



European Commission
Neighbourhood and Enlargement Negotiations
Att: Wolfgang Nozar
E-mail: Wolfgang.nozar@ec.europa.eu

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Observations on human rights in Turkey^x

The situation of civil and political rights in Turkey deteriorated in 2015-2016. Although the 1980 Constitution guarantees respect and protection of human rights, protection of some rights weakened in 2015-2016.¹ A range of human rights problems remained unsolved.

Some of the actions and statements of senior politicians – including President Recep Tayyip Erdoğan – led to erosion of the rule of law. In particular, the media and the judiciary were under pressure by the executive power.

The media faced unprecedented pressure; free expression online and offline suffered significantly.² A statement by leading independent journalists in Turkey on the 3 May 2016 World Press Freedom Day, capture the situation well:

“The conditions under which journalists now labour in Turkey worsen day by day to such an extent that the country now risks having a total blackout on public debate. Punitive measures and harsh restrictions increase geometrically so that the space left for independent journalism, and media pluralism is in danger of disappearing all together. This is not just the opinion of Turkish journalists. In its latest World Press Freedom Index, scrutinizing media in 180 countries, Reporters Without Borders (RSF) ranked Turkey as #151, marking yet another fall, this time with two points. ... The decline was found to be even more dramatic in the annual Freedom of the Press 2016 survey by Freedom House. Its survey over the past year marked a fall by six points, placing Turkey as 156th among 199 countries, again among those as 'not free'. ”³

The government, controlled by the Justice and Development Party (AK Party) and dominated by President Erdoğan, used the penal code, criminal defamation legislation, and the

^x The document is based on input from Norwegian Helsinki Committee (NHC) staff members Mine Yildirim and Mina Skouen. Ulas Korhan, intern with the NHC, made valuable written contributions. Gunnar M. Ekelove-Slydal, Deputy Secretary General, was responsible for the final version.

¹ The Constitution of Turkey refers to respect and protection of human rights in particular in articles 2, 14, 68, 81 and 103.

² Amnesty International (2016), Turkey Annual Report 2015/2016. Available at: <https://www.amnesty.org/en/countries/europe-and-central-asia/turkey/report-turkey/> [accessed in 24.02.2016] See also online platform for independent journalism P24, <http://platform24.org> [accessed in 18.03.2016]

³ <http://platform24.org/en/editorial/363/as-we---celebrate---the-world-press-freedom-day>

country's anti-terror law to punish critical reporting. Journalists faced growing violence, harassment, and intimidation from both state and non-state actors. The authorities continued to use financial and administrative leverage over media owners to influence coverage and silence dissent.

Academics that signed a petition in January 2016 calling for the government to stop breaches of human rights in the region and re-start a peace process have been detained.⁴

Less noticed, but equally serious for upholding democratic checks and balances, is the erosion of the independence of the judiciary. In 2014, the government took (to a large extent) control over the High Council of Judges and Prosecutors (HSYK). In this way it controls distribution of cases to different courts, appointment of judges and their career possibilities. There are many examples of HSYK actions against individual judges that breaches with rule of law principles and principles of the independency of the judiciary.

During the summer 2015, about 3 000 judges and prosecutors were transferred from courts and offices in big cities to small cities in the provinces, apparently for their unwillingness to follow the government's "instructions". Several judges and prosecutors have also been arrested, suspended or dismissed.

The "Kurdish opening process" reversed, leading to escalation of violence and a worsening human rights and security situation in South-East Turkey. Tens of Kurdish civilians were killed in clashes between Turkish security forces and the armed Patriotic Revolutionary Youth Movement (YDG-H), which in December 2015 became the Civil Protection Units (YPS) associated with the Kurdistan Workers' Party (PKK).⁵

In the following, the Norwegian Helsinki Committee (NHC) state some observations in particular concerning freedom of expression, the situation of the judiciary, freedom of religion or belief, lesbian, gay, bisexual, trans- and intersex persons (LGBTI) issues, the Kurdish question, and Turkey's handling of refugees.

Freedom of expression; media freedom

Opposition newspapers and media companies were seized, journalists were subjected to physical violence and some were imprisoned for exercising their freedom of expression.

