



TURKEY

# PRESENTATION

This review is part of a larger two-part study on **freedom of assembly in the Euro-Mediterranean region**.

Following an overview of the international standards relating to the freedom of assembly, [Part I](#) examines the legal frameworks in 11 countries of the Mediterranean and in the European Union and their compliance with international human rights standards. Part II examines the implementation of laws and the exercise of the freedom of assembly and demonstration in practice.

In order to assess the compliance of national legislations with international standards relating to the exercise of freedom of assembly, objective indicators were used as a reference throughout this study. A gender-sensitive approach was incorporated to determine whether women enjoy freedom of assembly to the same extent as men or face more restrictions.

This study was conducted in consultation with members of the Euro-Mediterranean Human Rights Network (EMHRN), which includes 80 human rights organizations in 30 countries. It thus reflects the active involvement of EMHRN's working group members on freedom of association and assembly, as well as other civil society organizations and experts.

The study is meant to provide human rights defenders, civil society organizations, international organizations, and state institutions with an analysis that allows them to compare national laws and policies with those of other countries and assess their conformity with international conventions, with a view to advocating for reforms and guaranteeing freedom of assembly across Euro-Mediterranean area.

The chapters are also available separately: [Algeria](#), [Egypt](#), [Israel](#), [Jordan](#), [Lebanon](#), [Libya](#), [Morocco](#) and Western Sahara, [Palestine](#), [Syria](#), [Tunisia](#), [Turkey](#), and [the EU](#).

## Introduction

In June 2013 Turkey has been at the forefront of media attention due to an unprecedented massive protest movement that started in defence of the Gezi Park in Istanbul, rapidly evolving into a contest against governmental policies and in promotion of democratic reforms. These events highlighted the inability of Turkish authorities to handle demonstrations while respecting human rights, a situation that has been repeatedly denounced by the European Court of Human Rights.

Indeed, the ‘Gezi Park’ demonstrations – that actually developed throughout the whole country—by their historical scale, have shed light and come to symbolize both the innovative practices of social movements and the long-standing repressive practices of the authorities against freedom of assembly in Turkey.

Civil mobilization and protests are not new in Turkey and trends can be established over many years. The social fabric and civil organizations are strong and bear a long history of struggling for human rights. In recent years, types of protest and their means of mobilization have diversified, with claims ranging from public freedoms to environmental protection and access to public services. As in most countries, social media have come to play a crucial role, which is illustrated by the recent attempts of Turkish authorities to pass laws curtailing their use.<sup>1</sup>

As Turkey is a member to the European Convention of Human Rights, numerous cases concerning article 11 of this convention – on freedom of assembly — have been judged by the European Court of Human Rights (ECtHR). This important case law and the recurrence of condemnation by the ECtHR show that Turkey has been reluctant in changing its laws and practices with regard to the rights of peaceful assembly and expression.

### 1. Restrictions Imposed on Freedom of Assembly

The law 2911 that governs public meetings, assemblies and marches sets a mandatory prior declaration procedure (48 hours in advance) for all kinds of assemblies, which de facto outlaws spontaneous and undeclared assemblies.

Furthermore, the law imposes onerous restrictions on freedom of expression, penalizing the display of “symbols of illegal organisations, uniforms with these symbols, chanting illegal slogans, carrying illegal posters, signs, pictures etc.” (Article 23). The concepts are undefined and can give rise to very broad interpretation (see Part 1 of the Study on the Legislative Framework).<sup>2</sup> Requiring beforehand the copies of posters, statements and slogans, apart from being burdensome, is a clear way of applying censorship based on political criteria when reviewing notifications of assemblies depending on the message they convey, in particular for assemblies related to minorities’ rights, controversial issues such as the Kurdish issue, the Armenian genocide etc. or that openly criticize governmental policies.

