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Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Post-monitoring dialogue with Turkey

Information note by the rapporteur on her fact-finding visit to Istanbul, Ankara and Eskişehir (26 – 29 May 2014)

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I. Introduction

1. One year after the adoption of Resolution 1925 (2013) on the post-monitoring dialogue with Turkey in April 2013, I visited Istanbul, Ankara and Eskişehir from 25 to 29 May 2014 to take stock of recent major developments in the country and of implementation of the 12 action requirements of the post-monitoring dialogue with Turkey (see Appendix I).

2. I would like to warmly thank the Turkish delegation to the PACE, and in particular its Chair, Mr Reha Denemeç, for the excellent organisation of this visit which enabled me to meet H.E. Mr Mevlüt Çavuşoğlu, Minister for European Union Affairs, the Deputy Minister for Transport, Maritime Affairs and Communications, the Under-Secretaries of State in the Ministries of Justice and the Interior, the Ombudsman, the Vice-Presidents of the Constitutional Court and the High Council of Judges and Prosecutors, and many representatives of civil society and the media. The programme of the visit is reproduced in Appendix II.

3. This visit took place in a new context, characterised by the aftermath of the “Gezi Park” demonstrations of June/July 2013, which brought out millions of demonstrators throughout Turkey, the consequences of a vast anti-corruption operation begun in December 2013, and the preparation of the campaign for the presidential election of 10 August 2014. I shall discuss below these events and their repercussions on political and institutional life. They have had a profound influence on developments of the reforms under way and those that are anticipated.

II. Recent major developments in Turkey since the adoption of Resolution 1925 (2013)

4. Recent political life in Turkey has been characterised by a number of events that have strongly engaged public opinion. Many of the people with whom I spoke referred to the growing polarisation of society and expressed their concern at attempts to divide society along political, ethnic and religious lines, fuelled by the divisive discourse of the Prime Minister. This worrying situation in a complex and destabilised regional context was frequently mentioned by those with whom I spoke during my visit. It is in the light of these developments that we must assess the changes in legislation and their consequences on implementation of the 12 action requirements of the post-monitoring dialogue which we need to evaluate.

a. The geopolitical context

5. Turkey is faced with a particularly complex geopolitical situation in the region, with repercussions on national politics. Reference should be made here to the continuing conflict in Syria, the establishment of three autonomous Kurdish regions in northern Syria bordering on Turkey, under the control of the Kurdish Democratic Union Party (PYD); the advance of the jihadist movement “the Islamic State of Iraq and the Levant” (ISIS) in northern Syria and then northern Iraq; the kidnapping by ISIS of 49 Turkish diplomats and their families from the consulate in Mosul on 11 June 2014; operation “Protective edge” carried out by Israel in the Gaza Strip and the condemnation of Israel by all the main political forces in Turkey; the diplomatic crisis with Egypt following the July 2013 ousting of the Islamist President Muhammad Mursi and a clampdown on his followers, the Muslim Brotherhood, harshly criticised by the Turkish Prime Minister.

6. At the same time, Turkey has strengthened its economic links (oil supplies) and political links with the autonomous region of Iraqi Kurdistan which aspires to independence. Turkey, a NATO member, has played a geostrategic role in the crisis in Ukraine, allowing American ships to be stationed in the Black Sea, after reasserting Ukraine’s right to territorial integrity and condemning the annexation of Crimea (where 30,000 Tatars live).

7. Reference must once again be made to the exceptional role played by Turkey in the reception of Syrians¹. According to recent figures announced by Deputy Prime Minister Atalay, Turkey was believed to have taken in 1.1 million Syrians, of whom 220,000 were in the camps set up by Turkey.² This was currently costing USD 3 billion, of which only USD 200 million was covered by the UN and the international community.³ However, this massive presence of Syrians was causing tension with the local population. There are fears that current events in northern Iraq targeting religious and ethnic minorities (in particular Turkmen and Yazidis) will give rise to a new influx of refugees. It should be pointed out in this connection

¹ The Turkish authorities consider Syrians as “guests under provisional protection”, considering the geographical reservation to the 1951 Geneva Convention relating to the Status of Refugees.

² <http://www.hurriyetdailynews.com/turkish-deputy-pm-concerned-over-growing-syrian-refugee-population.aspx?pageID=238&nID=69872&NewsCatID=341>

³ Figures provided by the Foreign Ministry

that Turkey has not yet lifted its geographical reservation to the Geneva Convention on the Status of Refugees, which is one of the 12 action requirements of the post-monitoring dialogue which still has to be implemented.

8. Talks with the European Union are continuing, in a context characterised by a rise in far-right movements in the latest European elections of 25 May 2014. On 16 December 2013, Turkey and the EU signed the readmission agreement, paving the way for a European visa-free regime for Turkish citizens.⁴ The Turkish authorities have reiterated their wish to possibly open accession negotiations on Chapters 23 (judiciary and fundamental rights) and 24 (justice, freedom and security), a move supported by the PACE.⁵

9. With regard to neighbouring countries, the leaders of the Greek Cypriots and the Turkish Cypriots have decided, in February 2014, to resume a new round of negotiation for the resolution of the Cyprus problem^{6 7}. Regarding Armenia, in the run-up to the centenary of the events of 1915, Turkish Prime Minister Erdoğan on 23 April 2014, and for the first time, presented his condolences to the grandchildren of the Armenians who lost their lives in 1915.⁸

b. The Gezi Park demonstrations (June-July 2013) and the subsequent action taken

10. In May 2013, environmentalists and civil society representatives occupied Istanbul's Gezi Park in protest at an urban development plan.⁹ The violent eviction of the demonstrators by the police led to large-scale protests by the residents of Istanbul, followed by massive demonstrations involving all sections of the community throughout the country – according to official figures, 2.5 million people took part in the protests. At the time, the Prime Minister called the demonstrators “vandals” and accused economic lobbies and the international media of fuelling the protests, thereby helping reinforce the polarisation of society. The death of 15-year old Berkin Elvan on 11 March 2014 after being in a coma for 259 days as a result of being hit by a tear-gas canister stirred much emotion and sparked fresh demonstrations throughout Turkey, interspersed with violent clashes with the police.

11. The police violence witnessed during these demonstrations – in which 8 people died and thousands were injured – raised serious questions.¹⁰ The messages of support sent by the authorities to the law-enforcement agencies and the judicial delays in dealing with victims' complaints of the excessive use of force raised doubts about the authorities' determination to conduct thorough investigations against members of the police who had used a disproportionate degree of force during the Gezi Park demonstrations.

12. Niels Muižnieks, the Council of Europe's Commissioner for Human Rights, wrote a detailed report on the conduct of the law-enforcement agencies and the management of the Gezi Park events.¹¹ The commissioner noted the “numerous, serious and consistent allegations regarding excessive use of force (...) by law enforcement officials and of excessive and improper use of tear gas and of the use of tear gas canisters as projectiles (...), and a climate of fear of reprisals by administrative and judicial authorities for non-violent involvement in the Gezi events (...) which could contribute to a chilling effect on the exercise of the rights to freedom of assembly and freedom of expression.”

13. This ties in, moreover, with the abundant case-law of the European Court of Human Rights, which on numerous occasions has found against Turkey for excessive use of force during demonstrations. The Committee of Ministers, responsible for the execution of judgments, has underlined the recurrent and systematic nature of the problem and called on the Turkish authorities, under a supervision procedure in line with the *Oya Ataman v. Turkey* judgment,¹² to take a series of measures to rectify this situation.¹³

⁴ Turkey is at present the only country in an EU-accession procedure which does not benefit from a visa-free regime.

⁵ [Resolution 1925 \(2013\)](#), paragraph 4.

⁶ I am referring here to the information report written by Mr Joachim HÖRSTER (Germany, EPP/CD) on recent developments in the situation in Cyprus ([Doc. 13501](#) of 22 April 2014)

⁷ The European Court of Human Rights, in its Grand Chamber judgment on the issue of just satisfaction in the *Cyprus v. Turkey* case (Application No. 25781/94) of 12 May 2014, ordered Turkey to pay the government of Cyprus aggregate sums of EUR 30 million for non-pecuniary damage suffered by the surviving relatives of the 1,456 missing persons and EUR 60 million for the non-pecuniary damage suffered by the enclaved residents of the Karpas peninsula.

