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## Honouring of obligations and commitments by Turkey

### Information note following the visit to Istanbul and Ankara (28-30 March 2018)

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#### I. Introduction

1. In its [Resolution 2156](#) on the Functioning of democratic institutions in Turkey of April 2017, the Parliamentary Assembly decided to reopen the monitoring procedure and engage in a reinforced dialogue with Turkey. In June 2017, the Monitoring Committee appointed us as co-rapporteurs for the monitoring of Turkey. Since then, we have followed the developments in Turkey and proposed to the Monitoring Committee to organise an exchange of views on the Implementation of Resolution 2156 (2017). This exchange of views took place on 13 March 2018 in Paris, with the participation of Mr Hacı Ali Açıkgül, Director of the Department of Human Rights at the Ministry of Justice; Dr. Mücahit Aydın, Rapporteur of the Constitutional Court; Mr Christos Giakomopoulos, Director General of Human Rights and Rule of Law of the Council of Europe; Mr Öztürk Türkdoğan, President of the Association for Human Rights (IHD) of Turkey; and Ms Berceste Elif Duranay, Head of the External Relations Unit of the Association of Law and Change. This meeting provided updated information to the Committee members on current developments in Turkey.

2. On 28-30 March 2018, we paid a visit to Istanbul and Ankara, our first visit as co-rapporteurs for the monitoring of Turkey. The programme of the visit is appended. At the end of our visit, we issued a statement that has been attached in Appendix II. We would like to thank the Turkish delegation for organising the visit. We would also like to thank Estonian Ambassador H.E Ms Marin Mõttus for organising an exchange of views with representatives of the diplomatic community.

3. However, we regret that we were not able to visit detained parliamentarians. This request has now been turned down, or not accepted, for the third time. Furthermore, we were not able to meet the newly established Council of Judges and Prosecutors to discuss the justice administration and the independence of the justice system. This information note reflects the information collected on the spot, and subsequent developments until early parliamentary and presidential elections were called in April 2018.

#### II. Background information and recent political developments

##### a. *Regional and international context*

##### i. *Recent developments of the Syrian conflicts pertaining to Turkey*

4. Since April 2017, Turkey has been increasingly involved in the Syrian conflict. In January 2018, and following the announcement that the United States would arm the Kurdish Syrian “People’s Protection Units” (YPG)<sup>2</sup> in northern Syria and could possibly support the setting up of a 30 000 people militia, the “Afrin

<sup>1</sup> Document declassified by the Monitoring Committee at its meeting on 26 June 2018.

<sup>2</sup> The YPG is considered as a branch of the Kurdistan Workers’ Party (PKK), and thus as a terrorist organisation by Turkey. The YPG is part of a US backed coalition fighting Daesch in Syria.

Operation” was launched to increase national security at Turkish borders.<sup>3</sup> There had been a number of missiles launched from Syria which had hit the bordering districts of Hatay and Kilis. The Turkish military intervention was supported by all political parties, except the Peoples’ Democratic Party (HDP), and by a large majority of the population, according to polls. Opponents of this military intervention have faced serious consequences (see below, freedom of expression).

5. The Turkish authorities also signaled that the Afrin Operation would speed up the return of Syrian refugees (350 000 according to the Prime Minister). There are currently between 3 and 4 million Syrian refugees in Turkey<sup>4</sup>, and the Assembly has on several occasions praised the efforts undertaken to accommodate refugees since the Syrian conflict broke out.<sup>5</sup> However, there are also tensions, and rising hostility from the host community towards Syrian refugees<sup>6</sup>. While 55 000 Syrian refugees, including 25 000 children, were granted Turkish citizenship so far, 300 000 Syrian babies born in Turkey are stateless.<sup>7</sup>

6. Turkey is actively involved in diplomatic attempts to bring the Syrian conflict to an end; it is one of the guarantor countries (together with Russia and Iran) of the Astana process which brokered a ceasefire deal passed on 24 February 2018 at the UN Security Council (but is not implemented).

*ii. Co-operation with the Council of Europe*

7. In November 2017, the Turkish authorities announced that Turkey would no longer be a major contributor to the Council of Europe budget as from 1 January 2018.<sup>8</sup> In their public statements, the authorities announced that this decision was taken as a result of the Assembly awarding the Václav Havel Human Rights Prize 2017 to Murat Arslan, the former chair of the Judges and Prosecutors Union (YARSAV) who is currently detained on terror-related charges by the Turkish authorities, as well as the decision of the Assembly to re-open the monitoring procedure with regard to Turkey. However, according to some interlocutors, other reasons, not related to these Assembly decisions, equally played a role in the decision of the Turkish authorities to renounce major contributor status. We deeply regret this decision of the Turkish authorities, only two years after becoming a major contributor at their own request, which has had a considerable impact on the work of the Council of Europe as a whole, including its co-operation with Turkey.

*iii. Relations with the Union European*

8. The accession to the European Union remains a strategic objective for the Turkish diplomacy. Discussions have been ongoing with the European Union. At the Varna Summit (26 March 2018), a number of issues related to accession talks, including visa liberalisation and upgrading of the customs union (an important issue in the current economic context<sup>9</sup>) have been discussed, without reaching an agreement. As far as visa liberalisation is concerned, Turkey has been requested to comply with some remaining benchmarks identified in 2016, including the review of its law on the protection of personal data, and of its anti-terrorism legislation – which the Minister of Justice has ruled out<sup>10</sup>.

9. However, due to the current context and issues pertaining to the respect of fundamental freedoms, the relations with the European Union have remained difficult. The European Parliament had called in November 2016 to initiate a temporary freeze of the accession negotiations with Turkey.<sup>11</sup> In view of the situation as

<sup>3</sup> The Parliamentary Assembly organised in January 2018 a current affairs debate on “the Turkish military intervention in Syria”.

<sup>4</sup> According to the latest figures of the Turkish authorities, there are 4.3 million refugees in Turkey (3,4 million reside under temporary protection, 600 000 have residence permits). See also: <https://www.migrationpolicy.org/print/15967#.WqulR38h1aQ>

<sup>5</sup> This was the case end of May 2018 after the visit of PACE rapporteur Tineke Strik (Netherlands, SOC). See [Ms Strik's statement](#) of 4 June 2018: “A rapporteur praises Turkey’s great efforts to manage 3.6 million migrants”.

<sup>6</sup> See the [Report Nr. 248](#) of the International Crisis Group, Turkey’s Syrian Refugees: Defusing Metropolitan Tensions, 29 January 2018.

<sup>7</sup> <http://www.hurriyetdailynews.com/more-than-300-000-stateless-syrian-babies-born-in-turkey-refugee-subcommittee-128494>

<sup>8</sup> In 2015, Turkey had decided to become a major contributor, increasing its annual payment to the Council of Europe budget from 14 million euros in 2015 to 34 million euros in 2016.

<sup>9</sup> Despite a 7.4% GDP increase in 2017, the annual inflation rate reached 12,5% in June 2018. The Turkish Lira had lost 17% of its value against the dollar between January 2018 and mid-May 2018.

<sup>10</sup> [Interview](#) of Abdulhamit Gül, Minister of Justice, 4 June 2018.

