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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, Şanlıurfa and Ankara (30 April – 4 May 2015)

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I. Introduction

1. The Parliamentary Assembly adopted on 23 April 2013 [Resolution 1925 \(2013\)](#) on post-monitoring dialogue with Turkey, in which it acknowledged that a large number of reforms had been carried out, but pointed out that these only partially met the Assembly's expectations, especially the 12 requirements of the post-monitoring dialogue (see Appendix I).

2. In September 2014, I presented an information note following my visit to Turkey¹, in which I again referred to developments in the geopolitical context (especially the impact of the crises in Syria and Iraq on Turkey), the Gezi Park demonstrations (June-July 2013) and the subsequent action taken, the anti-corruption operation on 17 and 25 December 2013 and its political and legal consequences, the 30 March 2014 local elections, the Soma mine disaster of 14 May 2014 and the main developments affecting the post-monitoring dialogue.

3. In this note I continue my presentation of the latest developments following my visit to Istanbul, Şanlıurfa and Ankara from 30 April to 4 May 2015, which was followed by a pre-election visit (5-6 May 2015)², just a few weeks before the parliamentary elections of 7 June 2015, which I observed for PACE in Adana and Mersin³. That visit focused on the process to settle the Kurdish issue, which was one of the significant developments since the Justice and Development Party (AKP) came to power in 2002. The resolution of the Kurdish issue and the possibility for the (pro-Kurdish) Democratic Peoples' Party formed in 2014 to cross the 10% electoral threshold were at the heart of the election campaign.

4. During that visit, I met the major players in this peace process, including Deputy Prime Minister Mr Yalçın Akdoğan, who is in charge of this question, and Mr Önder, of the HDP party – who regularly meets Abdullah Öcalan in prison on the island of Imrali, as well as PKK representatives in Kandil, Iraq –, as well as the highest Turkish authorities. I thank Mr Reha Denemeç, Head of the Turkish delegation to PACE, for all the support he gave for the preparation of my visit, Mr Kasim Gülpinar, a member of the Turkish delegation to PACE, and the authorities of the region of Sanliurfa, especially the governor of Sanliurfa and the sub-prefect of Suruç, for facilitating the visit to refugee camps in Urfa and the crossing of the Kobane border post, which enabled me to measure the impact and violence of the Syrian conflict. The discussions I had in Turkey were dominated by the election campaign underway in the country and by the impact of the Syrian conflict on the area in a wider geopolitical context.

5. At the same time, the discussions with the European Union are continuing, after the election of a European Parliament that intends to put EU enlargement on hold in the present difficult political and economic situation. The global crisis is also affecting Turkey and growth has slowed in the last few months⁴. The country is also being offered new partnerships, especially with Russia in the energy field⁵. In the context of the revision of the customs union, talks resumed in March 2015. The authorities would like to open chapter 17 negotiations on economic and monetary policies in the next few weeks⁶. Progress is also expected on visa liberalisation. I have the feeling that the authorities I met remained committed to an EU accession process and I can only reiterate that the Parliamentary Assembly has urged the opening of chapters 23 and 24 of the accession negotiations, which would make it possible to reinforce standards regarding fundamental rights, the justice system and individual freedoms in conjunction with the expertise that the Council of Europe also stands ready to provide in these areas.

6. Finally, attention should be drawn in these preliminary remarks to Turkey's decision to become a major Council of Europe contributor, which will strengthen this country's position both in our Organisation and in the European architecture. At its Sarajevo meeting on 23 March 2015, the Parliamentary Assembly

¹ See [AS/Mon\(2014\) 18 rev](#), Information note by the rapporteur on her fact-finding visit to Istanbul, Ankara and Eskişehir (26–29 May 2014), published on 12 September 2014.

² See the [statement by the pre-electoral delegation](#) 7 May 2015.

³ See the [press release](#) published on 8 June 2015 and report of the election observation ([Doc. 13822](#)) of 22 June 2015.

⁴ The Turkish economy posted growth in 2014 of 2.9%, which was below the government's forecasts, and is suffering from considerable public deficits (nearly 8% of GDP in 2013) and high inflation (8.17% in 2014). Since January 2015, the Turkish lira has lost 11% of its value against the dollar (AFP dispatch of 14 April 2015). At 15 June 2015, the unemployment rate was 10.6%.

⁵ Russia and Turkey reached a decision on 1 December 2014 on the construction of a Russian-Turkish pipeline and decided at the same time to abandon the so-called South Stream Russian-European gas pipeline. Turkey, which imports most of its energy from Russia and Iran, also plans to build three nuclear power stations with a total capacity of 5,000 megawatts, which should provide 8% of its electricity needs in 2020 and 20% in 2030.

⁶ <http://www.hurriyetdailynews.com/ankara-expecting-eu--to-open-chapter-17-soon-.aspx?pageID=238&nID=79869&NewsCatID=338>.

decided to enlarge the Turkish parliamentary delegation to 18 members (against 12 at the moment) and 18 alternates.

II. A regional context marked by the Syrian conflict

a. *An ambiguous and complex geopolitical positioning*

7. The continuation of the conflict in Syria since 2011 is still hitting Turkey hard, with the destabilisation of the Middle East, the inexorable advance of Daesh⁷ and the fact that no way out of the Syrian crisis is emerging at the moment. Turkey has to address a number of sometimes contradictory strategic options. Its role is regarded as ambiguous in the region: it makes repeated calls for the departure of Bashar al-Assad, who failed to put in place a secular and democratic regime that would have been more favourable to the Sunnis. Turkey therefore hesitates to join the anti-Daesh coalition led by the United States, with which it has, however, begun to train Free Syrian Army members in Turkey. The broadcasting of a video on the interception of lorries of the Turkish secret services on the Syrian border in January 2014 has reignited the debate on Turkey's possible support for Daesh militants. However, the authorities have denied this, stating that the weapons were destined for Syrian Turks. It should also be pointed out that, in a regional context of Sunni-Shiite confrontation, Turkey has indicated its support for Saudi Arabia's intervention in Yemen and severely criticised Iran's desire for domination in the region.

