

**OBSERVATIONS BY TURKEY ON THE REPORT FOLLOWING THE VISIT OF
THE COMMISSIONER FOR HUMAN RIGHTS OF THE COUNCIL OF EUROPE,
DUNJA MIJATOVIĆ, TO TURKEY FROM 1 TO 5 JULY 2019**

The Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, conducted a country visit to Turkey on 1-5 July 2019.

In the course of the visit, Turkish authorities extended full cooperation to the Commissioner and her delegation with a view to facilitating independent and effective performance of her functions in line with her mandate. During her visit, the Commissioner had several high-level meetings and received first-hand information. She was received by Minister of Foreign Affairs Mr. Mevlüt Çavuşoğlu, Minister of Justice Mr. Abdulhamit Gül, Vice-President of the Constitutional Court Mr. Engin Yıldırım, the Acting President of the Council of Judges and Prosecutors Mr. Mehmet Yılmaz, Deputy Minister of Interior Mr. Muhterem İnce and Chief Ombudsman Mr. Şeref Malkoç. Full access was accorded to the Commissioner to all the places she requested to see. She was able to meet all the persons she requested to see in İstanbul and Ankara. In this regard, she also visited Osman Kavala, Selçuk Kozağaçlı and Ahmet Altan at Silivri Closed Prison.

The comments of Turkey as regards the Commissioner's report on her visit are herein below. In order to better explain Turkey's position on the issues mentioned in the report, detailed information as regards actual developments and practices regarding the administration of justice and the protection of human rights in the justice system as well as civil society is provided below. The following comments also include details about steps undertaken to further improve the human rights situation in Turkey.

Without mentioning the tremendous challenges Turkey encountered and continues to face, any interpretation of the developments in Turkey will be incomplete.

Turkey pursues a simultaneous fight against multiple terrorist organisations, including PKK, PYD/YPG, DAESH and the Fethullahist Terrorist Organisation (FETÖ). These terrorist organisations violated the right to life, enshrined in the European Convention on Human Rights. Turkey's legitimate fight against terrorism protects first and foremost the right to life and enjoyment of fundamental rights. While continuing the fight against these terrorist organisations, Turkey is fully aware of its human rights obligations and takes every measure to ensure that respective actions are in line with these obligations. The profound challenges and threats related to the brutal coup attempt of 15 July 2016 organized and perpetrated by FETÖ continue to exist. Turkey's resolute commitment to further protect and promote human rights and the rule of law guides its practices to tackle these challenges. Judicial safeguards are important components of this approach.

The Commissioner's report seems to overlook the positive developments in the judiciary. In the report, the Commissioner's reflections seem to be subjective and not based on and supported by concrete facts. For example, the report depicts all the positive progress achieved during the judicial reform process as if they had no impact in practice at all.

Furthermore, the Commissioner's statements especially about the independence of the judiciary and the executive power in Turkey are unacceptable. The Turkish Constitutional Court (TCC) and the Inquiry Commission on the State of Emergency Measures are recognized by the European Court of Human Rights (ECtHR) as domestic remedies. Comments on practices in

the field of human rights in Turkey following the heinous 15 July coup attempt perpetrated by FETÖ which cost the lives of 251 Turkish citizens and left more than 2 000 people injured, show that the Commissioner is not sincerely willing to see the extent of the difficulties Turkey faces and the balance Turkey is maintaining between the protection of human rights and preserving security. The Commissioner disregards material evidence established by independent courts and labels criminal proceedings as being reduced to formality.

Contrary to the Commissioner's statements, Turkey does comply with international human rights standards while taking measures to fight terrorism.

While the Commissioner defines NGOs as her "natural partners", the same approach should also be valid for Member States of the Council of Europe. This would be a more cooperative attitude regarding the implementation of our common values.

Turkey agrees with the Commissioner that civil society enriches democracy. With this understanding, Turkey maintains her partnership with NGOs in important processes regarding fundamental rights and freedoms as is the case with the Judicial Reform Strategy as well as the Human Rights Action Plan whose preparations are underway. Therefore, portraying Turkish authorities and judicial processes as being against NGOs is unfair and unacceptable.

Turkey always appreciates constructive comments and recommendations made by the bodies of the Council of Europe. Turkey's earlier written statements submitted to the Organisation's different bodies including the Venice Commission, GREVIO and to the Office of the Commissioner for Human Rights on various occasions on the issues also dealt within this report, should have also been taken into account before drawing conclusions.

