



fidh



TURKEY

Human Rights Under Curfew

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1. Objectives and context of the mission

The Euro-Mediterranean Human Rights Network (Euromed Rights) and FIDH (International Federation for Human Rights) have been seriously concerned about reports of escalating violence and imposition of curfews in Southeastern Turkey, as well as serious human rights violations in the whole country, including violations of freedoms of expression, freedom of the media, freedom of peaceful assembly and association and attacks on and targeting of civil society organizations and human rights defenders. In light of this and of the authoritarian drift of the AKP government as well as the climate surrounding Turkey's general election of 1st November 2015 and the lack of adequate reaction from the international community, our organisations agreed on the importance to send a joint high-level mission to the country. The delegation aimed to **show solidarity** with human rights defenders and civil society activists and organizations under pressure and with victims of human rights violations and their families, and to **contribute to drawing international attention** to the situation in Turkey.

The mission took place from 20 to 24 January 2016. The mission delegates – Mr. Michel Tubiana (President, Euromed Rights), Ms. Bérénice Michard (Freedom of association and assembly Program Officer, Euromed Rights), Mr. Dimitris Christopoulos (Vice President, FIDH) and Mr. Nicolas Agostini (Representative to the United Nations, FIDH) – visited Diyarbakır and Ankara. Mr. Yusuf Alatas (Vice President, FIDH) and Mr. Osman İşçi (Executive Committee member, Euromed Rights and IHD) accompanied the mission. The delegation met with a large number of civil society activists, human rights defenders and victims and witnesses of human rights violations. The mission also aimed at gathering information to prepare advocacy activities at the international (United Nations (UN), European Union (EU) and Council of Europe (CoE)) level.

LIST OF ORGANIZATIONS AND PEOPLE MET

- Democratic Society Congress
- Diyarbakır Bar Association
- Free Women Congress, Diyarbakır
- Mesopotamian Lawyers Association
- Human Rights Association (IHD) – Diyarbakır, Cizre, Van and Şırnak branches and central executive committee
- Human Rights Foundation of Turkey (HRFT) – Diyarbakır Branch and Central executive committee
- Alevi Cultural Association, Diyarbakır
- Turkish Medical Association, Diyarbakır branch and Central executive committee
- Mazlum Der, Diyarbakır branch
- Eğitim Sen (Education trade union) - Diyarbakır branch
- SAMER (Social and Political Research Centre)
- Families of victims, Diyarbakır
- Cumhuriyet Newspaper Ankara Bureau Chief, Ms. Ayşe Sayın
- European Union Ambassador to Turkey, Mr. Hansjörg Haber
- HDP Co-President M. Demirtaş and HDP Human rights counsellor
- Gündem Newspaper editor in chief, Mr. Hüseyin Aykol
- DIHA news agency
- KESK, Confederation of Public Workers Trade Unions President, Mr. Lami Özgen
- Human Rights Ombudsman, M. Elkatmis
- KAOS-LG, association for LGBT rights
- Mülteci-Der, Association for refugee rights
- Gündem Çocuk (Association for children)
- International Children's Center
- Trade Union of Employees in Public Health and Social Services (SES)

2. Context

Turkey has since the 1980s been plunged into a conflict opposing the State to the armed Kurdistan Workers' Party (PKK). This conflict has left thousands dead and around three millions of internally displaced people and has put at threat democracy and politics. At the beginning of the rule of conservative Islamist party AKP (Adalet ve Kalkınma Partisi, or Justice and Development Party), certain progress was registered in the respect for civil liberties and a few cultural rights were recognized to the Kurdish people and other minorities in Turkey.

However, a major setback took place between 2009 and 2012 with the so-called 'anti KCK' operations (the KCK being the Kurdistan Communities Union, an organization said by the authorities to be the 'civilian face', 'urban wing' of the PKK). Thousands of peaceful activists were then detained and charged under the Anti-Terror Law of 1991 (and last modified in April 2015), and some are still in detention or facing trials for their activities as human rights defenders, lawyers, journalists and intellectuals.

In January 2013, however, the AKP government engaged in a peace negotiation process with jailed PKK leader Abdullah Öcalan and a commission representing civilian organizations and Kurdish people's assemblies. During this dialogue both parties respected a cease-fire. These negotiations culminated in March 2015 when the government and the PKK leader signed the "Dolmabahçe agreement", a 10-point road map thought to be the basis for the negotiation of a peace settlement.

However, the dialogue broke up in March, for unofficial reasons linked to national politics and regional geopolitics, i.e. the nearing of the general election in Turkey and the conflict in Syria, where Kurdish militias of both countries came to play a primary role in the fight against the terrorist organization Islamic State in Iraq and Syria (ISIS).

The results of the 7 June parliamentary election, when the AKP lost its absolute majority while pro-Kurdish party HDP won for the first time 80 seats, despite an intense campaign of physical and verbal violence against its members and supporters, increased the polarization. When 33 pro-Kurdish activists died in a bombing in Suruç on 20 July, the government first blamed the PKK, then ISIS and after the murder of 2 policemen by PKK on 22 July, launched an 'anti-terror' operation that mainly targeted the PKK camps in Northern Iraq. On the same day, numerous people were arrested in several cities and some of them were imprisoned. Moreover, about 100 websites that belonged to opponent media outlets were blocked. As a result of the political stalemate and a new general election held on 1st November 2015, the AKP regained an absolute majority in Parliament.

From then on, the conflict between the PKK and government forces escalated in an unprecedented manner, with a renewed eradication strategy by security forces that began to target large urban areas with total, round-the-clock curfews, military rule and heavy artillery fire. Hundreds of peaceful activists, journalists, HDP local representatives, lawyers, human rights defenders have been arrested and charged for terrorism related offences. Dozens of newspapers and online media and several TV channels have been suspended or blocked.

Numerous allegations of human rights violations occurring in the Southeastern region and elsewhere, from the right to life to the rights to health, education, and freedom of expression and assembly, have been reported by local human rights associations, media and health professionals. The mission delegates were able to gather a number of testimonies that confirm these allegations and draw the picture of a general deterioration of human rights and fundamental freedoms in the country, especially in the Southeastern region. According to all actors met, this degradation has led to the worst human rights situation in the country in many years.

