

## EUROPEAN UNION LOCAL STRATEGY TO SUPPORT AND DEFEND HUMAN RIGHTS DEFENDERS IN TURKEY

An empowered rights based civil society is a crucial component of any democratic system. The European Union local strategy in Turkey to support and defend Human Rights Defenders (HRDs<sup>1</sup>) was drafted on the basis of the EU Guidelines on Human Rights Defenders<sup>2</sup> with input from HRDs in Turkey, in 2010 and updated in 2012, 2015, 2016 and December 2018. The strategy is agreed by the EU diplomatic missions<sup>3</sup> accredited to Turkey. It provides operational guidelines for EU Missions to implement the EU's Guidelines for Human Rights Defenders, notably with regard to the provision of effective support to HRDs as well as the monitoring of the situation of HRDs in Turkey, which has become even more of a challenge after the coup attempt of 15 July 2016 in spite of the lifting of the State of Emergency (SoE) in July 2018.

### Context

Following the coup attempt of 15 July the Turkish government declared a state of emergency on 20 July 2016 and took extraordinary measures through decree laws and administrative decisions. HRDs have been alarming about the deteriorating situation with regard to the protection of human rights in Turkey already before the coup attempt of 15 July 2016, while the measures taken under the SoE have deepened their concerns even further. Most of these concerns continued even after the SoE was lifted on 18 July 2018. Following the end of the SoE rule, the 25 July 2018 law amending several articles related to fundamental freedoms enshrined in the Code of Criminal Procedures and to Anti-Terror Law was adopted retaining some elements of the SoE for additional three years. EU Missions have been meeting with HRDs regularly to discuss their concerns and challenges. The conclusions of these meetings can be summarized as follows:

**Freedom of expression** is increasingly challenged, in particular through arbitrary and restrictive interpretation of the legislation, political pressure, dismissals, closure of media outlets, pecuniary fines and frequent court cases against members of the opposition and jailing of journalists, which lead to self-censorship. The prevailing political climate create an environment curtailing freedom of speech in media and internet, through regular blocking decisions and cases against social media users, while defamation law and anti-terror legislation are used as a means of putting pressure on critics.

**Freedom of assembly** remains restricted in law and practice, with authorities not permitting marches and disproportionate use of force in policing demonstrations.

The Constitution guarantees **freedom of association**. Nevertheless, a large number of foundations and associations were closed down by decree laws after the coup attempt, sometimes with their assets confiscated. Other foundations and associations exercise self-censorship to avoid a similar fate. Current legislation in Turkey is not conducive to stimulating private donations to rights based NGOs. Civil society remains therefore financially vulnerable and dependent on public project grants. A significant number of civil society organisations continue to see their regular operations challenged through court closure cases, penalties, restrictions or discriminatory practices by state institutions. Several court cases are ongoing and new investigations continue to be launched against HRDs. The intimidation of HRDs through the public statements of high level officials (furthered with some media outlets labelling them as terrorists) still persists in Turkey. The situation of HRDs continues to be fragile.

The **rule of law, independence of the judiciary** and the **principle of separation of powers** have been undermined and judges and prosecutors have been under strong political pressure. The large-scale dismissals in their ranks have also an impact on the working capacities in the judiciary. The right to a fair trial remains a concern.

Reports of **prevention of torture and ill-treatment** are cause for serious concern. The National Human Rights and Equality Institution's (NHREI) preventive mechanism is not yet functional. Impunity remains a big concern.

The escalation of violence in the Southeast between July 2015 and 2016 gave rise to serious concerns over human rights violations. The authorities launched an extensive anti-terror military and security campaign against the PKK, listed as a terrorist organization on the EU terrorist organizations list. The settlement process of the Kurdish issue

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<sup>1</sup> The definition of HRDs include individuals as well as organizations

<sup>2</sup> <http://www.consilium.europa.eu/uedocs/cmsUpload/GuidelinesDefenders.pdf>

<sup>3</sup> EU Missions covers both the the EU Delegation and the EU Member States' Embassies

came to a halt. **Anti-terror measures** raise the issue of proportionality of the response to that threat. To date the tensions and violence around the Kurdish issue continue without prospect for a settlement process.

Regarding **freedom of thought, conscience and religion** there are still pending issues. Turkey is the only member of the Council of Europe that does not recognize the right to conscientious objection for conscripts. Problems of religious minorities like clergy training, recognition and legal personality and worship places, work permits for foreign clergy are also pending. On **minority foundations**, the Regulation on the election procedures for non-Muslim foundations is still not published after its annulment in 2013. ECtHR judgements should guide the resolution of the issue of compulsory religion classes and the official recognition of Alevi Cem houses.