On many documented occasions, authorities have imposed blanket restrictions on assemblies in the main squares such as Taksim square in Istanbul, where Mayday demonstrations have been banned between 1977 and 2009 and again since 2013. In these cases, authorities usually do not give explanation of the reason for the ban, a pre-emptive measure that falls short of international law as it de facto suppresses the right of peaceful assembly. Indeed, as stated by the Special Rapporteur on the rights to Freedom of peaceful assembly and of association, “only “certain” restrictions may be applied, which clearly means that freedom is to be considered the rule and its restriction the exception”.<sup>3</sup> Hence, “blanket bans, are intrinsically disproportionate and discriminatory measures.”<sup>4</sup>

1 See the attempt of the telecommunication authorities to ban ‘Twitter’ and ‘YouTube’, and its recusal by the Constitutional court <http://www.bbc.com/news/world-europe-26873603>; <http://time.com/2820984/youtube-turkey-ban-lifted/>

2 EMHRN, *Regional Study: The right to freedom of assembly in the Euro-Mediterranean region Part I: Legislation Review; 2013*. See Turkey chapter: [http://www.euromedrights.org/eng/wp-content/uploads/2013/11/FOA2013\\_EN\\_TURKEY1.pdf](http://www.euromedrights.org/eng/wp-content/uploads/2013/11/FOA2013_EN_TURKEY1.pdf)

3 *First Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association*, 21 mai 2012, A/HRC/20/27, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf)

4 *Second Report of the UN Special Rapporteur on FOAA*, 24 avril 2013, A/HRC/23/39, [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.39\\_EN.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.39_EN.pdf)

On the other hand, activists denounce that there is no real and effective remedy available against restrictions or ban decisions, by way of delays in administrative courts processes or simply because the appeal is denied on the ground that “there is no need for investigation”. There is no record of an administrative decision reversing a ban or restriction of an assembly.<sup>5</sup>

Spontaneous and undeclared assemblies are often dispersed with no consideration for their size, peacefulness or non-disruptive character. This was the case with the small environmentalist camp set up in Gezi Park, near Taksim Square in Istanbul, in late May 2013, that was dispersed with excessive use of force, and so were the subsequent protests held in Taksim square and elsewhere in the country,<sup>6</sup> from massive peaceful marches, to public meetings held by lawyers<sup>7</sup> and even the peaceful and individual ‘standing man protests’. This is despite international human rights standards that insist on the need to show tolerance towards peaceful assemblies even when procedural requirements are not respected,<sup>8</sup> and in any case to apply the principles of necessity and proportionality for police intervention and the dispersal of protesters.

Undue interferences with freedom of assembly also take the form of pre-emptive restrictions of freedom of movement to prevent people from reaching the place of a protest, sometime with drastic sweeping measures such as those taken in early June 2013 when authorities banned vehicular traffic on the Bosphorus Bridge and stopped public and private transportation going to Taksim and its area (metro, tram and cross-Bosphorus ferry boats),<sup>9</sup> also stopping pedestrian access to Taksim area with police checkpoints. Some of these measures were repeated on 31 May 2014 on the anniversary of the 2013 protests.

Turkey has been found by the European Court of Human Rights (ECtHR) in breach of freedom of assembly in at least 58 cases. The Court has in particular stated that, “*where demonstrators do not engage in acts of violence, it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention [that protects freedom of assembly] is not to be deprived of all substance*”.<sup>10</sup> In particular, the Court has found that the Turkish authorities did not meet the standards of article 11 due to the premature, disproportionate and unnecessary intervention of the police in the context of demonstrations and marches.<sup>11</sup>

## 2. Facilitation of Assemblies by the Authorities

As evidenced above, Turkish authorities still have to make important progress for the facilitation of peaceful protest. Authorities reportedly try to impose broader restrictions than those provided for by law, as their bargaining power is stronger than that of organizers and no judicial remedy is available to the latter.

For example, in the case of public statements, which do not require prior notification (and is thus a strategy often used by civil organizations to organize public gatherings without facing governmental restrictions), authorities tend to consider that restrictions can be imposed when the event is foreseen to attract a large crowd. They have for example published circulars to ban the event once they have been informed of it unofficially, as happened in Ankara in the case of the demonstrations against the “4+4+4 Government’s draft bill on Education”, held on 28-29 March 2012.<sup>12</sup>

5 Interviews with M. Lami Özgen, president of the KESK (Confederation of Public Service Workers), M. Üstün Bol, member of the Board of Directors of the association Mazlumder, and İsmet Meydan, spokesperson of a trade unions platform, 2014.