⁴ AlJazeera (16.01.2016), Turkey detains academics over petition on Kurdish Issue by Umut Uras. Available at: <http://www.aljazeera.com/news/2016/01/turkey-detains-academics-petition-kurdish-issue-160115102329697.html> [accessed in 24.02.2016]

⁵ AlJazeera (10.09.2015), Tens of people were killed in Turkish town under curfew. Available at: <http://www.aljazeera.com/news/2015/09/tens-people-killed-turkish-town-curfew-150910141642397.html> [accessed in 24.02.2016] Some Turkish organisations reported frequently on the situation of the curfew areas although access for media and human rights defenders were blocked, see i.a. Mazlumder, <http://www.mazlumder.org/tr/main/yayinlar/yurt-ici-raporlar/3/curfew-imposed-on-cizre-town-of-sirnak-provin/1178> and the Human Rights Foundation of Turkey which reports daily on human rights issues, including in the curfew areas: <http://en.tihv.org.tr/category/gunluk-insan-haklari-raporlari/>

In October 2015, a court-appointed administration took over media outlets within the Koza-Ipek group. The company was accused of “giving financial support to the Fetullahist Terror Organization (FETÖ) and conducting its propaganda.”

This was followed by takeovers of other alleged “gülenist” media groups: Zaman and Cihan News Agency. On 4 March 2016 a trustee panel was appointed to Zaman media group. Only three days later, on 7 March Cihan News Agency was taken over by the same trustee.

The takeovers resulted in previously critical newspapers now becoming loyal to the government line. Yavuz Baydar, founding member of the Platform for Independent Journalism (P24), described it as a “nail in the coffin of journalism in Turkey”.⁶

The government’s hostile attitude towards critical media may also be seen as an important reason for an environment conducive to violence against editors and journalists. The newspaper Hürriyet’s office was assaulted twice in September 2015. Also a high level politician took part in these violent actions. “AKP MP Abrurrahim Boynukalın was filmed while delivering a fiery speech in front of the Hürriyet office [...] and explicitly threatening a prominent journalist Ahmet Hakan and Hürriyet editor-in-chief Sedat Ergün with physical attacks.”⁷

Hakan was later injured in an assault in front of his home after an intense slander in pro-government media against him.⁸

A main concern is that the hash reactions against critical reporting by high level politicians – including by president Erdogan – creates a climate of self-censorship among the members of media and outlets, and undermines development of high quality investigative journalism.⁹

Imprisonment of journalists in Turkey is another matter of concern. By the end of 2015, 28 writers and journalists were either in pre-trial detention or served prison sentences. Many of them were charged with or convicted for breaches of anti-terror legislation.¹⁰ More than 100 other journalists remained on trial, mostly for alleged national security offences.¹¹

The clearest example of government efforts at silencing individual journalists is the case of *Dündar* and *Gül*. In November 2015, Cumhuriyet editor-in-chief, Can Dündar, and the daily

⁶ The Telegraph (08.03.2016), In another blow to freedom of speech, Turkish authorities seize control of opposition news agency by Raziye Akkoc. Available at: <http://www.telegraph.co.uk/news/worldnews/europe/turkey/12187721/In-another-blow-to-freedom-of-speech-Turkish-authorities-seize-control-of-opposition-news-agency.html> [accessed in 10.04.2016]

⁷ Hurriyet Daily News (01.10.2015), Enough is enough, Hürriyet’s editor-in-chief says after assault on journalist. Available at: <http://www.hurriyetdailynews.com/enough-is-enough-hurriyets-editor-in-chief-says-after-assault-on-journalist.aspx?pageID=238&nID=89248&NewsCatID=339> [accessed in 08.03.2016]

⁸ *Ibid.*

⁹ European Commission (2015) Commission Staff Working Document – Turkey 2015 Report. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_turkey.pdf [accessed in 08.03.2016]

¹⁰ *ibid.*

¹¹ Pen International (2016) Turkey: Release journalist Can Dundar and Erdem Gül. Available at: <http://www.pen-international.org/newsitems/turkey-release-journalists-can-dundar-and-erdem-gul/?print=print> [accessed in 08.03.2016]

newspaper's Ankara bureau chief, Erdem Gül, were detained on terrorism charges. Prosecutors in the case asked for life-imprisonment and 30 years-imprisonment respectively on charges including obtaining and revealing state secrets "for espionage purposes", seeking to violently overthrow the Turkish government as well as aiding an "armed terrorist organisation".¹²

After 92 days in detention, on 26 February 2016, the journalists were released as the Turkish Constitutional Court stated that their pre-trial detention was unconstitutional.