Chronology of key political events in 2015-2016

- 28 February 2015: Dolmabahçe agreement, culminating a 2-year process of negotiations between the PKK and the Turkish government
- Break-up of the peace negotiations in March - April
- 5 June: Bombing in Diyarbakır against a gathering of HDP supporters: 5 victims
- General elections in June: AKP loses the absolute majority and HDP wins 13% (80 seats) in Parliament (?)
- 20 July: Suruç bombing against Kurdish activists kills 33
- 2 policemen killed by the PKK in Ceylanpınar, Şanlıurfa on 22 July 2015.

- Escalation of the conflict, security forces bomb bases of the PKK guerrilla in Northern Iraq -WHEN?
- Beginning of a wave of mass arrests of Kurdish activists and pro-Kurdish militants, intellectuals and journalists – WHEN?
- Round-the-clock curfews are being imposed on 7 cities and 20 districts, for varied durations, up to several months; since 10 August, 58 curfews have been declared in the South East region -WHEN?
- 10 October: bombing in Ankara of a 'Peace gathering' of HDP, various NGOs, trade unions and peace activists leaves 100 dead
- 1st November: General elections, AKP regains absolute majority but HDP maintains above the 10% threshold
- 28 November: assassination of M. Tahir Elçi, President of the Diyarbakır Bar Association, IHD member, founder of the HRFT and a prominent human rights defender
- 11 January 2016: over 1100 academics of Turkey and elsewhere sign a statement entitled "We won't be a party to this crime". President Erdogan short after calls them the 'fifth column for terrorists' and calls for their punishment. Administrative investigations are opened against all signatories, a smear campaign develops and some face threats and judicial proceedings, while some others are dismissed from their positions.

3. Situation in the Southeastern region

The main concern that guided our organizations to the region was the imposition of **round-the-clock, open-ended curfews, in an elevated number of cities and areas, affecting around 1.5 million inhabitants**, according to local human rights organizations¹.

The areas under curfew are besieged, as no one is allowed to enter on any grounds. This means that external, neutral observers such as human rights defenders, lawyers, researchers or Members of Parliament (MPs), are barred from entering, but also people normally living in these areas who were not present when the curfews were declared.

Members of the Diyarbakır Bar Association executive committee reported that they tried to enter the city of Silvan after obtaining the authorization of the sub-prefect but were fired at by security forces without warning and could not enter the area despite the official authorization. On 20 January, a HDP MP and his colleagues entered the city of Cizre to look for victims and were also fired at. MPs who were sitting in Ankara reached out to the Interior Ministry to ask for an end to that operation, to no avail. Two members of the delegation were shot dead, and seven injured.

Ambulances and medical staff are prevented from entering the curfew zones to rescue victims, be they wounded fighters or unarmed civilians, and are exposed to fire if they try to do so. Authorities justify this conduct by arguing that the security situation does not allow for medical staff to work safely. PKK forces were also reported to be responsible for preventing access to health care services on several cases.

Security forces engaged in these operations are mostly professional and well-trained "special forces" of the army, the police and the gendarmerie. Officers do not carry badges of identification, or they hide them; they often wear masks and some of them act plain-clothed, contrary to what is provided for in international law. Human rights organizations referred to a recent internal circular of the military encouraging forces on the ground by stating they should not fear prosecution as the institution would back them anyways. This suggests the authorities not only are aware of the human rights violations committed but are also ready to cover them. As such, Human rights organisations pointed to a centralized, planned and fully deliberate policy implemented by the Ministries of Interior and Defense.

On its side, **the strategy of the PKK** and its affiliated forces, in particular the Patriotic Revolutionary Youth Movement (YDG-H, the youth branch of PKK), to occupy all or parts of cities and to "remove" them from civil government rule by isolating them through trenches and barricades could only lead to armed confrontation to the direct prejudice of civil populations. The PKK cannot exonerate itself from responsibility in this regard.

Several human rights organizations have lodged a urgent appeal to the **European Court of Human Rights** to obtain 'interim measures' to lift the curfews and guarantee access to health care for the injured. In one

1. See Report of HRFT dated 06.02.2016: <http://en.tihv.org.tr/recent-fact-sheet-on-curfews-in-turkey-between-the-dates-16-august-2015-5-february-2016/>

instance, the Court ruled that the elements presented were insufficient to request the lifting of the curfews, but it took three interim measures on specific cases in favor of injured persons² who were not permitted access to health care. However, the Turkish authorities have not taken steps to implement these decisions, and two of the three people that should have been protected subsequently died.

Our organizations were able to consult documentation compiled by local human rights associations and lawyers, and to gather direct testimonies from these organizations and from families of victims from Diyarbakır, Cizre and Şırnak provinces.

In the areas under curfew, **allegations of human rights violations are numerous and very serious**, as is detailed below.

Violations of the right to life

According to local human rights associations, the death toll for civilians now reaches over 200 casualties between August 2015 and January 2016. Out of those, local organizations indicated that some were armed men; however, a majority of victims were unarmed civilians, as HRFT indicates 42 children, 31 women and 30 people over the age of 60 and even on duty medical staff among the casualties³. These victims appear to have been killed in different circumstances. Some victims have been injured and killed during exchanges of fire between security forces and PKK or YDG-H fighters. However, other victims were allegedly killed or injured by snipers from security forces that directly fired at them, even when clearly not representing a threat. Persons met indicated the case of an elderly man who was shot dead while he was looking for food into a garbage bin. A group of people was fired at while they were waving a white flag in search for medical help. A number of victims resulted from the direct bombing of their house.

Medical staff are also victims of the violence, either as collateral victims or because they have been directly targeted. The Turkish Medical Association (TTB) reports 4 deaths among medical staff. One doctor was killed at a PKK checkpoint. 2 nurses were killed by snipers (allegedly of official security forces), one as she was leaving the hospital after her shift, and the other while helping a wounded woman on a street. One ambulance driver was shot at while trying to rescue victims in a curfew area.

