BBC Türkçe. "İstanbul'da Onur Yürüyüşü'nde gözaltına alınan 300'den fazla kişi serbest bırakıldı." 27 June 2022. <<https://www.bbc.com/turkce/61947095>>

⁴² HRFT. "Preliminary Assessment Report on Violation of Rights during the Protests against the Appointment of Rector to Boğaziçi University by the President." 2021. <<https://tihv.org.tr/wp-content/uploads/2021/02/BogaziciRapor.pdf>>

⁴³ *Gazete Duvar*. "Yüksel Caddesi'ne 'mobil karakol' kuruldu." 14 November 2017. <<https://www.gazeteduvar.com.tr/gundem/2017/11/14/yuksel-caddesine-mobil-karakol-kuruldu>>

⁴⁴ HRFT. "Information Note on Repression, Obstacles and Challenges Faced by Human Rights Defenders in Turkey (1 January-30 April 2022). 2022. <<https://en.tihv.org.tr/alternative-shadow-reports/information-note-on-repression-obstacles-and-challenges-faced-by-human-rights-defenders-in-turkey-1-january-2022-30-april-2022/>> p. 6.

human rights defenders who have been subjected to torture and ill-treatment face judicial harassment.⁴⁵

⁴⁵ The Observatory, Sürekli OHAL: Türkiye’de Toplantı ve Gösteri Özgürlüğüne Yönelik Saldırılar ve Sivil Topluma Yansımaları, s.28-29, erişim: https://www.ihd.org.tr/wp-content/uploads/2020/11/20201125_OBSTURKEYTURCweb.pdf.

III. A Sample of Recent Investigations and Prosecutions Initiated into İHD Executives

According to İHD's data, there are 46 ongoing investigations and 161 lawsuits against executives of the association's headquarters and branches. 20 of the investigations against İHD members and executives have resulted in non-prosecution decisions; 37 of the lawsuits have resulted in various imprisonment sentences. 40 of the lawsuits filed in various courts resulted in acquittals, while 84 lawsuits are pending.

Öztürk Türkdoğan: (1) On 24 April 2017, Ankara 24th Criminal Court of First Instance accepted an indictment against İHD's Co-Chair Attorney Öztürk Türkdoğan on the grounds that the statement titled "Stop the Denial of the Armenian Genocide for Justice and Truth"⁴⁶ published on İHD's website constituted the crime of denigrating the Turkish Nation, the State of the Republic of Turkey, the institutions, and organs of the state under Article 301 of the TPC. In this simplified trial, the court issued a stay of proceedings. (2) Another indictment was filed against Mr. Türkdoğan under Article 6 of the TPC based on the statement titled "On Interior Minister Süleyman Soylu's Public Statements"⁴⁷ published on İHD's website on 29 June 2018, asking the court to sentence him for the alleged offense of insult as regulated under Article 125/3 of the TPC, and this indictment was accepted by the Ankara 60th Criminal Court of First Instance. The court acquitted Mr Türkdoğan on the grounds that the elements of the impugned offense did not exist. (3) Another indictment was filed by the Ankara Chief Public Prosecutor's Office against Mr. Türkdoğan on the grounds that his public statements as the İHD co-chair constituted the crime of membership in an armed organization under Article 314/2 of the TPC, and this indictment was accepted by the Ankara 19th Heavy Penal Court. Yet the court held that Mr. Türkdoğan's activities were within the scope of freedom of expression and freedom of association and delivered a verdict of acquittal. This verdict was appealed against by the Ankara Chief Public Prosecutor's Office and therefore the file is pending at an appeals court.⁴⁸

Eren Keskin: In 2016, an investigation was initiated into İHD Co-Chair Attorney Eren Keskin for symbolically acting as the editor-in-chief of daily *Özgür Gündem* in 2014 and 2015. In the same year, a total of 9 intellectuals, writers, journalists and human rights defenders were prosecuted within the scope of the same investigation. The main *Özgür Gündem* case was finalized by the İstanbul 23rd Heavy Penal Court on 15 February 2021. The Court, which is specially authorized to try offenses under the ATL, sentenced İnan Kızılkaya, the managing editor, Eren Keskin and Kemal Sancılı, the publisher of the daily, to 6 years and 3 months in