Without prejudice to further observations that the Turkish Government could provide in due course, it is deemed necessary to draw attention to the following points:

As regards the independence of the Judiciary;

Duties and competences of the Council of Judges and Prosecutors (CJP) are defined in the Constitution. Constitutional amendments adopted in the referendum on 16 April 2017 did not affect its independence. The changes concern the number of the CJP members, the method of election and work of the CJP.

The duties of the Council remain unchanged. Apart from the reduction in the number of members and chambers, no changes occurred as regards its organisational structure. The changes have facilitated the work of the organisation.

The report criticizes the fact that the Minister of Justice is the President / member of the Council. Such practice is common among several Member States of the Council of Europe and the European Union.

The title of the Minister of Justice as the President of the Council is merely symbolic. In practice, the Deputy President leads and directs the CJP. The Minister of Justice exceptionally participates in the Plenary Sessions. The provisions according to which the Minister of Justice, in his capacity as the President of the Council, cannot participate in chamber meetings and meetings of the Plenary Session related to disciplinary proceedings is preserved both in the Constitution and in the Law No: 6087.

Article 159 of the Constitution is binding for all members of the CJP, including the President of the Council. Indeed, according to Article 159 (1), “The Council of Judges and Prosecutors shall be established and shall exercise its functions in accordance with the principles of the independence of the courts and securing the tenure of judges.”

According to the current composition of the CJP, nine of its 13 members (i.e. more than 2/3) are judges and prosecutors by profession. This ratio is much higher than that of the majority of CoE and EU Member States. Members of the Court of Cassation and the Council of State have applied on their initiative to the Grand National Assembly of Turkey (GNAT) in order to stand for election as members of the CJP. Thus, the GNAT has selected the members of the CJP among these candidates.

The Turkish legal system embraces the universal values of human rights and the rule of law. Accordingly, the CJP published the Declaration of Judicial Ethics in Turkey on 6 March 2019. Emphasizing the importance of respect for human dignity, the Declaration defines the code of conduct for judges and prosecutors. The Declaration draws attention both to the importance of independence and impartiality and to the importance of being regarded as such. CJP monitors and ensures that the code of conduct is respected by judges and prosecutors. CJP is the guarantor that judges and prosecutors can deliver judgments impartially and independently according to their conscience.

Turkey aims to further strengthen the independence, impartiality and transparency of the judiciary. In this respect, the Judicial Reform Strategy has set out geographical guarantee for judges and prosecutors that prohibits their transfer without their will in certain conditions, and introduced new remedies that extend the rights of judges and prosecutors regarding discipline procedures against them.

As regards the dismissal of FETÖ affiliates from the judiciary following the 15 July coup attempt;

Judges and prosecutors, identified as part of the organisational hierarchy of FETÖ through evidence obtained from disciplinary proceedings by the then High Council of Judges and Prosecutors already initiated before the 15 July coup attempt as well as the confessions of FETÖ members in the course of criminal procedures, and the concrete proof of using “Bylock” mobile application, were first suspended from the profession and then dismissed due to not complying with the principles of independence and impartiality.

According to the Turkish law, persons who do not comply with independence and impartiality principles cannot be judges or prosecutors, therefore the said measures fall within the scope of legal certainty.

“Basic Principles on the Independence of the Judiciary” adopted by the United Nations General Assembly also set forth that “*Judges shall be subject to suspension or removal only for reasons of incapacity or behaviour that renders them unfit to discharge their duties.*”

Suspension from the profession is a measure that requires to be implemented as soon as possible by its very nature. The said measure was applied to prevent these judges and prosecutors, who are strongly suspected to have affiliation/connection with FETÖ terrorist organisation and against whom the abovementioned evidences had been established, from disrupting the

constitutional order. Implementing such a measure without delay is highlighted in the ECtHR's decision about Micallef v. Malta, stating the fact that the guarantees provided by Article 6 of the European Convention on Human Rights are not applicable in extraordinary conditions and will not constitute a violation.

Besides, the applications lodged with the ECtHR with requests for interim measure against suspension from profession, were found inadmissible and rejected.

