



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

The European Union local strategy in Turkey to support and defend Human Rights Defenders (HRDs<sup>1</sup>) has been drafted on the basis of the EU Guidelines on Human Rights Defenders<sup>2</sup> in 2010 and has been updated in 2012 and 2015. This latest update, as previous ones, has been agreed by the EU diplomatic missions accredited to Turkey and drafted with input from Turkish HRDs. 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.

### Context

HRDs who met with EU missions on 23-24 November 2015 summarized the situation and challenges faced by them, and together with the EU's own analysis in the 2015 Country Report, the local context in which HRDs conduct their work can be summarized as follows:

Over the recent years, key legislation adopted in the area of the rule of law, freedom of expression and freedom of assembly ran against EU standards and therefore had its negative reflection on the promotion and protection of human rights. Shortcomings particularly affect the following areas:

- Freedom of expression is increasingly challenged, in particular through arbitrary and restrictive interpretation of the legislation, political pressure, dismissals and frequent court cases against journalists, which also lead to self-censorship.
- Freedom of assembly is overly restricted, in law and practice, in particular through disproportionate use of force in policing demonstrations and no sanctioning of law enforcement officers.
- Non-discrimination is not sufficiently enforced, in law and in practice, and the rights of the most vulnerable groups and of persons belonging to minorities are not sufficiently upheld.
- Criminal and anti-terror legislation is not yet in line with the ECtHR case law and the proportionality principle needs to be observed in practice.

On **freedom of expression**, ongoing and new criminal cases against media organs, journalists, writers or social media users are of considerable concern, as is their jailing, especially under the anti-terror law. There are a high number of arrests, hearings, detentions, prosecutions as well as censorship cases and layoffs, as the government maintains a strong pressure on media. Sporadic physical attacks against journalists have recently taken place, and are being investigated by the authorities. In the context of the escalating violence in the East and Southeast and increasing tensions across the country, a number of attacks on media outlets took place and the authorities took actions curtailing further freedom of media. Changes to the internet law that increased the government's powers to block content without a court order on an unduly wide range of grounds, are of concern. The tense political climate which creates an environment curtailing freedom of speech in the media and on the internet is another concern. Defamation law and other similar offenses are used as a means of putting pressure on critics.

The **independence of the judiciary** and the **principle of separation of powers** have been undermined and judges and prosecutors have been under strong political pressure, especially since 2014. The

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<sup>1</sup> the definition of HRDs include individuals as well as organisations

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

government's campaign against the alleged 'parallel structure' within the state was actively pursued, at times encroaching on the independence of the judiciary.

**Legislation on internal security** was adopted in 2015 granting broad discretionary powers to the law enforcement agencies without adequate oversight. The escalation of violence since July gave rise to serious concerns over human rights violations. The authorities launched an extensive anti-terror military and security campaign against the PKK. The settlement process of the Kurdish issue came to a halt. Anti-terror measures<sup>3</sup> taken in this context were not always proportionate. The anti-terror law has not yet been amended to ensure that its application is limited to offences that are indisputably terror offences.

On **prevention of torture and ill-treatment** a number of problems remain. There have been frequent reports of use of excessive force against demonstrators and cases of ill-treatment in prisons, especially of juveniles. This is an issue of serious concern given the lack of clear and binding rules on the proportionate use of force, especially in demonstrations. The NHRI's national preventive mechanism is not yet functional. Impunity remains a big concern. There is no comprehensive approach to missing persons or the exhumation of mass graves. Independent investigation of all alleged cases of extrajudicial killing by security and law enforcement officers is lacking. The legislation on compensation for damages or loss of life caused by public authorities is inadequate. When launching proceedings for ill-treatment by law enforcement bodies, protestors continue to face counter-claims, which receive priority from the judiciary. Allegations of ill-treatment are not properly investigated or sanctioned.

Regarding **freedom of thought, conscience and religion**, freedom of worship is generally respected. There are pending issues concerning the Alevi community though, including the implementation of the recent Court of Cassation judgement on the recognition of *Cem* houses as places of worship and effective judicial follow-up of attacks against Alevis. Turkey is the only member of the Council of Europe that does not recognise the right to conscientious objection for conscripts. Problems of religious minorities regarding clergy training, recognition and legal personality, work permits for foreign clergy are pending. ECtHR judgements should guide the resolution of the issue of compulsory religious courses.

On **freedom of assembly** the government showed growing intolerance of public protests and maintained a restrictive interpretation of the right of assembly. Excessive force was used on many occasions (1<sup>st</sup> May, pride parade in Istanbul on 28 June). The 1<sup>st</sup> May Taksim Square marches were not authorised. Demonstrations on issues such as the situation in Kobane or high-level corruption allegations have continued to be judged on the basis of the anti-terror law.

The Constitution guarantees **freedom of association**. Claims relating to national security, morality and the Turkish family structure continued to be applied by courts to restrict freedom of association in practice.

Regarding **non-discrimination**, the legislative framework on non-discrimination does not explicitly prohibit discrimination on the basis of ethnic origin, sexual orientation and/or gender identity. There is no specialised body to promote equality, combat racism, xenophobia, anti-Semitism and intolerance and to deal with complaints from victims of discrimination. Ethnic, religious groups 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** (LGBTI) persons remains a matter of serious concern. Hate crimes, attacks and murders of transgender persons are a cause of deep concern. There is no specific legislation granting protection against such hate crimes. Transgender persons continue to be subject to arbitrary fines, house raids and police violence.