⁸ <http://www.bbc.com/news/world-europe-27131543>

⁹ Following the appeal lodged against these urban development plans, on 6 May 2014 the Council of State cancelled the plan to transform Taksim Square into a pedestrian zone.

¹⁰ In response to the Gezi events and similar events in Europe, the Parliamentary Assembly held an urgent debate on 27 June 2013 on “Popular protest and challenges to freedom of assembly, media and speech”. See [Doc. 13258](#) and [Resolution 1947 \(2013\)](#)

¹¹ Doc. [CommDH\(2013\)24](#), p.4-29

¹² *Oya Ataman v. Turkey* judgment of 5 March 2007 (Application No. 74552/01)

¹³ Decision of the Ministers' Deputies adopted at the 1179th meeting of 26 September 2013, [Case No. 19](#)

14. Thousands of people were arrested at the Gezi Park demonstrations in 2013 and 159 were detained as of 18 July 2013.¹⁴ All had been released at the time of my visit to Turkey. According to Amnesty International, more than 5,500 people had been prosecuted, sometimes under anti-terrorism laws, for having taken part in the demonstrations.¹⁵ The trial of 255 defendants, who had taken refuge in the Dolmabahçe mosque on 1 June 2013,¹⁶ began in May 2014. The prosecution was calling for prison sentences of between one and 11 years.

15. I met Ms Mücella Yapıcı, Secretary General of the Chamber of Architects and one of the co-organisers of the initial demonstrations in Gezi Park, ahead of the trial of 26 of the leaders of the demonstrations on 12 June 2014 – described by Amnesty International as a “show trial”.¹⁷ She feared that there would be further police intervention at the demonstrations to mark the first anniversary of the Gezi Park events.¹⁸

16. The trials of the demonstrators, and of those alleged to have assisted them, contrast with the slowness in dealing with the complaints lodged by the victims of police violence and with the risk that the police officers having committed human rights violations would go unpunished, as highlighted by the Commissioner for Human Rights in his report. I met Hakan Yaman, a bus driver who, near a demonstration in an Istanbul suburb at which he had not taken part, found himself confronted by 4 anti-riot police officers and one person in civilian clothes who beat and tortured him, and left him for dead on a smouldering fire. On the day we spoke, the investigation had still not identified the police officers involved (despite the fact that the incident had been recorded on a mobile phone). Justice has not been done for the victim who, since then has undergone numerous operations and has lost part of his sight.

17. In its June 2014 report, Amnesty International wrote that only five prosecutions had been initiated against nine police officers, despite the hundreds of complaints of police violence.¹⁹ I expressed to the authorities my astonishment that no police officers had been prosecuted for this incident, and for many others. According to the Ministry of Justice, 329 investigations against police officers had been initiated; the prosecution had dismissed 59 of these cases, but this decision could be appealed against by the victims. The Ministry of the Interior told me that 2,180 administrative disciplinary investigations had been opened against the security forces, and 2,238 proceedings initiated against police officers.

18. We expect the Turkish authorities to fully investigate the facts in question, to show determination in punishing the perpetrators of the abusive violence and take the necessary measures to put an end to this recurrent and endemic problem in the police. The right to demonstrate is enshrined in the European Convention on Human Rights. In certain circumstances this right can be regulated by states. Nonetheless, police intervention must be both necessary and proportionate, in accordance with the requirements laid down by the Convention.

c. The 17 December 2013 anti-corruption operation and its political and legal consequences

19. On 17 December 2013, a vast anti-corruption operation was launched during which 52 people were arrested, among whom were the sons of three serving ministers (Interior, Economy, Environment), which led to a cabinet reshuffle on 25 December 2013. Further searches and arrests took place on 25 December 2013 and 7 January 2014. This operation was carried on the social media, which posted illegal recordings of conversations allegedly involving senior political and economic officials, including the Prime Minister and his son. The Prime Minister refuted all allegations of corruption. He harshly criticised an operation which sought to destabilise the government three months away from the local elections and was allegedly led by the

¹⁴ [CommDH\(2013\)24](#), p.23. See the press release of the Commissioner for Human Rights of 8 July 2013 (“Police violence must not go unpunished”) and the report published on 26 November 2013 following his visit to Turkey from 1 to 5 July 2013, Doc. [CommDH\(2013\)24](#).

¹⁵ “Turkey: Demonstrators on trial, police unpunished”, [press release](#) from Amnesty International, 10 June 2014

¹⁶ They had taken refuge inside the mosque to protect themselves against the tear gas and in so doing transformed this place of worship into an improvised medical centre to assist the wounded. They had also provoked the ire of certain circles for having entered the mosque without taking off their shoes, and with some people carrying bottles of beer. However, the muezzin of the mosque, Fuat Yıldırım, refuted these allegations.

¹⁷ <http://www.amnesty.org/fr/for-media/press-releases/turkey-must-abandon-show-trial-against-gezi-park-protest-organizers-2014-06>

¹⁸ On 31 May, Mr Erdoğan mobilised over 20,000 police officers who violently dispersed the forbidden gatherings to commemorate the Gezi Park protests, making more than 300 arrests in Istanbul and Ankara.

¹⁹ [EUR 44/010/2014](#), “Adding injustice to injury: One year on from the Gezi Park protests in Turkey”, Amnesty International, June 2014. See also the [report](#) published by the International Federation for Human Rights “Turkey: Gezi, one year on – Witch hunt, impunity of law enforcement officials and a shrinking space for rights and freedoms” – May 2014.

Hizmet movement of Fethullah Gülen, an Islamic preacher living in self-imposed exile in the United States, who, according to the Prime Minister, had established a “parallel state” (or “parallel structures”) within the State institutions.

20. In response to this anti-corruption operation and the ensuing judicial proceedings, the authorities have taken a whole series of measures:

20.1. There have been large-scale transfers of staff in the judiciary and the police, involving in particular judges, prosecutors and police officers having worked on corruption cases. Thousands of people have been reassigned in recent months. According to the Ministry of Justice, these were normal transfers, involving 680 judges and prosecutors (out of 14,000) and only 28 of them have been reassigned to new positions without their consent. However, the Association of Judges and Prosecutors (YARSAV) told me of 554 judges and prosecutors assigned to new posts between January and March 2014, and more than 15,000 police and security officers transferred since the start of these operations.

20.2. A series of laws was passed in the first half of 2014, with the aim of strengthening the authorities’ control over the judiciary (passing of a law on the High Council of Judges and Prosecutors), the media (amendments to the Internet Law, ban on Twitter and YouTube) and the secret services (passing of a law on strengthening the powers of the secret services).

21. Prime Minister Erdoğan has on numerous occasions spoken of his determination to eradicate the “parallel structures”. In the absence of any tangible evidence at present substantiating the existence of such parallel structures, these words and this determination – confirmed to me by members of the government whom I met in the course of my visit – necessarily lead us to remain vigilant and raise doubts about compliance with the procedural guarantees of the rights of the defence.