<sup>11</sup> European Parliament resolution of 24 November 2016 on EU-Turkey relations.

regards democracy, rule of law, human rights and press freedom, the European Union pre-accession funds for Turkey were cut by €105 million until the country makes "measurable sufficient improvements" in these fields.<sup>12</sup> The European Commission issued for its part, on 17 April 2018, a "report on Turkey"<sup>13</sup> which was critical in the field of rule of law, fundamental freedoms and political criteria. The European Council also strongly condemned Turkey in March 2018 for its actions in the Eastern Mediterranean and the Aegean Sea. Relations with Greece were further strained by the asylum sought by (and granted to) eight Turkish officers who had fled to Greece after the failed coup, followed by the detention of two Greek servicemen in Turkey, who had allegedly trespassed on a restricted military zone on Turkey's territory.<sup>14</sup>

*b. Post 2016 failed coup developments: on-going state of emergency and restrictions to fundamental freedoms*

10. During our visit, we reiterated our strong condemnation of the failed coup, which remains a profound trauma in Turkish society. We met a group of victims of the coup in Ankara; they had stood up against the coup plotters, responding to the call made by President Erdoğan. Many of these victims were still suffering from their injuries. We stressed that all those responsible should be brought to justice, have a fair trial and be held accountable for their crimes.

11. Since the failed coup, Turkey is going through extraordinary times:

11.1. Turkey has been under the state of emergency for almost two years: The Turkish authorities extended the state of emergency for the 7<sup>th</sup> time on 24 April 2018. The Assembly reiterated in April 2018 its call to the Turkish authorities to lift the state of emergency, which should be limited in time and scope.<sup>15</sup>

11.2. Since July 2016, 31 decree-laws had been issued and had now been approved by the parliament. Mr Comte (Switzerland, ALDE), PACE rapporteur on "State of emergency: proportionality issues concerning derogations under Article 15 of the European Convention on Human Rights", recently provided an in-depth analysis of the decree-laws, underscoring the lack of parliamentary scrutiny or control of state authorities, the wide range of issues covered and the strikingly high number of individuals and bodies affected by the emergency measures and their impact on the functioning of democratic and judicial institutions.<sup>16</sup>

11.3. Post-coup action undertaken by the authorities has become crosscutting, targeting not only alleged followers of the Gülen Movement<sup>17</sup>, but also leftists, trade unionists, NGO activists, environmentalists, anti-war activists, and many opposing the action of the President or the authorities. Since the introduction of the state of emergency, over 150 000 people were taken into custody, 78 000 were arrested and over 110 000 civil servants were dismissed whilst, according to the authorities, some 40 000 were reinstated of which some 3 600 by decree-laws.<sup>18</sup> The Human Rights Joint Platform (IHOP) released in April 2018 detailed figures about the decree-laws, the dismissed civil servants and academicians, the closed associations and media, and all other measures and procedures undertaken by law enforcement agencies under the State of Emergency in Turkey, which give an overview of this far reaching process.<sup>19</sup>

11.4. Since the failed coup of 15 July 2016, nearly 600 convicts linked to the Gülen Movement (labeled since 2016 the "Fetullah Terrorist Organisation" (FETÖ) by the authorities) have been given life sentences.<sup>20</sup> Hundreds of military staff members and civil servants fled the countries and sought asylum.<sup>21</sup>

<sup>12</sup> <http://www.consilium.europa.eu/en/press/press-releases/2017/11/30/2018-eu-budget-adopted/>, 30 November 2017.

<sup>13</sup> Turkey 2018 Report, [SWD\(2018\) 153 final](#), 17 April 2018.

<sup>14</sup> <https://www.naftemporiki.gr/story/1334770/hurriyet-erdogan-links-issue-of-2-greek-servicemen-with-8-turkish-officers-seeking-asylum-in-greece>.

<sup>15</sup> See [Resolution 2209 \(2018\)](#) on "State of emergency: proportionality issues concerning derogations under Article 15 of the European Convention on Human Rights" and [Doc 14506](#). Rapporteur: Mr Raphael Comte, Switzerland, ALDE.

<sup>16</sup> See [Doc 14506](#), para. 69-95.

<sup>17</sup> This Movement was labelled a terrorist organisation by the Turkish authorities in 2014. It is also known as "FETÖ/PDY", i.e. the "Fethullahist Terrorist Organisation"/"Parallel State Structure".

<sup>18</sup> Figures released by the European Commission, [SWD\(2018\) 153 final](#).

<sup>19</sup> IHOP, Updated [Situation Report](#)- State of Emergency in Turkey 21 July 2016 – 20 March 2018, Publishing Date: 17 April 2018.

<sup>20</sup> Data compiled by Anadolu Agency, <https://aa.com.tr/en/todays-headlines/nearly-600-feto-convicts-get-life-terms-in-turkey/1097130>, 23 March 2018. 805 suspects charged, 592 were convicted and given life sentences as part of these 106 cases. Among them were 22 former generals, 166 officers, 31 petty officers, a sergeant, 17 military students and four

12. We met the Inquiry Commission created in January 2017. This Commission is entrusted with reviewing the complaints of civil servants objecting to their dismissal, and of associations objecting to their forced closure. We were informed that 230 staff members were working and reviewing 900 cases per week. Applications could be lodged until 12 March 2018; civil servants who were dismissed afterwards have 60 days to apply. The Commission had received 107 000 applications. We noted that all decisions were taken by consensus and that there had never been a tie result (one of position (out of 7) was vacant at the time of our visit). The Commission was working in a professional manner. However, due to its composition (7 high level magistrates and civil servants, and a Commission being chaired by the Undersecretary of the Ministry of Justice), we felt that this commission was unlikely to reverse decisions taken previously by authorities. As a matter of fact, only 100 people had been reinstated out of 6400 applications examined, and it would take about three years to review all applications. There are a number of other criticisms that were addressed to this Inquiry Commission<sup>22</sup> and, generally speaking, dismissed civil servants or leaders of closed NGOs we met expressed their lack of confidence in and limited expectations from this Commission. They were aware that their application would indeed open legal remedies, but this process would take a long time, with long-lasting consequences for their professional and personal lives in the meantime.

### III. Democracy

#### a. Latest developments related to electoral legislation and election environment

13. The political agenda was dominated by the amendments to the election law adopted on 16 March 2018. All parties, except the Justice and Development Party (AK Party), raised concerns about this new law, which was maintaining the 10% threshold (the highest in Europe, which has been criticised for many years by the Assembly) and gave the possibility for political parties to form pre-election coalitions, a novelty in the Turkish election system. This draft law was proposed after the AK Party and the Nationalist Movement Party (MHP)<sup>23</sup> reached an agreement, and decided to form a coalition for the parliamentary elections. In the context of this agreement, the MHP announced that it would support the candidate of the AK Party, namely Mr Erdoğan, and not present its own candidate for the presidential elections.

14. The concerns expressed by most of the political parties related to election security issues (with possible transfer of ballot boxes and possible presence of police forces in polling stations) and to the composition of the electoral boards (the chair would now be appointed by the authorities). The use of unstamped ballot papers, which had been declared valid at the last minute by the Supreme Board of Election during the April 2017 referendum, would now become legal. We were quite puzzled by this decision, which is lifting a measure meant to be an electoral safeguard. We wondered whether, in these circumstances, there was any point in stamping ballot papers at all. Seven provisions of the electoral laws which were seen as undermining election security were challenged by the opposition to the Constitutional Court.<sup>24</sup>

15. We also regretted that the shortcomings identified by the PACE observers over the last years in the field of media coverage, blurring of state and party resources or funding of political parties were left unaddressed, as confirmed recently by GRECO in its December 2017 report.<sup>25</sup>

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engineers who were given aggravated life sentences. Six other former generals, 109 officers, 46 petty officers, 51 expert sergeants, 50 military students and five policemen were also given life imprisonment.

