



*After being harassed for years Osman Işçi, Secretary General of the Human Rights Association (IHD), member of the trade-union Eğitim Sen, and member of EuroMed Rights Executive Committee from 2012 to 2018, was dismissed in May 2017 from his position as associate professor and PhD researcher at the University of Ağrı. This dismissal was officialised through the Statutory Decree No. 689, issued this Saturday 29 April 2017, a decree that fired 3,974 people from the public service.<sup>1</sup> In October 2017, EuroMed Rights expressed its deep concern for the deteriorating situation of Human Rights Defenders in Turkey.<sup>2</sup> Legal provisions are often used to criminalise the activities of Human Rights Defenders and members of Civil Society.*

### **UPR Info Pre-session**

### **3<sup>rd</sup> UPR Cycle on Turkey**

**Geneva, 12 December 2019**

On behalf of EuroMed Rights, the Human Rights Association and Citizens' Assembly, I thank the Organizers of this Pre-session for the opportunity to raise some of the key human rights concerns in Turkey. During its second UPR cycle, the Government of Turkey received 19 recommendations related to Freedom of Association and Assembly and 3 on Human Rights Defenders. We are particularly concerned that the legitimate role of protection and promotion of human rights carried on by human rights defenders and Civil Society Organizations is criminalized and a target for reprisal by both state and non-state actors.

### ***Curbing civic participation in the public space***

Freedom of Association and Assembly have been subjected to constant violations in Turkey. Article 33 of the Constitution of the Republic of Turkey guarantees the right to freedom of association stating that, "Everyone has the right to form associations, or become a member of an association, or withdraw from membership without prior permission."<sup>3</sup>

Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Turkey is a state party, also guarantees the freedom of peaceful association.

<sup>1</sup> <https://euomedrights.org/publication/turkey-persecutions-osman-isci-member-euomed-rights-executive-committee/>

<sup>2</sup> <https://euomedrights.org/publication/osman-isci-emblematic-case-among-hundreds-human-rights-defenders-turkey/>

<sup>3</sup> [https://global.tbmm.gov.tr/docs/constitution\\_en.pdf](https://global.tbmm.gov.tr/docs/constitution_en.pdf)



Despite the commitments undertaken both at national and international level<sup>4</sup>, the government of Turkey has continued to subvert the right to freedom of association and assembly through a combination of legislative restrictions and discriminatory targeting of organizations which advocate on sensitive issues.

The Government of Turkey tightened measures against political dissent and public activities deemed undesirable. In March 2015, the Parliament passed a controversial security bill, the Law amending the Law on Powers and Duties of the Police, Other Laws and Decrees, which is widely referred to as the “Internal Security Reform Package”. The law broadened police power to conduct searches, use weapons, conduct wiretaps, detain individuals without a warrant and remove demonstrators from sites of protest.

Since 2018, the legal-political environment has not been beneficial for civil society in Turkey. Restrictions limiting freedom of association, assembly, and speech/advocacy are harshly affecting the work of Human rights Defenders (HRDs) and Civil Society Organisations as a whole.

On 25 August 2018 police forcefully dispersed the Saturday Mothers’ gathering, a collective of relatives of people disappeared decades before, who have been protesting on a weekly basis to demand accountability. Saturday Mothers were to hold their 700<sup>th</sup> vigil when the march was dispersed. The police used tear gas to stop the protest and arrested 47 people – some of them in their 80s. Since then the weekly vigils have not been permitted in the public square they were usually held.

On 12 October 2019, police used pepper spray and baton to disperse a weekly vigil of the group, after it released a press statement questioning the whereabouts of Cemil Kirbayir, disappeared under police custody during the 1980 military group.

There is still no concrete definition of civil society or related legislation, policy documents, nor a single, overarching, and binding legislative framework to govern the relationship between CSOs and public institutions.