It should be emphasized that investigations were initiated against certain judges and prosecutors long before the coup attempt of 15 July. As a result of the denunciations and complaints for being a member of FETÖ and the findings thereof, 1 479 files of complaint were opened concerning 2 146 judges and prosecutors by the then High Council of Judges and Prosecutors. Likewise, authorisations on examination and investigation were given in 342 files concerning 989 judges and prosecutors. Consequently, the allegation that discipline sanction was imposed on a high number of judges and prosecutors overnight without complaints and disciplinary review processes does not reflect the truth.

In the light of these findings and information, it is clear that the CJP's decisions on suspension and dismissal from profession which were given for the safety of the investigations and proceedings are a requirement of being a state governed by the rule of law.

Against the decision of the then High Council of Judges and Prosecutors, the dismissed judges and prosecutors used their rights to defend themselves and present evidence against allegations by requesting re-examination via petitions. For this, commissions were established at the then High Council of Judges and Prosecutors, and the allegations in the petitions submitted by those concerned were meticulously examined. The judges and prosecutors whose requests for re-examination were accepted, were appointed to their former or other places of duty.

The judicial processes about the judges and prosecutors dismissed from the profession for being a member of terrorist organisation following the 15 July coup attempt have been carried out by independent courts.

In addition to all these, the information in personal files of each dismissed person was also submitted to the Council of State. The Council of State carried out proceedings based on information specific for each case. Proceedings of the Council of State continue. Considering that individual applications may also be lodged with the TCC after the proceedings, any deficiency can also be remedied by independent courts in domestic law (see Bryan v. the United Kingdom, ECtHR). The respective decisions of the Council of State emphasize domestic remedies in detail and underline that the parties are provided with all guarantees of fair trial.

As regards the alleged prevailing attitude within the judiciary and the judiciary's partiality to political interests;

Allegations regarding judiciary's reluctance to distinguish lawful acts from criminal ones and their alleged resistance to comply with the human rights violation judgments of the TCC and the ECtHR are inadmissible. Turkey is a country governed by the rule of law; hence, no one is above the law.

All references, trying to cast a shadow on the impartiality and independence of the judiciary and the authorities as well as allegations of influence of the executive, are strongly rejected.

The far-reaching allegations in the report about criminal justice system especially terrorism-related cases, definition of terrorism, detentions and membership of a terrorist organisation are being replied with the following information:

Turkey's fight against terrorism does not disregard human rights and erode the rule of law.

Having said that, no profession gives persons immunity from prosecution if there is reasonable suspicion that a crime is committed. Independent courts decide on the merits of each case. Several court rulings have established that persons, disguising themselves as journalists, acted under direct orders from FETÖ terrorist organisation in order to advance its illegal acts. Legal action taken against these persons can under no circumstances be interpreted as limiting freedom of expression or violating human rights.

Freedom of expression is not an absolute right. It can be subjected to restrictions as prescribed by the Constitution and the international human rights treaties. Terrorist propaganda, glorification of terrorism, incitement to hatred and violence are not protected by freedom of expression anywhere.

The procedures about apprehension, detention and arrest mentioned in the report are carried out in accordance with the national laws and international obligations. In order to overcome the grave security threats, certain limitations were introduced on the right to liberty and security during the State of Emergency. However, these limitations were in line with Turkey's international obligations and were given by competent courts. Individuals have the right to challenge these decisions before the courts. Detention periods in the past two years dropped. Recent amendments introduced by the first judicial legislative package also reduced the length of detention.

Yet, if there are any violations, appeal mechanisms of the Turkish legal system as well as the TCC remedy the situation. Against her allegations, the Commissioner misses out important decisions of high courts that favour freedom of expression over security concerns.

Within the framework of the Judicial Reform Strategy, the first legislative reform package enacted in October 2019 added a provision to the Anti-Terror Law. This provision aims to ensure that expression of thoughts that do not go beyond news reporting or made just for criticism should not constitute an offence. It also enabled persons to appeal against the decisions of Regional Courts of Appeal for offences that may have an effect on freedom of expression, such as defamation and incitement to hatred. The positive effects of these amendments are already seen. A sizeable number of individuals under prosecution are released. The Judicial Reform Strategy also sets out the objective of strengthening judicial ethics and rights not to be labelled as a criminal due to ill-founded denunciations and complaints.