8. The Daesh attack on Kobane destroyed the town that had been fiercely defended by the Syrian Kurds of the PYD and resulted in thousands of civilians fleeing in just a few days. Turkey opened its border to 200,000 Syrian Kurdish refugees from Kobane who had arrived in less than a week, looked after thousands of wounded in its medical centres close to the border and authorised the passage of Iraqi Kurdish reinforcements (Peshmergas) to fight alongside the Kurds in Kobane⁸. However, it has prevented young Turkish Kurds from joining the ranks of the PYD, an organisation affiliated to the PKK.

9. During the Daesh offensive against Kobane, Turkish tanks took up positions a few hundred metres from the Syrian border, witnessing the fighting but without intervening. Although the parliament created a legal framework on 2 October 2014 authorising the government to send troops to Syria and Iraq to intervene against the Islamic State or any other terrorist organisation if it wished to do so, the authorities maintained a position of defensive neutrality⁹. This provoked outrage among the Turkish Kurds and led to violent clashes in the country between Kurdish and Islamist factions and the deaths of around forty people. It also resulted in the tightening of the country's security laws (see below). The partly wait-and-see attitude adopted by the Turkish authorities has left its mark on the Kurdish population. These events are also likely to have had an influence on Turkey's Kurdish electorate during the last parliamentary elections on 7 June 2015.¹⁰

10. More recently, the PYD's advance to retake the strategic, still Daesh-controlled town of Tal Abyad on the border with Turkey triggered a new wave of refugees in mid-June 2015. After dealing with a wave of 13,500 additional refugees in one week, Turkey decided to restrict entry to humanitarian cases. Water cannons and warning shots were used by Turkish law enforcement officers to turn back the refugees. It should be noted that the retaking of the Tal Abyad region, which is an entry point for jihadist foreigners into Syria and for many trafficking operations, would deprive Daesh of its access corridor to the Turkish border in Raqqah, the capital of the Daesh "caliphate". A consequence of this would also be to ensure the continuation of PYD control over the Syrian areas bordering Turkey. This would be a whole new situation for Turkey's Syria policy, which has been severely criticised by all the opposition parties up to now, at a time when the talks for the formation of a coalition government are ongoing.

b. *Impact of the Syrian conflict on Turkey: the situation in Şanlıurfa and Suruç*

11. In the course of this visit, I made a three-day trip to Şanlıurfa. This city (together with its surrounding area) has almost 2 million inhabitants and a 233 km long border with Syria. Its mayor (and former prefect) Mr Güvenc (AKP) stated that in the last four years 500,000 refugees – Arabs, Kurds, Turkmen and Yazidis – had been taken in. He informed us that, as the then governor, he had co-ordinated the transfer of 800 lorry-

⁷ The term Daesh stands for the Arabic acronym for Al Dawla al-Islamiya fil Iraq wa'al Sham ("Islamic State in Iraq and al-Sham", "ISIL"/"IS").

⁸ <http://ovipot.hypotheses.org/10769>

⁹ More details are provided in Simon Fauret's article of 8 June 2015 entitled "[Le rôle de la Turquie et de la question kurde dans les conflits syriens et irakiens](#)".

¹⁰ In the 7 June parliamentary elections, the AKP lost five Kurdish provinces in the south-east and north-east, where the HDP polled most votes in five areas where a majority had voted for the AKP in 2011 (Ardahan, Kars, Ağrı, Bitlis and Siirt). <http://ovipot.hypotheses.org/11928>

loads of humanitarian aid to Ayn al-Arab (Kobane) and Syria between August 2013 and September 2014 (the date of the assault on Kobane) and provided access to care for 10,000 Syrians.

12. I was able to assess on the spot the Turkish people's exemplary solidarity: in a single week in September 2014, the Suruç sub-prefecture saw its population triple with the arrival of 200,000 refugees from Kobane fleeing the fighting under the Daesh onslaught. The inhabitants of the Suruç and Şanlıurfa region, as well as the Turks as a whole, have taught us an unprecedented lesson in sharing, giving us pause for thought about Europe's ability to respond to this major humanitarian crisis. In the light of Europe's sluggish reaction to the magnitude of the Syrian crisis, the Commissioner for Human Rights recently called on European countries to "reset" the European strategy for taking in refugees¹¹.

13. At the same time, the governor of Şanlıurfa, Mr Küçük, mentioned the difficulties in combating cross-border trafficking and in stopping young Europeans on their way to join Daesh, the fragile peace process, the presence of armed civilian militia and of the PKK, who are threatening those who oppose the PKK or the AKP's elected representatives. Moreover, the governor believed the idea of Kurdish "autonomy" would be a problem for the Kurds dispersed throughout Turkey, and he had no intention of "abandoning the Kurds to the PKK's Marxist-Leninist ideas". In this tense pre-electoral context, all protagonists seemed ready to resume the fight. From the point of view of the HDP representatives, who claimed to be supporters of the legitimate government and prepared to recognise the election outcome, this risk would be greater if the Kurds were not to enter parliament.

14. I also travelled to two camps in the region. The one in Suruç had been recently opened by the Disaster and Emergency Management Authority (AFAD), which reports to the Prime Minister. It can take in up to 35,000 refugees (and had 24,000 when I arrived, 53% of them women) spread over 7,000 tents grouped into 15 sectors with elected people in each one. Each refugee receives an allocation of 85 Turkish liras (about €35) a month to meet their needs. Six supermarkets are available in the camp. 6,000 pupils attend the camp school, in which nearly 780 civilian and military personnel work. This camp, which was set up in 45 days at a cost of \$45 million, is a showcase in terms of organisation and outstanding facilities (such as classrooms, computers, sewing rooms and hairdressers). In Suruç, with the influx of 200,000 refugees, 8 million meals have been served and 1.2 million litres of water are dispensed every day. This is a new demonstration of Turkey's outstanding efforts in dealing with the arrival of more than two million refugees in the last four years. It is necessary to stress again and again the "extraordinary welcome" given to the Syrian refugees and Turkey's considerable financial contribution (\$6 billion), as was again reiterated by the President of PACE at the end of the visit to these camps by an Assembly delegation in June 2015¹². The construction and organisation of these huge camps make a strong impression on foreign visitors and even on the refugees themselves. At the same time, one can only reiterate the appeal to European states to significantly and immediately increase their aid for the reception of refugees and to step up their diplomatic efforts to put an end to the Syrian conflict, which is causing these influxes of people fleeing the war.