6 See EMHRN *Mission Report on the protest movement in Turkey and its repression*, 2013, <http://www.euromedrights.org/eng/2014/01/24/mission-report-on-the-protest-movement-in-turkey-and-its-repression/>

7 On 12 June 2013, 44 lawyers were detained and some of them beaten, by police forces inside the Istanbul courthouse while they were making a press statement denouncing the police crack-down on protesters.

8 See, for example, *Resolution 1947 of the Parliamentary Assembly of the Council of Europe* on 27 June 2013, para. 5

9 See EMHRN *Mission Report on the protest movement in Turkey and its repression*, *op. cit.*

10 See *Oya Otaman v. Turkey*, 5 December 2006, para. 42; *Izci v Turkey*, para. 67 and 89.

11 See *Disk and Kesk v. Turkey*, 27 November 2012, para. 37; *Izci v Turkey*, para. 67.

12 See <http://bianet.org/english/education/137248-4-4-4-makes-20-7-billion-liras-at-least>

The authorities' stance towards un-notified or spontaneous gatherings varies without a clear standard. For instance, while many public statements and sit-ins have been tolerated for years in Yüksel Caddesi and Güven Park facing the Kızılay central square of Ankara, such activities were not permitted in Taksim Square and Gezi Park in İstanbul in recent years. Cumhuriyet Meydani (Republic Square) in Antalya, in southern Turkey, and Cumhuriyet Parki (Republic Park) in Kocaeli, in the Marmara region of Turkey, have been closed for demonstration for 17 and 7 years respectively.

During public assemblies, security forces can play a provocative role by their sole presence, instead of facilitating and protecting the assembly. The infiltration of plain clothes/ undercover officers has been denounced as a provocation by CSOs who report that they are known for recurring to violence. To the contrary, civil organizations have pointed out that the presence of their own stewards or even uniformed police officers helps de-escalating tension.<sup>13</sup>

The rhetoric of the 'internal enemy' is significant of a general attitude that considers protesters as a threat and not as citizens exercising a fundamental democratic right. This is evidenced by the very high number of anti-terrorism procedures brought against protesters for minor offenses (*see part 5. Judicial Sanctions*), or in official speeches.

During the 'Gezi Park' protest movement of 2013, public messages by the Istanbul governor and the Prime Minister, but also text messages sent to thousands of police officers on their cell phones by the Istanbul Riot Police Provincial Directorate Chief, praising police forces as "heroes" fighting for their country against "enemies" also paved the way for abuse and excessive use of force, as security officers felt they were legitimately fighting "terrorists".<sup>14</sup>

Journalists are not specifically protected by security forces when they cover demonstrations, and can be victims of police violence in case of forceful dispersal. According to the Turkish Journalists Union (TGS), during the first weeks of the 'Gezi Park' protests in 2013, 24 journalists were injured and 8 were arrested.<sup>15</sup> In 2014, during the protests commemorating the 2013 Gezi Park events, at least 6 journalists were injured, harassed or even detained in Istanbul and Ankara according to the TGS, including prominent journalist Ahmet Şık, recipient of UNESCO's 2014 World Press Freedom Prize, who was beaten by police while covering protests in Istanbul on 1 June.<sup>16</sup>

### 3. The Use of Force and Detention

Over the years, Turkey has been repeatedly condemned by the European Court of Human Rights (ECtHR) for its excessive use of force in the dispersal of largely peaceful protests. Despite improving legislation aimed at framing more strictly police intervention and use of 'less-than-lethal' weapons such as tear gas,<sup>17</sup> these regulations and their implementation still falls short of international standards.