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<sup>3</sup> The Anti-Terror law is not yet in line with the ECHR and ECtHR case-law, nor does it comply with the EU Council Framework Decision on combating terrorism.

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 and the low quality of services make discrimination against women and gender based violence major areas of concern. Femicides are a serious concern; the approach of the judiciary is problematic in most cases (reduction of sentences, etc.). 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. The 2013 national children's rights strategy and action plan are not implemented and the Children's Rights Monitoring and Evaluation Board has not met. The special Ombudsperson designated for children's and women's rights makes substantial efforts to improve the situation.

## **EU actions in support and defence of Human Rights Defenders in Turkey**

1. Exchange of information and coordination between EU Missions<sup>4</sup> and like-minded countries (e.g. Norway, Switzerland)

EU and like-minded countries' Missions in Turkey will whenever relevant place human rights issues, including HRDs, on the agenda of monthly meetings at Head and Deputy Head of Mission level, in order to discuss the promotion and protection of HRDs and their activities. Incidences of pressure exerted on HRDs brought to the attention of the EU HRD Liaison Officer or any Member State will be immediately circulated to the human rights contact points in all EU missions in order to facilitate discussion of relevant follow up action. Reports on incidents will be distributed to facilitate discussion.

EU Missions will also improve the coordination of trial observations and share reports after trial monitorings.

Timeline for implementation: *immediate*

2. 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 an at minimum bi-annual basis but aiming at 3-4 times/year, HRDs and NGOs to meet with all EU Missions active in the country in order to discuss the situation of HRDs, latest developments and the role the EU can play in promoting and ensuring the protection of HRDs. Such meetings may take place in Ankara or in regions where HRDs are more at risk.

In cases of specific violations of human rights, and after due consultation between HRDs and the EU HRD Liaison Officer, an ad hoc meeting of HRDs may be organised with the Liaison Officer and HR contact points of the EU missions 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.

Timeline for implementation: *immediate*

3. Possible actions for raising issues regarding Human Rights Defenders with the authorities

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.

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<sup>4</sup> EU Missions covers both the EU Delegation and EU Member States' Embassies

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

Timeline for implementation: *immediate*

#### 4. Recognition and visibility for Human Rights Defenders

EU Missions engage to work actively to recognise the work of HRDs and raise their visibility. In addition to regular/annual meetings with HRDs, meetings in advance of EU/ Turkey and EU MS/Turkey bilateral dialogue and visits to the premises of and events organised by HRDs, the EU side will attend trials of HRDs and visit HRDs under arrest, where relevant. EU Missions will cooperate closer with HRDs regarding trial monitoring and announce such trial observations publicly, in advance.

The EU and its Member States will, where appropriate and possible, organise meetings of HRDs with visiting high-level missions, including in regions where HRDs are most at risk.

In Turkey, the EU already actively promotes human rights and freedom of expression, including by HRDs, via its bilateral pre-accession assistance. Specific practical support to organisations active on human rights promotion and protection is provided by the European Instrument for Democracy and Human Rights (EIDHR) as well as by EU Missions' bilateral support programmes.

Timeline for implementation: *immediate (already ongoing for pre-accession/EIDHR assistance)*

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

In the context of political dialogue between the EU and its Member States and Turkey, the EU side will promote in-country visits by the Special Rapporteur on Human Rights Defenders. It will also promote the use of UN thematic mechanisms by Turkish HRDs.

Timeline for implementation: *immediate*

#### 6. Assistance to Human Rights Defenders in danger

The EU Missions have designated Andreea Schmidt 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.

#### **EU Liaison Officer Contact Details: Mrs. Andreea Schmidt**

Tel: 0312 459 87 00 / 0530 773 00 74

[andreea.schmidt@eeas.europa.eu](mailto:andreea.schmidt@eeas.europa.eu)

#### **Backup contact details: Mr. Ireneusz Fidors**

Tel: 0312 459 87 00 / 0530 311 00 30

[ireneusz.fidors@eeas.europa.eu](mailto:ireneusz.fidors@eeas.europa.eu)

When contacting the 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>

In line with their specific legal obligations and practices, EU Member State embassies re-confirm 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.

Timeline for implementation: *immediate*

7. Dissemination of relevant human rights 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. The EU Guidelines will also be put on the pages of the EU Member States' embassies 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 progress report will be published on the website of the EU Delegation and disseminated to both HRDs and civil society.

Timeline for implementation: *immediate*

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ANNEX – HUMAN RIGHTS CONTACT INFORMATION OF THE EU MISSIONS IN TURKEY

HUMAN RIGHTS CONTACT INFORMATION OF THE EU MISSIONS IN TURKEY

Country	Name	Email	Office Number
Austria	Mr. Georg OBERREITER	<a href="mailto:georg.oberreiter@bmeia.gv.at">georg.oberreiter@bmeia.gv.at</a> <a href="mailto:ankara-ob@bmeia.gv.at">ankara-ob@bmeia.gv.at</a>	0312/405 5190-30
Belgium	Mr. Alain LEROY	<a href="mailto:alain.leroy@diplobel.fed.be">alain.leroy@diplobel.fed.be</a> <a href="mailto:ankara@diplobel.fed.be">ankara@diplobel.fed.be</a>	0312/405 61 66
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United Kingdom	Mr. Alfred LE PREVOST	<a href="mailto:Alfred.LePrevost@fco.gov.uk">Alfred.LePrevost@fco.gov.uk</a>	0312/455 32 09