The day after Dündar and Gül were released, "the TV channel IMCTV was taken off air, silencing the only national news channel reporting a counter view of the situation in south-eastern Turkey."¹³

In January 2016, a case was launched against two columnists on charges of inciting hatred in relation to the re-print of Charlie Hebdo caricatures. Several cases have been brought against journalists for reporting about the alleged corruption cases of December 2013. Opposition papers faced repeated refusals of accreditation for government events.¹⁴

Internet is another platform that is being restricted by the state. A PEN International report points out that, "Freedom of expression in the digital sphere has deteriorated dramatically in Turkey since the Gezi Park protests in March 2013." Amendments to legislation in March 2015 have increased the ability of authorities to quickly censor online material without a court order on a wide range of grounds.¹⁵

Erosion of independence of the judiciary

The erosion of democratic checks and balances in Turkey has not remained within the media sphere. It also hits the judiciary. Judiciary institutions in Turkey, including the Constitutional Court, which plays a vital role of protecting human rights in the country, were challenged in undue ways on several occasions by President Erdogan and other high-level politicians.

An important example of efforts at influencing court decisions is President Erdogan's statements after Dündar and Gül had been released by the Constitutional Court:

¹² Pen International (28.01.2016), Turkey: Cumhuriyet journalists Can Dündar and Erdem Gül facing life imprisonment. Available at: <http://www.pen-international.org/newsitems/turkey-cumhuriyet-journalists-can-dundar-and-erdem-gul-facing-life-imprisonment/> [accessed in 01.03.2016]

¹³ Amnesty International (04.03.2016), Turkey: Zaman newspaper taken over as government steamrolls press freedom. Available at: <https://www.amnesty.org/en/latest/news/2016/03/turkey-fears-of-zaman-newspaper-takeover/> [accessed in 08.03.2016]

¹⁴ European Commission (2015) Commission Staff Working Document – Turkey 2015 Report. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_turkey.pdf [accessed in 08.03.2016]

¹⁵ European Commission (2015), Commission Staff Working Document – Turkey 2015 Report. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_turkey.pdf [accessed in 08.03.2016]

“This incident has nothing to do with freedom of expression; it is a case of spying.”¹⁶
“... The Constitutional Court may have reached such a verdict. I will remain silent. I am not in a position to accept it [...] I do not obey it, nor do I respect it.”¹⁷

These statements, widely criticised by Constitutional law experts, contributed to undermining the respect for court decisions. According to the EU Progress Report 2015, “Political influence on judges and prosecutors and other law enforcement officers was a serious cause of concern as politicians continued to frequently publicly criticize and exert pressure on ongoing corruption investigations.”¹⁸ A president stating openly that he does not respect rulings of the country’s highest court, sets a remarkable bad precedent and increases further pressure on the courts to become loyal to the government line.

However, even more consequential on long-term developments are the large number of transfer of judges and prosecutors, as well as arrests, suspensions and even dismissals. In June and July 2015, about 3000 judges and prosecutors were transferred.

The background of these large scale attacks on the independence of judges and prosecutors is investigations starting in December 2013 of corruption among members of government and their families. After the government seized control of the High Council of Judges and Prosecutors (HSYK), the investigations were cancelled. All judges and prosecutors involved in the investigations have been dismissed. Zekeria Öz, a prosecutor with a central role in the investigations, has fled from Turkey in order to avoid being arrested.

On 27 April 2015, the HSYK decided on the suspension of Judges Başer and Özçelik of the Istanbul Criminal Court. Subsequently, both judges were arrested and detained on 30 April 30 and 1 May, respectively. Allegedly, the arrests were due to the rulings of the judges.¹⁹

Based on these and similar cases, the Norwegian Association of Judges, the Association of Jurists, and the Norwegian Lawyer’s Association argued in a letter to Norway’s Minister of Foreign Affairs, Borge Brende, that the Norwegian government should consider to raise an inter-state complaint against Turkey in the European Court of Human Rights.²⁰

The organizations argued that:

¹⁶ Hurriyet Daily News (29.02.2016), Erdoğan’s remarks on journalists’ release sparks parliamentary row. Available at: <http://www.hurriyetdailynews.com/erdogans-remarks-on-journalists-release-sparks-parliamentary-row.aspx?pageID=238&nID=95824&NewsCatID=338> [accessed in 29.02.2016]

¹⁷ Today’s Zaman (29.02.2016), Legal experts: Erdoğan acts unconstitutionally, clearly attempts to influence courts. Available at: http://www.todayszaman.com/national_legal-experts-erdogan-acts-unconstitutionally-clearly-attempts-to-influence-courts_413626.html [accessed in 01.03.2016]

¹⁸ European Commission (2015), Commission Staff Working Document – Turkey 2015 Report. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_turkey.pdf [accessed in 08.03.2016]

¹⁹ For more information on the arrests, and the view of the Council of Europe Bureau of the Consultative Council of European Judges, see: http://www.coe.int/t/dghl/cooperation/ccje/Cooperation/Comments%20of%20the%20CCJE%20Bureau%20on%20Turkey_2015.pdf

²⁰ Article 33 of the European Convention on Human Rights provides for the right of one or more member states to bring a complaint against another member state.