One of the main issues is the tendency to consider un-notified assemblies as illegal, hence commonly proceeding to their dispersal. Other 'reasons' argued by authorities to forcefully disperse assemblies are 'illegal' slogans or signs, or the fact that a few protesters throw stones at security forces. However, even in the last case, it is the State authorities' duty to remove the violent demonstrators from the gathering

13 Interview with M. Lami Özgen, President of KESK, *op. cit.*

14 Interview with representatives of the Police trade union Emniyet-Sen, July 2013, quoted in EMHRN *Mission Report on the protest movement in Turkey and its repression*, *op. cit.*

15 See <http://everywheretaksim.net/bianet-journalists-protest-police-violence/>

16 See International Federation of Journalists, 2 June 2014, <http://www.ifj.org/nc/news-single-view/backpid/1/article/six-journalists-targeted-by-turkish-police/>

17 See EMHRN, *Regional Study: The right to freedom of assembly in the Euro-Mediterranean region Part I: Legislation Review; 2013*; Turkey chapter, *op. cit.*

instead of imposing a collective punishment on all protesters, as sporadic violence does not deprive peaceful individuals of their right to freedom of peaceful assembly.<sup>18</sup>

In many instances the police intervene with violent means without warning. They usually use sticks to kick people, throw pressurized water and fire plastic bullets and tear gas at demonstrators, which commonly result in injured protesters, sometimes in fatal casualties.

Firearms have been less used in recent years; however, several protesters have been killed or wounded by live ammunition in 2013 and 2014 (cases of Ethem Sarısülük, shot on 1 June 2013 in Ankara;<sup>19</sup> two protesters shot in a protests in Istanbul on May 2014;<sup>20</sup> and a Kurdish demonstrator shot dead and at least two others wounded on 19 August 2014 in the town of Lice).<sup>21</sup>

There is a punitive dimension in the use of indiscriminate and extensive force against peaceful protesters, as highlighted by the president of the trade union federation KESK, M. Lami Özgen: *“For example, while we were dispersing on May 1, 2013 in İstanbul the law enforcement officers used pepper gas. Also on May, 1 of 2014 while we were negotiating with law enforcement officials as presidents of DİSK [Confederation of Progressive Trade Unions] and KESK, they used gas. In general the law enforcement forces carry out the dispersion not by negotiating but by using violence”.*

Numerous examples can be made in the south eastern provinces of Turkey, mainly populated by Kurdish population, where protest demonstrations are frequent and political tension is high, and security forces commonly recur to violence to disperse gatherings. Even in case of confrontation between violent protesters who throw stones and the police, security forces ought to respect the principles of necessity and proportionality. Instead, according to the ECtHR, the current Turkish legal framework and law enforcement forces training do not offer the adequate level of protection of the right to life.<sup>22</sup>

The extent of police violence used during the Gezi Park protests in 2013 is another striking example of this. At least six persons died during or due to the repression of the demonstrations. The direct firing of tear gas canisters at protesters’ bodies caused most of the hundred head traumas and 11 eye losses reported by the Turkish Medical Association (TTB), and also led to the death of at least 2 protesters. The massive use of tear gas (130.000 cartridges were used during the first 20 days of demonstrations) resulted in suffering for thousands of people.

In total, between 31 May and 10 July 2013 8121 persons requested medical assistance, according to the TTB. People were wounded in 13 different cities throughout Turkey, evidencing a nation-wide pattern of excessive use of force. During the dispersal of Gezi Park protests, the authorities also largely failed to facilitate and even directly interfered with medical care by firing tear gas inside makeshift clinics, arresting doctors and blocking accesses and exits to the demonstration locations.<sup>23</sup>

18 See ECtHR, *Gün and others v. Turkey*, judgment of 18 June 2013:

[http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-122059#{%22itemid%22:\[%22001-122059%22\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-122059#{%22itemid%22:[%22001-122059%22]}); and also the *First Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association*, *op. cit.*