<sup>21</sup> 8,480 Turkish nationals claimed asylum in Germany in 2017, 5000 were rejected (<https://www.turkishminute.com/2018/02/17/report-8480-turkish-citizens-sought-asylum-in-germany-in-2017/>). Since the failed coup, more than 15 000 Turkish citizens applied for asylum in Germany, including a thousand diplomats and civil servants (<http://www.dw.com/en/turkish-diplomats-and-civil-servants-among-asylum-claimants-since-2016-failed-coup/a-43217296>). The Netherlands accepted 73% of the nearly 500 asylum applications received.

<sup>22</sup> See [Doc 14506](#), para. 92.

<sup>23</sup> Following the split of the MHP (and the creation of the IYI Party), the MHP was, according to concurring polls, unlikely to reach the 10% threshold.

<sup>24</sup> On 31 May 2018, the Constitutional court rejected the appeal.

<sup>25</sup> Report on the Fourth Evaluation Round, Corruption prevention in respect of members of parliament, judges and prosecutors, published on 15 March 2018 ([GrecoRC4\(2017\)16](#)). See also [Press release of GRECO](#): "Turkey: Council of Europe anti-corruption watchdog concerned about lack of judicial independence as well as transparency of the legislative process and political financing" (15 March 2018). GRECO also stressed that "the transparency of the legislative process in Parliament remains a major concern. A detailed code of ethics for MPs is also still needed, but a draft Law on Ethical

16. The Assembly had, in its Resolution 2156 (2017), highlighted the fact that a set of measures, such as stripping of immunity, detention of MPs, arrest of HDP officials etc, had disproportionately affected the HDP. The HDP interlocutors confirmed that the situation had not improved. On the day of our visit, the Interparliamentary Union (IPU) expressed its concerns “at the allegations of widespread and systematic violations of the rights of opposition parliamentarians belonging to the HDP”, with over 600 criminal and terrorism charges brought against them, and at least 14 of them having received prison sentences”.<sup>26</sup> 9 parliamentarians from the HDP were in prison at the time of our visit, as well as one Republican People’s Party (CHP) MP (and journalist). 11 MPs (all from the pro-Kurdish HDP party) had been stripped of their parliamentary mandates, most of them because they have been convicted on terror-related charges (or for “insult to the President”), or because they had been absent from parliament for more than a year.

17. Another development was the creation, in October 2017, of a new party – the Good (IYI) Party, which split from the MHP, led by Ms Meral Akşener, an experienced politician, former Minister of Interior (1996-1997) and former Deputy Speaker of parliament (2007-2015). At the time of our visit, five MPs (one from CHP, 4 from MHP) had joined this new party. Their representatives explained that the party, which is nationalistic and liberal conservative, aimed at becoming an alternative political choice to the AK Party which had been in power for 15 years, and opposed the presidential system (which had been backed by the MHP).

18. During our visit, we reiterated our concerns about the detention of parliamentarians and called for their release. We deeply regretted that access to these MPs by PACE members has been repeatedly denied. We were informed that MPs were not detained or arrested for speeches held in the parliament, but outside, and these were then considered as a “support to a terrorist organisation”.<sup>27</sup> We cannot subscribe to such views which contradict the very nature of our work as parliamentarians in our constituencies.

#### *b. Civil society*

19. We had several meetings with civil society activists; their activities remain severely affected by the state of emergency and the current climate; there are fewer and fewer of them able to voice the interests and fundamental rights of citizens. Some were considering leaving the country. Many others, who have been dismissed from their jobs and left without a passport, had no professional or personal perspective. They were condemned to a “civilian death”, and even, some said, to “starvation” (since there is no way they can find a job; they can’t leave the country; and the whole family is impacted).<sup>28</sup>

20. We also felt that journalists and NGO activists had been very optimistic about the ability of the European Court of Human Rights to redress the violations of their fundamental rights; at the same time, they were becoming sceptical about the Court’s ability to deliver prompt and strong decisions. We regretted that we could not visit Taner Kiliç, Chair of Amnesty International Turkey, who has now spent more than a year in prison on unsubstantiated grounds and who should be released.

### **IV. Human Rights**

#### *a. Freedom of expression and of media*

##### *i. Freedom of expression*

21. Freedom of expression and of media was one of the main focuses of our visit. Since April 2017, we have issued several statements on that subject, calling for the release of human rights defenders arrested in Büyükada ([7 July 2017](#)) and the dropping of charges ([13 October 2017](#)), welcoming the release of eight of them ([27 October 2017](#)), while reiterating their call for an immediate release of Amnesty International Turkey Chair

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Conduct of MPs, which has been tabled in Parliament, may be seen as a first step to providing appropriate guidance to MPs on their conduct and obligations concerning conflicts of interest (such as gifts, contacts with third parties and lobbying).”

<sup>26</sup> IPU [Press release](#), 28 March 2018.

<sup>27</sup> On 4 January 2018, the MP İdris Baluken was sentenced to 16 years and 8 months of prison for “Disrupting unity of the state and integrity of the country”, “Being a member of a terrorist organisation” and “Propagandising for a terrorist organization”.

<sup>28</sup> For the situation of NGOs in Turkey, see also Doc 14570 “New restrictions on NGO activities in Council of Europe member states”. Rapporteur: Yves Cruchten (Luxembourg, SOC).

Taner Kilic (and members of the Turkish Medical Association) on [30 January 2018](#), and again on [2 February 2018](#) in a joint statement with PACE rapporteur on Protecting human rights defenders in Council of Europe member states Egidijus Vareikis (Lithuania, EPP/CD).

22. During our visit, we witnessed a further deterioration of freedom of expression. The trials of the Academicians for Peace, who signed in January 2016 a petition opposing the policy conducted in southeast Turkey, have started.<sup>29</sup> Criticism expressed (notably on social media) against the Operation Olive Branch launched on 20 January 2018 had resulted in new waves of arrests and detentions. The week before our visit, students at the Boğaziçi University, opposed to the war, had protested against a stand of the AK Party youth branch on the campus commemorating the death of 46 soldiers in Afrin in campus. They were detained; their homes and dormitories raided. Fourteen of them were arrested (and finally released on 7 June 2018). A few days later, the University board, as well as President Erdoğan, called the students “terrorists”.<sup>30</sup> According to data released by the Ministry of Interior on 26 February 2018, 845 people who criticised Afrin operation on social media and participated in protests have been detained.<sup>31</sup> In early March 2018, 635 social media accounts had been investigated and legal action had been taken against 290 users in one week.<sup>32</sup>

23. In the Ministry of Justice, we discussed the recourse to the criminal charge of “insult to the President” (article 299 of the penal code) which had been, since Mr Erdoğan’s election as President of the Republic in 2014, used to prosecute – and detain<sup>33</sup> – thousands of people expressing critical or negative comments vis-à-vis the President. We were informed that prosecutions were launched only at offending cases, and due consideration should be given to “social values of the country” when one was criticising the President of the Republic. In the light of the numerous cases we were made aware of, this explanation did not seem very convincing. Moreover, due to the recent change of the constitution which now allows the President to be a member of a political party, we noted that the President became in May 2017 the leader of the AK Party, and should be ready to be exposed, as a public figure and a politician, to extensive criticism.