A very serious issue raised by local human rights organizations and families of victims met, is that security forces do not allow relatives to pick up the bodies of the dead from the streets or the morgues. In some areas, persons met indicated that corpses were left to decay on the streets sometimes for several weeks. In other cases, families indicated that they were informed by local organizations (and not by State authorities) of the death of their relatives and had difficulty, in particular in communication with local authorities, locating the corpses. Also, they were not allowed to recover the dead bodies for burial, contrary to the right to dignity and moral and religious obligations to bury the dead. Our organizations met with 6 members of families of victims in Diyarbakır who are, or have been, on a hunger strike to protest this situation.

In other cases, persons met claimed that the dead were buried directly by security forces in anonymous graves in places unknown to the families. Local human rights organizations explained that unclaimed bodies are normally buried by municipal authorities within 10 days, but a circular recently changed this rule giving the authority to security forces to bury people within 3 days of the death. These measures deprive the families of their fundamental right to know about the fate of their relatives, to claim the bodies and to carry out funeral rites, or even to know the place of their burial. The authorities should guarantee in all cases that bodies are identified and families are informed and get the chance to recover them, in conformity to international human rights standards.

Violations of the right to health

The overall situation in areas affected by the armed conflict and the curfews is adverse to health: houses are in very poor conditions due to bombings, corpses are left in the streets and there is limited or no access to health facilities and personnel. The curfews and the fighting have heavily disrupted health services and made access to health very difficult for inhabitants of the concerned areas. Daily and routine care, for example to pregnant women and chronically ill persons (for example of diabetics) is highly disrupted or even impossible. The eviction or escape of hundreds of thousands of people also makes medical follow-up difficult and can have long-term effects on health (it is the case as children are not vaccinated, for example).

2. <https://hdpenglish.wordpress.com/2016/01/20/our-application-to-the-committee-of-ministers-of-the-council-of-europe/>

3. Report of HRFT dated 06.02.2016: <http://en.tihv.org.tr/recent-fact-sheet-on-curfews-in-turkey-between-the-dates-16-august-2015-5-february-2016/>

The death of fighters and civilians in many cases directly results from **limited or no access to health services**. Ambulances and medical staff are not allowed to enter zones under curfew. In some cases, doctors have mentioned that they managed to 'sneak in' on their personal capacity and rescue people, and to take ill or injured persons out to treat them. The local health capacities in districts under curfew have been drastically reduced: the local branch of the Turkish Medical Association (TTB) told our organizations that while the Sur district of Diyarbakır can normally rely on 3 medical centers with 20 doctors each, now only one center is working, with 15 doctors. The power cuts affecting the areas under curfew and affected by the fighting directly impact the proper conservation of medicines and power supplies to medical machines in hospitals.

To make the situation even more complex, human rights organizations reported that in many districts, **security forces are using health facilities as their headquarters or barracks**, and that armed forces sometimes fire from these buildings, making them *de facto* inaccessible to people in need for health assistance and endangering the lives of medical staff as well. In Cizre, 2 floors of the hospital are occupied by security forces, while the rest of the building is supposedly still working as a hospital, although the doctors' room was recently bombed. The TTB reports that both governmental forces and the PKK have attacked health facilities.

As a result of this situation, people seeking medical aid have to access medical premises waving white flags in the hope not to be fired at. It has been reported, however, that in some instances people were shot irrespective of flags being waived.

Beyond the difficulty to access health premises, it has been reported that authorities have intervened in hospitals and interfered with the provision of health care by **arresting injured people**, in particular young men. Hence fighters, but also unarmed civilians injured in protests, do not go to hospitals, for fear of being taken into custody. The Human Rights Association of Şırnak reported that several injured young people from Cizre and Silopi were detained and brought to Şırnak for interrogation and prosecution.

Several observers also reported that **injured people were left to die on the streets**, while persons trying to rescue them (medical personnel or citizens) were fired at or detained. Indeed, as mentioned above, even interim measures ordered by the European Court of Human Rights regarding injured people were not applied and people died. This is a clear violation of international humanitarian law and international human rights law. The State has an obligation to support and enable access to health to all without discrimination, and security forces as well as non-state fighters must guarantee that the wounded are spared and medically treated whatever their status of wounded (combatants) or civilians.

As was mentioned above, medical staff members are also victims of violence, either as "collateral victims" or because they are directly targeted. Furthermore, one doctor was recently detained in Mardin and is now facing trial, while another 6 medical workers face judicial investigation for "propaganda of a terrorist organization" for exercising their duties. Medical staff who care for the injured irrespective of their side in the conflict face pressure and harassment from their hierarchy within the Ministry of Health. Professionals as well as institutions (such as the Dicle University Hospital) have been subjected to smear campaigns depicting them as "supporters of terrorists" for treating injured fighters of PKK as well as governmental forces. As numerous medical staff were among the signatories of the "statement for peace," they have been, as other signatories (*see below in Part 4*), facing administrative investigations, threats and defamation, and 3 of them were detained on 15 January and later released. To denounce this repressive situation and interferences in the provision of medical care, professionals have been enacting regular "white coats sit-in" actions in several cities such as Diyarbakır, İstanbul and Ankara.

Torture and ill-treatment in detention

The Diyarbakır Bar association and other local human rights and lawyer associations reported to have met victims of torture and ill-treatment while in detention and to have lodged complaints on their behalf to the public prosecutor, which have yet to be investigated. The Şırnak local branch of the Human Rights Association (IHD) received 24 allegations of torture and directly gathered testimonies from detainees. They denounced that the prosecutor and judges did not take any measure to investigate these allegations. The Mesopotamian Lawyers Association reported cases of physical attacks, sexual harassment and even rape by security forces on detained protesters in Erzurum and Diyarbakır.

The father of a victim met during the mission explained that when he examined the body of his son at the morgue he noted that it presented marks of burns and rips as if he had been attacked by a dog and burnt with chemicals. Human rights organizations denounced that other corpses were found with eyes removed or ears cut off, and that in some cases security forces have profaned and exposed dead bodies to the sight of local inhabitants, such as a woman fighter's corpse that was exposed naked and a young man's body that was dragged around tied to an armored security vehicle.

