



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

## **Informal exchange of views and study visit of Turkish NGOs to the Council of Europe and its Conference of INGOs (1-2 December 2016)**

### **Summary and Recommendations**

**“In the name of protecting Democracy we are weakening it” (Turkish NGO representative)**

#### **Background:**

Turkey has been a country of concern in relation to freedom of association, assembly and expression and to the role of civil society already for some time, however the wide-net approach taken by the Turkish authorities under the State of Emergency has led to unprecedented restrictive measures being taken towards civil society in general and NGOs in particular. More than 350 NGOs were closed down and their assets seized by one single decree in November 2016, leaving Turkish civil society more fragmented and polarized between those critical of government actions and those close to the governing parties. NGOs feel more vulnerable to hate speech, potential violence or retribution; and self-censorship caused by this fear along with internet filters, blockages or slowdowns leaves them less able to communicate about their work or to access information. The State of Emergency and rule by decree lend themselves to potentially arbitrary decisions with severe consequences for NGOs, political parties, elected officials, civil servants, journalists and media outlets especially.

As a Member State of the CoE, Turkey is fully committed to uphold the common European values and standards, including those which may not be derogated from even in a time of emergency. The freedoms of association, expression and assembly, which are civil society's living and breathing space, suffer from the prolonged State of Emergency. The civil society in Turkey is on the front line of defending human rights and the rule of law today, but also for the post-Emergency future of rebuilding democratic society and trust in democratic institutions. For this reason, it was decided to invite a number of NGO representatives to Strasbourg to hold an exchange of views on the situation and on possible avenues of co-operation between Turkish civil society and the Conference of INGOs as well as useful methods of work for the CoE on behalf of Turkish civil society and the fundamental rights and freedoms of Turkish people.

Representatives of 16 NGOs engaged in two days of rich and wide-ranging discussions with the representatives of the Conference of INGOs, with the Secretary General, the Director of Democratic Initiatives and representatives of the PACE, Congress, Human Rights Commissioner as well as DG1 and DG2. All participants underlined that Turkish democracy had been attacked on 15 July and rightly should be defended and also considered that the recent terrorist attacks against Turkish civilians must be condemned. The discussions specifically covered issues related to human rights, democracy and the rule of law with a particular emphasis on the freedom of association and the conditions under which the civil society operates in Turkey today.

## **Summary of main messages:**

### ***Human Rights:***

Human rights defenders have been under increasing pressure since the Kurdish peace process ended in 2015, especially those speaking out about the human rights violations in South East Turkey in the context of anti-terror operations (curfews, destruction of property, civilian deaths and disappearances). Under the Emergency situation from July 2016, civil society representatives, particularly NGOs providing legal assistance and human rights defenders, are afraid of arrest, prosecution, seizure of assets which can result even from unsubstantiated accusations. A kind of “civil death” enshrouds people together with their families without recourse – unemployment, loss of friends or networks, social ostracism, bullying and refusal of services.

New types of offences related to freedom of thought and expression and appearing to have subjective interpretations - questioning received wisdom about the Kurdish issue, “insulting” the president or the nation, “propaganda” or information “serving the interests” of criminal or terrorist groups whether it is published in media outlets or even via social media - have led to an abundance of self-censorship in addition to controlled access to media, internet blockages, slowdowns and closed down outlets.

The independent mechanisms for human rights protection have undergone transformation since early 2016 and the civil society no longer recognizes the Ombudsman or the Human Rights and Equality body as either independent or effective human rights defenders. This is especially important as more and more allegations of torture surface from the mass of persons incarcerated.

### ***Democracy:***

Civil society organisations are claiming space as democratic agents in the public arena, to participate with their expertise, advice, criticism, perspectives. Currently, however, most consultation is limited to NGOs which are ideologically-connected to the ruling parties or which have a service-provider relationship with the authorities. Many of these NGOs or GONGOs do useful work and also engage professionally with more independent NGOs, some examples were given of positive results. The downside to this kind of consultation, aside from its lack of a wider perspective, is that it is not being carried out in a transparent manner. Major reforms in education, criminal code and procedures, and now to the Constitution for example are being made public only when delivered to the parliament and then with little or no public consultation passed in parliament.

Almost daily arrests and prosecutions of elected representatives from opposition parties, particularly “pro-kurdish” parties, questionable procedures for lifting parliamentary immunity, replacing municipal mayors by non-elected officials and bypassing the elected representative councils is a trend which is highly problematic both for democratic legitimacy and for effective local self-government. NGOs expressed the wish that CoE would place some emphasis on renewing the Kurdish peace process, as this issue is closely linked to the crackdown on political opposition.