22. This situation has therefore given rise to a serious confrontation between, on the one hand, members of the judiciary and the police and, on the other, the government. I had noted that there was a risk that the trials and arrests which over the past ten years had mainly concerned the military, journalists, the Kurds and academics, could find a new target in the pro-Gülenists. These fears seemed to be confirmed in July 2014, with the arrest of 115 police officers on 22 July (including Mr Yılmaz, former head of the police intelligence department in Istanbul, and Mr Atayün, former head of the Istanbul anti-terrorism unit). Following this operation, 35 officers were placed in detention and 79 relieved of their duties. In a new wave of arrests, a further 33 police officers were brought in for questioning on 5 August in 14 provinces. These police officers, who had taken part in the December 2013 operation or in the investigation of the Ergenekon, Balyoz and KCK cases, are suspected of spying and illegal wiretapping.²⁰

23. I find it worrying that these cases will be dealt with by the newly-created “criminal judges of peace” – or “super judges” (see below). It is fresh in our minds that the investigation into the alleged conspiracy cases (in particular Ergenekon and Balyoz) and the trials held by the special courts – abolished only in March 2014 – had led to the arrest, imprisonment and conviction of hundreds of individuals before the Constitutional Court ruled that the proceedings in question were invalid – in particular because they did not respect the right to a fair trial – and paved the way for new trials. According to information appearing in the media, it could not be ruled out that these operations against the “parallel state” launched by the authorities and which today targeted the police, could be extended to other institutions in the future (the judiciary, the media, even the army). It is therefore essential that the Turkish authorities guarantee that these cases are handled with due respect for the rights of the defence and that the appropriate conditions are in place to ensure impartial investigations and fair proceedings.

d. The local elections of 30 March 2014

24. The local elections of 30 March 2014 resulted in a victory for the AKP²¹ – the party’s 8th consecutive election victory since 2002. The AKP obtained 42.83% of votes, the Republican People’s Party (CHP) 26.34%, the Nationalist Movement Party (MHP) 17.82%, and the newly created leftist parties, the Peoples’ Democratic Party (HDP) and its ally the Peace and Democracy Party (BDP) 6.28% together). In these elections, the AKP lost 2.1 million votes and the MHP gained 2.4 million.

²⁰ The police officers and prosecutors in question have said that this wiretapping had been ordered as part of an investigation initiated three years previously against the Salam-Tawhid terrorist network, supported by Iran.

²¹ These elections were the first local elections following the territorial reform of December 2012, with the number of metropolises increasing from 14 to 30.

25. These local elections had a plebiscitary dimension for the Erdoğan government amid the suspicions of corruption laid against him and his entourage.²² No international organisation observed these elections.²³ The media reported problems relating to the number of ballot papers printed by the Higher Electoral Board, the fact that the names of deceased persons had been included on the electoral rolls, power cuts during the count in twenty or so provinces and the publication of divergent results by different press agencies. Violence on election day left 8 dead and 50 wounded. For the first time, three women were elected mayors of metropolises: Fatma Şahin (AKP, former Minister for Family Affairs) in Gaziantep, Gültan Kışanak (co-Chair of the BDP) co-mayor in Diyarbakır and Özlem Çerçioğlu (CHP) in Aydın.

e. The Soma mine disaster of 14 May 2014

26. My visit took place shortly after the accident which occurred at the Soma coal mine on 14 May 2014, which resulted in the death of 301 workers and which provoked a strong emotional reaction in Turkey and beyond. The representatives of civil society whom I was able to meet raised the issue of this tragedy, which highlighted safety problems in the mine and working conditions, in particular the lack of independence of the bodies responsible for inspecting such conditions. This tragic event angered the population²⁴ and many demonstrations of support were held throughout the country, some of which were broken up by the police. Demonstrations in the Okmeydanı district in Istanbul led to two deaths on 23 and 24 May 2014.

27. Under pressure from protesters, Turkey announced the arrest of the operators of the mine, the preparation of an action plan to strengthen security in mines (more than 1,000 miners had lost their lives between 2002 and 2012 according to the media), the establishment of a parliamentary committee of inquiry into the Soma accident, and compensation for the victims' families. In addition, I was told that the parliament was due to debate legislation on health and safety at work. In any event, there is a need for independent mechanisms for the inspection of working conditions.

28. This tragedy has highlighted the problem of safety and inspections of workplaces, in particular mines. Turkey has not ratified the International Labour Organisation (ILO) Convention 176 on Safety and Health in Mines, which entered into force in 1998. Turkey, currently in a process of reform of trade union rights,²⁵ must in all probability review all labour rights. In this context, we cannot but renew our appeal to Turkey to press ahead with implementation of the revised Social Charter and lift the reservations made.

f. The election campaign and the presidential elections of 10 August 2014

29. Following the 2007 constitutional referendum, Turkish citizens were asked for the first time to elect their President of the Republic by direct universal suffrage. At the time of my visit, no candidate had yet been officially designated by the political parties. Subsequently, on 21 and 22 July 2014, I took part in the PACE pre-electoral mission. The 10 August elections were observed by an Assembly ad hoc committee and are the subject of a separate report.²⁶

30. The challenges and possible institutional consequences of the (direct) election of the President of the Republic were widely discussed during my visit. The Prime Minister had said at the time that if he were a candidate, he would make full use of the powers conferred upon him by the constitution. It will be recalled that the current constitution, in whose drafting the military played a significant role, assigns significant powers to the President; the President is the head of state, promulgates laws, convenes referendums and new parliamentary elections, appoints the prime minister, ministers and senior officials and can chair the Council of Ministers. The President embodies the unity of the nation and ensures the application of the constitution and the regular and harmonious functioning of the organs of the state. In line with the political tradition established hitherto and under the Turkish parliamentary system, the President adopts a neutral position. The law prohibits any political party affiliation. Once elected, the President must sever any connection with a political party and vacate any parliamentary seat held.²⁷

²² This clear victory by the AKP dispelled the claim that the Gülenist movement had a large stock of votes and could become a political force in opposition to the AKP.

²³ The Congress of Local and Regional Authorities received an invitation to observe these elections just one week before the date on which they were to be held, too short a time to mount a serious election observation mission.

²⁴ The words of the Prime Minister, describing the accident as "typical" and citing 19th century sources, particularly angered the population.

²⁵ See [Doc 13160](#), p.42.

²⁶ See the [joint press release](#) and the [preliminary findings](#) published by the delegation of international observers comprising the Parliamentary Assembly of the Council of Europe, the Parliamentary Assembly of the OSCE and the ODIHR. According to the [results](#) published by the Higher Electoral Board, turnout was 74.13% (41,283,627 voters). There were 737,716 invalid votes.

²⁷ Constitution of the Republic of Turkey, Articles 101 to 108, http://global.tbmm.gov.tr/docs/constitution_en.pdf.

31. The presidential elections of 10 August 2014 resulted in the election of the AKP candidate and current Prime Minister Recep Tayyip Erdoğan with 51.79% of the votes. The candidate from the opposition coalition formed by the CHP and the MHP, Ekmeleddin İhsanoğlu, obtained 38.44%. The HDP candidate Selahattin Demirtaş obtained 9.76% of the votes. Accordingly, the election in the first round of Recep Tayyip Erdoğan gives him a real but at the same time relative political authority, bearing in mind that the polls predicted a result between 54% and 56%. Following the results of the presidential election, we take note of the appointment, by Mr. Erdoğan, of Mr Davutoğlu, a former Minister of Foreign Affairs, as Prime Minister and also President of the AKP. The future will tell us in which direction the new President will focus his policy objectives. The next and essential phase will be the parliamentary elections of 2015.

III. Recent developments concerning the 12 action requirements of the post-monitoring dialogue

a. Revision of the constitution

- **The work of the conciliation committee**

32. A conciliation committee tasked with revising the constitution with equal representation of the four parties in parliament was set up in 2012. It ceased working in December 2013, as it was unable to find the required consensus to complete the drafting of a new constitution. The political groupings had been able to agree on sixty or so articles. However, the proposal put forward by the AKP to include a presidential system in the constitution had received no support from any of the other three parties. The AKP does not today have the necessary constitutional majority (i.e. 367 members of parliament) or the requisite qualified majority (330 members) to propose a constitutional referendum. The results of the forthcoming parliamentary elections, scheduled to be held in 2015, will therefore be decisive for the prospects of revising the constitution.