Violations of the right to freedom of peaceful assembly and of association and arbitrary detention

In the areas under curfew, **protests** are systematically prohibited, and dispersed with a large amount of tear gas and often with live ammunition, resulting in deaths and injuries.

In areas of the Southeast that are not under curfew, protests are also usually prohibited, and peaceful protesters typically find themselves surrounded with armored vehicles and heavily armed security forces. Most gatherings are dispersed with disproportionate force, many people are detained and prosecuted. For example, the IHD branch of Şırnak reported that a large protest of about 6,000 people wishing to march peacefully from Şırnak to Cizre and Silopi to denounce the curfews was met with heavy gas and the firing of live ammunition.

Local human rights associations denounced that the vast majority of arrests in the curfew areas were carried out without a warrant, amounting to arbitrary, and sometimes secret and incommunicado detention, carried out by special security forces.

Freedom of association is also restricted when human rights groups are subjected to pressure or threats. It is the case for example of the Diyarbakır Bar association that insists on investigating and denouncing violations in the curfew areas, and whose President, Mr. Tahir Elçi, was assassinated on 28 November 2015 after being subjected to threats and defamation. The association and several lawyers have received threatening anonymous calls, messages on social media, and even found bullet holes in the office doors of several members.

Violations of the right to education

According to the KESK, citing figures of the Ministry of Education, in the Southeast around 11,000 teachers are impeded to work and 80,000 children are deprived of their right to education. Human rights organizations reported that security forces use several schools as compounds, informing teachers a day before "moving in" that they should leave the area as well as their pupils.

Under these conditions, the public service of education is heavily disrupted, both in areas under curfew but also indirectly in other districts, as a domino effect due to the arrival of people fleeing from the conflict and curfew areas. The access to education becomes a serious problem for the dozens of thousands of children who have fled from their homes and are displaced in other areas that cannot accommodate all the displaced pupils into existing facilities.

Internally displaced persons

Human rights and humanitarian organizations evaluate the number of new internally displaced persons (IDPs) over the last months to **more than 200,000** in the Southeast region, that add up to three million (according to IHD estimations) already displaced in Turkey from the long-lasting conflict between the PKK and the government.

Organizations met by the mission reported that in some areas such as Cizre and Nusaybin, around 80% of the population has been evicted or has fled, and denounce the authorities' intention to evict entire districts and cities. Indeed, the Prime Minister announced on 20 January that Hakkari's provincial capital will be relocated to Yuksekova and Şırnak provincial capital moved to Cizre.

A humanitarian coordination center in Diyarbakır complained about the difficulty to reach IDPs and to secure aid, and the very difficult relations with the district governors' offices that obstruct their contacts with IDPs or use aid programmes to gather intelligence. The research center denounced that authorities made aid conditional to inciting people to sign statements in which they declare that their house was burnt down by the PKK, in exchange for financial "compensation."

Turkey had already been facing an unprecedented influx of refugees mainly due to the Syrian conflict (around 2.5 million people), many of whom settled in camps in the southern parts of the country. Hundreds of thousands of internally displaced persons in this situation represent a major social and economic difficulty and ultimately a risk of further political destabilization.

Partial conclusions

The imposition of open-ended and round-the-clock curfews on numerous, large areas amounts to collective punishment. The civilian population has been taken hostage just for living in these areas, both by the PKK strategy of digging trenches to isolate cities or districts – de facto shielding itself behind the civilian population living in these areas – and by the disproportionate retaliation of the government on the whole areas, which fails to distinguish between civilians and combatants.

Although this situation definitely represents a challenge for law and order maintenance and democratic governance for Turkish authorities, security operations should only target individuals or organizations allegedly responsible for actual offenses or crimes, instead of indiscriminately targeting hundreds of thousands of persons living in the concerned areas. This policy mistakes a whole population for supporters of “terrorism” and armed groups and seems to consider everyone equally guilty. The situation and the above mentioned violations are contrary to international human rights law and international humanitarian law. On the other hand, this policy participates in ostracizing critics, and the use and reproduction of an “us vs. them” discourse and the depiction of a whole population as an “internal enemy,” dangerously undermines mutual trust and common values and jeopardizes the perspective of a peace process and reconciliation.

4. Beyond the Southeast: human rights and fundamental freedoms under threat in Turkey

The rapid deterioration of the situation in the Southeast has been paralleled by an increase in human rights violations committed in other regions of the country. On the one hand, pro-Kurdish, pro-peace and other streams of activism that are not in line with the official views of the AKP government have increasingly been targeted by the State’s repressive machinery. On the other hand, as authoritarianism has taken its toll on Turkish politics and society, repression has extended way beyond the Kurdish issue. The general crackdown on independent and dissenting voices that is unfolding in Turkey is raising concerns with regard to the state of the rule of law in the country.

The Kurdish issue and the process of “othering”

The Kurdish issue has been at the center of human rights concerns in contemporary Turkey. The recent resumption of violence and repression in the Southeast triggered the decision by FIDH and EuroMed Rights to dispatch a solidarity mission to the region. But according to interlocutors met by the mission delegates, while the situation of human rights in Southeastern Turkey has always been more serious than in other regions, it is also the **barometer of the respect for human rights and the rule of law in the rest of the country**. The end of the peace process, the increase in human rights violations in and outside the Southeast and the authoritarian backlash are intimately linked. Many of the mission’s interlocutors insisted on the intertwining of these three elements. After years of (relatively modest) opening, the Turkish polity seems to be back to being dominated by government-imposed narratives and the “raison d’État” at the expense of (and as an excuse for disregarding) pluralism and democratic debate.

The mission delegates observed with great concern a **process of “othering”** that now seems to be a key tool through which repression is justified and organized, and violence legitimized.