Regarding **non-discrimination**, The Law on the National Human Rights and Equality Institution was adopted by the Parliament on 6 April 2016. Once it is fully operational, the new institution will have the power to launch ex-officio investigations into potential human rights violations. The new Institution should be designed to ensure its functional, structural and financial independence in line with the Paris Principles. Similarly the new Institution should be legally, structurally and financially equipped to effectively fulfil its mandate as a National Preventive Mechanism as required by the OPCAT. Ethnic, religious groups, minorities and groups promoting gender diversity continue to report cases of discrimination in social life and in employment. Respect for the fundamental rights of **lesbian, gay, bisexual, transgender and intersex** persons (LGBTI), particularly hate crimes, remains a matter of concern.

The legislative and institutional framework on **equality between women and men** is in place. However, promotion of the traditional role of women, ineffective implementation of the legislation, statements by the authorities hampering the essence of gender-based equality and the low quality of services make discrimination against women and gender based violence major areas of concern. Femicides continue to be a serious problem. Gender disparity in education remains significant, particularly as regards drop-outs due to early marriage or child labour. On the **rights of the child**, there is limited progress in overall policy, legislation, coordination and monitoring.

## **EU actions in support and defence of Human Rights Defenders in Turkey<sup>1</sup>**

1. Enhanced coordination and exchange of information between EU Missions and like-minded countries (e.g. US, Canada, Norway, Switzerland, Australia)

The EU Missions in Turkey will meet monthly at the level of human rights contact points to discuss latest developments with regard to the human rights and HRDs in Turkey. They will report to the Deputy Heads of Mission and Heads of Missions who, whenever relevant, may coordinate joint actions of the EU Missions as far as promotion and protection of HRDs and their activities are concerned. The EU Delegation will take the lead in coordinating these activities. Updating of a database with information regarding human rights incidents will be a shared responsibility of all EU missions.

Incidences of pressure exerted on HRDs brought to the attention of the EU HRD Liaison Officer or any other EU Mission as well as reports on such incidents will be circulated through WhatsApp and/or e-mail without delay to the human rights contact points in all EU Missions to facilitate discussion of relevant follow up action. Bearing in mind that domestic law and administrative provisions and their application should not hinder, but enable the work of human rights defenders, including by avoiding any criminalization, stigmatization, impediments, obstructions or restrictions thereof contrary to the obligations and commitments of States under international human rights law, the EU Missions will further enhance the coordination of trial observations, share relevant reports among the human rights contact points and publicise the fact of participating in trial observations.

Follow up of the situation of Human Rights Defenders

Apart from the regular meetings of EU Missions mentioned above, the EU Liaison officer will invite on a regular basis, at minimum 4 times per year, HRDs and NGOs to meet with EU Missions and like-minded countries' Missions to discuss the situation of HRDs, latest developments and the role the EU can play in promoting and ensuring the protection of human rights and HRDs. Such meetings will take place in Ankara or in regions where

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<sup>1</sup> Timeline for implementation: *immediate*

HRDs are more at risk.

EU Missions will increase their effort to observe court sessions in the trial against human rights defenders. For this, a schedule will be drafted by the EUD, allowing member states to take turns. Missions are encouraged to mention the trial observations through social media.

In cases of specific violations of human rights or threats to the HRDs ad hoc meetings of EU Missions human rights contact points with HRDs may be organised to discuss appropriate follow up. HRDs are welcome to suggest the need for ad-hoc meetings in Ankara or other regions in Turkey; EU Missions will aim to have meeting minutes translated into Turkish. Such meetings have been taking place regularly during the SoE.

## 2. Raising issues regarding Human Rights Defenders with the authorities, visibility of such actions and the follow up

When deemed necessary and in advance of relevant EU/Turkey bilateral meetings (e.g. political criteria meetings, sub-committee meetings, bilateral EU Member State/Turkey dialogue) the EU side will solicit information from HRDs on latest developments in order to prepare its position. Reports of the meetings between the EU political and diplomatic representatives with the HRDs will be shared, as appropriate, among the group of human rights contact points at the EU Missions. It is recommended to publicise such meetings in social media, in agreement with the HRDs concerned, in order to ensure more visibility of the EU policy and to raise awareness of the HRDs work in the society in Turkey.

The EU Missions will evaluate reports of the hindrance of activities of HRDs and - where HRD activity is found to be unduly impeded - undertake appropriate action including demarches and/or issue statements with the aim of promoting the rapid and complete removal of obstacles to such activity. The EU Missions will inform HRDs of actions undertaken.

The EU Missions will coordinate efforts to facilitate a dialogue between the HRDs and the central and local authorities. Joint seminars, workshops or conferences should be considered as a platform to build confidence and raise awareness of existing problems and challenges.

