

At its first Universal Periodic Review (UPR) of May 2010, Turkey accepted only 10 out of 20 recommendations concerning freedom of expression, association and peaceful assembly. However, it accepted both recommendations concerning human rights defenders (HRDs) promising to 'investigate all complaints of harassment and persecution against human rights defenders and NGOs, and sanction those responsible' and 'consider inviting the United Nations Special Rapporteur for Human Rights Defenders to visit the country'. Nevertheless, four years later, HRDs and journalists still complain of continued judicial harassment and growing repressions on protesters and civil society as well as failure in holding perpetrators accountable.<sup>1</sup>

## 1. Risks facing human rights defenders

- The most commonly cited obstacle to human rights defenders and journalists is the limitation of freedom of expression. In the last report on Freedom of Press 2014, Freedom House lowered the ranking of Turkey from 'Partially Free' to 'Not Free' due to the fact that 'constitutional guarantees of freedom of the press and expression are only partially upheld in practice, undermined by restrictive provisions in the criminal code and the Anti-Terrorism Act.'<sup>2</sup>
- CPJ reported that 'Turkish authorities held 40 journalists behind bars, making it the world's leading jailer of journalists (...). With recent releases in Turkey, Turkey now holds 21 journalists in jail.'<sup>3</sup>
- Other risks concern the right to peaceful assembly,<sup>4</sup> excessive force by police, and impunity. According to Amnesty, Turkey continues 'its policies of violence, repression and censorship in the face of the people presenting their demands for human rights in a peaceful and democratic way'.<sup>5</sup> There were many reported cases of murder<sup>6</sup> and abuse by armed forces - including torture, and mistreatment - not only against protesters, but also journalists and bystanders.<sup>7</sup> During the one year anniversary of protest in Gezi Park police again used teargas against protesters.<sup>8</sup>

## 2. Official restrictions on the space for human rights defenders

- The Turkish Criminal Code and the Anti-terrorism Act have led to abuses and continue to be used against HRDs, organisations and journalists. Criticism of the government can be associated with terrorist propaganda.
- In February 2014, the Turkish Parliament put into law a text that enables the authorities to restrict access to a website without judicial ruling if the content is deemed 'insulting', forces internet service providers to keep records of their subscribers browsing history for up to two years and to make such data available to the government on request.<sup>9</sup>
- Despite the European Court of Human Rights ruling in 2012<sup>10</sup> against Turkey's practice of blocking websites, in March 2014 Turkish Telecommunication Authority closed down Twitter and YouTube which was met with disapproval by the Special Rapporteur on HRDs.<sup>11</sup> Eventually, Turkish authorities lifted a ban on Twitter and later on YouTube following a constitutional court rulings.

## 3. Intimidation and reprisals against defenders accessing international human rights mechanisms

- There is little information available on this point. However, it is possible that the risks of prosecution outlined in this briefing paper, faced by journalists and HRDs, dissuade them from engaging in international mechanisms.

## 4. Human rights defenders facing particular risks

- Journalists, writers academics and researchers working on sensitive matters such as governmental corruption, protesters at the Gezi Park or Kurdish minorities, face particularly high risks of harassment, loss of jobs, and arrests especially on charges of involvement in terrorist propaganda.<sup>12</sup>
- Lawyers providing legal assistance to clients, in particular in cases related to terrorism and to those involved in human rights, face obstacles in performing their work and are exposed to the risk of arrests, detention and prosecution.<sup>13</sup>
- Homosexual relations are legal in Turkey; however LGBTI people and activists face risks of violence,<sup>14</sup> discrimination and harassment.<sup>15</sup> As an example, one member of Sezer Yekta was taken by police officers into custody with the charge that he was holding a rainbow flag during a demonstration against internet censorship on February 2014 and was targeted by them with homophobic harassment.<sup>16</sup>
- Activists and the Roma community criticise the urban transformation projects, which pulled thousands of Roma out of their historical settlements.<sup>17</sup>

## 5. The response of the State regarding the protection of human rights defenders

- In March 2014, the Turkish Parliament accepted the 6th Democratization Package aimed at combating discrimination and hate crime, but not on the basis of sexual orientation and gender identity.<sup>18</sup>
- According to HRW 'reforms undertaken in 2013 did not remedy the situation of the thousands of prosecutions of individuals on charges of "membership of an armed organization" (article 314, Turkish Penal Code) for activities amounting to nonviolent political association.'<sup>19</sup>
- Even after their release, journalists and HRDs can face judicial harassment as charges are not dropped and cases remain active. The prosecutions may take 5-6 years as the legal process in Turkey is slow and long.
- In 2011, the European Court of Human Rights decided that 'the scope of the terms under Article 301 of the Criminal Code, as interpreted by the judiciary, is too wide and vague and thus the provision constitutes a continuing threat to the exercise of the right to freedom of expression'.<sup>20</sup> Nevertheless, it's still in use and in the last UPR Turkey rejected to amend it.
- The UN Special Rapporteur on HRDs requested a country visit to Turkey in 2012.<sup>21</sup> Although it was accepted she was not able to carry out these visits before the end of her tenure in April 2014.