19 See EMHRN *Mission Report on the protest movement in Turkey and its repression*, *op. cit.*

20 See <http://www.reuters.com/article/2014/05/23/us-turkey-protests-idUSBREA4L17620140523>

21 See <http://www.afp.com/en/news/kurdish-protester-killed-turkey-clashes-over-pkk-statue>

22 See ECtHR *Ataykaya v. Turkey*, judgment of 22 July 2014, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-145710#{%22itemid%22:\[%22001-145710%22\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-145710#{%22itemid%22:[%22001-145710%22]}); and *Abdullah Yaşa v. Turkey*, judgment of 16 July 2013, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-122368#{%22itemid%22:\[%22001-122368%22\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-122368#{%22itemid%22:[%22001-122368%22]})

23 See EMHRN *Mission Report on the protest movement in Turkey and its repression*, *op. cit.*

Human rights organizations have documented that, in the policing of Gezi Park demonstrations from May to July 2013, Turkish security forces committed violations of the right to life, the prohibition of torture, inhuman or degrading treatments, the right to liberty, and freedom of peaceful assembly.<sup>24</sup>

The Commissioner for Human Rights of the Council of Europe, M. Nils Muižnieks, following his visit to Turkey in July 2013, outlined “a structural problem in the policing of demonstrations in Turkey. In a judgment delivered on 23 July 2013, the ECtHR itself recognised the systemic nature of these problems, on the basis of over forty judgments against Turkey and 130 pending applications<sup>25</sup>. It noted that the common feature of these cases was “the authorities’ failure to show a certain degree of tolerance towards peaceful gatherings and, in some cases, the precipitate use of physical force, including tear gas”<sup>26</sup>

#### 4. Accountability of Law Enforcement Forces

The Turkish legislation is the first obstacle to accountability of public agents, as permission from their superiors is required to prosecute public officials.<sup>27</sup> This permission requirement was lifted in case of accusation of torture (by law 4778 of 2003), however, complaints are too often filed as ‘ill treatment’ to bypass this reform, or a simple administrative investigation is launched, generally without effect.

In its 2014 judgment *Ataykaya v. Turkey*, the ECtHR denounced that Turkish authorities had ‘deliberately created a situation of impunity’. It recalled its previous judgments (*Abdullah Yaşa v. Turkey* and *İzci v. Turkey*) highlighting that it had already urged Turkish authorities to put in place a system that guaranteed adequate training and control of law enforcement personnel during the policing of protest, and an *ex post facto* examination of necessity, proportionality and reasons for the use of force, especially on peaceful protesters.<sup>28</sup>

Similar impunity is observed following the Gezi Park protest movement of 2013. None of the complaints lodged by injured protesters have led to the identification and accountability of security officers. Judicial proceedings against police officers for the deaths of protesters Ethem Sarisuluk, Ali Ismail Korkmaz and Berkin Elvan are ongoing, but accumulate delays and irregularities.<sup>29</sup>

The Ombudsman office and the National Human Rights Institute, two governmental institutions created in 2012, have received numerous complaints following the Gezi protest movement. However, their response was low-key and is not showing a significant change in the culture of impunity for human rights violations. The NHRI has not communicated publicly on its investigations and has failed to convene for some time.

The Ombudsman published a report in December 2013, concluding that police had made “excessive use of force” in response to demonstrations, and admitting violations of the prohibition of torture and ill-treatment, of freedom of expression and assembly and of other fundamental rights. Recommendations include reforming Law 2911 on demonstrations in line with international human rights standards, ensuring accountability of law-enforcement officers and extensively training security forces in how to handle

24 See Amnesty International, *Gezi Park protests – Brutal denial of Right to Peaceful Assembly in Turkey*, October 2013: <http://www.amnesty.org/fr/library/asset/EUR44/022/2013/en/0ba8c4cc-b059-4b88-9c52-8fbd652c6766/eur440222013en.pdf>; and Human Rights Watch, July 2013 <http://www.hrw.org/news/2013/07/16/turkey-end-incorrect-unlawful-use-teargas>;

25 See *İzci v. Turkey*, judgment of 23 July 2013: [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-122885#%22ite mid%22:\[%22001-122885%22\]](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-122885#%22ite mid%22:[%22001-122885%22])