The “Us vs. Them” discourse and the use of the anti-terrorism narrative to legitimize repression

The government and its supporters have propagated discourses that point out to “internal enemies” in relation to the Kurdish issue and, as a consequence, have negatively impacted the ability of groups and individuals to seek, receive and impart views that are different from those of the government. Indeed, independent and dissenting voices have increasingly been stigmatized for advocating institutional reform (including, but not limited to, self-government for the Kurdish region), speaking out against human rights violations, or simply calling for peace. As the Turkish government relies on a strategy of tension, several of the mission’s interlocutors reported a feeling that the government “expects that everyone acts the same way” towards the Kurds (i.e. with hostility) or “takes a side” in the conflict. Failing to fully endorse the government’s views results in being considered a “traitor” final, while anyone supporting the Kurds is considered an enemy. The Diyarbakır Bar Association and other actors reported to the mission that the authorities were now “a wall” with whom dialogue channels are effectively closed.

This process is closely linked to recent political developments. Many interlocutors met during the mission insisted on the aggressive rhetoric and actions that marked the political campaigns before the general election of 7 June 2015⁴ and (increasingly so) in the run-up to that held on 1st November. As violence broke out in the Southeast, AKP officials, including at the highest level, further escalated tensions and polarized Turkish society by relying on an “Us vs. Them” discourse and on the anti-terrorism narrative.

In the Southeast, human rights violations have been legitimized by the higher echelons of the military. It has been reported to the mission delegates that an internal army circular, that was leaked to the media, assured soldiers that they should in no circumstances be afraid of criminal proceedings – a clear signal in favor of **impunity**.

In the rest of the country, aggressive rhetoric targeting independent and dissenting voices have been propagated by the highest echelons of the AKP, including President Erdoğan and Prime Minister Davutoğlu. These discourses have created the conditions in which physical violence against independent and dissenting voices is made possible, acceptable, and ultimately legitimate. A multiplication of acts of violence committed by private persons against pro-Kurds, pro-peace and other citizens and groups whose opinions are not in line with views of the government has been reported to the mission delegates. In addition, allegations of any such violence are rarely investigated and/or prosecuted by the authorities. Turkey now seems to have reached a point where the **authorities legitimize not only repression but also acts of violence against dissent**.

Finally, in Turkey the judiciary has for years used and abused of so-called anti-terror procedures (both under Anti-Terror Law and Penal Code provisions) to curb dissenting voices under accusations of “propaganda for an illegal organization” or even “membership in an illegal organization”, which has led hundreds of activists and intellectuals to jail⁵.

A multi-faceted repression against all forms of dissent

In this bleak context, **repression has hit several layers of society**, some of which had benefited from a relative opening in the 2000s. A “Sword of Damocles” seems to be hanging over the head of virtually all independent and dissenting voices.

- Political opposition members, including MPs, have been targeted by smear campaigns and judicial harassment, including threats by the AKP majority to lift their parliamentary immunity.
- Members of independent trade unions have been prosecuted as a result of public statements or strikes.
- Human rights defenders and professionals working to protect the rights of others, such as lawyers and NGO workers (?), have been subjected to threats, intimidation, stigmatization, judicial harassment, arbitrary arrests and physical violence, including assassination as in the case of Mr. Tahir Elçi, President of Diyarbakır’s Bar Association and a member of IHD⁶. The ability of lawyers to exercise their defence function has been curtailed as a result of repression.
- While the situation has always been worse for Kurdish journalists, repression is now targeting virtually all journalists, including foreign correspondents, who work on/in the Southeastern region as well as on other sensitive issues, document human rights violations, or try to debunk the government’s narratives.
- Last, medical professionals and other civil servants have been punished for fulfilling their duties (see part 3).

Repression is multifaceted. It goes from *de jure* or *de facto* restrictions to fundamental rights and freedoms to smear campaigns, stigmatization, defamation, intimidation, threats, judicial harassment and criminalization, which often result in arbitrary arrest and detention. Instances of physical violence committed by law enforcement officials or private parties have increased in an environment of extreme stigmatization of dissent and its conflation with terrorism.

- **Firstly, restrictions to freedom of expression and of the press** have been reported to the mission delegates by a range of witnesses and victims. Websites, such as that of newspaper Özgür Gündem and of Kurdish news agency DIHA, have been blocked on various grounds, including publishing a photo of a demonstration in which a picture of PKK leader Öcalan could be seen. Judicial authorities are seemingly

4. For example, the People’s Democratic Party’s (HDP, left and pro-Kurdish) offices were attacked on 114 instances, including three armed attacks, two bomb attacks and two arson attacks. See http://www.todayszaman.com/anasayfa_i-hd-reports-reveals-114-attacks-against-hdp-took-place-during-pre-election-period_381281.html

5. This was the case for example of EuroMed Rights and IHD Executive Committees member M. Osman Işçi (see <http://euromedrights.org/publication/turkey-emhrn-executive-committee-member-and-71-human-rights-defenders-to-face-turkish-heavy-penal-court-for-fourth-hearing/>) and many other human rights defenders (see <https://www.fidh.org/IMG/pdf/obsrapporttr05062012eng.pdf>)

6. See <https://www.fidh.org/en/issues/human-rights-defenders/turkey-killing-of-mr-tahir-elci-president-of-the-bar-association-in> and <http://euromedrights.org/publication/declaration-on-the-assassination-of-tahir-elci-human-rights-activists-in-turkey-live-in-a-continuous-death-threat/>

using the blocking of Kurdish and pro-Kurdish websites as a standard operating procedure, sometimes even without bothering to keep up legal appearances (it was reported to the mission that one court decision with regard to newspaper Özgür Gündem, which is composed of eight pages, referred to a picture published on “page 9”). Whereas in the past **censorship** crystallized around the Kurdish issue, it now seems to be related to a range of other issues, including criticism of the President and government authorities, the war in Syria and relationships between the Turkish state and Daesh (ISIS). Indeed, the ruling AKP government has sought to impose an information blackout on some of these issues, and reactions against those who have not complied have been fierce, as the case of Messrs. Can Dündar and Erdem Gül demonstrates (see below). A reporter from news agency DIHA reported that on 28 September 2015 the authorities searched their office, allegedly for weapons (they did not find any) and destroyed computers and other IT equipment.

The editor-in-chief of Özgür Gündem reported that the authorities also used other tactics: deterring advertisement in Kurdish newspapers in order to dry up their sources of funding; and denying them accreditation to press conferences and events of the President and Prime Minister.