“The information available gives reason to conclude that courts in Turkey are under unacceptable pressure from the executive power, and that protection of human rights, which according to the European Convention on Human Rights is a primary national obligation, is not effective in Turkey. The general interest of protecting human rights may justify an inter-state complaint, in a similar way as the inter-state complaints Norway was behind in 1967 and 1970 against Greece, and against Turkey in 1982”.²¹

The fact that Norwegian judges and lawyers engage in this way, pointing to a consistent pattern of abuse against judges and prosecutors, underlines the severity of the situation.

Also the Bureau of the Consultative Council of European Judges (CCJE), underlines the seriousness of the situation.

“In dealing with these requests [related to the suspensions and arrests of Judges Başer and Özçelik], the bureau of the CCJE wishes to underline that it is in no position to examine or investigate the factual basis of the events which are alleged to have taken place as reported in the letter of Mr Yorulmaz and in further complaints and statements received, save insofar as they are undisputed as stated above. With this in mind, the CCJE wishes to recall that the fundamental principles of the separation of powers, of the independence of the judiciary and of the personal independence of judges and their irremovability are necessary pre-requisites for a democratic society that is governed by the rule of law.”²²

Freedom of religion or belief

The AK Party government that took power after the 1 November 2015 Parliamentary Elections inherited a range of freedom of religion or belief issues that needed to be solved. The NHC challenged authorities through statements and appeals, as well as in conferences and roundtable discussions, to develop a new reform agenda concerning human rights protection. In particular, the NHC pointed to the needs that various religious or belief communities have. They have for a long time been negatively affected by restrictions and discriminations for decades. If authorities fail to initiate a principled human rights approach to improve their situation, there is a concern that they will become ever more vulnerable as they continue their struggle to survive.²³

There are numerous old and new problems related to the exercise of freedom of religion or belief in Turkey that still await solutions. For years, including during recent attempts to draft a new constitution, different religious or belief groups have expressed demands that political actors find permanent solutions to their problems in a participatory and inclusive way.

²¹ The letter is available in Norwegian language only:

<http://www.juristforbundet.no/Documents/Situasjonen%20for%20dommere%20i%20Tyrkia.pdf>

²² Reference, see note 19 above.

²³ This part of the Observations is based on a NHC monitoring report, *Freedom of religion or belief in Turkey*, published on 25 November 2015:

http://www.nhc.no/no/nyheter/New+Monitoring+Report+on+the+Right+to+Freedom+of+Religion+or+Belief+in+Turkey.b7C_wlvGWa.ips For more documentation, see: <http://inancozgurlugugirisimi.org/en/>

International human rights protection mechanisms as well as Turkish court judgments have pointed to the need for Turkish legislation and practice to be brought into harmony with human rights standards on freedom of religion or belief. The post-election government faced the task of ensuring a true change for the better in this regard.

The myriad of problems that exist range from those expressed by religious or belief groups themselves to those pointed out by Turkish and international courts. Mandatory courses in Religious Culture and Ethics for schoolchildren, conscientious objection to military service, the slot for religion on national identification cards, the failure to recognize *cemevis* as official places of worship, and the state's general lack of impartiality when it comes to religious beliefs are just a few examples of such problems. The decisions passed by the European Court of Human Rights (ECtHR) with regard to freedom of religion or belief are not being enforced.

These issues, and many like them, continue to be the subject of individual appeals to the Turkish Constitutional Court. The government should take measures to solve such problems without delay.

There are, however, a number of positive steps that have been taken in recent years, including the amendment of the Law on Foundations and other efforts to protect the rights of non-Muslim communities or to remedy past injustices, and this should continue.

Further necessary measures include, first, the passage of a new law to replace Provisional Article 11 of the Law on Foundations, the narrow scope of which prevented certain properties from being returned to their owners, and second, the immediate adoption of a new Regulation of the Election of Board Members of Community Foundations.