As regards the client-lawyer privilege and provision of the Decree Law, on Recording Oral Consultations between Detainees and Lawyers through Technical Means and Monitoring these Consultations by an Officer;

The specific provision is a measure aiming to deter any action, which may support activities of terrorist organisations. The ECtHR also acknowledges that restrictions may be imposed on the rights of the convicts with a view to ensuring security and order if reasonable requirements exist such as prevention of crime and enforcement of discipline as inevitable result of being kept at

penitentiary institution (Silver and others v. the United Kingdom, no. 5947/72, par. 99-105, 25 March 1983).

Likewise, in the event that any information, finding or document (which implies that safety of society and penal institution is endangered; terrorist organisations or other criminal organisations are directed; orders and instructions are given to these organisations; or secret, open or encoded messages are transmitted by their comments) is obtained, the meeting shall be immediately terminated and the situation shall be noted in the minute along with its reasoning. Before the start of meeting, the parties shall be warned against such a situation. This measure can be applied only upon the request of the chief public prosecutor's office and the decision of the execution judge (see Article 59/5,7, Law No: 5275). Those concerned may apply to execution judges against these procedures.

Thus, sufficient legal guarantees and appropriate inspection mechanisms are provided. The right to defence is not violated.

Considering the terrorist threat faced by Turkey, the said provision has legitimate objectives to ensure the public security, security of penitentiary institution and crime prevention. This measure creates a fair balance between the legitimate objective pursued by public authorities and the individual benefit of the applicant taking into consideration the characteristics of the offence, atypical/sui generis nature of FETÖ terrorist organisation and its secret activities.

As regards the allegations of impunity and lack of effective investigations into alleged violations of human rights by security forces;

Procedural safeguards are important components of Turkey's efforts in the prevention of torture and ill-treatment.

To increase the effectiveness of the investigations and prevent impunity, the Law Enforcement Supervision Commission was established. The Commission guarantees that investigations of allegations against law-enforcement officers are meticulously followed and that no application is disregarded. The members of the Commission have been appointed and the necessary secondary legislation has been enacted. The Commission has started its monthly meetings in September 2019.

As regards FETÖ terrorist organisation;

The report describes FETÖ as a "network" instead of a terrorist organisation.

FETÖ is a clandestine criminal terrorist organisation, which infiltrated critical government posts, tried to capture the Turkish state, attempted to suspend the Constitution and take over the democratically elected Government on 15 July 2016. Fethullah Gülen is the leader of this terrorist organisation. Terrorist acts perpetrated by FETÖ on that night cost the lives of 251 Turkish citizens and injured over 2 000. Several key institutions representing the will of the Turkish people, first and foremost, the Parliament, were heavily assaulted.

FETÖ is an armed terrorist organisation, as established by court decisions. The installation and use of Bylock application which was developed for the intra-organisational confidential communication among the members of the terrorist organisation, as well as depositing money upon the instruction of FETÖ leader on 25 December 2013 to Bank Asya which is a key

institution that provided financial services in support of FETÖ are crucial evidence to prove membership to FETÖ as established by court decisions, including the judgment of the Criminal Division of the Plenary of the Court of Cassation (file no: 2018/16-419, judgment no: 2018/661).¹

Furthermore, the views adopted by the UN Human Rights Committee on an individual communication that are referred to in the Commissioner's report (para. 43) are ill-founded and flawed in many aspects, including its views on the ineffectiveness of the TCC which is declared as an effective domestic remedy by the ECtHR in all cases, including pre-trial detention following the declaration of the State of Emergency (Merican v. Turkey, Zihni v. Turkey). Turkey has therefore recently informed the UN Human Rights Committee highlighting the flaws and asking to revoke its decision.

As regards the Criminal Magistrate's Offices;

Criminal Magistrate's Offices were established by the "Law on Amendments to Turkish Penal Code and Certain Laws" No. 6545 published in the Official Gazette No. 29044 to take the decisions which need to be taken by a judge during all investigations, conduct the proceedings and review the appeals against them, thus the criminal courts of peace were annulled.

Magistrates enjoy the same constitutional guarantees regarding independence and impartiality as every other judge. There is also no difference in terms of appointment and personal rights which are performed in accordance with the principles of "impartiality and independence of judges" by the CJP. On this matter, these judges do not lack any guarantee in comparison to those who worked in the former criminal courts of peace and their decisions are subject to judicial review.

The Criminal Magistrate's Offices comply with the provision of Article 6 of the ECHR requiring an independent and impartial tribunal established by law, and do not contain any deficiency concerning their structure.