Freedom of expression of citizens on the internet is also curtailed. It was reported to the mission delegates that civil servants who use social media, in particular Twitter, have been subjected to sanctions up to dismissal. While civil servants have a duty of professional discretion, this type of sanction, if confirmed, may be disproportionate and designed solely to punish the expression of dissenting political views.

- **Secondly**, many of the mission’s interlocutors reported an increase in the number and severity of instances of **intimidation and threats** against independent and dissenting voices. The Diyarbakır Bar Association reported receiving threats via telephone and social media. Despite having reached out to the Prosecutor’s office, its members received no protection. After its President, Tahir Elçi, stated in a TV show that the PKK was not a terrorist group but an “armed political organization,” he was subjected to severe threats in the form of bullet marks on the walls of his house. He was shot dead on 28 November 2015 (see below). The President of the Confederation of Civil Servants’ Trade Unions KESK, Mr. Lami Özgen, stated to the mission delegates that he felt under threat because of posts targeting him on social media as well as threatening phone calls and letters, and that those members of KESK who had signed the academics’ petition now feared for their physical integrity.

- **Thirdly, stigmatization and smear campaigns** are used as part of the repression toolkit, as explained above. It was reported to the mission delegates that pro-AKP newspapers routinely accuse Kurdish and left-wing newspapers of encouraging terrorism and that pro-government media (TV channels, newspapers, websites) have broadcast the photos and names of signatories to the academics’ petition, calling them “**traitors**” and “**terrorists**.” As was highlighted by one of the mission’s interviewees, in small towns this may expose signatories to physical attacks by right-wing groups, including the infamous “Grey Wolves.” Social media, in particular Twitter, seem to serve as a sounding board for attempts to defame and stigmatize opinions and persons.

Smear campaigns have also targeted doctors and medical workers who have carried out their duties in the Southeast and attended to injured persons from both parties (see Part 3). Those who advocate peace or participate in demonstrations are put under pressure: they are targeted by pro-government media, intimidated by their superiors and subjected to administrative investigations (with the risk of being dismissed). The same processes as those that were observed after the Gezi events in Istanbul – i.e. a **witch hunt** against medical workers who had been involved in, or related to, the movement – seem to be at play.

On 11 January 2016, **1,128 academics** in Turkey and abroad published a statement led by Academics for Peace entitled “We will not be a Party to this Crime” (nowadays they are more than 2,200 signatories). The statement expressed concern that the ongoing curfews, which have been declared in several cities across Southeastern Turkey, expose their inhabitants to severe human rights violations, and called on the authorities to lift them and to work towards the establishment of a permanent peace process. Soon after its publication, President Erdoğan heavily criticized the academics and compared them to terrorists. In a public speech made on 15 January 2016, he referred to the academics as “the darkest of the dark” and accused them of having committed “the same crime as those who carry out massacres.” In addition, several academics have also reportedly received threats via social media and by telephone, including by nationalist mafia boss Sedat Peker, who publicly threatened the group saying: “We will bathe in your blood.” Academics posted in small and large universities of the country have been intimidated by their superiors, and several have been dismissed from private universities,⁷ and researchers have been deprived of their funding.

- **Fourthly, the use of criminal proceedings and other forms of judicial harassment** against those who peacefully exercise their fundamental rights or carry out their professional duties has been on the rise.

7. As way of example, on 9 February six professors from Nişantaşı University were fired by a unilateral decision of the Board of Trustees. Among those is Assistant Professor Nil Mutluer, a representative of Helsinki Citizens Assembly, a member organization in EuroMed Rights.

Arrests, investigations and judicial proceedings are based on overly broad legal definitions of criminal offenses, in particular “terrorist activities” under provisions of the Anti-Terror Law and the Penal Code. In practice, as highlighted by Mr. Hüseyin Aykol, editor-in-chief of Özgür Gündem, the questions asked by law enforcement and judicial officials during interrogation and trial revolve around journalists’ (or other activists’) activities, making the political motivations of such arrests clear.

Journalists Can Dündar and Erdem Gül, who work with the opposition newspaper Cumhuriyet, have been accused of being “spies” and associated with preacher Fethullah Gülen. Criminal proceedings against them follow a public statement by President Erdoğan in which he warned Can Dündar that he would “pay the price” for reporting on the alleged cooperation between elements of the Turkish armed forces and terrorist organization ISIS at the Turkey/Syria border. According to the editor-in-chief of Özgür Gündem, about 40 journalists are now in detention, including 23 Kurdish journalists. Another 46 face pending charges. Foreign journalists and journalists who work with foreign media (e.g., Mohammed Rasool from VICE News) have recently been jailed or deported from the country.

Attacks on academic freedom have developed not only in the form of smear campaigns but also of judicial harassment, as discussing the Kurdish issue in class or research may lead to criminal proceedings.

Freedom of peaceful assembly and of association is being criminalized. Demonstrations are commonly prevented and prohibited in the main cities, and protesters are increasingly often tried. The President of trade unions confederation KESK is currently facing criminal proceedings for “insulting the President” in a call for a strike he issued after the 10 October 2015 Ankara bombings. In this call, he stated that the authorities were attempting to conceal the truth by alleging that a joint Communist/PKK/ISIS venture had orchestrated the terrorist attacks, and thus to protect their authors. Those who participated in the strike are being sued for “participating in an illegal strike.” More generally, criminal proceedings for “insulting the State” or “insulting the President” have skyrocketed in the last few years. As reported by IHD, several persons have been sued in relation to a demonstration where a banner stating that the AKP was linked to ISIS was displayed. The accused allegedly did not shout any slogans; they simply participated in the march.

- **Lastly, physical violence** has been on the rise. Journalists have faced physical violence while carrying out their professional duties, not only in the Southeast or in the vicinity of curfew areas but in other parts of the country. 10 journalists working with Özgür Gündem and DIHA have been beaten in the Southeast and in Izmir. In the summer of 2015, the headquarters of Cumhuriyet in Istanbul have been attacked by a group led by an AKP MP. Those who protest violence and call for peace between the Turkish armed forces and the PKK have also been exposed to violence committed by terrorist groups, as demonstrated by the bombing attacks on demonstrators in Ankara on 10 October 2015.