33. The launch of the presidential election campaign was an opportunity for the various political parties to clarify their position on the political system they intended to develop. At the time of our visit, the Prime Minister (then the potential candidate from the Justice and Development Party (AKP)) did not conceal his intention to make maximum use of the prerogatives conferred upon the President by the constitution. The MHP nationalist party was seeking a joint candidate for the opposition and stressed that the President should play a unifying role, gather a degree of consensus within the population and act as a counterbalancing force in the Turkish political system. The joint opposition candidate, Mr İhsanoğlu subsequently confirmed his commitment to the parliamentary system and the “apolitical” role of the President of the Republic

34. The victory of Prime Minister Erdoğan on 10 August 2014 could signal a change in the political system, which was one of the campaign themes of the future President.²⁸ We will need to look, in due course, at the new constitutional architecture that will be proposed. Ultimately, it is for the Turkish people to choose their political system; as a member of the Council of Europe, Turkey will be required to ensure institutional balances and establish the countervailing powers that are necessary for the democratic exercise of authority; I cannot but encourage the Turkish authorities to draw on the expertise of the Council of Europe and its Venice Commission in drafting a new constitution, when the time comes.

- **Impact of the right of individual appeal to the Constitutional Court**

35. We had welcomed the introduction of a right of individual appeal to the Constitutional Court in respect of matters falling within the scope of the European Convention on Human Rights following the 2010 referendum,²⁹ which became effective in September 2012. Since then, 22,000 appeals have been filed and 12,000 are still pending. Violations have been found in 165 cases.³⁰

36. Decisions of the Constitutional Court in the light of the ECtHR case-law on freedom and safety, freedom of expression and a fair trial have had a considerable impact in Turkey. For example, following individual appeals in the Ergenekon and Balyoz cases, the decisions of the Constitutional Court led to the release of 8 members of parliament who were in detention,³¹ the former Chief of General Staff, General İker Başbuğ on 7 March 2014 (for a procedural defect), and 236 individuals convicted in the Balyoz case,

²⁸ The Prime Minister, in a televised interview, said that he wished to “transform Turkey into a presidential system”, Daily Sabah, 23 July 2014.

²⁹ This right of individual appeal to the Constitutional Court is regarded by the ECtHR as an effective remedy.

³⁰ Figures quoted at the [Conference](#) on best practices of individual complaint to the Constitutional Courts in Europe organised by the Council of Europe in Strasbourg on 7 July 2014.

³¹ MP Mustafa Balbay was released on 10 December 2013, followed by five members of parliament from the BDP on 7 January 2014, retired general Engin Alan, whose conviction in the Balyoz case had been confirmed on appeal, was released on 19 June 2014. For further details, see <http://ovipot.hypotheses.org/10311> (in French).

released on 19 June 2014³² - which will pave the way for a new trial by an ordinary rather than a special court. In the Ergenekon and Balyoz cases, the Constitutional Court held that the digital data used as evidence and the wiretapping of the suspects did not constitute a sound basis for the verdicts.

37. The decisions of the Constitutional Court in the field of freedom of the press (see below) came in for strong criticism from those in power. The President of the Venice Commission expressed his concern “about recent statements criticising the Court for exercising its constitutional functions”. I received confirmation of this situation in Turkey, where the members of the Constitutional Court aspire to judge completely independently and in serenity. The President of the Venice Commission stressed the growing importance of the Constitutional Court in Turkey since the 2010 referendum, stating that “excessive criticism by holders of public office risks undermining their independence, and, in this specific case, jeopardising the important progress already made in Turkey”.³³

b. Reform of the electoral code to lower the 10% threshold and enable Turkish citizens living abroad to vote without having to present themselves at the frontier

38. I note with satisfaction that the adoption of amendments to the electoral legislation in May 2012 enabled Turkish citizens residing outside Turkey to vote abroad in the 2014 presidential elections and not only in the polling stations set up in airports, in response to one of the demands of the Parliamentary Assembly. Practical arrangements were made to ensure some 100 polling stations in fifty or so countries under good security conditions.

39. However, the turnout of Turks residing abroad (19% of the 2.8 million Turks abroad) in the polling stations set up was deemed to be disappointing.³⁴ An assessment of the process involved (in particular the requirement to make an appointment to vote) should help identify the adjustments that need to be made to facilitate voting by expatriate Turks in future.

40. The requested lowering of the 10% electoral threshold currently in force in parliamentary elections does not appear to be on the agenda.

c. Reform to the Criminal Code and judicial reforms

41. In my previous report I emphasised that the adoption of judicial reform packages in several legislative instalments had been a real advance from 2010 onwards. Since the adoption of the last report, fresh packages have supplemented these reforms:

42. The amendments to the Anti-Terrorism Law, the Code of Criminal Procedure and other laws (“5th judicial reform package”) came into force on 6 March 2014 with commendable measures such as the abolition of the special courts, limitation of pre-trial detention to 5 years instead of 10 in terrorism cases, requirement in criminal cases to adduce “concrete evidence” in order to apply preventive measures such as detention, searches, confiscations; measures concerning phone tapping, recordings and surveillance.

43. The 5th judicial reform package permitted the release of numerous journalists and, beginning in April 2014, the release of everyone charged in the KCK case who had been imprisoned five years earlier³⁵ pending trial. The representatives of the pro-Kurdish parties BDP and HDP, for their part, deplore the fact that the disputed legislative provisions behind these arrests are still in force. After the 5th package took effect, pre-trial detentions currently represent 14.3% of detentions as at 21 April 2014, compared to 23.5 % in December 2012³⁶.

³² 365 individuals (of whom 364 were serving or retired army officers) had been charged. Three retired generals had been sentenced to a prison term of 20 years, 214 officers to a prison term of 16 years, 34 officers were acquitted; on 9 October 2013, the Supreme Court of Cassation had confirmed 237 convictions (including that of the nationalist MP Engin Alan) and requested a retrial of 88 defendants. 25 of the latter had been released pending a new trial.

³³ <http://www.venice.coe.int/webforms/events/default.aspx?id=1858&lang=en>

³⁴ <http://www.hurriyetdailynews.com/turkeys-ruling-party-points-the-finger-at-top-election-body-for-low-expat-vote.aspx?pageID=238&nlID=70014&NewsCatID=338>. According to provisional figures issued by the Higher Electoral Board on 11 August 2014, just under 19% of the expatriate electorate (i.e. 530,116 voters) voted abroad or in the polling stations set up in the airports.

³⁵ This trial concerned 151 mayors, former mayors, local elected representatives, members of parliament, BDP leaders, and presidents of associations, charged with being members of a terrorist organisation. It was adjourned on 26 April 2011 then postponed to 6 December 2011 to be resumed only on 16 September 2013 for 175 accused, 96 of them in custody since April 2009.

³⁶ Ministry of Justice figures.

44. It may also be noted that under the 2010 constitutional reform, military personnel may be brought before ordinary courts. The 10th Criminal Court of Ankara on 18 June 2014 sentenced General (and former President of the Turkish Republic) Kenan Evren (97 years old) and former chief of staff Tahsin Sahinkaya to life imprisonment for their responsibility regarding the 12 September 1980 coup³⁷.

45. An "Action Plan on Prevention of ECHR Violations" was adopted on 24 February 2014³⁸, a positive development. It is intended to help remedy violations of the Convention and lessen the number of applications brought before the Strasbourg court. The introduction of a right of individual petition before the Constitutional Court has allowed the number of cases pending before the European Court of Human Rights to be significantly reduced.

46. The Ministry of Justice informed me of plans to create regional courts of appeal which would ease the congestion of the Supreme Court of Cassation. During our exchange, I was told that a reform of the Supreme Court of Cassation was not contemplated.

47. Mr Çavuşoğlu also informed me of the proceedings of the "reforms monitoring committee" at its meeting on 9 May 2014, which is to evaluate the conventions signed but not ratified by Turkey, and the reservations which might be lifted, the consistency of the existing legislation with the ratified conventions, and the preparation of a "national action plan for Turkey's accession process 2014-2016" which should allow the demands made in the context of the post-monitoring dialogue to be met; preparation of a data protection bill and of a bill on the council for preventing discrimination and promoting equality.³⁹ On 4 August 2014 a bill was also tabled in parliament for the ratification of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS No. 108) signed by Turkey in 1981. The convention is chiefly intended to protect persons against wrongful use of automated processing of personal data.