⁴⁶ İHD. "Adalet ve Hakikat İçin Ermeni Soykırımı'nın İnkârına Son!" 24 April 2017. <<https://www.ihd.org.tr/adalet-ve-hakikat-icin-ermeni-soykiriminin-inkarina-son/>>

⁴⁷ İHD. "Interior Minister Süleyman Soylu's Public Statements." 29 June 2018. <<https://ihd.org.tr/en/press-statement-for-immediate-release-interior-minister-suleyman-soylus-public-statements/>>

⁴⁸ İHD. "Charges against İHD's Chairperson Are Unacceptable." 21 January 2022. <<https://ihd.org.tr/en/charges-against-ihds-chairperson-are-unacceptable/>>

prison each for membership in an illegal armed organization (Merits No. 2020/51, Ruling No. 2021/11). This sentence was upheld by the İstanbul Regional Court of Appeals on 7 April 2022.⁴⁹ The file is currently pending before the Court of Cassation. Further, nearly 150 lawsuits were filed against Ms. Keskin for her work as editor-in-chief of the daily *Özgür Gündem* between 2014 and 2015 that she took on in solidarity with the daily.

Metin Kılavuz: Attorney Kılavuz is a member of İHD's Central Executive Committee. He was taken into custody as part of an investigation launched by the Ankara Chief Public Prosecutor's Office into 91 people under investigation file number 2021/34996. Mr. Kılavuz was held in custody for 12 days and on 23.04.2022 he gave his statement at the prosecutor's office in the presence of his lawyers and was referred to the Criminal Judgeship of Peace on duty with a request for his detention. Upon the decision of the Ankara 6th Criminal Judgeship of Peace, he was released on judicial control and with an international travel ban. Of the 48 people taken into custody within the same investigation, 18 were sentenced to imprisonment and 30 were released under judicial control. On 15 May 2022, Mr. Kılavuz was again taken into custody at his home in Diyarbakır within the scope of the very same investigation. On 16.05.2022, he was informed by the public prosecutor's office that a new open witness statement had been obtained and his additional statement was taken with his lawyers present. After his statement, he was referred to the Criminal Judgeship of Peace on duty with a request for his detention. Upon the decision of the Ankara 7th Criminal Judgeship of Peace, he was released on judicial control measures of not leaving his residence and with an international travel ban. The decision was based on the fact that the open witness statement, which was presented as new evidence, was similar to the anonymous witness allegations that had previously led to the imposition of judicial control measures against Mr. Kılavuz. The investigation into Mr. Kılavuz is subject to a restriction order and therefore he and his lawyers have not been able to access the evidence in the case file. At this stage, it is known that an anonymous witness has made various allegations against Mr. Kılavuz regarding his work as the deputy mayor of Diyarbakır Metropolitan Municipality. Currently, the investigation into Mr. Kılavuz is pending.⁵⁰

Fatin Kanat: Co-chair of İHD's local Ankara branch. The Ankara Chief Public Prosecutor's Office issued an indictment against Mr. Kanat on the grounds that his press statements in 2018 and 2019, in which he participated as the chair of İHD's Ankara branch, were considered to fall within the scope of making propaganda for an illegal organization under Article 7/2 of the ATL. This indictment was accepted by the Ankara 25th Heavy Penal Court. The case against Kanat is still pending.