15. My visit to a second camp run directly by the (HDP controlled) municipality of Suruç told a different story: it housed 1,800 totally destitute refugees (no water, school closed). During the events in Kobane, Suruç set up five municipal camps that took in up to 30,000 refugees. There are still 4,000 refugees living there. The co-mayor of Suruç, Ms Ekmez, mentioned the resentment felt by the local Kurdish population at the deployment of Turkish tanks and their failure to take any action during the bombardment of Kobane – which was interpreted as support for Daesh, as was Europe's failure to act. She emphasised the difficult co-operation with the region's governor, AFAD's demands to act as a channel for all humanitarian aid originating from abroad (especially the autonomous region of Kurdistan in northern Iraq), and the decision of 103 pro-Kurdish municipalities to set up a body to co-ordinate humanitarian aid for Kurdish refugees. However, she made no secret of the fact that her financial resources were limited and that there was an urgent need to provide for the basic needs of the refugees, especially the children and babies.

16. The situation of what remains today of the town of Kobane, to which we had access, is staggering. It is a town that has been completely destroyed, to which 60,000 refugees have returned and are trying to survive among the ruins and in the surrounding villages. It is a matter of absolute urgency to deliver the humanitarian aid which is blocked in Turkey and is intended for these people in desperate need. The opening of the border post was, incidentally, a clear demand made by the local authorities in Suruç to enable the humanitarian aid to be brought in and alleviate the plight of the people who have returned to Kobane.

¹¹ [Human rights comments](#) of the Commissioner for Human Rights Niels Muižnieks, 3 February 2015.

¹² "Turkey's example of dealing with Syrian refugees 'puts rest of Europe to shame'", [Statement](#) of the President of PACE on 16 June 2015 and report of the Ad hoc committee on large scale arrival of refugees to Turkey (Istanbul-Gaziantep, 14-16 June 2015) ([Doc. 13813 Addendum III](#)) of 22 June 2015.

III. Recent political developments

a. *Peace process: state of progress*

17. Since April 2013, talks have been taking place between the Turkish authorities (in particular Deputy Prime Minister Yalçın Akdoğan) and a delegation from the pro-Kurdish party HDP, made up of deputies Sırrı Süreyya Önder, Pervin Buldan and İdris Baluken and tasked with liaising with Abdullah Öcalan in Imrali and the PKK in Kandil). This process led to a joint press conference on 28 February 2015 between the Turkish government and the HDP, showing the desire of the two parties to continue the discussions on the basis of a ten-point road map aimed at:

- formulating a democratic approach;
- identifying the national and local dimensions of a democratic solution;
- determining the guarantees of free citizenship;
- determining the relations between the State and society;
- taking account of the socioeconomic dimensions of the peace process;
- setting out the framework for the negotiations in order to guarantee public order and freedoms while they are taking place;
- implementing policies for women, culture and the environment;
- developing a pluralist democracy to define the concept of identity;
- defining the concept of a democratic republic as a common homeland with constitutional guarantees;
- drawing up a new constitution as a framework for all these democratic changes.¹³

18. However, the government's tentative moves towards change have been tempered by the Turkish President Mr Erdoğan, who rejected out of hand the proposal to set up a committee to monitor developments in this process. The authorities emphasised to me that no agreement had been reached and that the press conference was only preparing the ground for discussion, a precondition of which was the PKK's disarmament. The Internal Security Act of March 2015, the presence of mobile troops and the construction of new military installations in the south-east of Turkey have only added to the Kurds' fears. At the same time, Deputy Prime Minister Akdoğan told me he mistrusted the process of the withdrawal of PKK troops from the country and believed the demonstrations in October 2014 were proof that the organisation was still present. It clearly emerged from my discussions in Ankara, Sanliuifa and Suruç that there was some mistrust in this process among all the protagonists and that some were prepared for the resumption of fighting.

19. In the run-up to the elections, I noted that there was a pause in the process to resolve the Kurdish issue. On 21 March 2015, Abdullah Öcalan called on the PKK to convene an extraordinary congress in the spring to decide on disarmament. This call has not yet been acted upon. The resolution of the Kurdish issue and the presence of the Kurdish party in the parliament after the elections were the focus of my discussions with the leading players in this process, especially Deputy Prime Minister Yalçın Akdoğan and the HDP deputy Sırrı Süreyya Önder, who are involved in the discussions taking place. In the parliamentary elections on 7 June 2015, the HDP obtained 13.12% of the votes, thus crossing the very high 10% electoral threshold, the lowering of which the Parliamentary Assembly has been urging since 2004. Its representation in the parliament completely changes the political landscape and probably also the nature of the negotiation process. This is a key point that we will have to monitor very carefully.

20. My hope is that all the parties involved can resume dialogue as quickly as possible. The newly elected parliament will decide if it intends to resume the work on the constitutional revision called for by PACE and, in this connection, redefine citizenship, individual rights, devolution and the balance between government and opposition. Such an approach could also help ensure the success of a process to resolve the Kurdish question which the population currently supports. It will be up to the political leaders from all parties to rise to this historic challenge and provide appropriate responses to the legitimate aspirations for peace expressed by the vast majority of their fellow citizens.

b. *Situation of Abdullah Öcalan*

21. In the current negotiations, Abdullah Öcalan, who has been in prison since 1999, remains a key figure, as was confirmed to me by the Kurdish representatives with whom I spoke. In spite of the regular visits by an HDP parliamentary delegation in connection with the discussions to resolve the Kurdish question, Abdullah Öcalan has still had no access to his lawyers since 27 July 2011, which was deplored by the CPT in its last report, despite several cases pending before the Turkish courts and in Strasbourg (ECHR).

¹³ <http://ovipot.hypotheses.org/10958>.