24. In a recent ruling, the European Court of Human Rights recalled that freedom of expression should be safeguarded even under the state of emergency. It stated that “the existence of a “public emergency threatening the life of the nation” must not serve as a pretext for limiting freedom of political debate, which was at the very core of the concept of a democratic society. (...) Every effort should be made to safeguard the values of a democratic society, such as pluralism, tolerance and broadmindedness. Moreover, criticism of governments and publication of information regarded by a country’s leaders as endangering national interests should not attract criminal charges for particularly serious offences such as belonging to or assisting a terrorist organisation, attempting to overthrow the government or the constitutional order or disseminating terrorist propaganda.”<sup>34</sup>

25. In this context, the Court also condemned the pre-trial detention “of anyone expressing critical views [which] produced a range of adverse effects (...) since the imposition of a measure entailing deprivation of liberty, as in the present case, would inevitably have a chilling effect on freedom of expression by intimidating civil society and silencing dissenting voices, and a chilling effect of that kind could be produced even when the detainee was subsequently acquitted.” It also recalled that “even where such serious charges had been brought, pre-trial detention should only be used as an exceptional measure of last resort when all other measures had proved incapable of fully guaranteeing the proper conduct of proceedings”.<sup>35</sup>

<sup>29</sup> As of 26 April 2018, 200 academics had their first hearings. 13 of these academics were sentenced to 1 year and 3 months in prison and all of the sentences were suspended, except one. <http://bianet.org/english/freedom-of-expression/196666-academics-for-peace-granted-2018-courage-to-think-defender-award>.

<sup>30</sup> <http://bianet.org/english/human-rights/197869-call-from-bogazici-university-students-families-for-first-hearing>.

<sup>31</sup> <http://bianet.org/english/freedom-of-expression/194659-ministry-of-interior-845-people-detained-due-to-olive-branch>.

<sup>32</sup> <http://bianet.org/english/freedom-of-expression/195095-635-social-media-accounts-investigated-290-people-prosecuted-in-1-week>.

<sup>33</sup> One of the last examples was the detention of Caricaturist Nuri Kurtcebe, who was sent to prison after the confirmation of his sentence of 1 year 2 months and 15 days in prison in June 2018. <http://bianet.org/english/law/197853-caricaturist-kurtcebe-sent-to-prison-for-insulting-president>. He was released on condition one day after being jailed.

<sup>34</sup> *Altan vs. Turkey* (application no. 13237/17) and *Alpay vs. Turkey* (application no. 16538/17).

<sup>35</sup> *Altan vs. Turkey* and *Alpay vs. Turkey*.

ii. *Freedom of media*

26. The situation of journalists has not improved. In 2018, Turkey ranks 157th (out of 180 countries) in the World Press Freedom Index of Reporters Without Borders (RSF).<sup>36</sup> We met the representatives of the association of journalists which are monitoring the situation. According to the Platform24, there were 155 journalists behind bars as of 16 February 2018.<sup>37</sup> Reporters Without Borders for its part established a list of 31 journalists jailed in 2018 for whom RSF was able to “clearly establish that they imprisoned in connection with their journalistic work”<sup>38</sup>. The Council of Europe Platform to promote the protection of journalism and safety of journalists has identified 115 journalists in detention.<sup>39</sup> Many other journalists are subject to high pressure (including economic), resort to self-censorship – or to self-imposed exile.

27. In Istanbul, we met Murat Sabuncu (editor in chief) and Ahmet Şık (investigative journalist) of the Cumhuriyet newspaper, who had been released from pre-trial detention on 9 March 2018, pending the conclusion of the trial. They remain under judicial control. *Pro memoria*, a total of 17 staff from Cumhuriyet were facing terror charges [for allegedly “supporting three outlawed groups through their media coverage, ie the Kurdistan Workers’ Party (PKK), the Revolutionary People’s Liberation Party-Front (DHKP-C) and the “Fethullahist Terrorist Organization”]. All journalists had been gradually released over the last year, with the exception of the daily’s chairman, Akin Atalay, and Ahmet Kemal Aydoğdu who remained in custody until 25 April 2018.<sup>40</sup>

28. The case of the Cumhuriyet journalist is still pending at the European Court of Human Rights, where they are treated as priority cases. The Commissioner for Human Rights became a third party to the case. At the time of the visit, the Court had delivered an important ruling in the case *Altan vs Turkey and Alpay vs Turkey*.<sup>41</sup> In two landmark rulings of 20 March 2018 – the first regarding the individuals detained in Turkey following the attempted coup in July 2016 – the Court found the rights to liberty and security, and freedom of expression of the journalists had been violated.

iii. *Recent developments pertaining to the media landscape*

29. Another major development in the media scene was the announced sale of the Dogan Media Group (which represented about 20% of media in Turkey) to Mr Demirören, a businessman known to be close to Mr Erdoğan. Reporters Without Borders described as “the end of an era”, “the death of pluralism and independent journalism in Turkey’s mainstream media,” with “only a handful of low-circulation newspapers still offer an alternative to the government’s propaganda”. After the sale of the Doğan group’s outlets, RSF noted that nine of the ten most-watched TV channels and nine of the ten most-read national dailies would be owned by pro-government businessmen.<sup>42</sup>

30. We were also informed about the adoption, on 21 March 2018, of “Provisions on the “Presentation of media services via Internet” to the Law No. 6112 on the Establishment of Radio and Television Enterprises and Their Media Services”. This Law tightens control over electronic media: it requires service providers planning to publish broadcasts on the internet to request a broadcast license and transmission authorisation from the Radio and Television Supreme Council (RTÜK). It also enables RTÜK to supervise series, movies and documentaries released and impose the ban on content that it doesn’t find appropriate. The OSCE Representative on Freedom of the Media Harlem Désir had urged, in vain, the Turkish authorities not to adopt this bill, which could restrict online broadcasting and further limit media pluralism in the country.<sup>43</sup>

<sup>36</sup> <https://rsf.org/en/ranking/2018>.

<sup>37</sup> <http://platform24.org/en/media-monitoring/588/journalists-in-state-of-emergency---120>.

<sup>38</sup> [https://rsf.org/en/barometer?year=2018&type\\_id=235#list-barometre](https://rsf.org/en/barometer?year=2018&type_id=235#list-barometre).

<sup>39</sup> <https://www.coe.int/en/web/media-freedom/turkey>.

<sup>40</sup> On 25 April 2018, one journalist and two Cumhuriyet staff were acquitted; however the other journalists were sentenced to prison ranging from two years and six months to seven years and six months. They were not arrested, pending trial. All were released under judicial control, pending trial. <http://bianet.org/english/human-rights/195028-6th-hearing-of-cumhuriyet-trial>

<sup>41</sup> *Altan vs. Turkey* (application no. 13237/17) and *Alpay vs. Turkey* (application no. 16538/17).

<sup>42</sup> <https://rsf.org/en/news/dogan-media-group-sale-completes-government-control-turkish-media>.

<sup>43</sup> See the legal review published by the OSCE on 28 February 2018 of the Draft Provision on the “Presentation of media services via Internet” to the Turkish Law No. 6112 on the Establishment of Radio and Television Enterprises and Their Media Services <https://www.osce.org/representative-on-freedom-of-media/373846>.

b. *Other human rights issues*

i. *Situation in southeast Turkey*

31. NGO activists expressed their worries about the on-going situation in south-eastern Turkey. In previous information notes and report, we had reported about on-going curfews and security operations carried out, the displacement of half a million citizens, and the dysfunctional local democracy after the dismissals of dozens of mayors and their replacement by government-appointed trustees. Due to security concerns, PACE rapporteurs and elections observers have had limited access to this area. There are few media reports about the current situation. Representatives of the civil society underscored that the situation had not improved since 2016, and the measures taken under the aegis of the state of emergency have had an even greater impact there on citizens' ability to assemble, speak out and live in a safe and democratic environment.