26 *Report of the Commissioner for Human Rights of the Council of Europe*, M. Nils Muižnieks, following his visit to Turkey from 1 to 5 July 2013, para. 43, <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2395759&SecMode=1&DocId=2079692&Usage=2>

27 Pursuant to provisions of Law No 4483 and article 129 of the Constitution; see EMHRN *Regional Study on Freedom of assembly*, Turkey chapter, *op. cit.*

28 See *Ataykaya v. Turkey*, 22 July 2014, *op. cit.*, para.72.

29 See FIDH, *Turkey: Gezi, one year on*, 2014, p. 19-23: [http://www.fidh.org/IMG/pdf/turkey\\_avril\\_2014\\_uk\\_web.pdf](http://www.fidh.org/IMG/pdf/turkey_avril_2014_uk_web.pdf);

Amnesty International: <http://humanrightsturkey.org/tag/ethem-sarisuluk/>;  
<http://livewire.amnesty.org/2014/02/03/justice-for-gezi-park-protestor-a-long-way-off-as-trial-of-police-officers-makes-a-chaotic-start/> and EMHRN *Mission Report on the protest movement in Turkey and its repression*, *op. cit.*

protests while respecting human rights. However, some of the recommendations contained in the report show a worrying bias when judging the protest movement as illegitimate and recommending the authorities to “alleviate protests before they become mass demonstrations so as to prevent the legitimization of illegal groups”.<sup>30</sup> The Ombudsman’s recommendations to Turkish authorities are not binding, and have not yet translated into concrete measures or a time line for action.

## 5. Judicial Sanctions against Organisers and Participants in Assemblies

Not only do Turkish authorities too often fail to facilitate freedom of assembly, and commit violations when policing demonstrations, but protesters also often have to face dire consequences for their participation in peaceful gatherings. Judicial proceedings have been initiated against peaceful activists and human rights defenders for many years, especially against those critical to the government or defending minorities’ rights, in particular Kurds.

The Anti-Terror Law (ATL) and provisions of the Penal code allow for the criminalization of peaceful activism by assimilating certain actions and messages to propaganda or membership of terrorist organizations. These provisions have particularly targeted Kurdish or pro-Kurdish activists. For example, since the so called ‘anti-KCK’<sup>31</sup> operation started in 2009, more than 8000 people have reportedly been taken into police custody, with more than half having been charged and remanded in pre-trial detention, sometimes for years without trial, in at least 11 provinces, and accused of terrorism on the sole basis of their participation in public meetings, peaceful marches, membership in associations or for their writings or statements.<sup>32</sup>

The application of anti-terrorism provisions result in very long prison sentences, for acts of throwing stones in protests, or for peaceful participation in protests deemed by authorities to be ideologically supportive of the PKK. According to Human Rights Watch, the majority of adults convicted under these laws have received prison terms of between seven and 15 years. Child protestors also commonly received prison sentences of between four and five years, until legal amendments more favorable to under-age defendants were passed in 2010 and 2013.<sup>33</sup>

According to the annual Reports of the Human Rights Association (IHD) of Turkey, figures of prosecutions of demonstrators in the past years have worryingly increased: there were 18 cases filed against 205 demonstrators in 2009; 24 cases against 761 demonstrators in 2010; 139 cases were filed against 1031 people in 2011; in 2012, 21 cases were filed against 484 people, and finally in 2013 a total 103 cases were filed for 50 underage demonstrators and a total of 3773 persons.

According to figures gathered by the Security Directorate under the Ministry of Interior between June and September 2013, 5341 people were put in custody in relation with the Gezi Park movement.<sup>34</sup> A large majority of them were subsequently prosecuted. In March 2014, the Human Rights Foundation of Turkey registered 82 cases against 5235 individuals.<sup>35</sup>

On 12 June 2014, the trial of more than 26 members of the Taksim Solidarity Platform began. The defendants, including the President of the Istanbul Chamber of Doctors, architects, lawyers and engineers, face lengthy prison terms for their part in leading the protests a year ago, with the prosecutor calling for 13-year jail terms for the five main suspects. The charges include founding a criminal group, violating public order and organising illegal protests through social media.