48. But the cases Gülen linked with allegations of corruption since December 2013 have cause backlash of various kinds particularly in connection with the movement, and have prompted the authorities to adopt a series of measures portrayed to me as "precautions to limit the influence of this movement in the judiciary, the police, the army and the Ministry of the Interior", while dismissing any idea of decline in standards despite the negative image which these measures convey. I shall confine myself to making a summary of legislative enactments since January 2014, which have raised many queries concerning their compatibility with the standards of the Council of Europe⁴⁰:

48.1. The enactment of a law on the High Council of Judges and Prosecutors (HSYK), without prior consultation of the HSYK, on 15 February 2014 and its promulgation by President Gül on 26 February has raised the question of separation of powers and independence of the judiciary:

48.1.1. The powers of the Minister of Justice over the HSYK were considerably widened in February 2014, so that he could determine the distribution of the HSYK membership in the 3 chambers, appoint the President and Vice-President of the inspection board, order disciplinary proceedings to be instituted against judges and prosecutors, terminate the service of the HSYK administrative staff and recruit new members, etc. These controversial provisions were overturned by the Constitutional Court on 10 April 2014 and replaced by articles (restoring the original provisions) adopted on 28 June 2014. However, as soon as the law was promulgated, the authorities had recourse to the provisions on staff employed by the HSYK. In this way, 137 inspectors, reporting judges and chamber vice-presidents as well as 40 administrative employees⁴¹, almost half the 300 strong establishment of the HSYK, were replaced and subsequently reinstated, as the Constitutional Court decision did not have retroactive effect.

48.1.2. The sweeping transfers of staff in the judiciary effected early in 2014 had a particular impact on the judges, prosecutors (and police officers) involved in the anti-corruption operations on 17 December, 25 December 2013 and 7 January 2014 (see above). Moreover, according to the YARSAV, over 100 young judges – seen as sympathising with the AKP – were assigned to high criminal courts (appointments normally requiring 15 years' professional experience). The request made by the secretaries general of the 3 HSYK chambers to place an item concerning these transfers on the agenda of an HSYK plenary sitting was rejected by the Minister of Justice.

³⁷ For the record, following the 1980 coup, 650 000 persons detained, 230 000 tried, 50 hanged, 299 prisoners died for "unknown reasons" and 171 after acts of torture perpetrated by the security forces.

³⁸ See <http://www.inhak.adalet.gov.tr/eng/announced/actionplan.html>

³⁹ Press release of the 29th meeting of the reform monitoring group convened in Ankara on 9 May 2014.

⁴⁰ See for example the [Declaration](#) adopted by the Monitoring Committee on 29 January 2014 and the PACE Legal Affairs Committee's [Declaration](#) of 10 April 2014.

⁴¹ These figures were disclosed to me by the HSYK.

48.1.3. Disciplinary or criminal proceedings have been instituted against the prosecutors who carried out the anti-corruption operations, on the following grounds: breach of the principle of confidentiality, transfers of evidence, creation of case files in the official database under false names, disproportionate measures taken with remand or confiscation of accused persons' property. The YARSAV was nevertheless perturbed that allegations were the sole basis for these charges for the time being and failing tangible facts and evidence.

48.1.4. The HSYK will conduct a re-election of the 10 members elected from among judges and prosecutors in October 2014 by list voting. The Association of Judges and Prosecutors (YARSAV) has expressed its deep concern over the conditions under which the campaign took place and the use of administrative resources by a candidacy platform calling itself "Unity in the judiciary", created with the government's support and exerting pressure on the body of voters required to return its representatives to the HSYK.

48.2. **The enactment of a controversial law on the secret services in April 2014** (promulgated by the President of the Republic) strengthens the powers and increases the immunity of secret service agents as well as the penalties (10 years' imprisonment) to which journalists are liable for publishing confidential documents. This law enables the secret services to access the financial data of natural and legal persons, grants members of the secret services greater immunity from prosecution, and stipulates the Prime Minister's authorisation to open criminal investigations concerning them. It provides that any citizen failing to deliver a document or a piece of information demanded by the MIT (intelligence agency) shall be tried and may be sentenced to up to four years in prison, etc.⁴². Certain aspects could be problematic in the light of Council of Europe standards⁴³. This law was strongly criticised by the opposition parties which intended to petition the Constitutional Court.

48.3. The recent amendments to the **law on the Internet** (see below), and the bans imposed on Twitter and You Tube, also sought to prevent the webcasting of illegal recordings.

48.4. In addition, **another "package of laws" passed on 28 June 2014** raises many questions. One should welcome the toughening of penalties for crimes against women and children (maximum penalty raised to 39 years as against 30 at present) and measures of restraint on sexual abusers, other measures seem problematic, such as the "criminal lay judges" instituted in June 2014, the "super judges" ruling as single judges and vested with extraordinary powers to conduct the investigation and the court proceedings (viz. inquiries, detentions, searches, arrests, freezing of assets, being forbidden to leave the territory, and any other administrative procedure), which would be seriously questionable with reference to the European Convention on Human Rights.

49. All these measures are consistent with an animus of "struggle against the parallel State" which the government intends to bring to completion. The opposition made me aware of its concern over the reconstitution of the senior membership of the High Council of Judges and Prosecutors, the replacement of the very lately abolished special courts by assize courts with special powers, and restructuring of the Council of State and of the Supreme Court of Cassation – all measures which, to the opposition, seek to suppress the cases of allegations of corruption directed at the leaders in power.

d. Freedom of expression, demonstration and the media

50. I have already referred to the question of freedom of expression and demonstration in connection with the events at Gezi (see above). The issues of wrongful use of force by the police and impunity of the security forces which reacted disproportionately should be addressed by the Turkish authorities.

51. I have moreover discussed these matters with the Turkish authorities and the representatives of the media. The entry into force of the 5th legal reform package has allowed the number of journalists in prison in Turkey to be reduced. The Ministry of Justice told me that 6 journalists were in pre-trial detention and 17 were convicted, specifying that only 5 of these 23 persons had a press card. The Journalists Platform's own count at 12 May 2014 was 7 journalists in pre-trial detention and 18 convicted. This development is to be welcomed, but the situation of the media remains problematic.

⁴² <http://www.bbc.com/news/world-europe-27172043>

⁴³ See Joint Opinion of the Venice Commission and the Directorate General of Human Rights (DHR) and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft law on amending and supplementing certain legislative acts, promoted by the intelligence and security service of the Republic of Moldova, [CDL-AD\(2014\)009-e](http://www.coe.int/t/e/turkey/CDL-AD(2014)009-e)

52. The journalists encountered informed me of the difficulties met since the Gezi events resulting in the dismissal or forced resignation of some tens of journalists⁴⁴, the proceedings brought against journalists having published information on the corruption cases, the increased self-censorship of journalists, the lack of transparency as to media ownership, the buying-up and control of media by businessmen with stakes in government contracts, the economic pressure brought to bear on owners of opposition media, independent journalists gradually ousted from the traditional media and compelled to turn to the electronic media, the only professional outlet possible for these journalists despite the population's limited access to these media.

53. This is the place to mention a recent leading decision of the European Court of Human Rights which in its judgments (not final) in the cases of *Nedim Şener v. Turkey* and *Şik v. Turkey* of 8 July 2014⁴⁵ concerning the pre-trial detention of two Turkish investigative journalists, forcefully emphasised that the custodial measures to which they had been sentenced were "liable to create a climate of self-censorship for any investigative journalist wishing to conduct research and comment on the conduct and actions of State bodies".

54. On the legislative plane, in the context of the Gülen movement's purported influence and the dissemination of recordings in cases involving allegations of corruption, amendments to the law of 2007 on the Internet⁴⁶ were adopted on 5 February 2014. This law enabled the Telecommunications Directorate (TIB) to jam an Internet site without prior court approval. Two amendments subsequently voted at the call of the President of the Republic on 26 February 2014 allowed improvements to be made to the text. These amendments have been welcomed⁴⁷ by Amnesty International, which recalls that the Internet law of 2007 has been used to limit freedom of expression, and the amendments adopted are vague, open to restrictive interpretation of freedom of expression, and may invite abuses. The blocking of Twitter and You Tube which occurred in the spring of 2014 on the eve of the local elections illustrates the problematic interpretation of these new provisions:

54.1. On 21 March 2014 the Telecommunications Directorate (TIB) ordered the blocking of Twitter after the Prime Minister had signified his intention "to stamp out Twitter". This prohibition was invalidated on 26 March 2014 by the 15th Administrative Court of Ankara which ordered its restoration (decision not enforced) then invalidated by the Constitutional Court on 2 April 2014. Twitter was restored on 3 April 2014 by the TIB. Prime Minister Erdogan then declared that he would implement, but "not respect", the Constitutional Court's decision.