22. I regret in this connection that during my term as rapporteur the authorities have not granted the request I have made on several occasions to visit Abdullah Öcalan. From his prison on the island of Imrali, he remains one of the major players in the process to resolve the Kurdish question. In that capacity, he should have been able to meet the PACE rapporteurs. According to information given to me by the deputy Mr Önder, a member of the HDP delegation that travels to Imrali, Abdullah Öcalan's overall living conditions are good. He is in good health and under medical supervision. He lives in a spacious cell, has access to the written press once a week and daily access to 12 television channels. A room for holding discussions has been fitted out on the first floor of the prison. There are five other prisoners on the island of Imrali, Kurds known to Öcalan instead of inmates selected by the state.

c. *Measures against "parallel" structures and presumed Gülenists (contd.)*

23. The fears I expressed last year about the repercussions of the major trials and alleged plots to mount a coup – allegations made a few years ago against military officers, university teachers and journalists – seem to be confirmed. One by one, the Ergenekon and Balyoz trials have fallen apart: on 31 March 2015, the 4th Supreme Criminal Court in Anatolia acquitted the 236 individuals convicted in the Balyoz case. The public prosecutor considered that the digital evidence did not constitute proof¹⁴. Today, the measures to combat the Gülen movement, now listed as a "terrorist organisation" by the Turkish State, and the search for so-called "parallel" structures that the State intends to abolish, are becoming tougher and hitting members of the judicial community the police and the media with the aim of removing presumed members of this movement. Their effects can be seen today in new arrests and transfers of prosecutors, judges and police officers under questionable procedural conditions that lead one to fear the use of summary justice and, indeed, new purges in the country. It needs to be reiterated here that this Gülenist movement – which could be compared to Opus Dei – headed by Fetullah Gülen, a Turkish Muslim preacher living in Pennsylvania, was the ally that the AKP relied on after it came to power in 2002, before the rift between them became final at the end of 2013. With its administrative influence, this former partner of the government in power is making its mark today as a movement rivalling Erdoğan's AKP, both politically and ideologically.

24. The proceedings instituted against the (alleged) Gülenists intensified after corruption cases erupted in December 2013, involving four ministers of the government of Mr Erdoğan, then Prime Minister, and the latter's son. The measures to combat the Gülenist movement have continued in the last few months in various cases, following on from the December 2013 anti-corruption operations. As examples of these measures, mention may be made of:

24.1. the indictment on 11 May of senior officials of the Telecommunications Directorate (TIB) and the Scientific and Technological Research Council (TUBITAK) for their alleged role in illegal wiretapping, which led to the December 2013 anti-corruption cases. They were prosecuted for setting up an illegal armed organisation, violating the confidentiality of communications and undermining the country's territorial integrity, as well as acquiring confidential documents for the purpose of political and military espionage¹⁵;

24.2. The conviction of 13 military officers (gendarmes) on 8 May 2014 for stopping lorries operated by the Turkish secret services (MIT)¹⁶, the dismissal on 24 January 2014 of the prosecutor Özcan Şişman (who had ordered the stopping of the lorries in Adana), followed by the dismissal on 15 January 2015 of the five prosecutors investigating the matter;

25. When I was in Turkey, I was informed about the arrest of two judges, Metin Özçelik and Mustafa Başer, who had just decided to release 70 police officers who had been remanded in custody in August 2014

¹⁴ <http://www.hurriyetdailynews.com/turkish-prosecutor-demands-acquittal-of-all-236-suspects-in-balyoz-coup-plot-case.aspx?pageID=238&nID=80408&NewsCatID=338>. 331 of the 365 suspects in this case were sentenced to terms of imprisonment on 21 September 2012 and 34 were acquitted. The Balyoz trial was reopened in November 2014 after the Constitutional Court had ruled that the rights of the defence had been violated. A report of 15 December 2014 showed that the (digital) evidence adduced had been fabricated. According to the defence counsel, the documents in issue, which were supposed to date from 2003, used a font that was not available until 2007, and the name of a pharmaceutical company was mentioned that the company did not acquire until 2008.

¹⁵ http://www.todayszaman.com/national_prosecutor-submits-indictment-to-court-in-wiretapping-case_380430.html, 11 May 2015

¹⁶ Lorries belonging to the Turkish secret services (MIT) were intercepted and searched in Hatay on 1 January 2014 and Adana on 19 January 2014. Under the cover of humanitarian aid, they carried weapons and ammunition destined for Syria. The governors of these provinces then ordered a stop to the searches. <http://www.bianet.org/english/human-rights/164404-four-prosecutors-and-one-gendarme-commander-arrested>.

for their involvement in the anti-corruption operation and the wiretapping carried out in that connection, as well as of the general manager of Samanyolu TV, on suspicion of links to an Islamist terrorist organisation¹⁷.

26. These arrests raised many concerns and caused a considerable stir. They were decided after an investigation had been initiated by the Supreme Council of Judges and Prosecutors (HSYK) – the country's President had previously expressed his displeasure at the announcement of the decision that the judges intended to release the police officers and castigated the HYSK for not intervening. I discussed this matter with the Minister of Justice and President of the HSYK, Mr Kenan Ipek. The minister explained to me that the two judges had taken the decision although their courts had no jurisdiction. They had allegedly failed to obtain the investigation files and consider the allegations and evidence for or against the suspects and decided to free the police officers despite the fact that the decision was a matter for the "criminal judge of peace". The Minister confirmed to me that an investigation by the HSYK was underway. I then expressed my concerns and stressed that the arrest of these judges was problematical in a democratic society.

27. This was confirmed by the Bureau of the Consultative Council of European Judges (a Council of Europe consultative body), which, having been asked to examine numerous complaints made to it, considered arguments presented by the HSYK and the judges' lawyers and published its comments on this case on 12 June¹⁸. Although it is unable to "to examine or investigate the factual basis of the events which are alleged to have taken place", the Bureau attempted to examine the case according to the fundamental principles of the separation of powers, the independence of the judiciary and the personal independence of judges and their irremovability – which are necessary pre-requisites for a democratic society governed by the rule of law. The Bureau of the CCJE concluded that that it had to "*express its grave and sincere concern with respect to the proceedings and decisions leading to the suspension and arrest of Judge Özçelik and Judge Başer. The uncontested facts, as they appear to the bureau, lead to the clear inference that these judges may have been removed only or predominantly because of their (intended) decision-making. This in turn would cast great doubts on whether the guarantees of personal and institutional independence of the judiciary have been sufficiently observed in Turkey. In addition, these events must be seen against a background of reports that a substantial number of judges in Turkey have, in recent months, against their will been removed from their offices and transferred to other posts. The extent of such transfers gives rise to additional doubts with respect to their causes. Regardless of whether they were justified by necessities of providing judicial services to all regions of the country, in the eyes of society and of the members of the judiciary concerned these moves might lead to the conclusion that judges may have in fact undergone such transfers because of their decision-making. This in turn would endanger and possibly undermine confidence in the impartiality and independence of the judiciary and the fundamental principles recalled under IV, above. To sustain and widen such confidence, however, must be the paramount aim of all concerned with the administration of justice.*"

