

Ref: CommHR/DM/sf 005-2021

**Mr Süleyman SOYLU**  
**Minister of Interior of the Republic of Turkey**

**Mr Abdulhamit GÜL**  
**Minister of Justice of the Republic of Turkey**

Strasbourg, 25 February 2021

Dear Ministers,

Following up on my work on freedom of association and human right defenders in Turkey, I would like to bring to your attention my observations relating to the Law No. 7262 on Preventing Financing of Proliferation of Weapons of Mass Destruction, which entered into force on 31 December 2020 (hereafter, the Law). The Law introduced amendments to six existing laws, including Law No. 5253 on Associations and Law No. 2860 on Aid Collection, which I address in more detail below.

At the outset, however, I would like to emphasise once again the essential role civil society and human rights defenders play in a democratic society in preventing human rights violations, drawing public attention to them when they occur, obtaining remedies and redress for victims and promoting human rights in general. As you know, I have repeatedly pointed out the increasingly challenging and hostile environment in which human rights defenders and non-governmental organisations (NGOs) have to operate in Turkey. Political discourse targeting human rights defenders, including those who defend the human rights of minority groups, such as lesbian, gay, bisexual, transgender and intersex people, has become increasingly hostile. Open-ended and indiscriminate bans on public gatherings continue to be in place in contradiction with freedom of peaceful assembly, which is essential for the effective enjoyment of freedom of association. Excessive use of force and violence has also been used by law enforcement officials when such gatherings have taken place, including during the recent student protests in Istanbul and several other cities around the country. Finally, from a rule of law perspective, it is especially concerning that the [judgment](#) of the European Court of Human Rights in respect of one such human rights defender has not yet been executed, despite repeated calls on the Turkish authorities by the Council of Europe to this end.

It is against this background that I would like to raise my concerns regarding several aspects of the aforementioned law. Its objectives, as described in the Law itself, are to ensure compliance of Turkish legislation and procedures with relevant UN Security Council Resolutions relating to combating the financing of proliferation of weapons of mass destruction. The Law also strengthens national capacities in fighting financing of terrorism and money laundering. Given the importance of the Law and clear indications that some of its aspects threaten the very existence of human rights NGOs, it is highly regrettable that the Law has been rushed through parliament and that no consultation with these organisations have taken place. This development epitomises the long-standing problem of lack of consultation and involvement of human rights NGOs on a systematic and institutional basis, which I called on the authorities to urgently address in the report that I published in February 2020 following my visit to Turkey in July 2019.

I am concerned that the amendments to the Law on Associations empower the Minister of Interior to suspend members of an association or foundation who have been subjected to a criminal investigation for crimes deemed to fall under the scope of the Law on the Prevention of Financing of Terrorism or of drug-related offences under the Criminal Code, to appoint trustees to replace them, and to block the activities of the association pending the outcome of the investigation. I am equally concerned about the introduction of a permanent ban on individuals who have been convicted on terrorism-related charges from taking up executive duties in associations, even after they have served their sentence. These aspects are of concern notably in light of the pattern of the use of anti-terrorism legislation to stifle

dissenting voices in Turkey, which as you know I have highlighted on numerous occasions. In this connection, I must share with you my regret that instead of neutralising the negative effects of the emergency decrees regarding NGOs, as I recommended in my report on Turkey, the government appears engaged in exactly the opposite direction by broadening the catalogue of tools which it may use to further target civil society organisations and human rights defenders, and their legitimate and lawful activities.

I am also worried about the amendments to the Law on Aid Collection, which further tightens the government's control on civil society fundraising activities, *inter alia*, by providing the Ministry of Interior with the possibility to request a judgeship of the peace to block access to an unauthorised online fundraising activity within 24 hours, if it has not been removed upon a warning to the fundraiser or to the hosting provider or if they could not be reached. The amendments also foresee heavy administrative fines for organisations who carry out unauthorised fundraising activities and those who provide internet domain for such activities, as well as a possibility to seize the funds that have been collected without authorisation. As an example, a fine of 200 000 Turkish lira (about 23.600 euros) may be imposed for unauthorised online fundraising. Turkish civil society organisations have warned that the application of this fine may result in the closure of some organisations. Crucially, the Law also expands the existing government's powers relating to audits and inspections of NGOs, while the criteria regarding the scope of audits and the qualifications of auditors remain vague, considerably increasing the risk of arbitrariness.

In my report on Turkey, I expressed my concern about a number of regulatory obstacles facing NGOs related to fundraising, including the necessity to obtain prior authorisation for each fundraising activity and a long authorisation process based on non-objective criteria. I am concerned that the effect of these additional restrictions will be felt particularly harshly by human rights-based organisations. As I noted in my report, these organisations need to rely extensively on fundraising, because public funds only seem to be allocated to NGOs which espouse the same values as the government and do not criticise official policy, in a non-transparent way that excludes rights-based civil society organisations. Information according to which audits have already been carried out in at least ten human rights-based organisations, pursuant to the Law, unfortunately confirms my concerns.

While reiterating my acknowledgement of the extraordinary challenges facing Turkey in combating terrorism and terrorist organisations, I share the opinion recently expressed by three UN Special Rapporteurs in their [comments](#) concerning this Law, reaffirming that member states must ensure that any measures taken to counter terrorism must comply with all their obligations under international law, in particular international human rights law.

In light of these considerations, and noting that the Venice Commission will prepare an opinion on this Law, which it expects to adopt in June 2021, I respectfully call on the Turkish authorities to refrain from further implementing the Law pending the outcome of this review, and to ensure that any further legislation in this respect is in full compliance with the relevant Council of Europe and international standards, and in particular the recommendations of the Venice Commission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dunja Mijatović', with a large, stylized flourish at the end.

Dunja Mijatović