Aside from concerns about democracy, the NGOs expressed the hope that CoE would intensify its work with Turkey on strengthening local self-government. The benefits of decentralization in relation to local administration are also felt by civil society, the majority of which is active at the

local level and which relies on co-operation, support and funding from the local authorities which should be as much as possible reflective of the population they serve.

***Rule of law:***

The CoE's role supporting the rule of law is very important also for civil society, as is the Court. The NGOs welcomed the exchange with the SG and information about co-operation with the Turkish MoJ on this issue. They see the CoE as a strong defender of the rule of law and hope that this will be also in a publicly visible way as a reference for those who are working in Turkey for the same goal. Procedural safeguards for those accused, detained or losing their jobs and access to legal support are a top priority, but there is also a need to evaluate the impact of the decrees on long-standing CoE programmes such as those with the judiciary and to consider how they can be adapted to better support the rule of law in general. The already present concerns about impunity stemming notably from lack of investigations into alleged crimes by authorities, armed forces from 2015, have been raised further by the prolonged State of Emergency. Decree-laws often include directly executable sanctions (including dissolution, seizure, confiscation or transfer of assets and rejection of debts) and may also include specific exemption from liability for the institutions or persons carrying them out, leaving a large space for arbitrariness and impunity.

In light of the very large numbers of arrest warrants consented by courts, ongoing dismissals of judiciary staff and inconsistent opinions from the highest courts about their own jurisdiction, concerns are very high about the independence of the judiciary and about the effectiveness of domestic remedies, especially the Constitutional Court. There is a great need for CoE assistance, but also advocacy, for maintaining and strengthening the procedural safeguards, the independence, effectiveness and trustworthiness of the courts and prosecution in the service of the citizens (recent polls indicate only 3% of citizens trust in the judiciary). The Council of Europe, through its legal instruments, monitoring mechanisms and co-operation programmes can provide a stronger reference point both to the authorities and to the civil society (activists, academics, legal professionals, human rights defenders). Additionally, the high profile work of the SG, Commissioner, PACE, Congress and INGO Presidents contributes not only to influencing the authorities but also to demonstrating to the population that these are indeed important and shared values and standards, worthy of support from the citizens and the NGOs.

## **Recommendations:**

### ***For CoE:***

1. Continue to use this framework of communication and consultation with Turkish civil society
2. Continue to keep the lines of communication and co-operation open with the Turkish authorities to avoid isolation of Turkish citizens
3. Use all of the institutions and mechanisms that CoE has to support human rights and democratic institutions in Turkey and to monitor the actions of the authorities
4. Continue to push for procedural safeguards and effective judicial remedies for those affected by the Decree-laws and for CoE (including Venice Commission) assessments of relevant draft laws and especially the draft constitutional amendments
5. Give consideration to upgrading the political monitoring from PACE, CM in relation to the overall commitments and obligations of a Member State
6. Be a strong public voice for rule of law, democracy and human rights in Turkey-“CoE as a reference for rule of law, human rights and democracy must be credible and be heard”
7. Press for protection of freedom of expression, journalism and of the media even during the period of Emergency
8. Maintain co-operation on education in light of curricula reforms underway, including promoting EDC/HRC and democratic competence framework
9. Assist civil society to develop and to deploy effective independent domestic observation of elections and referenda
10. Develop co-operation programmes on local self-government, social rights, access to justice, minority rights, gender equality *inter alia*, which draw on the CoE standards and support their implementation in practice

### ***For INGO Conference:***

1. Visit Turkey with a fact-finding mission not only in Ankara, Istanbul but also in Diyarbakir or other regions/municipalities
2. Maintain open communication not only with independent or critical civil society in Turkey, but also with NGOs closely affiliated with the ruling party (Gongos) as well as with the Turkish authorities
3. Demonstrate solidarity with Turkish NGOs through encouraging their participation in Conference activities, debates, etc.
4. Advocate for Turkish civil society and freedom of association through the Conference's network of INGOs giving visibility to the positive contribution of NGOs to Turkish society
5. Promote and assist the development of civil participation in decision-making in a broad sense in Turkey and implementing the instruments, standards of CoE
6. Support and assist the building of dialogue and co-operation between different groups within the civil society and between civil society and the authorities
7. Consider establishment of a solidarity fund to work with civil society under threat in places, like Turkey, where foreign funds may become impossible or influenced by the authorities.