The TCC verified their conformity in its Decision dated 14.01.2015 and No. E: 2014/164. K: 2015/12, by stating that Magistrates, as every other judge, are appointed by the CJP and enjoy the guarantees stated in Article 139 of the Constitution; that, as every tribunal, Magistrate's Offices are organized according to the principles of independence and tenure of judges, that there is no element leading to the conclusion that these Offices will not be impartial in their organisation and their functioning. The TCC also delivered in its said decision that if a magistrate is proven to have lost his/her impartiality based on concrete, objective and convincing evidence, provisions are available to discharge that judge from that particular case.

As regards the Commissioner's comments on State of Emergency measures;

Turkey acted in full awareness of its obligations under international law throughout the implementation of the State of Emergency (SoE). The rule of law is fully respected and the principles of necessity and proportionality are observed during and after the SoE.

¹ Judgments of the Court of Cassation can be reached at <https://karararama.yargitay.gov.tr/YargitayBilgiBankasiIstemciWeb/>

The Inquiry Commission on the State of Emergency Measures was established in 2017 as a result of intensive consultations with the CoE. The Commission started to receive applications on 17 July 2017. As an effective remedy, the Commission delivers individualized and reasoned decisions following a speedy and extensive examination. In this respect, it is aimed that all application files whose examination process is on-going will be concluded within a period of one year.

The Commission has received 126 300 applications. It has gathered relevant documents related to each individual application. The Commission issued 100 280 decisions, of those 10 010 are decisions of reinstatement, as of 20 January 2020.

Domestic legal remedies are available against the decisions of the Commission.

As regards the effectiveness of the Turkish Constitutional Court as a remedy;

TCC renders decisions based on the factual evidences in conformity with the law and legislation. Needless to say, the public administrations, judicial bodies and legislative authorities acknowledge with no hesitation that TCC's judgments are binding and must be implemented.

As for the statements in the 95th paragraph of the report: With regard to the allegation of tardiness, the average time-period for adjudication of an application by the Court is 16 months. It is not obviously so long. It must be also considered that the Court has a heavy workload to the extent that is incomparable with those of the equivalent tribunals. In the period of last seven years, the Court has received a total of 258 000 individual applications 213 700 of which have been adjudicated. Number of pending cases before the Court is 44 316, whereas the ECtHR, receiving applications from 47 countries, has 59 850 pending cases before it. In spite of this heavy workload, the Court speedily renders its leading judgments. For instance, in the cases of detained journalists and MPs, the Court delivered its leading judgments within a comparatively short period. The ECtHR also applies the same method.

Relating to the criticism against the lower courts' attitude, in the 53rd and 95th paragraph, it appears that some first-instance courts have failed to execute properly the TCC's judgments. Nevertheless, the TCC renders decisions so as to clarify how the Court's judgments should be executed with a view to eliminating such non-ill-intentioned failures of execution. Therefore, the allegation of systematic resistance by prosecutors and lower courts has no reasonable ground.

In the 95th paragraph, one of the criticisms made by the Commissioner against the TCC is its departure from its previous Convention-based approach. However, it should be noted that there are leading decisions of TCC rendered within the scope of individual application and constitutionality review of the decree-laws. (i.e. decision on "academics for peace"). The effectiveness of TCC as a remedy has undoubtedly improved its compliance with ECtHR standards in the Turkish legal system.

There have been also criticisms to the effect that the exemption of the state of emergency decree-laws from judicial review have restricted the safeguards as to the protection of individuals' fundamental rights and freedoms.

However, notwithstanding the constitutional provision exempting the decree-laws from judicial review, there is no obstacle to make them subject to constitutionality review by the TCC after being ratified by the parliament and enacted. As a matter of fact, all decree-laws issued during the state of emergency have been enacted, and the TCC has received some applications for annulment to make the contested decree-laws subject to review.

In reviewing the contested provisions of the laws, the TCC discusses and reviews not only the provisions in force during the state of emergency but also the provisions extending beyond the state of emergency period, that is to say, those applicable in ordinary period.

For instance, certain provisions concerning the right to legal assistance, right to employment, right to protection of personal data, freedom of movement, right to education, the principle of decentralization, freedom of contract, right to strike and the right to property have been annulled for their incompliance with the requirements of a democratic society.

TCC's examinations will also go on in the scope of the individual applications against the acts of public authorities.