At the point where freedom of expression meets freedom of religion or belief, there has been cause for concern, including the criminal prosecutions directed at the Association for Atheism and its members as well as hate speech directed at Christians and Jews. Incidents of hate speech are not isolated events, but have shown continuity over a long span of time.

In cases brought before the court, officials should not treat preservation of the majority belief system or its followers as an absolute priority, but should instead make decisions in accordance with Article 216(3) of the Turkish Penal Code and the jurisprudence set by the European Court of Human Rights.

Additionally, officials should consider these issues as multifaceted and not resort immediately to restrictions on freedom of speech unless such measures are absolutely necessary.

The changes, which have been made to the education system over the last years, require a more comprehensive analysis and amendment process when it comes to protecting freedom of religion or belief in schools. In addition to mandatory "Religious Culture and Ethics" classes – the issue which has been most widely discussed since it was brought before the European Court of Human Rights – the problems of freedom of religion or belief and state impartiality come up with equal frequency in optional religious education classes.

The facts that children exempted from “Religious Culture and Ethics” classes are at a disadvantage when it comes to the standardized high-school entrance exam (TEOG), that students can be automatically placed in “imam-hatip” religious training schools against their wishes, and that schools do not create a sufficient atmosphere for pluralism of religions or beliefs all show that there is a long way to go in protecting the right to freedom of religion or belief for children, parents, and teachers in the education system.

There is a need for reform, too, in the distribution of public financial resources among religious or belief groups within a framework of equality and impartiality. This has been a problem since the foundation of the Republic. Currently, religious services are treated as a public service, and they are financed from the general budget, particularly through the funds appropriated to the Directorate of Religious Affairs (Diyanet İşleri Bakanlığı). Thus, those faith-based groups which do not fall under the rubric of the Directorate of Religious Affairs are unable to benefit from such financing, outside of some symbolic contributions like the payment of electric bills for certain places of worship.

If a budget is to be set aside for religious services using public resources, a new model must be developed using a process of comprehensive consultation that will be able to share resources in a way that will benefit the religious or belief services of all belief communities.

To conclude, the need for sweeping reforms to solve Turkey’s old and new problems of freedom of religion or belief is clear. The government should be aware of the need for reforms. However, there are few signs of a new reform agenda in this field.

Human rights of lesbian, gay, bisexual, trans and intersex persons (LGBTI)

The human rights situation for lesbian, gay, bisexual, trans- and intersex persons (LGBTI) in Turkey is deteriorating. In the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) Europe’s Annual Report, Turkey is considered the fourth worst country out of the total 49 countries reviewed. This is due to lack of protection mechanisms, frequent attacks on LGBTI persons, brutality of hate crimes including murder and rape, assaults by police, high level of hate speech from political representatives and obstruction of and attacks on public events.

Police brutality during Istanbul Pride 28 June 2015, which differs significantly from successful similar events previous years, indicates less access to freedom of association. The police used rubber bullets, pressurized water and gas grenades to disperse the crowd, and journalists and participants were assaulted, hurt and detained.

After this event anti-LGBTI increased in the public sphere, with a poster campaign in Ankara during the first two weeks of July 2015 encouraging murder on LGBTI persons as a concrete example. Turkish authorities did not respond adequately to this campaign. During these same two weeks, on 5 July 2015, the human rights activist *Kemal Ördök* of the Red Umbrella Association was robbed and raped in his home. He was subject to harassment when reporting the incident to the police.

Reports of police brutality as well as unwillingness to investigate incidents of violence are frequent. Harassment in prisons are common, and the Minister of Justice, Bekir Bozdog (AK Party) has launched an initiative to establish a separate LGBTI-prison in Izmir as an attempt to combat such incidents. Other systematic measures have not been undertaken, and segregating LGBTI persons in one specific prison will likely lead to further stigmatization of the LGBTI community.

Our concerns extend in particular to the situation for gender minorities. Turkey is considered to be Europe's most dangerous country for trans persons, with the highest number of transphobic murders. In total 39 trans individuals were reportedly killed between 1 January 2008 and 10 October 2015 according to the Transgender Murder Monitoring Project (TMMP). The frequency is on increase since 2011.

The NHC knows of at least four murder cases after the end-date of TMMP's statistics: Nilay (Istanbul, 23 November 2015), Alev (Istanbul, 2 December 2015), Aleda (*Çorlu*, March 2016), and Buse (Istanbul, March 2016).