### ***Preventing civic engagement***

The 2019 Presidential Annual Program, published on October 27, 2018, includes a separate section on Civil Society Organisations (CSOs) and lists the measures and policies to be carried out by the end of December 2019. One of the objectives is related to accessing the membership information of natural and legal persons in CSOs through e-government applications.

The Presidential Annual Program, in combination with the amendment to Article 83 of the October 2018 Regulation on Associations, requires associations to report information about members

through an e-application to the Ministry of Interior (DERBIS)<sup>5</sup> within 30 days.

<sup>4</sup> A/HRC/29/15

<sup>5</sup> Dernekler Bilgi Sistemi – DERBIS, A bylaw on Associations and the new Bylaw on Amendments to the Bylaw on Associations, published in the *Official Gazette* No. 30552 of 1.10. 2018. The new bylaw is openly violating the provisions set for by art. 33 of the Constitution of Turkey, art. 22 of the ICCPR as well as art. 11 of ECHR.



Associations must provide an array of information about their members, including identification numbers, name and surname, occupation, education status, and dates of membership in the association. This requirement is hampering participation in CSOs and NGOs activities all over the country, resulting in weakening and preventing engagement from citizens.

The government has cracked down on NGOs since the coup attempt<sup>6</sup>, summarily shutting down at least 1,500 foundations and associations and seizing their assets. The targeted groups worked on issues including torture, domestic violence, and aid to refugees and internally displaced persons.

Union activity, including the right to strike, is limited by law and in practice. A system of representation threshold requirements makes it difficult for unions to secure collective-bargaining rights. Trade unions and professional organizations have suffered from mass arrests and dismissals associated with the state of emergency and the general breakdown in freedoms of expression, assembly, and association<sup>7</sup>.

As the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism noted following his 2006 mission to Turkey, this definition of terrorism is extremely broad and defines terrorism in terms of its aims without the requirement for tactics that amount to deadly or other grave violence against persons to be employed in the furtherance of these aims. As a result, anti-terrorism related offences “may put severe limitations on the legitimate expression of opinions critical of the Government or State institutions, on the forming of organizations for legitimate purposes, and on the freedom of peaceful assembly.”

#### Recommendations:

- Ensure that people can gather and protest peacefully, including by lifting blanket bans issued by governors across the country<sup>8</sup>;

<sup>6</sup> *Supra*, note 1

<sup>7</sup> Equal Times, *In Turkey, the right to freedom of association and unionization remains under threat*, <http://bit.ly/2JM4siL>

<sup>8</sup> “Peaceful assemblies may take many forms, including demonstrations, meetings, processions, strikes, rallies, sit-ins and flash-mobs. In many cases, peaceful assemblies do not pursue controversial ideas or goals and cause little or no disruption. The recognition of the right of peaceful assembly imposes a corresponding obligation on States parties to respect and ensure the exercise of the right. This requires States to allow such assemblies to take place with no unwarranted interference and, whenever it is needed, to facilitate the exercise of the right and to protect the participants. The right of peaceful assembly is not absolute, but any restrictions must be narrowly drawn. There are, in effect, limitations on the limitations that may be imposed.” General Comment no. 37, Revised draft prepared by the Rapporteur, Mr. Christof Heyns, Draft as adopted on First Reading during the 127th Session (14 October – 8 November 2019).



- Amend the definition of “terrorism” in Article 1 and “terrorist” offender in Article 2 of the Anti-Terrorism Law in line with international human rights law and standards
- All due process guarantees in accordance with Article 14 of the ICCPR should be ensured for all detained persons. All human rights defenders and civil society activists detained for exercising their freedom of assembly, association, or expression should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment including administrative measures hampering their basic rights
- Civil society members and human rights defenders should be provided a safe and secure environment to carry out their work. All instances of violations of their rights should be independently investigated
- Invite the UN Special Rapporteur on Human Rights Defenders to visit the country
- Accept the request for visit of the UN Special Rapporteur on the Right to freedom of peaceful assembly and of association received in 2017