28. The Venice Commission has also expressed concern about interference with the independence of the judiciary in Turkey. It adopted a declaration to this effect at its meeting on 19-20 June 2015¹⁹. It referred to the dismissal, by the High Council of Judges and Prosecutors (HSYK), of the prosecutors who led the investigations into corruption cases in December 2013, the arrest of judges Özçelik and Başer, the suspension of the prosecutors who gave the orders to stop and search lorries bound for Syria, and the authorisation given by the HSYK for their arrest. The Venice Commission called on the Turkish authorities to:

- review the measures taken against the judges and prosecutors concerned;
- further revise the Law on the High Council to reduce the influence of the executive within it;
- outlaw any interference by the High Council with pending cases;
- provide judges with legal and constitutional guarantees against transfers against their will, except in cases of reorganisation of the courts.

d. *Reform of the judiciary*

29. During my visit, I had the opportunity to discuss the operation of the justice system with the Istanbul General Prosecutor in the light of the many cases relating to demonstrations and the prosecutions of Gülenists. I expressed to him my outrage at the death of prosecutor Mehmet Selim Kiraz after he had been taken hostage in his office in the Çağlayan Palace of Justice in Istanbul on 31 March 2015 by an armed left-

¹⁷ At my request, Mr Denemec, the head of the delegation, drew up an information note up in January 2015 on the operation carried out in December 2014 against journalists in particular. See AS/Mon (2015) 02.

¹⁸ [Comments by the Bureau of the CCJE](#) on letters sent by various judges and international, European and national associations of judges to the Council of Europe and to its Consultative Council of European Judges concerning, inter alia, the suspension and arrest of Judge Özçelik and Judge Başer in Turkey, CCJE-BU(2015)5, 12 June 2015, p.6.

¹⁹ Venice Commission [Declaration](#) on Interference with Judicial Independence in Turkey, adopted on 20 June 2015.

wing group, the Revolutionary People's Liberation Party-Front (DHKP-C)²⁰, two of whose members were killed during the police intervention. The General Prosecutor described the details of that operation.

30. I stressed in my report of April 2013 the many steps taken by the AKP government in the last few years to reform the justice system and bring it into line with Council of Europe standards, but it has to be pointed out that several legal instruments have cast doubt on the independence of the judiciary, especially after the December 2013 corruption cases, and bolstered the perception that the justice system is state-controlled, as shown by the adoption of amendments to the Turkish Criminal Code and Code of Criminal Procedure and, in particular, the restructuring of the Supreme Council of Judges and Prosecutors:

30.1. The amendment to Article 116 of the Code of Criminal Procedure. The expression "reasonable doubt" was changed to "strong doubt based on concrete evidence" on 21 February 2014, at the time of the corruption investigations, then changed back to "reasonable doubt" on 2 December 2014 before the police operation on 14 December 2014²¹;

30.2. The amendment to Article 153 of the Code of Criminal Procedure on the defence counsel's access to preliminary procedural files, adopted by the parliament on 2 December 2014 in its Omnibus Act;

30.3. The creation, on 18 June 2014, of the system of "criminal judges of peace", conferring on them sole authority for taking decisions on "questions associated with investigations and appeals against decisions"²², especially decisions on custody, arrests, property seizures and search warrants – since these decisions could not be appealed before a higher court.

31. On 12 October 2014, the opposition CHP party considered these various steps "a clear intention on the government's part to use the law as an instrument to suppress the opposition while limiting fundamental rights and freedoms"²³, a view confirmed by the victory of candidates on the "Unity in the Judiciary Platform" list supported by the government in the election of 10 of the 22 HSYK members.

32. On 17 April 2015, Prime Minister Davutoğlu announced the launch of a new judicial reform, with the opening of chapter 23 and 24 negotiations in mind. The main aims would be to strengthen the judiciary's independence and impartiality as well as the accountability and transparency of judicial decisions, and to speed up judicial procedures²⁴.

33. At the same time, I am concerned about the possible review of the provisions allowing individual appeals to the Constitutional Court, which were introduced in Turkey by an amendment to the Constitution in 2010, on the ground that the Constitutional Court is overburdened with 30,000 individual complaints received²⁵. The President of the Constitutional Court disputed this situation and referred to a number of fundamental decisions taken by that court in response to individual appeals. Those decisions had enabled deputies imprisoned in connection with the Ergenekon trial to be released, the blocking of the social networks to be lifted, the ban on Abdullah Öcalan's book on his case before the ECHR to be lifted, married women to be allowed to use their maiden name, and the ban on the headscarf in universities to be overturned. For my part, I pointed to the benefits of this mechanism for the defence of individual freedoms and noted that Turkey's experience in this area had become a reference in Europe.

²⁰ Prosecutor Kiraz was in charge of an investigation opened after the death of Berkin Elvan, a 15-year-old who died on 11 March 2014. He had spent 269 days in a coma after being hit by a teargas grenade fired by the police in Istanbul during a demonstration. This tragic incident was condemned by Amnesty International. See <http://www.amnesty.fr/CP-Turkey-Amnesty-International-condamne-la-prise-otage-Istanbul-et-la-mort-du-procureur-14744>. The DHKP-C also claimed responsibility for the suicide attack on 6 January 2015 on a police station in the Sultanahmet tourist area of Istanbul, stating it was in response to the death of Berkin Elvan. http://www.lemonde.fr/europe/article/2015/03/31/un-procureur-pris-en-otage-dans-un-tribunal-d-istanbul_4606688_3214.html

²¹ The Turkish police launched an operation in 13 towns and cities against the Zaman newspaper and the TV broadcaster Samanyolu, in which 27 people were arrested, including journalists, producers, scriptwriters, directors, police officers and former police chiefs.

²² Section 10 of Act no. 5235 on the establishment, duties and jurisdiction of Courts of First Instance and District Courts.

²³ Position of the CHP (document submitted).