As recognized by the Commissioner in her report, the TCC delivered ground-breaking judgments following the case-law of the ECtHR. The TCC remains to be an effective remedy.

As regards the Judicial Reform Strategy Document;

The Judicial Reform Strategy Document concentrates on efforts to further strengthen the judicial system and adopts a comprehensive and dynamic approach.

Judicial Reform Strategy contains numerous activities to enhance judicial independence and impartiality: The adoption of the code of conduct for judges and prosecutors, expanding the scope of the Interview Committee entirely composed of the members from judges; ensuring the geographical guarantee for judges and prosecutors; restructuring disciplinary processes; dividing judges as criminal and civil judges and enabling them to specialize accordingly throughout their career to name a few. These are intended to further strengthen the independence of judges and prosecutors and prevent any influence on judicial decision-making.

As regards the principle of equality of arms, strengthening the defence pillar of the judiciary is described as a separate aim in the Judicial Reform Strategy. Efforts are underway to minimize the problems encountered by lawyers while they carry out their duties.

With a view to enhancing the efficiency of justice, there are also steps undertaken for restructuring the penal system as well as for the extension of alternative dispute resolution methods.

The implementation of the Strategy will be carried out in a dynamic manner. During implementation, impact analysis will be performed. Amendments in secondary legislation will be put into effect in accordance with constitutional guarantees such as the right to a fair trial.

In light of the foregoing, some assessments in the Commissioner's report have been formulated without having analysed sufficiently the aims and objectives of the Judicial Reform Strategy as well as the will to achieve them.

Besides, most of the Commissioner's excessive criticisms targeting the Turkish judiciary reflect subjective assessments. Instead, observing and analysing its effects in practice would be a much more constructive attitude.

As regards human rights defenders and civil society;

Defining criminal investigations and prosecutions carried out by independent judicial authorities as "judicial harassment" cannot be reconciled with the notion of respect to law and independence of the judiciary.

Civil society in Turkey is developing and growing stronger day by day.

The Law on Associations No. 2908, which contained restrictions on the freedom of association, was repealed and replaced by Law on Associations No. 5253, which was prepared within the scope of alignment with the European Union acquis.

The right to establish an association, membership, freedom in their activities have been facilitated. Sanctions concerning associations and bureaucratic proceedings have been reduced.

These changes in the legislation concerning associations have given a significant impetus to civil society activities and increased both the numbers and capacities of NGOs.

In line with these developments, the General Directorate for Relations with Civil Society replaced the Department for Associations within the Ministry of Interior in 2018. Its duties were determined accordingly.²

These changes are intended to provide faster, efficient and quality service to non-governmental organisations, which are developing both in quantity and quality, with a more liberal perspective, contrary to the Commissioner's allegations.

Freedom of association in Turkey is guaranteed in the Constitution (Article 33). Respective legislation does not contain any provision which restricts freedom of association. The main legislation in this regard is the Law on Associations No. 5253 and the Turkish Civil Code No. 4721.

According to the legislation, associations are established without prior permission for the purposes that are not prohibited by the Constitution and the law and which do not constitute a crime. Freedom of association can only be restricted by law for the reasons of national security, public order, prevention of crime, public health and public morality and the protection of the freedom of others. Associations in Turkey operate in a wide range of fields such as education, environment, health, social services, advocacy of rights, women's rights and solidarity. Associations become legal entities without prior permission when at least seven real or legal persons submit the notification of its establishment, its statute and necessary documents to the highest local administrative authority of the domicile of the association. If there is no contradiction with law or deficiency in the statute as well as the legal status of their founders, associations may easily operate.

² Article 263 of the Presidential Decree No. 1, amended by the Presidential Decree No. 17, published in the Official Gazette dated 13.09.2018 and numbered 30534 and "Regulation on the Organisation and Duties General Directorate for Relations with Civil Society of the Ministry of Interior".

As regards donations, necessary permissions are provided to associations by the district governors and the governors in accordance with the Law on Collecting Donations No. 2860. Donations received through banks are entered by the associations in to the Information System of Associations (DERBIS).

With regard to the information system providing services to associations, the registered membership information is neither shared with third parties nor disclosed. Membership information can only be accessed by the member concerned by using electronic authentication methods via e-government. This practice does not thus damage the essence of the freedom of association as claimed in the report. To the contrary, it will enhance the credibility of the associations by paving the way for an accountable and a transparent association structure and contribute to the freedom of association.