Questions arise as to the lack of protection provided to opponents against violent attacks (such as HDP headquarters or opposition newspapers), and more gravely about the protection of the Ankara pro-peace demonstration. The Turkish authorities accused both PKK and ISIS of having orchestrated the attacks, before backtracking while continuing to stigmatize the victims. Impunity seems to be widespread in relation to the illegal acts that have been reported to the mission delegates, as all levels of the law enforcement and judiciary – investigation, criminal proceedings, and sentencing – seem to have been largely ineffective. As a result, repetition has been encouraged. In extreme cases, human rights defenders have lost their lives, as is the case for Tahir Elçi.

Partial conclusions

Our organizations’ delegates were struck by their interlocutors’ concurring analysis that **the current human rights situation in Turkey is the worst in years**. They cited as evidence:

(a) the intensity and severity of human rights violations committed throughout the country, which are higher than at any time during the last decade;

(b) the fact that legislative changes have made it possible to expand repression (for example the “security package” of April 2015 enlarging police powers to search and arrest without a judicial warrant and to use firearms in many situations not directly presenting an imminent threat for life – not to speak of draft laws and regulations);

(c) the fact that courts and tribunals have been subjected to increasing interference by the executive. In several instances, the Turkish President made public statements against individuals that were followed by the opening of criminal investigations – as if the judicial machinery was implementing his will. According to prominent lawyers, it is the first time in decades that the judiciary has been subjected to such significant government influence.

Perhaps even more worryingly, several interlocutors stated to the mission delegates that **Turkish authorities were increasingly bold** in their use of repression and disregard for human rights and fundamental freedoms, and that this was unprecedented from a civilian government. Looking at the situation from a diachronic perspective, there is a continuity between Gezi, which epitomized discontent at the government, and today's situation – but the repression toolkit has been refined. From a synchronic perspective, there is a link between the current violence in the Southeast and human rights violations committed in the rest of the country.

One of the mission's main concerns with regard to the situation in Turkey is that while the voice of the majority is heard, this is not sufficient to guarantee the rule of law, as the **space for civil society, dissent and human rights has shrunk**.

In addition to repressive practices within the current institutional framework, President Erdoğan is contemplating significant constitutional changes, which would take Turkey **further away from a system in which the rule of law is guaranteed by democratic checks and balances and respect for human rights and fundamental freedoms**.

5. Conclusions and recommendations

The situation in Southeastern Turkey requires urgent attention. The intensification of violence, the death toll, including civilian casualties, and the ever-larger number of people affected by military operations, including the enforcement of round-the-clock curfews, lead observers to believe the conflict may have gone beyond internal strife and reached the threshold of an internal armed conflict. The Turkish government seems to have disregarded basic legal obligations under international human rights and humanitarian laws in its conduct of military operations and their aftermath, and to have subjected inhabitants of the affected areas to collective punishment.

The PKK and affiliated forces also appear to have committed a number of human rights violations, such as violations of the right to life of civilians (including medical staff), and they have allegedly recruited minors to take part in combat.

FIDH and EuroMed Rights highlight that there will be no military solution to the Kurdish issue. Parties should urgently agree to a **cease-fire and to a peaceful, negotiated settlement** that recognizes the right of the Kurdish people to self-government.

Turkey's repression toolkit has significantly expanded and the space for independent civil society and other human rights defenders' work and the expression of dissenting opinions has dramatically shrunk. While formally a democracy, Turkey is increasingly marked by an authoritarian form of majority rule that disregards the safeguards, checks and balances that are required to protect minorities and independent and dissenting voices under the rule of law. In particular, the judiciary seems to be subjected to increasing political interference and to serve as a tool to suppress these voices. The space for independent media and civil society is shrinking in an atmosphere in which **opposition to the AKP is conflated with betrayal and terrorism.** It is clear from information and testimonies gathered by the mission that the Turkish government's increased repression and disregard for human rights is now threatening the rule of law.

International pressure is needed to push the Turkish government towards greater respect for human rights and the rule of law and towards resuming negotiations to find a political solution to the Kurdish issue. However, countries that have leverage over Turkey have so far failed to use that leverage to demand greater respect for human rights. The United States and other powers have prioritized the fight against terrorism in their bilateral and multilateral relations. Doing so, they have provided legitimacy to the Turkish government's anti-terrorism narrative, which serves as an excuse to justify a crackdown on independent and dissenting voices. As for the European Union (EU), the main obstacle has been the presence on Turkish territory of a large number of asylum-seekers and refugees (mostly from Syria), a number of whom may be willing to pursue their journey to Western Europe. In this context, the EU has been negotiating with Turkey an agreement over the management of migratory flows, which would aim at containing the number of asylum-seekers coming into Europe from Turkey. The Turkish government has used the refugee issue as a bargaining chip in negotiations with the EU, but this should not lead the latter to turn a blind eye to Turkey's deteriorating human rights record.

Indeed, the advent of an authoritarian regime in Turkey may have tremendously negative consequences for the EU and the whole region. The current atmosphere of extreme polarization and violence represents a grave challenge not only for human rights protection in Turkey, but for regional stability and the ability of the Turkish state and its allies to face key human and security issues such as the great number of refugees in Turkey, the activities of diverse terrorist groups on its soil and the conflict in Syria that tends to extend to its own territory. **It is high time to react.**

Also, the EU should consider recent developments and the deterioration of human rights and the rule of law in Turkey in the context of the accession process and when assessing Turkey's commitment to ensuring compliance with the Copenhagen criteria.

Lastly, **civil society in Turkey needs support.** Solidarity missions such as the one dispatched by FIDH and EuroMed Rights in January 2016 have an inherent value, and are welcomed and asked for by local civil society. They testify to the attention that international actors dedicate to the country and to their concern over the deterioration of the situation.