Statistics on transphobic murders refers only to reported cases. Many more cases may remain unknown. This is among other factors due to many trans individuals in Turkey being sex workers. Murder cases are registered as sex-work related crimes or not reported at all.

In general, the situation for Turkish sex-workers is difficult. Many suffer of violence from clients and the police, as well as from stigma and lack of access to adequate health services.

On a positive note, the European Court of Human Rights ruled in *YY v Turkey*, 10 March 2015, that sterilization should not be a precondition for legal gender recognition after gender affirmative procedures.

The Kurdish question

The last year was marked by halt of the Kurdish peace process and escalation of violence. Military operations in south-east of the country that were followed by curfews in some cities led to serious violations of human rights. There were several instances where the right to access to water and food, the right to medical treatment and even the right to life were violated.

Turkish authorities, however, did in general not accept these claims. They defended the actions and described the human losses as unfortunate but unavoidable. The escalation of conflict had consequences for the wider human rights situation in the country. In particular freedom of expression and political pluralism were undermined.

Efforts are underway to temporarily remove immunity of Members of Parliament. This will influence all four parties represented in the Parliament, as investigations are underway against 138 MPs (of a total of 550 MPs) belonging to all parties. However, the most serious charges, including supporting terrorism, will target only MPs from the pro-Kurdish People's

Democratic Party (HDP). There are widespread concerns that weakening HDP in the Parliament may contribute to strengthening the Kurdistan Workers Party (PKK) on the battlefield.

The resurgence of violence by PKK and the government's military response brought the peace process to a complete halt by July 2015. The government initiated military attacks on inner-towns in South East Turkey that had been occupied by PKK-loyal forces, and imposed blanket curfews on several towns and districts in the region. The fighting and the curfew led to extensive losses of life.

Under the curfew, the remaining local population had to live in very harsh conditions. According to Human Rights Watch, in Sur, Diyarbakir "The populations of entire neighbourhoods have had their water and electricity cut during state-imposed curfews and have been left without access to food. Many have fled their homes to escape fighting."²⁴ Similar conditions were experienced in Cizre, Silvan, Nusaybin and other towns. People were often deprived of their right to access medical treatment.

Local human rights groups have recorded well over 100 civilian deaths and multiple injuries.²⁵ Turkish authorities failed to accept the deaths of ordinary citizens and claimed the bodies were belonging to members of the separatist terrorist organization. Authorities also failed to carry out proper investigations.

The military operations drew attention from Turkish and international academics. Staff from 90 Turkish universities calling themselves *Academicians for Peace* signed a petition calling for an end to the military campaign against the Kurds and criticising the government of breaching international law.²⁶

On 11 January 2016, 27 academics were arrested for signing the statement.²⁷ They were detained over alleged terror propaganda. Even a British academic in Istanbul was detained on suspicion of supporting terrorism hours after the Turkish president said terrorism should be redefined to include those who support it.²⁸

These developments are having a further chilling effect on legitimate political discourse across the Turkish society regarding the Kurdish issue.

²⁴ Human Rights Watch (22.12.2015), Turkey: Mounting Security Operations Deaths. Available at: <https://www.hrw.org/news/2015/12/22/turkey-mounting-security-operation-deaths> [accessed in 09.03.2016]

²⁵ *ibid.*

²⁶ The Guardian (15.01.2016), Turkey rounds up academics who signed petition denouncing attacks on Kurds. Available at: <http://www.theguardian.com/world/2016/jan/15/turkey-rounds-up-academics-who-signed-petition-denouncing-attacks-on-kurds> [accessed in 01.03.2016]

²⁷ The Guardian (15.01.2016), Turkey rounds up academics who signed petition denouncing attacks on Kurds. Available at: <http://www.theguardian.com/world/2016/jan/15/turkey-rounds-up-academics-who-signed-petition-denouncing-attacks-on-kurds> [accessed in 10.04.2016]

²⁸ The Telegraph (16.03.2016), British academic accused of 'making terrorist propaganda'. Available at: <http://www.telegraph.co.uk/news/worldnews/europe/turkey/12194590/British-academic-detained-in-Turkey-accused-of-making-terrorist-propaganda.html> [accessed in 11.04.2016]

The refugee crisis

Turkey is home to the world's largest population of Syrian refugees; the total number being more than 2,7 million.²⁹ About 300.000 Syrian refugees are living in one of the 25 state-run camps.³⁰ Many cities have seen a dramatic influx of Syrians. Kilis, a town of 90,000 people located a few miles north of the Syrian border, has welcomed 120,000 Syrians.³¹

Even if many refugees have access to free health care and education for their children, the large numbers result in many being left without such access. According to estimates, 400 000 children did not have access to education.³² The situation of many refugees remains dire as many of them suffer from unlawful practices and experience human rights violations.