54.2. On 27 March 2014 the TIB decided to deny access to the You Tube site, invoking reasons of national security. This decision was suspended by the Gölbaşı magistrate's court on 4 April 2014 then by the Ankara Administrative Court on 7 May 2014, these decisions remaining unenforced⁴⁸. It would take a Constitutional Court decision on 4 June 2014 for the ban on You Tube to be lifted.

e. The ombudsman

55. In Resolution 1925 (2013), the Assembly welcomed Turkey's creation of the mediator (ombudsman) institution⁴⁹, meeting one of the 12 action requirements formulated by the PACE in 2004. This institution is responsible for verifying the legality and equity of any administrative act except decisions taken *ex officio* by

⁴⁴ According to the monitoring reports produced by Bianet, 384 journalists and press writers and employees have been dismissed or forced to leave their jobs between July 2013 and June 2014 for reasons linked with the decisions of the media bosses, the Gezi demonstrations or the struggle against the AKP and the Gülen movement. See <http://bianet.org/english/media/157385-the-media-s-3-months-186-journalists-fired>.

⁴⁵ Applications Nos. 38270/11 and 53413/11: the European Court of Human Rights unanimously found a violation of Article 5 § 3 (right to freedom and security), Article 5 § 4 (right to have the lawfulness of one's detention decided speedily), and Article 10 (freedom of expression). The Court held that the pre-trial detention of the journalists MM Şener and Şik (two investigative journalists charged with rendering aid and assistance to the criminal organisation Ergenekon) relied on grounds which were neither "relevant" nor "sufficient" to justify such a term of over one year, with no real possibility of satisfactorily challenging the reasons given to justify this pre-trial detention. See ECtHR 200 (2014), ECtHR press release.

⁴⁶ I raised this issue in my 2013 report. The provisions of the 2007 law on the Internet were found contrary to freedom of expression and earned Turkey the censure of the European Court of Human Rights in the *Yıldırım v. Turkey* judgment of 2010.

⁴⁷ Turkey: Amnesty International welcomes Internet law changes recommended by President, [EUR 44/004/2014](http://www.amnesty.org/en/news-and-features/2014/02/27/turkey-amnesty-international-welcomes-internet-law-changes-recommended-by-president), 27 February 2014

⁴⁸ The TIB did not comply with the request, pleading the retention of 15 problematic videos. The President of the Parliamentary Assembly, Anne Brasseur, thereupon published a declaration. See <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=4948&lang=2&cat=15>.

⁴⁹ <http://www.ombudsman.gov.tr/en/>.

the President of the Republic.⁵⁰ This visit enabled me to have a discussion with Nihat Ömeroglu, appointed ombudsman by parliament in September 2012, on the review of his action after the institution had functioned for a year, and his stance concerning the recent problems encountered by Turkey (Gezi demonstrations, Soma mine accident, human rights advocacy mechanism before the Constitutional Court, etc.).

56. The ombudsman referred to his institution's work on the Gezi demonstrations and acknowledged that in certain cases the police had used disproportionate force not in keeping with the rule of law, and regretted the slow progress of the inquiries conducted. The ombudsman has also set up a committee composed of some ten specialists tasked to prepare a report on the Soma disaster. The ombudsman expressed satisfaction at the individual petitions mechanism before the Constitutional Court, apt to widen the protection of individual freedoms.

57. At the presentation of his 2013 activity report to parliament, the ombudsman nevertheless regretted his lack of authority, limited powers,⁵¹ and the deficient application of the recommendations made to the authorities.⁵² The NGOs which I met also regretted that the ombudsman could not act *ex officio*, particularly in matters concerning human rights.

58. The creation of the ombudsman institution remains an important stage in the introduction of mechanisms to protect citizens' rights. It is an institution which would benefit by being strengthened to become a force of suggestion and improvement to legislation, on the basis of the recommendations made by the ombudsman.

f. Process of settlement of the Kurdish question and rights of minorities

59. It should be recalled that Turkish authorities have dialogued with the Kurdish leaders for some years. The meetings between the delegations of pro-Kurdish parliamentarians and the leader Abdullah Ocalan, in custody on Imrali Island, have continued with the permission of the Ministry of Justice. However, during my visit, Abdullah Ocalan still did not have access to a lawyer, in spite of several cases still pending before the national courts and before the European Court of Human Rights. The European Committee for the Prevention of Torture (CPT), in its report published in March 2014⁵³, moreover condemned this situation.⁵⁴

60. The ceasefire seems to be observed overall, despite the halting, since September 2013, of the withdrawal of the troops of the Kurdistan Workers Party (PKK) terrorist organisation which considered progress in the resolution of the Kurdish question to be insufficient. The authorities estimate that only 20% of the PKK members have left Turkish territory. Serious incidents have been noted, however: over 300 children⁵⁵ have been abducted and enlisted by the PKK. For over two months the PKK obstructed motorways in protest against the building of new security posts in southeast Turkey before the government announced the commencement of "new steps" to restart the process of settlement of the Kurdish question. There were violent confrontations between the Turkish army and Kurdish demonstrators on 7 June 2014 in Lice in Diyarbakır province in which two were shot dead. In the demonstrations that followed the one held at the funeral in Lice, a youth (15) was killed in Adana. In Lice, a demonstrator removed the Turkish flag flying on the 2nd air force command building, causing considerable controversy.

61. The support of Abdullah Ocalan remains crucial in the continuation of the peace process since the call which he sent out on 21 March 2013. The political demands made by A. Ocalan concern the opening of a genuine phase of negotiation which would presuppose house arrest for the leader of the Kurds and access to contacts of his choice, including the media. The Peoples' Democratic Party (HDP), for its part, asked to have a legal basis for conducting a transparent negotiation process with parliamentary involvement.

⁵⁰ In his report of November 2013, the Commissioner for Human Rights notes that in the event of the powers of the President of the Republic being strengthened in a future constitution, this provision would deserve to be reviewed. CommDH (2013)24, p. 31.

⁵¹ <http://www.hurriyetdailynews.com/turkish-ombudsman-complains-of-insufficient-authority.aspx?pageID=238&nlID=65157&NewsCatID=338>.

⁵² At a press conference in April 2014, the ombudsman stated that only 20% of his recommendations were implemented. In :<http://www.todayszaman.com/news-344896-chief-ombudsman-laments-low-implementation-of-kdk-recommendations.html>.

⁵³ CPT/Inf (2014) 7.

⁵⁴ In August 2014, Mazlum Dinç twice met Abdullah Ocalan, but in his capacity as legal guardian and not as one of his lawyers.

⁵⁵ A report produced by the anti-terrorism unit of the national police department mentions the abduction of 331 children during the first half of 2014. The report also mentions the existence of 48 training centres set up in 10 provinces by the KCK and the PKK with the task of training 8500 young people, Zaman France, 6 May 2014, <http://www.zamanfrance.fr/article/331-jeunes-enlevés-pkk-en-six-mois-9482.html>.

62. With the 2014 presidential elections looming, resolution of the “Kurdish question” was central to the discussions which on 10 July 2014 resulted in the passage of a “framework law for ending terrorism and enhancing social integration” and the establishment of a legal framework that could pave the way for negotiations. The law comprises 6 clauses which make provision, in particular, for ensuring the legal protection of the principal officials involved in the negotiations with the PKK, enabling the government to appoint individuals and agencies to conduct the negotiations on the “Kurdish question”, or aiding the rehabilitation of PKK members who lay down their arms. This framework law will require further elaboration by legislative texts.