ii. *Torture and ill treatment*

32. A few days before our visit, the Turkish authorities authorised the publication of the report of the Committee for the Prevention of Torture (CPT) on its April 2016 visit to the high-security prison on the island of Imralı in Turkey, where Abdullah Öcalan and three other prisoners are being held<sup>44</sup>. We welcomed this publication. The CPT noted no allegations of ill treatment; it had a favourable impression about health care services and noted improved accommodation conditions. It expressed, however, serious concern that the situation regarding the prisoners' contact with the outside world had further deteriorated. The four detainees faced harsher conditions than in other F-type (high security) prisons, and since June 2015, they had endured a total ban on telephone calls. Abdullah Öcalan, who was serving an aggravated life sentence, has had no visit from a lawyer since 2011, no visit from a family member [since 2016], and no more visits from parliamentarians since April 2015.<sup>45</sup> The CPT stressed that, again, it "[could] not give credence to the explanations repeatedly given by the Turkish authorities that all requests for visits from lawyers since 27 July 2011 and all requests for visits from relatives since 6 October 2014 could not be carried out due to "force majeure" (i.e. a "technical failure of the vessel" or "adverse weather conditions") (...). It transpired that the Turkish authorities continued to uphold a policy decision not to allow Abdullah Öcalan to receive any visits by lawyers, due to the perceived risk that visits, which are recorded and monitored by a member of staff, may be abused in order to transmit messages to instigate terrorist activities" Moreover, "these restrictions were being applied without any legal basis in Turkish law".<sup>46</sup>

33. During our visit, representatives of civil society evoked serious and concurring allegations of ill-treatment and torture in detention places and police stations which have increased since the failed coup. The Association of Human Rights considers that torture and ill-treatment practices have become "widespread and ordinary during the state of emergency".<sup>47</sup> These allegations were recently confirmed by Nils Melzer, United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, in his Report on his mission to Turkey<sup>48</sup>, who deplored that "no serious measures appeared to have been taken by the authorities to investigate these allegations<sup>49</sup> or to hold perpetrators accountable".

34. These allegations of post-coup ill-treatment had also been investigated by the CPT in August and September 2016. The Turkish authorities had not authorised so far the publication of the report. The decision – by means of the decree-law of 24 December 2017 – to exempt from criminal accountability civilians who fought against the July 15, 2016 coup attempt on the night and the following "incidents of terror" is another worrying

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<sup>44</sup> See [CPT/Inf \(2018\) 11](#), Report to the Turkish Government on the visit to Turkey carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28 to 29 April 2016, and the [Response](#) of the Turkish authorities, published on 20 March 2018.

<sup>45</sup> A. Öcalan had received a total of 16 visits from members of Parliament in 2014 and seven in early 2015. At that time, a resolution process of the Kurdish issues had been initiated by the Turkish authorities.

<sup>46</sup> This provision was criticised for its vagueness and challenged at the Constitutional Court by the CHP.

<sup>47</sup> According to Human Rights Association (IHD) data, a total of 2682 people have encountered torture and ill-treatment, 427 of them have endured beatings or other methods of torture in detention, 1855 of them have faced such treatment outside of detention centres during meetings and demonstrations intervened by the security forces in 2017. In: IHD [2017 Balance sheet](#) of human rights violations in Turkey; The year that Passed under State of Emergency, 6 April 2018.

<sup>48</sup> [Press release](#) of 27 February 2018 "Turkey: UN expert says he is deeply concerned by the rise in torture allegations".

<sup>49</sup> The UN Special rapporteur reported that a "large numbers of individuals suspected of links to the Gülenist Movement or the armed Kurdistan Workers' Party exposed to brutal interrogation techniques aimed at extracting forced confessions or coercing detainees to incriminate others. Reported abuse included severe beatings, electrical shocks, exposure to icy water, sleep deprivation, threats, insults and sexual assault". Ibid.

development that could further lead to impunity.<sup>50</sup> Considering the zero tolerance policy towards ill-treatment and torture which the authorities aim to pursue, such development would constitute a serious backlash. Several human rights activists considered that the creation of an independent oversight mechanism to oversee the law enforcement forces would be an important step.

### *iii. Situation of women*

35. Concerns expressed, during previous visits, about gender inequality and the backsliding of women's rights were reiterated by women and human rights organisations. Gender discrimination and stereotypes continued to prevail, including among high level politicians. The state of emergency and the fight against terrorism have had adverse consequences on women, as reported by the UN High Commissioner for Human Rights in his 2018 report.<sup>51</sup> We were also shocked to learn that the police had fired tear gas to break up demonstrations held in Ankara on 8 March 2018 on the occasion of the International Women's Day.<sup>52</sup>

36. Domestic violence, child marriages, state religious officials (muftis) who are now authorised to perform and register marriages (since the enactment of a Law amending the Civil Registry Services Act in November 2017) and the proposal made by President Erdoğan in February 2018 to re-criminalise adultery<sup>53</sup> were other issues of concern mentioned to us, especially in the context of endemic violence against women, which has become a better reported, but growing problem: according to figures released by the "We Will Stop Femicide Platform", the number of victims rose sharply by 25 % to reach 409 in 2017<sup>54</sup> (compared to 237 women killed in 2013). The Platform feels that this rise was primarily due to the ongoing state of emergency.<sup>55</sup> The implementation of the Istanbul Convention to combat and prevent violence against women and domestic violence – which Turkey was the first country to ratify in 2012 – needs to be scrutinised and improved. Women's organisations were urging the international community to exert pressure and ensure the proper implementation of the Convention. We took note that the independent expert body responsible for monitoring the implementation of the Istanbul Convention, the GREVIO, was preparing a report in 2018.

### *iv. Situation of LGBT people*

37. Under the state of emergency and continued restrictions of fundamental freedoms (ban of demonstrations), the Governor of Ankara issued in November 2017 an indefinite ban on LGBT related events<sup>56</sup>, which followed three consecutive bans of the Istanbul Pride March. Two administrative courts upheld on 23 February 2018 the ban on LGBT events imposed by the Ankara Governor's office in November 2017.<sup>57</sup> We raised the issue of blanket bans at the Ministry of Justice. We were advised to discuss this matter with the Governor of Ankara whom we wanted to meet but unfortunately this meeting did not materialise.

38. Another adverse development was the decision of the Constitutional Court of 20 February 2018 to reject the appeal of a soldier, who was expunged from the Turkish Armed Forces on the ground that "homosexuality is detrimental to the honor of military service".<sup>58</sup> The Constitutional Court moreover ruled that banning a gay religious instruction teacher from teaching was not discriminatory, stating that "It is natural for persons, who want to work educating young children, to be subjected to certain restrictions to which other people are not subjected."

<sup>50</sup> This measure was challenged by the opposition to the Constitutional Court for its vagueness. Earlier, Law 6722 was adopted on 14 July 2016 in order to protect the state officials who were the perpetrators of rights violations during the curfews.

<sup>51</sup> Zeid Ra'ad Al Hussein was alarmed that Turkish authorities had reportedly detained some 100 women who were pregnant or had just given birth, mostly on the grounds that they were 'associates' of their husbands, who are suspected of being connected to terrorist organizations. [Press release of the UN](#), "Turkey's 18-month state of emergency has led to profound human rights violations – UN report", 20 March 2018.

<sup>52</sup> Some 15 protesters had reportedly been detained, and later released. <http://www.hurriyetdailynews.com/turkey-riot-police-break-up-womens-rights-march-in-ankara-128239>

<sup>53</sup> In 1996, the Turkish Constitutional Court had overruled a previous adultery law in 1996 saying it was unequally applied. In 2004, in order to comply with EU requirement, Turkey adopted an "adultery law" and changed its penal code.

<sup>54</sup> 39 % of victims were murdered by their husbands, boyfriends, ex-husbands or ex-boyfriends, and 24% by their fathers, sons, stepsons or other relatives.