Due to significant shortcomings in Turkey's asylum system and numerous reports of human rights violations, human rights organizations criticised the EU deal with Turkey and the concept that Turkey is a safe country of asylum. Due to the military conflict between the government and the PKK in the South East of Turkey, there are about 350 000 internally displaced persons in the region.³³

In this context, the NHC as well as a range of Turkish and international human rights and refugee organisations held that, "Resettlement can be a very helpful supplement to asylum but can never be a substitute for the right to seek asylum."³⁴

The situation of Syrian refugees in Turkey is extremely vulnerable for several reasons. Most of them hold only temporary residency status (to be fair: a step up from their former "guest" status). According to the UNHCR, 90 percent of refugees arriving in Turkey so far in 2016 come from three of the world's top refugee producing countries: Syria, Afghanistan, and

²⁹ The number of refugees from Syria in Turkey was announced to be 2.733.784 by Turkey's deputy prime minister, Yalcin Akdogan, on 10 March 2016.

³⁰ "[Former] Prime Minister Ahmet Davutoglu recently said that Turkey has spent about US\$10 billion on the Syrian refugees living in the camps since 2011, whereas US\$20-25 billion more was spent on those living outside the camps." – Human Rights Watch (03.03.2016) Q&A: The EU-Turkey Deal on Migration and Refugees. Available at: <https://www.hrw.org/tet/node/287301> [accessed in 16.03.2016]

³¹ Al-Jazeera (13.03.2016), Mayor of Turkey's Kilis backs Nobel Prize bid. Available at: <http://www.aljazeera.com/news/2016/03/refugees-turkish-town-nominated-nobel-peace-prize-160313051826931.html> [accessed in 14.04.2016]

³² Human Rights Watch (08.11.2015), When I Picture My Future, I See Nothing. Barriers to Education for Syrian Refugee Children in Turkey. The report is available at: <https://www.hrw.org/node/282910/> [accessed in 10.04.2016]

³³ The Guardian (03.03.2016), Sur, Turkey: residents pay price of violence as curfew enters fourth month, <http://www.theguardian.com/world/2016/mar/03/turkish-police-kurd-activists-clash-diyarbakir-curfew> [accessed in 18.03.2016]

³⁴ Human Rights Watch (15.03.2016), EU: Turkey Mass-Return Deal Threatens Rights. Available at: <https://www.hrw.org/news/2016/03/15/eu-turkey-mass-return-deal-threatens-rights> [accessed in 15.04.2016]

Iraq. “Turkey does not, however, provide effective protection to any of these nationals, or indeed to any non-European refugees.”³⁵

Many of the Syrians face continuing barriers to employment which is interconnected with many other problems they experience in the society. By the end of 2015, an expert from the Centre for Middle Eastern Strategic Studies (ORSAM) estimated that approximately 250,000 Syrians was working illegally in Turkey.³⁶ According to The Guardian, a British newspaper, “Many reports of illegal working come from the garment sector, the country’s second largest industry.”³⁷

The economic conditions do not only affect the adult migrants but also children. According to reports by human rights organisations, child labour became “rampant” among the Syrian population. A Human Rights Watch report concludes that “many families are dependent on their children’s income because parents cannot make a fair wage without labour protections.”³⁸

In January 2016, Turkey announced to grant working permits to Syrian refugees. New regulations on work permits would certainly have helped to lessen frustration among refugees. However, statistics of April 2016 highlights how the new law, enacted in January, does not offer blanket access to the labour market for all Syrians in Turkey.³⁹

Human Rights Watch has documented push-backs at the Syrian border, and Amnesty International has documented unlawful detention and deportations to Syria and Iraq. Turkey has detained, denied access to asylum procedures and forcibly returned about 30 Afghan asylum-seekers to Afghanistan despite their credible protection needs.⁴⁰

Shooting of refugees making efforts to access Turkey’s territory is another serious concern. The UK-based monitoring group Syrian Observatory for Human Rights said it has gathered evidence detailing cases of 16 migrants shot dead as they attempted to cross the border from Syria into Turkey. They believe the true number is much higher.⁴¹