²⁴ <http://www.hurriyetdailynews.com/turkish-government-announces-new-strategy-to-reform-the-judiciary.aspx?pageID=238&nID=81199&NewsCatID=338>

²⁵ <http://www.hurriyetdailynews.com/turkish-government-announces-new-strategy-to-reform-the-judiciary.aspx?pageID=238&nID=81199&NewsCatID=338>

IV. Implementation of the twelve requirements of the post-monitoring dialogue: current situation and recent developments

34. My fact-finding visit also enabled me to obtain an update on the implementation of the twelve requirements, which I have decided to set out in an appendix to this note. It must be emphasised that no progress has been made concerning the 10% electoral threshold, which however was crossed by the pro-Kurdish HDP party in the 7 June 2015 parliamentary elections, or the recognition of the right to conscientious objection and the establishment of an alternative civilian service. In this area, the sentencing on 11 February 2015 of Mehmet Tarhan, a conscientious objector, to 15 months' imprisonment and a fine of 9,000 Turkish liras for "refusal to obey orders"²⁶, despite the judgments of the European Court of Human Rights, leads me to reiterate the appeal made to the Turkish authorities to bring legislation and practice into line with the Court's case law.

a. Constitutional reform and institutional developments

35. As I pointed out in my previous information note, the constitutional reform process called for by PACE in the context of the post-monitoring dialogue was suspended in December 2013. Since then, Mr Erdoğan's election as President of Turkey by universal suffrage in August 2014, the exercise of presidential powers conferred on him by the Constitution and his political style lead us to conclude that we are witnessing a *de facto* presidentialisation of the system. This is reflected for example in the chairing of several Council of Ministers meetings by the President²⁷, in the President's involvement in the parliamentary election campaign even though the Constitution requires him to carry out his duties in an impartial manner, in his stated desire to develop the system and institutions towards a presidential system, in the endorsement of the presidential system at political meetings held by the President during the election campaign and in Mr Erdoğan's omnipresence in and interference with judicial or financial institutions²⁸.

36. The meetings I was able to have in Turkey in May 2015 suggested to me that the presidential system proposed by Mr Erdoğan by no means enjoys the support of the citizens, including among members of the AKP, who are disturbed by the possible concentration of power in one man. The Prime Minister, Mr Davutoğlu, made a speech in support of a presidential system that is "pro-freedom, human-focused and based on the separation of powers"²⁹. The election outcome was clear on this point: the Prime Minister himself acknowledged that with their vote the electorate had expressed the desire to close the door on a presidential system³⁰.

37. The revision of the Constitution was also the focus of debate during the elections. In this connection the definition of a "common citizenship" proposed by the AKP in its election manifesto "2023 New Turkey Contract" is worth discussing. This question was one of the stumbling blocks in the work of the commission on the revision of the constitution in 2012/2013.

b. Freedom of expression

38. In his report on the protection of media freedom in Europe, the PACE general rapporteur on the situation of the media, Mr Flego (Croatia, SOC), conducted a broad review of the problems encountered in Turkey³¹, so I will not discuss them in detail. Suffice it to say that Mr Flego emphasised the threat to the security and professional independence of journalists from overly restrictive laws, hundreds of questionable criminal investigations and a number of new prosecutions of journalists, limitations on access to the Internet, improper government interference with the work of the media, and government intolerance of criticism. Representatives of journalists' associations that I met informed me about twenty journalists in prison and 300

²⁶ <http://www.bianet.org/english/human-rights/162192-conscientious-objector-receives-15-months-of-prison>

The ECHR established that Turkey had violated Articles 3 and 9 of the Convention and ordered it to pay €10,000. See [Tarhan v. Turkey judgment](#) (in French or Turkish) (Application No. [9078/06](#)).

²⁷ A power that is granted him by the constitution but was only exercised in exceptional circumstances by Mr Erdoğan's predecessors).

²⁸ For example, in February 2015 President Erdoğan put pressure on the central bank to lower interest rates <http://www.hurriyetdailynews.com/turkish-presidents-jab-at-central-bank-stirs-markets-politics.aspx?pageID=238&nID=78936&NewsCatID=344>

²⁹ Prime Minister's statement to the AKP group on 31 March 2015, [Hurriyet Daily News](#)

³⁰ <http://www.hurriyetdailynews.com/people-have-refused-presidential-system-demand-coalition-govt-turkish-pm.aspx?pageID=238&nID=83810&NewsCatID=338>

³¹ Protection of media freedom in Europe ([Doc. 13664](#) of 12 January 2015, paragraphs 117 to 139), report of the Committee on Culture, Science, Education and Media, Rapporteur: Mr Gvozden Srećko FLEGO, Croatia, Socialist Group

subject to a suspended prison sentence. I would also refer to the monitoring of the media carried out by the online service Bianet, which lists the various cases against journalists³².

39. The use of this arsenal of measure and its further development continue to cause problems: in March 2015, despite the Constitutional Court's 2014 ruling declaring a similar law invalid, the parliament adopted Act No. 5651 on the internet, which allows the Telecommunications Directorate (TIB) to block any website "to defend the right to life, to the security of property, to national security and to public order in order to prevent crimes or protect public health" for four hours without the intervention of a judge, to whom an application must be made within 24 hours and who must rule on it within 48 hours³³. The hitherto limited use of Article 301 of the Criminal Code, which makes it "a punishable offence to denigrate Turkishness", has been reactivated in the last few months. A hundred individuals who expressed an opinion critical of President Erdoğan are currently facing prosecution for "insulting the President" (Article 299 of the Criminal Code, which provides for one to four years' imprisonment). In six months, this article of the Criminal Code, rarely used since it was drawn up in 2005, has been invoked in more than two hundred cases³⁴, which is at the very least problematical in a democratic society.

40. At the Parliamentary Assembly's request, the Venice Commission was asked to "analyse the conformity with European human rights standards of Articles 216, 301 and 314 of the Turkish Penal Code and Law No. 5651 of Turkey [on the blocking of the internet], as well as their application in practice". In the light of the large-scale (and recent) use of the charge of "insulting the President", I believe it would be appropriate to expand this study to include Article 299 of the Criminal Code, which seems today to constitute a breach of freedom of expression and could, at the very least, have a deterrent effect.

41. During my meetings, journalists mentioned the difficulties they face, especially the bans on covering a number of events considered sensitive³⁵. The latest case involves the dissemination by the opposition daily newspaper *Cumhuriyet* of videos showing the interception and searching of lorries belonging to the Turkish secret services (see above), which earned its editor-in-chief Can Dündar fierce criticism from President Erdoğan, who promised that those responsible would pay a heavy price and demanded life imprisonment for Mr Dündar. This is a particularly worrying development.

c. *Freedom of assembly*

42. During my previous visit in 2014, I discussed the aftermath of the Gezi Park demonstrations, including the judicial consequences. I am pleased to note that the 26 individuals prosecuted for leading the protests in June 2013 have been acquitted³⁶. On 1 May 2015, I was able to see for myself the formidable security measures put in place in Istanbul to prevent any mass demonstrations in Taksim Square, where the trade unions traditionally used to commemorate the massacre of 34 trade unionists in 1977.