## 3. Recognition and visibility for Human Rights Defenders - joint actions of the EU Missions

The EU Missions will enhance coordination to recognise the work of HRDs and raise their visibility. In addition to regular and ad hoc meetings with HRDs, EU Missions will organize individual and joint visits to the offices of HRDs and their organisations, and will participate in the events organised by HRDs. Apart from attending trials of HRDs the EU Missions will also visit HRDs under detention/ arrest.

In addition to the already existing instruments of promotion of human rights, fundamental freedoms, and specifically HRDs in Turkey, EU Missions will coordinate any other ways of providing additional support. The meetings of human rights contact points will be a platform for exchanging information and enhancing coordination, including with regard to the emergency assistance for HRDs at risk, European Instrument for Democracy and Human Rights (EIDHR) and Civil Society Facility (CSF), and the EU Missions' respective bilateral support programmes<sup>1</sup>. An additional legal aid budget line will be considered when necessary. All relevant information should be published on webpages of the EU Missions.

The EU Missions will share all the relevant information with the HRDs in Turkey, raising awareness about the possible instruments of support. Some of this information will also be publicized through the social media.

The EU Missions will facilitate people to people contacts between the HRDs from Turkey and their counterparts from the EU member states. Invitations to the seminars, conferences or briefings in the EU Member States should be extended via the EU Missions to the HRDs in Turkey to the extent possible.

The EU Missions will have discussions on the impact of IPA funds in the Fundamental Rights sector as well as impact of the CSF and EIDHR and explore ways to maximize the effects of those programmes for HRDs. The EU Missions will have to conduct a closer monitoring of the utilization of these funds by the relevant beneficiary Turkish institutions and/or Ministries.

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<sup>1</sup> Including, whenever relevant, coordination with like-minded donors from 3<sup>rd</sup> countries

4. Support for special procedures of the United Nations Human Rights Council, including the Special Rapporteur on Human Rights Defenders

Taking into consideration the outstanding work and the report of the special Rapporteur of the Human Rights Council on the situation of human rights defenders, the EU side will promote, in the context of political dialogue between the EU and its Member States and Turkey, in-country visits by the Special Rapporteur on Human Rights Defenders. It will also promote the use of CoE, OSCE and UN thematic mechanisms by HRDs from Turkey by providing the necessary information and facilitating contacts.

5. Assistance to Human Rights Defenders in danger

On-line application for support of the European Endowment for Democracy: <https://www.democracyendowment.eu/support/>

Information on the existing emergency fund for HRDs at risk could be found at: [https://ec.europa.eu/europeaid/how/finance/eidhr\\_en.htm\\_en](https://ec.europa.eu/europeaid/how/finance/eidhr_en.htm_en) and <https://www.protectdefenders.eu/en/index.html>. In addition to these existing mechanisms, in the framework of the CSF, the EU will support actions for enhancing technical knowledge, skills and capacities of HRDs from Turkey for carrying out their activities, including expertise building for legal professionals and improving access to justice.

The EU Missions have designated Maria Ververidou to take on the role of EU Liaison Officer for HRDs. HRDs will be able to make contact with the EU Liaison Officer at short notice in order to secure assistance when needed. The EU Missions will discuss all such cases, as appropriate.

**EU Focal Point on Human Rights & EU Liaison Officer for HRD**

**Ms. Maria Ververidou, Political Counsellor, EU Delegation to Turkey**

Tel: 0312 459 87 00; Email: Maria.VERVERIDOU@eeas.europa.eu

When contacting the Focal Point / Liaison Officer, HRDs should be as precise and factual as possible, providing reliable information on human rights violations and perpetrators. HRDs' reporting can follow international reporting standards, for example from the UN's Office of the High Commissioner for Human Rights: <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Complaints.aspx>

6. In line with their specific legal obligations and practices, EU Member State embassies reconfirm their readiness to examine punctually/rapidly all cases of violations of HRDs' human rights that might necessitate the provision of protection and/or emergency visas. Please see in annex contact details of the relevant officers for the EU embassies.

7. Dissemination of relevant information to Human Rights Defenders and civil society

The EU Guidelines on HRDs are on the EU Delegation home page together with other relevant information on the EIDHR and CSF (<https://www.avrupa.info.tr/en/funding-civil-society-60> and <https://www.avrupa.info.tr/en/financing-instruments-8853>). The EU Guidelines will be put on the pages of all EU Missions and will be translated into Turkish.

The EU side will continue to inform HRDs of the nature of relevant discussions in the context of EU/ Turkey and EU Member State/Turkey dialogue.

The EU will also continue publicising possibilities of financial support for HRDs via calls for proposals.

The annual Country Report will be published on the website of the EU Delegation and disseminated to both HRDs and civil society.