## 6. Recommendations to the Government of Turkey

- Turkey should develop and enact specific laws and policies to recognise and protect the work of HRDs and which give full force and effect to the international Declaration on Human Rights Defenders at the national level.
- Turkey should undertake a review of the Penal Code and Anti-Terrorism Law in cooperation with civil society and refrain from criminalising the legitimate activities of HRDs, journalists, lawyers and repeal all laws and policies which restrict their activities and rights.
- Turkey should ensure that lawyers in cases related to terrorism or organised crime are not intimidated, harassed or subject to improper interference.
- Turkey should ensure that human rights defenders and journalists can pursue their profession without fear of being subjected to prosecution and libel suits. Further they should provide redress to those subjected to unjustified criminal prosecution and imprisonment.
- Turkey should guarantee the investigation and prosecution of all aggressions and defamation against HRDs.
- Turkey should ensure that no one is criminalised for the peaceful exercise of the rights to freedom of peaceful assembly and of association and that this right can be freely exercised without fear of police attacks.
- Turkey should lift all restrictions regarding the use of Internet, including by repealing the bill of February 2014.
- Turkey should reiterate the invitation to the UN Special Rapporteur on Human Rights Defenders.

**Turkey took some positive steps to improve its legal system including the recent adoption of reforms. Nevertheless, challenges remain in many areas with respect to guaranteeing the freedom and security of HRDs as per Turkey's promises during the past UPR. The current anti-terrorism legislation is used to restrict the space for independent human rights activities. Moreover, recent events during the protests and limitation of websites show that Turkey must strengthen efforts to preserve the rights of freedom of association and peaceful assembly, and freedom of opinion and expression. Instead, Turkey as an 'emerging power' should be an example for other States, and ensure that HRDs rights are protected.**

<sup>1</sup> <http://www.freedomhouse.org/sites/default/files/Turkey%20Report%20-%202-3-14.pdf>

<sup>2</sup> [http://freedomhouse.org/sites/default/files/FOTP\\_2014.pdf](http://freedomhouse.org/sites/default/files/FOTP_2014.pdf)

<sup>3</sup> <https://www.cpj.org/2014/04/cpj-calls-on-turkey-to-address-press-freedom-chall.php>

<sup>4</sup> [http://www.euromedrights.org/en/wp-content/uploads/2013/11/FOA2013\\_EN\\_TURKEY1.pdf](http://www.euromedrights.org/en/wp-content/uploads/2013/11/FOA2013_EN_TURKEY1.pdf)

<sup>5</sup> [http://www.amnesty.org/en/library/asset/EUR44/022/2013/en/0ba8c4cc-b059-4b88-9c52-8fbd652c6766/eur440222013en.pdf#%sare\\_link:3%%](http://www.amnesty.org/en/library/asset/EUR44/022/2013/en/0ba8c4cc-b059-4b88-9c52-8fbd652c6766/eur440222013en.pdf#%sare_link:3%%)

<sup>6</sup> [http://en.ihd.org.tr/index.php?option=com\\_content&view=article&id=739:report-on-incidents-during-the-gezi-park-resistance-27-may-2013-10-july-2013&catid=17:special-reports&Itemid=37](http://en.ihd.org.tr/index.php?option=com_content&view=article&id=739:report-on-incidents-during-the-gezi-park-resistance-27-may-2013-10-july-2013&catid=17:special-reports&Itemid=37)

<sup>7</sup> <http://www.aljazeera.com/news/middleeast/2014/05/gezi-park-protesters-mass-trial-turkey-201456181424419115>, and <http://www.hurriyetdailynews.com/police-close-gezi-park-during-womens-day-demonstrations-in-istanbul.aspx?PageID=238&NID=63343&NewsCatID=341>

<sup>8</sup> <http://www.theguardian.com/world/2014/jun/01/turkish-police-teargas-gezi-park-protesters-one-year-anniversary>

<sup>9</sup> <http://www.icnl.org/research/monitor/turkey.html>

<sup>10</sup> <http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=001-115705>

<sup>11</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14454&LangID=E>

<sup>12</sup> <http://www.indexcensorship.org/2014/02/vague-laws-leave-turkish-journalists-vulnerable/> and <http://www.euromedrights.org/en/wp-content/uploads/2013/06/Observation-of-the-trial-of-Osman-%C4%B0%C5%9E%C3%87%C4%B01.pdf>

<sup>13</sup> <http://www.frontlinedefenders.org/node/21364> and [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-19-Add3\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-19-Add3_en.pdf)

<sup>14</sup> <http://assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=20197&Language=EN>

<sup>15</sup> <http://www.kaosql.com/page.php?id=15928>; [http://freedomhouse.org/report/freedom-world/2006/turkey#.U2qRTPI\\_uSo](http://freedomhouse.org/report/freedom-world/2006/turkey#.U2qRTPI_uSo)

<sup>16</sup> <http://iqbtinewsturkey.com/tag/sezer-yekta/>

<sup>17</sup> <http://www.todayszaman.com/news-338857-concerns-rise-on-whether-urban-transformation-now-urban-looting.html>

<sup>18</sup> <http://www.kaosql.com/page.php?id=15969>

<sup>19</sup> <http://www.hrw.org/world-report/2014/country-chapters/turkey?page=2>

<sup>20</sup> <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-107206>

<sup>21</sup> <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/CountryVisits.aspx>