³⁵ Human Rights Watch (03.03.2016), Q&A: The EU-Turkey Deal on Migration and Refugees. Available at: <https://www.hrw.org/news/2016/03/03/qa-eu-turkey-deal-migration-and-refugees> [accessed in 05.04.2016]

³⁶ Reuters (04.12.2016), Cheap and illegal, Syrian workers show underside of Turkey’s refugee crisis. Available at: <http://www.reuters.com/article/us-mideast-crisis-refugees-turkey-idUSKBN0TN1DA20151204> [accessed in 15.04.2016]

³⁷ The Guardian (29.01.2016), Hidden child labour: how Syrian refugees in Turkey are supplying Europe with fast fashion. Available at: <http://www.theguardian.com/sustainable-business/2016/jan/29/hidden-child-labour-syrian-refugees-turkey-supplying-europe-fast-fashion> [accessed in 15.04.2016]

³⁸ Human Rights Watch (08.11.2015), *Op.cit.* Available at: <https://www.hrw.org/node/282910/> [accessed in 10.04.2016]

³⁹ The Guardian (11.04.2016) Fewer than 0.1% of Syrians in Turkey in line for work permits. Available at: <http://www.theguardian.com/world/2016/apr/11/fewer-than-01-of-syrians-in-turkey-in-line-for-work-permits> [accessed in 15.04.2016]

⁴⁰ Amnesty International (23.03.2016) TURKEY ‘SAFE COUNTRY’ SHAM REVEALED AS DOZENS OF AFGHANS FORCIBLY RETURNED HOURS AFTER EU REFUGEE DEAL. Available at: <https://www.amnesty.org/en/press-releases/2016/03/turkey-safe-country-sham-revealed-dozens-of-afghans-returned/> [accessed in 17.04.2016]

⁴¹ Vice News (01.04.2016) Turkey Is Shooting Refugees and Illegally Sending People Back to Syria, Say Rights Groups. Available at: <https://news.vice.com/article/turkey-is-shooting-refugees-and-illegally-sending-people-back-to-syria-say-rights-groups-1> [accessed in 18.04.2016]

The refugee deal between EU and Turkey leads to forceful expulsion of refugees under the name of preventing irregular migration from Turkey to EU. Many individuals faced detention and deportation after the agreement entered into force.⁴² The agreement certainly have a high price for many refugees.

The EU needs to step up efforts to ensure that the refugees are treated according to international standards by Turkish authorities.

Conclusions

The above NHC observations on human rights issues in Turkey are by no means exhaustive. They point, however, to some of the main issues that the EU needs to address in negotiations with Turkey; with a view to change legislation and policies that impeded progress on human rights.

Many of the issues are consequences of the current intense power-struggle in the country. Politics have become extremely polarised. The independence and well-functioning of important democratic institutions have been undermined.

Due to the unrestrained struggle for power, strengthening of respect for fundamental freedoms – of expression, organisation, religion or belief, etc. – is very difficult to achieve. The political forces of Turkey need to adhere to democratic ways of competing for power. The government and the leadership of the governing party – the AK Party – has a major role in showing a good example in this respect.

A number of law provisions, such as those on defamation and Article 314 of the Criminal Code on membership of an armed organization, are currently being used to prosecute journalists, such as Can Dündar and Erdem Gül. Legislation criminalising opinions undermine pluralism and freedom of speech, which are basic prerequisites of a viable democracy. They should be repealed.

LGBTI persons suffers from social stigma, police brutality as well as lack general lack of rights protection. Better legislation and policies are needed in order to improve their situation. Strengthening respect and protection of the rights of sexual minorities should become an integral part of the human rights agenda of the authorities.

Re-starting the peace process with the Kurdish community should be a matter of priority. Efforts of undermining HDP, which represents the peaceful part of the Kurdish political movement, should be abandoned and replaced by political dialogue.

Investigating claims that civilian deaths in the fighting between security forces and the PKK in South East cities amounts to human rights and humanitarian law violations, should be given priority. Turkey is under international obligations to initiate effective investigations of such serious cases.

⁴² Amnesty International (2016) Turkey Annual Report 2015/2016. Available at: <https://www.amnesty.org/en/countries/europe-and-central-asia/turkey/report-turkey/> [accessed in 24.02.2016]

Refugees have rights. Currently in Turkey, this is not the case. A rights based approach to solve refugee issues is desperately needed in order to improve the handling of the refugee crisis.