63. Advances were also expected regarding the question of detention of the many Kurdish representatives and elected officials. The entry into force of the 5th legal reform package in March 2014, limiting the term of pre-trial detention in terrorism cases from 10 to 5 years, allowed the release pending trial of several journalists (see below) and all persons held in the KCK case – including former member of the Congress of Local and Regional Authorities Leyla Güven⁵⁶ – in the first half of 2014.

64. Regarding cultural rights, the adoption of a “democratisation package” on 1 March 2014 spells the abandonment of the oath of allegiance to the Turkish nation in schools, as well as possible use of other languages than Turkish in political life and private school education in these languages.⁵⁷

65. As a final observation, the process of decentralisation is stalled owing to the stoppage of discussions on the reform of the constitution. The spokesmen from the HDP party and the pro-Kurdish BDP party, whom I met, want the process of dialogue – which they consider still inadequate – to be part of a move to democratise the whole of society. The authorities recall the distinction which they draw between the question of combating terrorism and that of resolving the “Kurdish question” which concerns the widening of rights and freedoms and should result in normalisation of relations within society.

g. Combating violence against women and female illiteracy

66. In Turkey as in other European countries, violence against women remains a disturbing phenomenon. According to figures recorded by the press, 214 women were killed in 2013,⁵⁸ and 129 during the first half of 2014 alone. Turkey is encouraged to pursue its action in this field, particularly after the entry into force of the Council of Europe Istanbul Convention on preventing and combating violence against women and domestic violence (known as the “Istanbul Convention”) on 1 August 2014, which Turkey was the first country to ratify.

67. Women’s associations have nevertheless voiced their anxieties. While performing abortion is legally authorised in the public hospitals, it remains difficult (even impossible) to obtain in practice, which the Deputy Minister responsible for Family Affairs has denied. NGO representatives were also concerned over bills under discussion which alluded to the issue of defining rape or incest. The Istanbul Convention’s monitoring mechanism will allow the conformity of this legislation to Council of Europe standards to be verified.

68. I also note that the recent statements by Deputy Prime Minister Mr Arınç concerning the behaviour expected of women in the public sphere (decency required of men and women; injunction that women refrain from laughing in public) have prompted a huge mobilisation of women in Turkey who wish to continue performing a public and political role and who resist attempts at interference in their private sphere (number of children expected, limitation of abortion, required behaviour in the public sphere, etc.). Women’s participation in public and economic life is a factor in the development of Turkey. One should therefore welcome the implementation of the programme “a second chance for women” by the Ministry of Family Affairs, which has reached 2.5 million women and offers training to women of all ages to aid their re-incorporation into the labour market, in the knowledge that 40% of women in Turkey only hold a primary school qualification.

69. Let us also observe that question marks hang over the implementation of the “4+4+4” law on education. The Deputy Minister for Family Affairs stated that improvements have been made to foster the schooling of women. This subject harks back to the question of the place of secularism in Turkey, which I was able to discuss particularly with the Mayor of Eskesehir, Mr Büyükerşen, and the supervisors of an Imam

⁵⁶ See http://www.coe.int/t/congress/files/topics/leyla-guven/default_en.asp.

⁵⁷ This “package”, announced in September 2013, also provides for the lifting of the ban on wearing the veil in public institutions, and for measures concerning participation in political life (assistance to political parties, etc.), registration of the properties around the Syrian Orthodox monastery Mor Gabriel under the name of a monastic foundation, and provisions regulating the organisation of demonstrations which must have prior authorisation at present and take place in designated areas in municipalities.

⁵⁸ <http://humanrightscomment.org/2014/07/29/fighting-violence-against-women-must-become-a-top-priority/>.

Hatip school in that town. At present, the principle of secularism is not what seems to be challenged, but rather the extent of its application: some favour a strict interpretation of the principle while others desire a broad interpretation of it which justifies the wearing of the veil in public institutions or an educational alternative including teaching of religion in Imam Hatip schools to meet the demands of conservative families.

IV. Conclusions

70. During my visit, three months ahead of the presidential election, Turkey was again going through a questioning phase; most of the points to be verified in the context of the post-monitoring dialogue - evolution of democratic government in Turkey and judicial reform especially – were in abeyance. The constitution had not been amended as envisaged. The presidential election of 10 August 2014 was an essential milestone. However, only after the parliamentary elections, scheduled for 2015, will the evolution of the regime of Mr Erdogan, since elected President of the Republic, possibly be clarified.

71. In my previous report I stressed that in the sphere of justice, reforms and judges' and prosecutors' independence remained an essential issue. The adoption of several legislative packages for legal reforms had constituted genuine progress since 2010. Major advances had been observed with the adoption of the five judicial reform packages and the entry into force of the right of individual petition before the Constitutional Court. These new laws have led to the release of the parliamentarians, members of the military, journalists and Kurds who had been tried by special courts in the Ergenekon, Balyoz and KCK cases, which raised many questions about respect for the rights of the defence and the fairness of proceedings.

72. However, the cases linked with the allegations of corruption since December 2013 have triggered a variety of fresh disturbances connected in particular with the Gülen movement. This movement seems strongly entrenched in Turkish society and in certain sectors more than others, particularly the justice and police sector. The responses made by the authorities to the anti-corruption operation of December 2013 (amendment of the laws on the High Council of Judges and Prosecutors, on the Internet and on the secret services, transfers en masse of police and justice personnel, the large-scale arrests of police officers and the procedures against justice department staff) mark the strong determination of the authorities to combat the Gülen movement's supposed influence in the State institutions. This is possibly in contempt of the very rules of the law-based State. It is to be feared that these operations may extend to other sectors. We bear in mind the wide-ranging operations launched just a few years ago in the context of the putative conspiracies against the state, which ended in mass arrests and wrongful detentions. This episode compels us to keep a close watch on the Turkish authorities' future undertakings to guarantee thorough, impartial inquiries and fair trials upholding the rights of the defence.

73. The events at Gezi and Soma moreover demonstrated the readiness of part of the population to rally in defence of their fundamental and particularly social rights, despite restrictions on freedom of expression and demonstration, and to transcend the divisions between ethnic, social or religious groups. This ambience of growing polarisation and politicisation forms the background against which Turkey must now find ways to pacify and stabilise the country, pursue the expected democratic reforms and reach the consensus needed to initiate a balanced reform of its constitution.

74. Turkey is a key regional power and a major crossroads in terms of strategy and energy supply. Its function as a bridge between Europe, Russia and the Middle East makes it an obligatory partner and a fulcrum for the balance of this region. The wish to proceed with its inclusion in the European Union, even as criticism and reservations are severe on the western side, was confirmed by the political leaders I encountered. Turkey is a country still experiencing strong economic growth and activity. The mentorship of the Council of Europe and the European Union are more necessary than ever in this complex and uncertain period, and should gradually further the necessary stabilisation and the improvement of Turkey's democratic standards.

75. After the presidential election on 10 August 2014, which saw Recep Tayyip Erdoğan elected in the first round, we can probably be sure of the future direction and the possible evolution of the political regime. The parliamentary elections of 2015 will be the defining moment: the people will have given their verdict in two major consultations, and will be sole master of their own choices and destiny.