<sup>55</sup> <https://www.dailysabah.com/turkey/2018/01/02/violence-against-women-rises-sharply-in-turkey-409-women-killed-in-2017>

<sup>56</sup> Pm, Piet De Bruyn, the Parliamentary Assembly's General Rapporteur on the rights of LGBTI people, issued a [statement](#) on 14 December 2017.

<sup>57</sup> <https://www.ilga-europe.org/resources/news/latest-news/ankara-ban-lgbti-events-continues>

<sup>58</sup> <https://lgbtnewsturkey.com/2018/04/26/constitutional-court-deputy-chairs-final-remarks-on-the-verdict-of-a-gay-soldier-it-is-neither-the-states-business-nor-anyone-elses/>.

Two members of the Constitutional Court expressed dissenting opinions, considering that discrimination based on sexual orientation is prohibited in international agreements and stipulations, which Turkey has agreed to uphold.<sup>59</sup>

## V. Rule of law

### a. General consideration about the functioning of the judiciary

39. As highlighted in previous reports, the Assembly has raised serious concerns about the independence of the justice system. Since the referendum held in April 2017, the provision concerning the change of composition of the then “High Council of Judges and Prosecutor” (now the “Council of Judges and Prosecutors” – CJP) was implemented, and its composition seriously altered: its members are now appointed by the President of the Republic and the Parliament<sup>60</sup>, and no longer elected by their peers (as it was the case in the past for more than half of the HSYK members), in contradiction with the recommendations of the Venice Commission.

40. This was also recalled by the GRECO in its March 2018 report, which stated that “the newly-established Council of Judges and Prosecutors runs counter to the fundamental principle of an independent judiciary; the executive has retained significant influence over, *inter alia*, the process of selecting and recruiting candidate judges, reassignments of judicial officeholders against their will and disciplinary procedures which all have a negative impact on the security of tenure of judicial officeholders”.<sup>61</sup>

41. The failed coup has had a profound impact on the functioning of the judiciary. We discussed the situation with the “Association of Judicial Unity”, an organisation created in 2014 with the backing of the authorities to compete in the election of the members of the High Council of Judges and Prosecutors (HSYK), in order to counter the influence of the judges and prosecutors allegedly members of the Gülen Movement.<sup>62</sup> The Association acknowledged that the firing of 4300 judges and prosecutors had created a gap. They had been replaced by young and inexperienced judges and prosecutors, which could affect the quality of judgments – and this should be seen as a side effect of the failed coup. The recourse to article 299 of the penal code (on insult to the president) required the permission of the Ministry of Justice. Any wrongdoings, they said, could be redressed within the system.

42. In the Ministry of Justice, we welcomed the readiness of the Deputy Undersecretary of Justice to pursue co-operation programmes with the Council of Europe in the field of training of judges and prosecutors, and activities on freedom of expression. He underscored the results achieved thanks to the co-operation established with the Council of Europe after the failed coup, including the reduction of the pre-custody period (from 30 to 7 days) and the creation, in January 2017, of an Inquiry Commission paving the way for judicial reviews for dismissals issued by decree-laws. However, the authorities denied that the detention of journalists or parliamentarians, or the many prosecutions of individuals for having “insulted the President” (8000 since 2014 according to NGOs), was an issue, since the authorities considered that these persons had exceeded the boundaries of what was permitted under the law. However, in the light of the testimonies we heard, we cannot agree with them.

### b. Implementation of the decisions of the Constitutional Court by lower courts

43. During our visit, many politicians, NGO and media representatives expressed their hope in the expected decisions of the European Court of Human Rights, for which individual applications lodged to the Constitutional Court are considered as an effective domestic remedy. On 11 January 2018, the Constitutional Court found that the rights to liberty, freedom of expression and media of two journalists, Şahin Alpay and Mehmet Altan had been violated. As a logical consequence, the two journalists should have been released from pre-trial detention.

<sup>59</sup> <https://lgbtinewsturkey.com/2018/03/23/a-lesson-on-discrimination-for-the-constitutional-court/>.

<sup>60</sup> The CJP is now composed of 13 members: 3 members (among first-rank judges and prosecutors of civil jurisdiction) and 1 member (among first-category judges in administrative jurisdiction) selected by the President of the Republic; 4 members (among judges of the Council of State and the Court of Cassation) and 3 members (among academics and lawyers) selected by the parliament, and 2 of the members are the Minister of Justice and the Undersecretary of Justice.

<sup>61</sup> [GrecoRC4\(2017\)16](#).

<sup>62</sup> In this context, the Turkish independent association of judges and prosecutors (YARSAV) – which was a member of the International Association of Judges (IAJ) and the European Association of Judges (EAJ) – was closed by decree law and its chair and many officials detained.

This decision was criticised by the Deputy Prime Minister Bekir Bozdağ, who considered that “the Constitutional Court had gone beyond the limits set by the constitution and the laws”. On 15 January 2018, the requests for releasing the journalists were rejected by the 14th and 27th chambers of the Istanbul Criminal Court. This sparked a considerable amount of concern about the respect for the rule of law in Turkey<sup>63</sup> and whether the individual applications mechanism of the Constitutional court should continue to be seen as “an effective domestic remedy” by the European Court of Human Rights.

44. The two journalists lodged a new application to the Constitutional Court for non-implementation of the Constitutional Court ruling. On 16 March 2018, examining Şahin Alpay’s application, the Constitutional Court unanimously ruled that since its first verdict of violation had not been implemented, his right to liberty and security guaranteed by the Article 19 of the Constitution and his right to a free trial guaranteed by the Article 36 had been violated. The court has also ruled that Mr Alpay was entitled to a compensation of 20 000 Turkish liras.<sup>64</sup> He was subsequently released. The Constitutional Court has not yet examined Mehmet Altan’s application. In the meantime, this journalist was sentenced to life prison.<sup>65</sup>

45. The non-implementation of the decisions of the Constitutional Court was discussed during the visit of the Secretary General of the Council of Europe, Mr Jagland, on 15-16 February 2018, who recalled, in his speech to the candidate judges and prosecutors of the Justice Academy, the member states’ obligation towards the Council of Europe, including in the field of rule of law<sup>66</sup>. In a public address, President Erdoğan stated on 6 March 2018 that the decisions of the Constitutional Court could be criticised, but had to be obeyed<sup>67</sup>, thus signaling that Turkey would not derail from past practices. Since then, no other decisions of the Constitutional Court has been challenged by a lower court. This is to be welcomed.

46. In its 20 March 2018 rulings, the European Court of Human Rights confirmed that it continued to consider the individual application mechanism as “an effective domestic remedy” in Turkey, despite questions raised: “the fact that Mr Alpay and Mr Altan had been kept in pre-trial detention, even after the Constitutional Court’s judgment, raised serious doubts as to the effectiveness of the remedy of an individual application to the Constitutional Court in cases concerning pre-trial detention. (...) However, as matters stood, the Court did not intend to depart from its previous finding (...) that the right to lodge an individual application with the Constitutional Court constituted an effective remedy in respect of complaints by persons deprived of their liberty.”<sup>68</sup>

## VI. Post-visit developments and concluding remarks

47. During our visit, we witnessed the gradual implementation of the constitutional amendments adopted in April 2017, which will be completed after the holding of the next parliamentary and presidential elections which, for the first time in Turkish history, will be held at the same time. We remain highly concerned about on-going restrictions to fundamental freedoms. Parliamentarians and journalists remain in prison; restrictions of freedom of expression and media have become more severe, creating a climate of fear, suspicion and self-restraint. While fighting terrorism and ensuring the security of citizens are legitimate concerns, this should not prevent us from identifying measures and practices that do not comply with Council of Europe standards, and that need to be addressed by the authorities.