Recommendations

Our organizations urge the European Union and its member states to:

- Use their leverage to urge the parties to the conflict in Turkey (the government and the PKK) back to the negotiation table, lift the curfews, reestablish the normal functioning of basis social services and thoroughly, impartially and effectively investigate all allegations of human rights violations;
- Use their influence to encourage other international partners of Turkey to apply similar lines of pressure and to urge the Turkish government to negotiate a global solution that includes a fair negotiated settlement of the Kurdish issue that recognizes the right of the Kurdish people to self-government;
- Support Turkey's legitimate struggle against terrorists and jihadists groups acting on its territory while upholding its human rights obligations;
- Support (financially and technically) programmes of reconstruction in the Southeastern region and of rehabilitation of victims of violence;
- Support Turkey's efforts to accommodate the extraordinary influx of migrants and refugees, including by increasing the EU's own admission quotas, strengthening reception capacity and establishing further avenues for legal entry into Europe to welcome asylum seekers and migrants;
- Reject any proposal that would consider Turkey as a 'safe country of origin' or a 'safe country of transit' as long as human rights violations mount, repression targets independent and dissenting voices, impunity prevails and there is no adequate asylum system in place that would address international protection needs.

Our organizations urge the parties to the conflict in Turkey to:

- Immediately declare a cease-fire and return to a negotiation process in order to find a fair and democratic solution to the conflict that reflects the legitimate demands of the Kurds;
- Immediately stop hindering the access to medical help for civilians and fighters alike, protect medical staff and medical premises as neutral;
- Withdraw from city centers and districts so that inhabitants can go back to normal life and guarantee the return to effective civilian rule in the conflict areas.

Moreover, our organizations urge the Turkish authorities to:

- Lift the curfews imposed on southeastern cities and districts; and compensate financial losses of civilians in the curfew areas;
- Guarantee access to medical help and medical premises without interference and protect the neutral exercise of medical care; cease all judicial and administrative proceedings against medical staff who only carry out their duty according to their professional oath, that should at all time be facilitated by the Ministry of Health.
- Guarantee that social services, in particular health and education go back to normal in order to allow their population to return to normal life and exercise their basic rights;
- Envisage reconstruction programmes for the damaged areas in concertation with the local population and the needs effectively expressed; it should also undertake rehabilitation programmes for the victims of violence, with the support of expert organizations such as the Turkish Medical Association and the Human Rights Foundation of Turkey;
- Conduct Prompt, thorough, impartial, independent and effective investigations into all allegations of human rights violations implicating security forces as well as non-State actors, in particular torture, ill treatments, enforced disappearances and extra-judicial executions; bring the perpetrators to justice; and establish mechanisms to guarantee accountability at the highest level of State administration and non-repetition. Impunity should be a priority to uphold the rule of law and ensure a democratic settlement is found to the conflict;
- Stop all kinds of harassment against opposing or dissenting voices, including journalists, academics, doctors, lawyers, trade-unionists and human rights defenders: release those detained and lift charges pending against them; cancel politically-motivated judicial proceedings; stop administrative proceedings against public servants for opinion-related offenses; and refrain from using violent or polarizing discourses and incitements;
- Accept all visit requests by mandate-holders of United Nations Human Rights Council special procedures, pursuant to the standing invitation it has issued to them, including the request for a follow-up visit by the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (requested in 2014), and set a date for the visit of the UN Special Rapporteur on the situation of human rights defenders (agreed upon in 2013). It should also facilitate the forthcoming visit of the UN Special Rapporteur on the rights to freedom of peaceful

assembly and of association (set for the second half of 2016) and ensure he enjoys access to all parts of the country as well as independent, unmonitored access to civil society organizations operating in all parts of the country.

- Accept all visit requests by civil society organisations, human rights organisations and independent researchers to the curfew areas.

Our organizations ask Member and Observer States of the UN Human Rights Council to:

- Dedicate attention to the deteriorating human rights situation in Turkey; publicly raise concern about human rights violations committed in the country and demand full respect for human rights and fundamental freedoms in their oral statements under the Council's agenda item 4 ("situations that require the Council's attention") and other relevant agenda items, including interactive dialogues with special procedure mandate-holders under the Council's agenda item 3;
- Support, and work towards building support for, a joint oral statement on the situation in Turkey delivered under item 2 or item 4 of the Council's agenda, outlining steps that are expected of Turkey with regard to the situation in the Southeast and in the rest of the country, and benchmarks in this regard;
- The Human Rights Council's **special procedures** should pay utmost attention to individual communications and urgent appeals sent by civil society organizations, and request timely and substantive responses from the Turkish authorities. They should also, within the framework of their respective mandates, send letters of allegations to the Turkish government requesting information as to how Turkey abides by its international obligations in carrying out law enforcement and military operations, especially in the Southeast, and to allegations of lack of independence of the judiciary and other state institutions;
- UN **treaty monitoring bodies** should dedicate their utmost attention to the repression of independent and dissenting voices in Turkey and related violations that fall within their respective mandates, including the UN Committee Against Torture, which will review Turkey at its 57th session (April-May 2016), and the UN Committee on the Elimination of Discrimination Against Women, which will review Turkey at its 64th session (July 2016).



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Keep your eyes open

Director of publications: Karim Lahidji
Editor: Antoine Bernard
Authors: Nicolas Agostini (FIDH), Bérénice Michard (EuroMed Rights)
Coordination: Elena Crespi (FIDH) and Bérénice Michard (EuroMed Rights)

FIDH

Establishing the facts - Investigative and trial observation missions

Supporting civil society - Training and exchange

Mobilising the international community - Advocacy before intergovernmental bodies

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For FIDH, transforming societies relies on the work of local actors.

The Worldwide movement for human rights acts at national, regional and international levels in support of its member and partner organisations to address human rights abuses and consolidate democratic processes. Its work is directed at States and those in power, such as armed opposition groups and multinational corporations.

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EuroMed Rights
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الأورو-متوسطية للحقوق

EuroMed Rights
17 rue de Londres
1050 Bruxelles
Tel: +32 (0) 2 540 86 47
<http://www.euromedrights.org/fr>
information@euromedrights.net

fidh

FIDH
International Federation for Human
Rights
17, passage de la Main d'Or
75011 Paris
CCP Paris: 76 76 Z
Tel: (33-1) 78 56 90 54
Fax: (33-1) 45 67 32 12
www.fidh.org