30 Unofficial translation, Ombudsman’s report (in Turkish), 2013: <http://www.ombudsman.gov.tr/contents/files/2013-90.pdf>

31 The KCK is the Union of Kurdistan Communities. By virtue of gathering all Kurdish groupings including the PKK (Party of Kurdistan Workers), the KCK is considered by the authorities as a terrorist network.

32 See FIDH/OMCT, *Turkey: Human Rights Defenders, Guilty Until Proven Innocent*, 2012: <http://www.fidh.org/IMG/pdf/obsrapporttr05062012eng.pdf>; see also the case of Osman İşçi, EMHRN Executive Committee member, <http://www.euromedrights.org/eng/2012/06/29/turkey-confirmed-pre-trial-detention-for-human-rights-defender-osman-isci-and-27-trade-union-members/>

33 See Human Rights Watch, *Protesting as a Terrorist Offense*, 2010; <http://www.hrw.org/sites/default/files/reports/turkey1110webwcover.pdf>

34 See Bianet, *Police Releases Gezi Resistance Report*, November 2013, <http://www.bianet.org/english/crisis/151583-police-releases-gezi-resistance-report>

35 See FIDH, *Turkey: Gezi, one year on; op. cit.*



*“The only goal of this case is to scare people,” declared Baki Boğa, the President of IHD Istanbul Branch. “They want to show that anyone, regardless of their age, profession or background, can be prosecuted for being a protester. This is a politically motivated case aimed at completely wiping out the dissenting voices in Turkey.”*

Some protesters were also charged on the basis of social media communications, for example, 29 people were indicted for inciting riots via Twitter during the May 2013 demonstrations. Evidence described in the indictment included tweets that merely relayed information about the Gezi park protests or called for emergency services or other medical aid for protesters.<sup>36</sup>

Another highly disturbing feature of the criminalization of protest is the crack-down on medical staff that provided emergency help to injured protesters on the streets or in the makeshift medical premises during the Gezi Park events. After being directly targeted by security forces during the event, doctors and medical students have later been subjected to an administrative investigation by the Ministry of Health on account of having given medical care to “persons injured in illegal demonstrations” at “volunteer infirmaries” without seeking the permission of the Ministry of Health.<sup>37</sup>

In January 2014, the Turkish government passed Law no. 6514 that criminalizes “delivering unauthorized health services”. Sanctions for offenders include imprisonment from 1 to 3 years and monetary fine up to about 900,000 USD. This bill has been widely criticized by international human rights bodies and NGOs.<sup>38</sup>

Judicial proceedings are ongoing against physicians and Executive board members of local Chambers of Doctors in Ankara, Istanbul, Hatay, and in the Kırklareli province.<sup>39</sup>

## 6. Civil Society Initiatives and Good Practices

After Turkey was recognised as a candidate to membership in the European Union in 2004, the efforts made by human rights organisations to promote and protect human rights and freedoms have achieved significant progress in the past several years. The law on associations, part of the reforms that have been adopted, now allows associations to function without major interferences from the authorities. Despite this, as observed above, there are still a number of obstacles to the enjoyment of freedom of association in Turkey, and especially to the exercise of freedom of assembly.

Turkey has a very developed civil society and a long history of peaceful protest. Some human rights organisations have been working tirelessly for more than 20 years and earned international recognition of their expertise in documenting human rights violations. Civil society organizations have also developed networks to share information and coordinate action, such as the Human Rights Joint Platform, or the ‘Taksim Solidarity Platform’ that was set to fight urban development projects in Istanbul such as the destruction of the Gezi Park, and became one of the main actors of the 2013 protests.