As regards inspections, associations are informed of inspections at least twenty-four hours in advance. Inspections are conducted within working hours on subjects, which are clearly indicated together with their legal basis, in the Inspection Guideline on the website of the Directorate General for Relations with Civil Society. During the inspections, it is examined whether associations operate in line with the purposes provided in their statutes and whether they keep their books and records in accordance with the legislation. The matters regarding the duties and activities of the inspectors are set forth by the Regulation on Associations Inspectors and the Directive on Inspectors of the Ministry of Interior.

During inspections, inspectors are not involved in the affairs of associations. Inspectors cannot prevent or complicate their activities. Inspectors also may give guidance while conducting their inspection.

Entrance to and search in the premises of associations by law enforcement officers is only possible if the conditions prescribed by law are met, on the basis of the decision of the judge.

In the last three years, 0.42 % of associations throughout Turkey have been inspected. Out of the associations examined by inspectors in the said period, the rate of those operating in the field of advocacy of rights is 4.2 %. 85 % of these associations comprise women associations with public benefit status, which undergo an inspection every two years as stipulated by the Law on Associations. The Human Rights Association was inspected once in 2016 by inspectors.

As regards public benefit associations, the requirements to qualify for the status of public benefit association are listed in the Law on Associations No. 5253 as well as the Regulation on Associations. The same applies for European countries where NGOs are allowed to receive public benefit status when they meet the necessary legal requirements in their countries.

The requirements for associations to obtain public benefit status are set forth in Article 49 of the Regulation on Associations. The President of the Republic of Turkey does not have unlimited discretion in this regard.

The evaluation of applications of associations regarding funding is based on objective criteria. The process is transparent. Pursuant to the provisions of the Directive on Assisting Associations from the Budget of the Ministry of Interior, associations, their federations and confederations can apply for projects through the Project Support System (PRODES) between the dates announced on the official website www.siviltoplum.gov.tr.

These applications are examined by independent evaluators who are not the staff of the Ministry of Interior, according to the qualifications required for the project and the association in accordance with the rules specified in the said Directive and the project application guideline. The result of the evaluations is made public on the website until the end of February of the following year.

Moreover, no burden is imposed on associations within the scope of Article 21 “*Getting aid from abroad*” of the Law on Associations No. 5253. Only notification is required.

With regard to international NGOs operating in Turkey, there is no restriction in legislation on associations without prejudice to the provisions about the activities prohibited by law and which require permission.

As regards consultation of and partnership with civil society, the Turkish Government supports the activities of NGOs in order to promote the relations of NGOs with the public, to involve them in decision-making mechanisms and to provide effective and efficient services for society by strengthening public- civil society dialogue.

The Civil Society Advisory Board in the Directorate General for Relations with Civil Society will also provide another valuable opportunity for consultation with NGOs. On the local level, according to the Municipality Law, NGOs being represented in the City Councils is another good example for public-civil society dialogue. The Municipality Law also provides for the participation of NGOs in the Specialized Commissions and to present their opinions during the preparation of the Strategic Plan. Similarly, NGOs have been enabled to carry out joint projects with Provincial Special Administrations.

Public institutions cooperate with NGOs in the respective boards according to their legislation. NGOs such as local administrations, universities, trade unions, etc. are also being consulted during drafting of legislation.

As part of the SoE measures taken in the context of the 15 July coup attempt and fight against terrorism, a total of 1 385 associations have been closed down by decree-laws on the grounds of having connections to terrorist organisations posing a threat to national security.

Their closure was not due to their field of activities but their connection with terrorist organisations. Associations that have been closed down can apply to the Inquiry Commission on the State of Emergency Measures. In cases where the Commission decided in favour of the applicant, they continue to operate again and all their property and rights are returned. Therefore, the claim that this “amounts to a retroactive punishment based on a future requalification of an NGO as illegal” does not reflect the truth.

Regarding the enjoyment of the freedom of association, it is worth to mention that more than 30 million persons annually participate in meetings and demonstrations in Turkey and around 99.3 % of these activities are held safely and without any interference. Over the last five years, while the number of demonstrations rose 5 % and the number of people attending these demonstrations rose 24 %, the intervention rate dropped from 3.2 % to 0.7 %, which is a 78 % decrease. The intervention rate shows that peaceful and lawful activities are held without any obstacles.