APPENDIX I – The 12 post-monitoring dialogue action requirements

Extract from Resolution 1380 (2004) on the honouring of obligations and commitments by Turkey (paragraph 23) [the 12 action requirements]

23. The Assembly therefore invites Turkey, as part of its authorities' current reform process, to:
- 23.1. carry out a major reform of the 1982 Constitution, with the assistance of the Venice Commission, to bring it into line with current European standards;
 - 23.2. amend the electoral code to lower the 10% threshold and enable Turkish citizens living abroad to vote without having to present themselves at the frontier;
 - 23.3. recognise the right of conscientious objection and establish an alternative civilian service;
 - 23.4. establish the institution of ombudsman;
 - 23.5. ratify the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages and the Revised European Social Charter and accept the provisions of the Charter which it has not already accepted;
 - 23.6. complete the revision of the Criminal Code, with the Council of Europe's assistance, bearing in mind the Assembly's observations on the definitions of the offences of insulting language and defamation, rape, honour crimes and, more generally, the need for proportionality arising from the European Court of Human Rights' case-law on freedom of expression and association;
 - 23.7. undertake, with the Council of Europe's assistance, a comprehensive examination of the legislation dating from the period of the state of emergency, particularly that relating to association, trade unions and political parties, to ensure that as far as possible it reflects the spirit of recent reforms;
 - 23.8. reform local and regional government and introduce decentralisation in accordance with the principles of the European Charter of Local Self-Government (ETS No. 122); as part of the reform, to give the relevant authorities the necessary institutional and human resources and arrange redistribution of resources to compensate for the underdevelopment of certain regions, particularly south-east Turkey, and move from a dialogue to a formal partnership with United Nations agencies to work for a return, in safety and dignity of those internally displaced by the conflict in the 1990s;
 - 23.9. continue the training of judges and prosecutors as well as the police and gendarmerie, with the Council of Europe's assistance;
 - 23.10. lift the geographical reservation to the 1951 Geneva Convention relating to the Status of Refugees and implement the recommendations of the Council of Europe Commissioner for Human Rights on the treatment of refugees and asylum seekers;
 - 23.11. pursue the policy of recognising the existence of national minorities living in Turkey and grant the persons belonging to these minorities the right to maintain, develop and express their identity and to apply it in practice;
 - 23.12. continue efforts to combat female illiteracy and all forms of violence against women.

APPENDIX II

Programme of the fact-finding visit to Istanbul, Ankara and Eskişehir (26 – 29 May 2014)

Ms Josette DURRIEU, France, Socialist Group

Monday 26 May 2014

In Istanbul

- 08:30 Working breakfast with Ms Muriel DOMENACH, Consul general of France in Istanbul
- 09:00-09:30 Meeting with Abdullah ÖCALAN's lawyers: Mazlum DINC, Ibrahim BILMEZ, Ömer GÜNES and Ozgur EROL
- 10:00-10:25 Meeting with victims and demonstrators of Gezi
- Mr Hakan YAMAN, victim, accompanied by his wife
 - Ms Begüm BAŞDAŞ, Amnesty International
 - Ms Gözde BIRAKIN, Secretary general of "Gezi" Party
 - Ms ILKNUR, organisation "Direnisteyiz!"
- 11:00-11:30 Meeting with Mr Davut ERKAN, member and lawyer of the Association for Conscientious Objection, and Hülya ÜCPINAR, lawyer of Osman Murat ÜLKE
- 11:30-12:30 Meeting with representatives of the media, including electronic media
- Ms Fusun ERDOGAN, journalist
 - Mr Ercan IPEKCI, President of the Platform for Freedom of Journalists and the Union of Journalists
 - Mr Sami MENTES, journalist
 - Mr Deniz YILDIRIM, journalist
 - Mr Erol ONDEROGLU, journalist and representative of "Reporters sans frontières"
- 13:00-14:30 Working lunch with academics and personalities
- Professor Osman DOĞRU, law faculty at the University of Marmara, Istanbul
 - Mr Ahmet SIK, journalist
 - Ms Mücella YAPICI, Secretary general of the Chamber of Architects, Istanbul branch
 - Ms Arzu ÇERKEZOĞLU, Secretary general of the Confederation of Trade Unions (DISK)
- 15:30-16:15 Meeting with Mr Ahmet SELAMET, Deputy Mayor of Istanbul Metropolitan Municipality
- 16:45-17:30 Meeting with Mr Murat YETKIN, editorialist at Hurriyet
- 18:00-18h45 Meeting with Mr Abdülhamit BILICI, Director General of CIHAN agency and editing director/editorialist of ZAMAN
- 22:00 *Departure for Ankara*

Tuesday 27 May 2014

In Ankara

- 09:00-10:00 Working breakfast with NGO representatives
- Ms Feray SALMAN, General Co-ordinator of Human Rights Platform (IHOP) and Mr Husnu ÖNDÜL, member of the Executive Board
 - Mr Öztürk TÜRKDOĞAN, President of Human Rights Association (IHD)
 - Ms Senem DOGANOGLU, Turkish Human Rights Foundation
 - Ms Canan GÜLLÜ, President of the Confederation of Turkish Women's Association
 - Mr Bayazit ILHAN, Secretary general of Turkish Doctors Association

- 10:15-11:00 Meeting with Mr Basat ÖZTÜRK, Director General for Multilateral Political Affairs and Ms Kivilcim KILIÇ, Deputy Director General for the Council of Europe and Human Rights, Ministry of Foreign Affairs
- 11:30-12:00 Meeting with Mr Reha DENEMEÇ, Chairperson of the Turkish delegation to the PACE
- 12:05-12:25 Meeting with Ms Leyla ZANA, elected member of Peace and Democracy Party (BDP)
- 12:30-14.00 Working lunch with the Turkish delegation to the PACE
- 14:00-14.30 Meeting with Mr Ertuğrul KÜRKÇÜ and Mr Erol DORA, elected members of People's Democratic Party (HDP)
- 14:40-15:10 Meeting with Mr Oktay VURAL and Mr Tuğrul TÜRKEŞ, elected members of Nationalist Movement Party (MHP)
- 15.20-15.50 Meeting with Ms Emine TARHAN, Ms Gülsün BİLGEHAN, Mr Rıza TÜRMEEN, Mr Mustafa BALBAY, and Mr Mehmet HABERAL, elected members of Republican People's Party (CHP)
- 16:00-16.30 Meeting with Mr Mahir ÜNAL, elected member of the Justice and Development Party (AKP)
- 17:00-17:30 Meeting with Mr Mehmet Nihat ÖMEROĞLU, Ombudsman
- 17:45-18:15 Meeting with H.E. Mr Mevlüt CAVUSOĞLU, Minister of European Union Affairs and Chief Negotiator
- 18:30-19:15 Meeting with H.E. Mr Laurent BILI, Ambassador of France in Ankara
- 20:00 Working dinner with Mr Reha DENEMEÇ, Chairperson of the Turkish delegation to the PACE

Wednesday 28 May 2014

- 09:30-10:00 Meeting with Mr Alparslan ALTAN, Vice-President of the Constitutional Court
- 10:15-10:45 Meeting with Mr Ahmet HAMSICI, Vice-President of the High Council of Judges and Prosecutors (HSYK) and President of the 3rd Chamber of HSYK, Ms Müjgan KAKYAGDI, Vice-Secretary general of HSYK and judge, Mr Ozan Muzaffer KÖSTÜ, Judge-Rapporteur and Mr Burak Turan BENLİ, Judge-Rapporteur
- 11:00-11:45 Meeting with Mr Mustafa EROL, Under-Secretary of State, Ministry of Justice
- 12:00-12:45 Meeting with Mr Seyfullah HACİMÜFTÜOĞLU, Under-Secretary of State, Ministry of Interior
- 13:15-14:45 Meeting with Mr Bela SZOMBATI, Deputy Head of Delegation of the European Union in Ankara
- 15:45-16:15 Meeting with Mr Yahya BAŞ, Vice-Minister of Transport, Maritime Affairs and Communications, and Mr Tayfun, President of the High Council of the Agency of the Technologies of Information (BTK)
- 16:45-17:15 Meeting with Ms Askin ASAN, Vice-Minister of Family and Social Policy
- 18:30-19:15 Meeting with Mr Murat DURMAZ, Administrative Judge, Executive member of Judges and Prosecutors Association (YARSAV)

Thursday 29 May 2014

08:10-09:40 *Departure for Eskişehir*

10:00 Meeting with Mr Yılmaz BÜYÜKERŞEN, Mayor of Metropolitan Eskişehir Municipality

11:00 Meeting with Mr Ahmet KESKİN, Director of an “İmam-hatip” School (Saray İmam-hatip Lisesi)

11:45-12:20 Lunch offered by Mr Azmi ÇELİK, Vice-Governor of Eskişehir in charge of European Affairs

Afternoon Departure of the delegation