43. The Internal Security Act, passed on 27 March 2015, raises many questions both among the representatives of civil society and the opposition parties we met. They expressed their concern about a law that could in practice restrict freedom of assembly. The bill was passed after the serious pro-Kurdish riots that shook the country in October 2014 and led to forty deaths (the Kurds were protesting against the Turkish government's refusal to take any action in response to the attacks on Kobane). The parliamentary opposition strongly attacked the bill during stormy debates punctuated by violent scuffles and considered it "liberticidal".

³² <http://www.bianet.org/english/freedom-of-expression/164399-whoever-criticizes-erdogan-finds-themselves-in-court-here-are-the-court-cases>.

³³ <http://www.hurriyetdailynews.com/approved-article-gives-turkish-govt-power-to-shut-down-websites-in-four-hours.aspx?pageID=238&nID=79941&NewsCatID=339>

³⁴ According to the reply by the Ministry of Justice to a written question from a parliamentarian, 236 requests to institute criminal proceedings for "insulting the President" (77 in 2014 and 159 in 2015) were made between the day President Erdoğan took office (28 August 2014) and 17 March 2015. 105 have been declared admissible by the Turkish courts. 8 people have been remanded in custody. http://www.lemonde.fr/les-decodeurs/article/2015/04/02/turquie-les-proces-pour-insulte-recours-d-erdogan_4602770_4355770.html#YjZd6MHmT6ciq2zB.99

³⁵ This concerns the December 2013 investigation into corruption, the IS attack on the Turkish consulate in Mosul in 2013, the wiretapping carried out the Foreign Ministry (relating to the situation in Syria) or the bugging of the office of the then Prime Minister M Erdoğan, the terrorist attacks on the Reyhanlı border post on 11 May 2013, the Uludere air strikes in December 2011 against civilians thought to be members of the PKK, the Soma mining accident in 2014, the match-fixing scandal, etc. <http://www.hurriyetdailynews.com/10-issues-turkish-media-is-banned-from-reporting-on.aspx?pageID=238&nID=74904&NewsCatID=339>.

³⁶ <http://www.hurriyetdailynews.com/turkish-court-rules-peaceful-demonstrators-do-not-need-permission.aspx?pageID=238&nID=82163&NewsCatID=339>. It should be noted that the European Committee for the Prevention of Torture (CPT), who visited Turkey in June 2013, questioned a large number of Gezi Park demonstrators who had been held for questioning in Ankara and Istanbul. *CPT/Inf (2015) 6*, Report on the CPT's visit to Turkey (9-13 June 2013) and the Turkish government's reply, published on 15 January 2015.

The Kurdish representatives mentioned the possible suspension of the peace process if the bill were not amended, which led the government to refer 63 sections (out of 132) to the parliamentary committee and only to adopt a shortened version of the bill.

44. The Act, passed by 199 votes for and 32 against, allows police officers to search homes or vehicles on the basis of mere “suspicions” or to keep suspects in custody for 48 hours for questioning without the supervision of a magistrate. It also provides for four years’ imprisonment for demonstrators carrying Molotov cocktails or fireworks³⁷.

45. When I spoke to the Istanbul General Prosecutor, the justice and interior ministers and the President of the Constitutional Court, I informed them about the fears concerning the implementation of this security law expressed by those to whom I had spoken. The authorities tried to assure me that provisions that already exist in the legislation of other European countries have been incorporated into the Act. However, I would note that the law was passed in the tense climate of the “fight against the parallel state”, marked by the creation in June 2014 of “criminal judges of peace” (“super judges”) with extended powers. The above-mentioned reform of the Code of Criminal Procedure (Act No. 6572 of 2 December 2014) and the passing in March 2015 of Act No. 5651 on blocking the internet have clearly helped to add to this climate of mistrust.

46. The Internal Security Act has been referred to the Constitutional Court. It is necessary to await its decision but, as the President of the Assembly emphasised during her official visit to Turkey³⁸, in view of the questions it raises its provisions must be assessed in a specific context. A Venice Commission opinion to eliminate any doubts would be helpful.

d. Minority rights and religious communities

47. During my visit, in order to obtain an update on the situation of the minorities (recognised by the 1923 Treaty of Lausanne) I was able to meet eminent religious leaders: the Turkish Armenian Patriarchal Archbishop Aram Ateşyan, His Holiness the Ecumenical Patriarch Bartholomew I, as well as Professor Doğan, President of CEM Vakfi (*Cumhuriyetçi Eğitim Ve Kültür Merkezi Vakfı*), an Alevi foundation. These dignitaries confirmed to me their support for the democratic progress made over the past decade, even though a number of issues remain unresolved.

47.1. The Turkish Armenian Patriarchal Archbishop mentioned as positive steps the return of Armenian churches, the possibility of officially registering one’s religion, the inclusion of candidates of Armenian origin in the list of candidates for the June 2015 parliamentary elections, the dialogue entered into with the Turkish authorities on the “Armenian question” at the time of the commemoration of the 100th anniversary of the events in 1915, and the attendance of the Minister of European Union Affairs at a commemorative mass. However, he regretted the lack of a legal status for the patriarchate (abolished in 1934) and of a legal status for Turkey’s Armenian community (70,000 strong).

47.2. The Ecumenical Patriarch Bartholomew I also regretted the lack of a legal status, called for the reopening of the Halki seminary to provide training for the clergy and for the possibility of holding elections of administrators of Orthodox parishes.³⁹ At the same time, he was pleased to note that the return of confiscated properties was continuing, that the metropolitans were now granted Turkish nationality and that it was now possible to celebrate the Orthodox liturgy in churches abandoned after the population exchanges with Greece.

47.3. As far as the Alevi community is concerned⁴⁰, the emphasis was placed on several recent judgments of the European Court of Human Rights, which has ruled against Turkey with regard to the obligation imposed on the Alevis to attend religious instruction classes based on Sunni Islam⁴¹ or the discriminatory

³⁷ AFP dispatch of 27 March 2015, “Turquie: le Parlement vote une version raccourcie de la loi controversée sur la police”.