During the 2013 protest movement, that mobilized an unprecedented participation across Turkey, CSOs, informal groups and individuals showed extraordinary creativity in organizing protests, from the occupation

36 See Human Rights Watch, 2 Sept. 2014: <http://www.hrw.org/news/2014/09/02/turkey-internet-freedom-rights-sharp-decline>

37 Investigation carried out under the order no. 2013-01-071/2256. See Turkish Medical Association (TTB): <http://www.ttb.org.tr/en/index.php/tuem-haberler-blog/179-ttb/1215-physicians-wait-neither-for-permission-nor-order-to-serve-humanity>; <http://www.ttb.org.tr/en/index.php/tuem-haberler-blog/179-ttb/1220-ba>

38 See Physicians for Human Rights, <http://physiciansforhumanrights.org/press/press-releases/turkey-passes-bill-that-criminalizes-emergency-medical-care.html>; the UN Special Rapporteur on the right to health, <https://www.un.org/apps/news/story.asp?NewsID=46695&Cr=turkey&Cr1=#.U2j0oXf3Fkh>; and the World Medical Association: [https://s3.amazonaws.com/PHR\\_other/We-must-unite-against-health-law-that-threatens-medical-neutrality-in-Turkey.pdf](https://s3.amazonaws.com/PHR_other/We-must-unite-against-health-law-that-threatens-medical-neutrality-in-Turkey.pdf)

39 See Turkish Medical Association, <http://www.ttb.org.tr/en/index.php/tuem-haberler-blog/179-ttb/1234-gezi>

of Gezi park and its broad-scale social and cultural activities, to daily 'park assemblies' in Istanbul and Ankara that lasted for months, to 'standing man' protests etc. Social media were extensively used to foster mobilization despite the risks of surveillance and prosecution. Beyond the holding of daily protests during several weeks in May-June 2013, groups also organized on-the-spot medical care for injured protesters, with volunteer medical staff giving emergency care in makeshift clinics set up in hotels, cafes, malls, sometimes in hiding to avoid further repression.

## Recommendations

1. Guarantee that the freedoms of assembly, expression and association can be exercised by any individual or group without any discrimination based on opinions, origins, sex, religion etc.;
2. Reform law No. 2911 relating to rallies and demonstrations so as to comply with international law and the recommendations of the European Court of Human Rights, in accordance with the commitments made by Turkey (see the first part of the Study);
3. Put an end to the application of the provisions of the anti-terrorism law and the use of special courts in respect of peaceful demonstrators;
4. Ensure that the notification procedure provided for by law is transparent, accessible and not unduly onerous, and that the administrative authorities comply with the law when it is implemented;
5. Make sure that restrictions imposed comply with the law, respect the principles of need and proportionality, and are communicated in writing to the organizers within a time frame that allows for an appeal before an independent tribunal or court before the scheduled date of the event;
6. Ensure that the authorities are always open to dialogue with the assembly organizers (both prior to and during gatherings) and where such dialogue occurs, that its purpose is to better facilitate the right of peaceful assembly;
7. Put an end to arbitrary arrests during peaceful demonstrations and to the judicial and administrative harassment of citizens demanding their right to demonstrate peacefully;
8. Comply with the State's duty to protect peaceful demonstrators, and particularly refrain from hindering medical care for those in need, and ensure that women can effectively exercise their right of assembly without the fear of intimidation, harassment or violence;
9. Guarantee the safety of journalists and facilitate their access to peaceful gatherings;
10. Adopt clear, detailed and binding regulations governing the use of force against protesters, following the recommendations of the European Court of Human Rights in its recent judgments, and in accordance with the United Nations Basic Principles on the use of force and firearms by law enforcement officials; train law enforcement authorities in the use of force and anti-riot weapons accordingly;
11. Ensure that any use of force by law enforcement officers follows the principles of last resort, need, progressiveness and proportionality; ensure that lethal force is strictly a last resort and used as a defence against an imminent threat endangering human lives;
12. Remove legal obstacles preventing investigations and prosecutions of officials responsible for applying the law, in particular by revising Article 129 (6) of the Constitution and law no. 4483/1999;
13. Expedite prompt, independent and impartial investigations in the event of a complaint or information about possible breaches or violations of human rights committed by law enforcement authorities during any operations to maintain order; punish those responsible and enable victims to obtain redress as well as be given guarantees of non-repetition; to this end, establish an independent mechanism for monitoring and investigating the behaviour of the security forces.