Fırat Akdeniz: Member of İHD's local Diyarbakır branch. The Diyarbakır Chief Public Prosecutor's Office issued an indictment against Mr. Akdeniz on charges of membership in a terrorist organization for participating in the 1 September World Peace Day and Kurdish Language Day events, as well as peaceful demonstrations held against human rights violations such as violence against women, arbitrary detention of lawyers, hunger strikes by prisoners,

⁴⁹ İHD. "Eren Keskin Is a Human Rights Defender! Human Rights Cannot Be Put on Trial!" 16 April 2022. <<https://ihd.org.tr/en/ihd-statement-on-eren-keskins-conviction/>>

⁵⁰ İHD. "MYK Üyemiz Metin Kılavuz Serbest Bırakılsın!" 12 April 2022. <<https://www.ihd.org.tr/myk-uyemiz-metin-kilavuz-serbest-birakilsin/>>

lifting of the immunity of HDP MPs and appointment of trustees to HDP municipalities. At the hearing held on 23 March 2022, Mr. Akdeniz was sentenced to 6 years and 3 months in prison.

Tarık Güneş: Attorney and former chair of İHD's local Muş branch. Mr. Güneş was taken into custody and subsequently detained within the scope of an investigation on charges of "membership in an illegal organization" due to various reports drafted and statements made within the scope of the activities of İHD when he was the chair of Muş branch 7-8 years ago. Mr. Güneş was released at the first hearing on 30 March 2022, the case is still pending.⁵¹

Mehmet Işık: Member of İHD's local Muş branch. Mr. Işık was taken into custody and subsequently detained within the scope of an investigation on charges of "membership in an illegal organization" for participating in press statements held in Muş. Mr. Işık is currently in pre-trial detention.

Rafet Fahri Semizoğlu: Co-chair of İHD's local Balıkesir branch. Balıkesir Chief Public Prosecutor's Office issued an indictment against him under Article 4/1 of the Law on the Prevention of Financing of Terrorism on the grounds that he deposited money to prisoners, and this indictment was accepted by Balıkesir 2nd Heavy Penal Court. The first hearing was held on 10 May 2022; the case is pending.

Ömer Işık: Former chair of İHD's local Van branch. An investigation was launched into Mr. Işık on charges of membership in an illegal organization due to his involvement in the monitoring delegation set up in Van province during the resolution process in 2013. Mr. Işık was detained on 6 June 2022 within the scope of this investigation.⁵²

⁵¹ İHD. "İnsan Hakları Savunucusu Av. Tarık Güneş Serbest Bırakılsın!" 14 February 2022. <<https://www.ihd.org.tr/insan-haklari-savunucusu-av-tarik-gunes-serbest-birakilsin/>>

⁵² At the time of the translation, on 20 September 2022, Mr Işık was released.

Conclusion and Recommendations

Necessary legislation that will provide for the implementation of the United Nations Declaration on Human Rights Defenders, adopted by the UN General Assembly on 9 December 1998 (No. 53/144), must be introduced into domestic law;

Based on the fact that the prime responsibility and duty for the protection of human rights lies with the states, all public officials, notably those in the judiciary, should act respectful of human rights in practice;

Actors, who elicit the prosecution of human rights defenders or those who attempt to intimidate them through threats and repression, should be identified by effective investigation methods; they should be effectively prosecuted, and the policy of impunity should be ended;

All human rights defenders facing investigations and prosecution, those standing trial on remand because of their human rights advocacy in Turkey should be released;

Investigations and prosecutions against human rights defenders should be rendered visible through the monitoring of the international community;

Human rights organizations' capacity-building efforts should be strengthened;

One of Turkey's most important problems is the subjective definition of terror. Turkey should re-define terrorist offenses in line with the UN Security Council's decisions and drop qualifying offenses other than these as terrorist offenses. Turkey should differentiate between those who resort to violence and who do not, and the criminal legislation should be amended to this end. The Anti-Terror Law should be repealed.

Everyone's rights to freedom of expression, peaceful assembly and protest, association should be granted the guarantees enshrined in international conventions;

The repression of freedom of expression through legal and administrative ways bring along major aggrievement for people. Offenses committed through the media and the related convictions should be delayed/revoked until fundamental regulations on the issue are put into effect; legal regulations on freedom of expression should be introduced immediately.