48. The state of emergency should be lifted without further delay. It has generated disproportionate, crosscutting and massive measures targeting not only allegedly members belonging to, or seen to be close to, the Gülen Movement, but also numerous other individuals who were expressing dissenting or critical views. The Turkish Government would send a strong and welcome signal that it is not turning its back on democratic norms if it were to initiate, without further delay, a transition process from the state of emergency to the previous

<sup>63</sup> On 15 January 2018, the release of the two journalists was rejected by the 14th and 27th chambers of the Istanbul Criminal Court.

<sup>64</sup> <https://m.bianet.org/english/law/195222-constitutional-court-rules-second-time-alpay-s-rights-violated>.

<sup>65</sup> Mehmet Altan, his brother Ahmet Altan, Nazlı Ilıcak and three other journalists were sentenced to life prison on 16 February 2018 for aiding the plotters, and allegedly transmitting subliminal messages during debates on television, through TV ads, and through their articles, which signaled the July 2016 coup attempt. <https://www.reuters.com/article/us-turkey-security-trial/turkish-court-sentences-six-journalists-to-life-including-altan-brothers-trt-haber-idUSKCN1G01AN>.

<sup>66</sup> <https://www.coe.int/en/web/portal/-/turkey-secretary-general-jagland-meets-turkish-leadership-in-ankara-on-15-16-february>

<sup>67</sup> <http://www.hurriyetdailynews.com/top-court-rulings-must-be-obeyed-erdogan-128344>.

<sup>68</sup> *Altan vs. Turkey* and *Alpay vs. Turkey*. In both cases the ECtHR concluded that there had been a violation of Article 5 § 1 (right to liberty and security) of the European Convention on Human Rights; a violation of Article 10 (freedom of expression); but no violation of Article 5 § 4 (right to a speedy review of the lawfulness of detention).

situation, ensuring that the parliament would have the full capacity to exercise its legislative and oversight functions.

49. On 24 April 2018, President Erdoğan announced, in a surprise move, that the parliamentary and presidential elections, initially scheduled for November 2019, would be held on 24 June 2018. This pushed political parties to swiftly identify a presidential candidate, prepare lists of candidates for parliamentary seats, possibly negotiate political coalitions (in line with the new provisions of the electoral law) and conduct political campaigns under the state of emergency. The parliament had yet to approve adjustment laws regarding the elections and political parties for them to become compatible with the executive presidential system, and clarify electoral modalities.<sup>69</sup> Some opposition parties said that these elections were not only early, but “hasty”, if not “forced”<sup>70</sup> This situation is all the more worrisome since these elections would speed up the shift to an executive presidential system, concentrating most of the powers in the hands of the President.

50. On the basis of our findings and upon our suggestion, the Monitoring Committee adopted on 24 April 2018 a statement on the organisation of the early parliamentary and presidential elections of 24 June 2018 (see Appendix III), recommending to the authorities to postpone the elections in light of the adverse context which would impede the conduct of free and fair elections. The Committee also decided to seize the Venice Commission for an opinion on the amendments to the electoral legislation and related “harmonisation laws” adopted in March and April 2018.

51. We hope that the newly elected President and parliament will find the ways to engage in a genuine dialog with the Assembly and the Council of Europe. We hope that issues such as freedom of expression and media, fairness of elections, ill treatment, fight against corruption, etc could be thoroughly debated with the authorities to implement the recommendations issued notably by the CPT, GRECO and the Venice Commission. This dialogue should ensure that the on-going co-operation with the Council of Europe will result in meaningful progress in the field of fundamental freedoms and, as a first step, freedom of expression and media, which is a cornerstone in a vivid democracy. This could also help overcome the polarisation of society, restore checks and balances which are needed in a democracy, and resume the resolution process of the Kurdish issue. As we pointed out several times to the authorities, security and democracy cannot be opposed: they go hand in hand.

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<sup>69</sup> <http://www.hurriyetdailynews.com/all-sides-in-rush-to-meet-turkeys-tight-snap-election-calendar-130591>.

<sup>70</sup> CHP consider these elections as “hasty early elections”, while the HDP call them “forced elections” <http://www.hurriyetdailynews.com/turkey-to-hold-snap-elections-on-june-24-parliament-approves-130661>.

**Appendix I – Programme of the visit****Wednesday, 28 March 2018 – Istanbul**

- 10:00-11:30 Meeting with NGO representatives (\*)
- 11:30-13:00 Meeting with media association representatives (\*):
- 13:00 Lunch with Professor Dr. iur. Osman CAN, Professor at the Marmara University Law School, Member of the Venice Commission (\*)
- 14:30 -16:30 Meeting with media representatives and journalists (\*)

**Thursday 29 March 2018 – Ankara**

- 09:00-10:30 Meetings with lawyers of detained members of parliament (\*)
- 11:00-11:30 Meeting with H.E Mr İsmail KAHRAMAN, Speaker of the Parliament
- 12:00-13:30 Working lunch hosted by Mr Akif Çağatay KILIÇ, Chairperson of Turkish Delegation to the PACE, with the participation of the Chairpersons of the Committee on Human Rights Inquiry, the Committee on Equality of Opportunity for Women and Men, the Committee on the Constitution, the Committee on Justice, Committee on European Union Harmonization and the Heads of the delegations of NATO-PA and OSCE-PA
- 14:00-15:45 Meeting with victims of the July 2016 failed coup d'Etat
- 16:00-16:30 Meeting with Mr Eyüphan KORKMAZ, Chairman of the Association for Law and Change, members of the Association and journalists
- 16:45-17:30 Meeting with Mr Salih TANRIKULU, President of the Inquiry Commission on State of Emergency Measures and the members of the Commission
- 20:00 Dinner with representatives of the international community hosted by H.E Ms Marin Möttus, Ambassador of Estonia to Turkey, with the participation of:
- H.E Ms Päivi KAIRAMA, Ambassador of Finland
  - Ms Jennifer ANDERSON, Minister Counsellor, Deputy Head of Mission of the Embassy of the United Kingdom
  - Mr Gabriel MUNUERA VINALS, Deputy Head of Delegation, EU Delegation in Ankara
  - Mr Rüdiger LOTZ, First Counsellor, Embassy of Germany
  - Ms Konstantina KOSTOVA, Counsellor, Embassy of Bulgaria
  - Mr Michael INGLEDOW, Head of the Council of Europe Office in Ankara

**Friday 30 March 2018 – Ankara**

- 07:45-08:15 Meeting with a journalist (\*)
- 08:30-09:15 Meeting with Mr Mustafa EROL, Deputy Undersecretary of the Ministry of Justice
- 09:30-10:15 Meeting with Mr Ahmet AVŞAR, Deputy Undersecretary of the Ministry of Interior Affairs
- 10:35-11:15 Meeting with Mr Erkan AKÇAY, Deputy Chairperson of the Nationalist Party (MHP) group and Mr Zühal TOPCU, MHP member of parliament
- 11:35-12:15 Meeting with Mr Tekin BİNGÖL, Deputy Chairperson of the Republican People's Party (CHP), and Ms Şanal SARIHAN, members of parliament

- 12:30-13:15 Meeting with Mr Hisyar OZSOY, Vice-President of the Peoples' Democratic Party (HDP), and Ms Meral DANIŞ BEŞTAŞ, HDP members of parliament
- 15:00-15:40 Meeting with Mr Mehmet Naci BOSTANCI, Chair of the Justice and Development Party (AK Party) group
- 15:45-16:30 Meeting with Mr Aytun ÇIRAY, Secretary General of the "Good Party" (IYI Party) and Member of Parliament (\*)
- 17:00-17:45 Meeting with Mr Musa HEYBET, President of the Association of Judicial Unity, and members of the Association (\*)
- 18:00-19:00 Meeting with media representatives (\*)
- 19:00-20:00 Meeting with NGO representatives (\*)

*(\*) Meetings organised by the Council of Europe Secretariat*

## Appendix II – “Turkey monitors express ‘serious concerns’ ahead of 2019 elections”

05/04/2018 – The co-rapporteurs for the monitoring of Turkey by the Parliamentary Assembly of the Council of Europe (PACE), Marianne Mikko (Estonia, SOC) and Nigel Evans (United Kingdom, EC), have expressed serious concern over the deterioration of the situation in Turkey ahead of the forthcoming 2019 elections. Speaking at the end of a [fact-finding visit](#) to the country from 28 to 30 March 2018, they said:

“The failed coup, two years ago, caused a trauma in society and Turkey had a legitimate right to defend the democratic order. Two years later, however, we regret that the state of emergency has been unnecessarily prolonged six times, allowing a resort to disproportionate measures, including massive dismissals of officials and numerous closures of media and civil society associations. The Turkish Government would send a strong and welcome signal that it is not turning its back on democratic norms if it were to indicate, as soon as possible, a transition process from the state of emergency to the previous situation.

We welcome the work initiated by the Commission of Inquiry to review applications made by dismissed officials, thus paving the way for judicial remedies. However this process has so far enabled few applicants to be reinstated, and in the meantime leaves thousands of others jobless, stigmatised and banned from travelling while they await the completion of judicial procedures which will take time.

We are also very concerned at the continued violations of freedom of expression and the media, as well as freedom of assembly, highlighted by the Assembly in its [last resolution](#), which have unfortunately sharpened following the Turkish military intervention in Syria in January 2018. While it is legitimate for Turkey to address its security issues, this should not be at the cost of democratic freedoms. As highlighted by the European Court of Human Rights, criticism of political leaders or government policies should not attract criminal, terrorism-related charges – and pre-trial detention should only be used as an exceptional measure of last resort. We therefore urge the authorities to find the proper balance between security and democracy, and ensure that all voices, even when dissenting, can be heard. Any restriction must be strictly necessary and proportional to the situation, in line with the case-law of the Strasbourg Court.

In this context, freedom of political debate – a cornerstone of any democracy – will be essential if diverging views are to be debated in a highly polarised society and compromises are to be found. The continued detention of members of parliament, journalists, academics, students and human rights defenders has had a chilling effect on society, which we were able to sense during our visit. The recent sale of the Dogan Media Group and the adoption of Law No. 6112 on internet services could further endanger media pluralism. We thus invite the Turkish authorities to create opportunities and take meaningful steps to restore and safeguard the values of a democratic society, such as pluralism, tolerance and broadmindedness, in which the Council of Europe stands ready to help.

These steps will be crucial at a time when Turkey is preparing for key local, parliamentary and presidential elections to be held in 2019 – the final steps in the establishment of a presidential system which was backed by 52 per cent of voters in a constitutional referendum. Opposition parties shared with us their deep concerns about the newly adopted electoral law, which has been challenged before the Constitutional Court. We were told that in its current version, this law could further undermine the preparation and conduct of free and fair elections due to several controversial provisions related to election security. This is an issue we will be looking at closely to ensure that elections in Turkey are held in line with European standards. We expect assurances to be given that elections will be free and fair, and are seen to be so.

We hope that the Turkish authorities will be ready to engage in a genuine and meaningful dialogue over these issues, and other issues of concern in the fields of democracy, human rights and the rule of law. By doing so, the authorities would reiterate their commitment to Council of Europe values. They would also live up to the expectations of the people of Turkey, who have demonstrated their deep attachment to democracy by taking to the streets during the failed coup. Turkey and the Council of Europe should remain ready to continue their co-operation and to work out durable solutions which uphold our common values, encompassing both democracy and security.”

During their visit, the co-rapporteurs met the President of the Turkish Grand National Assembly, representatives of the Ministries of Justice and Internal Affairs, the President and members of the Turkish delegation to PACE, the chairs of parliamentary committees, members of the political groups represented in parliament, the President

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of the Inquiry Commission on State of Emergency Measures, as well as representatives of NGOs, the media, civil society and the international community.

### **Appendix III – Statement on the organisation of early presidential and parliamentary elections in Turkey adopted by the Monitoring Committee of the Parliamentary Assembly on 24 April 2018**

The Monitoring Committee expresses its deepest concern at the announcement, on 18 April 2018, of the holding of early presidential and parliamentary elections in Turkey on 24 June 2018, one and a half years ahead of schedule.

- The Committee notes that the amendments to the electoral law were adopted by the parliament only one month prior to calling these snap elections. These amendments substantially change the rules for elections and the election campaign. They include the possibility to form pre-election alliances which was not possible until now. The extremely short period between the adoption of these new rules and the upcoming elections leaves too little time for political parties to adjust and complete their preparations for the elections. Changing the election rules three months before Election Day is contrary to the recommendations of the Venice Commission. At the same time, the Assembly notes, with regret, that the 10% electoral threshold – the highest in Europe – was not lowered in the amended law, as called for by the international community, including the Assembly. This very high threshold will further undermine political pluralism by side-lining single political parties.
- The Committee deplores that, on the same day the elections were announced, the parliament approved the 7<sup>th</sup> extension of the state of emergency put in place after the failed July 2016 coup. Echoing the Venice Commission concerns, the Committee reiterates that it is impossible to hold genuinely democratic elections under the state of emergency and on-going security operations in southeast Turkey.
- The state of emergency has, since July 2016, led to disproportional measures and unacceptable restrictions of fundamental freedoms – in particular freedom of expression, media, and assembly. It has affected negatively and disproportionately oppositional and critical voices, as highlighted by the Assembly in its Resolution 2156 (2017). The Committee regrets that no progress was achieved since then. A significant number of parliamentarians from the opposition (10), journalists (about 150) and human rights defenders remain in detention, while many other face legal cases on terror-related charges. Many NGOs were closed down. Numerous media have also been closed down or bought up by pro-government businessmen. A newly adopted law has tightened the control of online broadcasting. This has further narrowed down the space for democratic debate necessary in election times which requires access to full and accurate information so as to ensure the voters' ability to make informed choices between candidates.
- In addition, several provisions of the new electoral system raise serious questions about election security and transparency and possible interference of the executive in the election administration. The Committee is notably worried by the possible presence of police forces in polling stations, which could have a deterrent effect on voters. It is also concerned that the decision to accept non-stamped ballot papers invalidates the use of stamped ballot papers as a major security measure. In addition The Committee also regrets that previous and repeated recommendations made by the Parliamentary Assembly, the Group of States against Corruption (GRECO) and the OSCE/ODIHR related to media coverage and funding of electoral campaigns and political parties have remained unaddressed. The Monitoring Committee has therefore decided to seize the Venice Commission for an opinion on the electoral law, as revised in March 2018, and connected legislation.

The Monitoring Committee is deeply concerned that this adverse context will impede the conduct and organisation of genuinely democratic elections, and confirms that, at the end of the process, the overall legitimacy of these elections is at stake. The Monitoring Committee recalls that Turkey should abide by the fundamental values of the Council of Europe, including the holding of free and fair elections. It also recalls that these elections will be crucial; this will be the final step for the shift to an executive presidential system, which will grant extensive powers to the President of the Republic while limiting checks and balances. All these factors combined seriously challenge the democratic nature of the elections. The Committee thus recommends the Turkish authorities to postpone the elections.