³⁸ <http://www.assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=5519&lang=2&cat=15>

³⁹ As the authorities in Ankara have withdrawn the circular concerning this matter without replacing it, it has not been possible to hold the elections referred to for two years.

⁴⁰ 15 to 20 million people according to the Directorate of Religious Affairs (Diyanet), 25 to 30 million according to Professor Doğan.

⁴¹ In its (final) Chamber judgment, of 18 September 2014 (in the case of Mansur Yalçın and Others v. Turkey, Application No. 21163/11), the ECHR unanimously held that there had been a violation of Article 2 of Protocol No. 1 to the Convention (right to education). The Court observed in particular that in the field of religious instruction, the Turkish education system was still inadequately equipped to ensure respect for parents’ convictions. The violation of Article 2 of Protocol No. 1 found by the Court has its origin in a structural problem already identified in the Hasan and Eylem Zengin case. Turkey must remedy this without delay, in particular by introducing a system whereby pupils could be exempted

financial treatment of Alevi places of worship (“cemevis”)⁴². These judgments are considered an important step forward for the recognition of places of worship. The Strasbourg Court has also considered the rejection of the application by Turkish nationals belonging to the Alevi faith for provision of a religious public service, which, according to their submission, is currently only granted by the Directorate of Religious Affairs (Diyanet) to the majority population, who subscribe to the Sunni understanding of Islam⁴³. Owing to the elections, little action has been noted to implement the Court’s aforementioned judgments, especially the introduction of an arrangement for providing religious instruction classes – despite the announcement of a package of reforms concerning the Alevis⁴⁴. In the meantime, and based on the Court’s judgments, a hundred municipalities run by the opposition CHP party have decided to grant place of worship status to the “cemevis” and either meet the costs of running them or make building land available.⁴⁵

e. *Combating female illiteracy and all forms of violence against women*

48. Turkey is the first country to have ratified the Istanbul Convention,⁴⁶ but violence against women remains a worrying phenomenon: according to figures provided by the online service Bianet, 281 women were killed by their (ex-) husbands or partners in 2014 (compared with 217 in 2010 and 165 in 2012).⁴⁷ According to a report on violence in Turkey published in 2014 by Ankara’s Hacettepe University, 40% of women have been physically assaulted at least once in their life and one in ten has suffered sexual violence in the home.⁴⁸

49. In Ankara, I met Ayşenur İslam, the Minister for Family and Social Policy – the only female minister in the government – and representatives of civil society, with whom I reviewed the situation with regard to combating violence against women as well as gender equality issues. Apart from the reasons for concern mentioned in my previous note, there has in the last few months been an upsurge in talk about limiting women’s role in public life, as well as a rise in the number of acts of exceptional violence against women. The attempted rape and then murder of Özgecan Aslan, a 20-year-old student whose body was then burnt in February 2015 by a bus driver, provoked widespread revulsion in Turkey and led President Erdoğan and Prime Minister Davutoğlu to react and announce new measures to deal with violence against women, but these are far from satisfying the demands of women’s associations. The minister also stressed that work still needed to be done to change mentalities despite the efforts being made, but violence suffered by women at least once at the hands of their (ex-) husband or partner and violence accompanied by sexual violence in rural areas and among educated women went down between 2008 and 2014.

50. It should be noted that the newly elected parliament will have 96 women deputies (compared with 79 in the previous legislature), or nearly 17.5%, a proportion never before reached. The HDP’s stance in favour of women (31 out of 80 deputies) and the CHP’s efforts to increase the number of female candidates will have had a positive effect on women’s representation in parliament. The proportion of women elected among candidates standing for the AKP rose from 14% in 2011 to 15.8% (41 women deputies).

from “religion and ethics classes” without their parents having to disclose their own religious or philosophical convictions. Turkey has appealed against this Chamber decision.

⁴² In its Chamber decision delivered on 2 February 2014 in the case of *Cumhuriyetçi Eğitim Ve Kültür Merkezi Vakfı v. Turkey* (Application No. 32093/10), the European Court of Human Rights unanimously held that there had been a violation of Article 14 (ban on discrimination) in conjunction with Article 9 of the Convention (right to freedom of thought, conscience and religion). The case concerned the possibility under Turkish law of places of worship being exempted from payment of electricity bills and the refusal to grant this exemption to the applicant foundation. The Court held in particular that the applicant foundation had been treated differently without objective and reasonable justification and that the system in Turkish law of granting places of worship exemption from payment of electricity bills entailed discrimination on the grounds of religion. ECtHR 355 (2014) 2 December 2014.

⁴³ Case of *Doğan and Others v. Turkey* (Application No. 62649/10). The applicants considered they had been had been subject to discriminatory treatment compared with citizens belonging the Sunni branch of Islam. They accused the authorities of disregarding the Alevis’ rights, not recognising their places of worship (“cemevis”) as such and making the exercise of the Alevis’ rights and freedoms dependent on the good will of public officials. A Grand Chamber hearing was held on 3 June 2015. ECtHR 174 (2015), 1 June 2015

⁴⁴ <http://www.dailysabah.com/politics/2015/03/22/pm-davutoglu-meets-with-alevi-ngos-to-address-communitys-concerns>.

⁴⁵ <http://bianet.org/english/religion/162096-around-100-municipalities-gave-cemevis-temple-status>.

⁴⁶ Council of Europe Convention on preventing and combating violence against women and domestic violence.

⁴⁷ http://www.bianet.org/system/uploads/1/files/attachments/000/001/307/original/infographic_test_eng.jpg?1422305640 and <http://www.hurriyetdailynews.com/explained-how-ozgecans-murder-united-divided-turkey.aspx?pageID=238&nID=78414&NewsCatID=509>.

⁴⁸ The figures in the [report](#) are cited in http://www.lemonde.fr/europe/article/2015/06/09/les-femmes-entrent-en-force-au-parlement-turc_4650571_3214.html?xtmc=aysenur&xtcr=1.

V. Conclusions

51. Turkey is, more than ever, a strategic partner for Europe owing to its geopolitical location and its economic and military strength at the heart of a region wracked by various conflicts and facing major challenges. The first challenge is the enormous threat posed by Daesh in the region and beyond. The reality of its presence is becoming increasingly clear on the African continent, especially in Libya (200 km of controlled coastline) as well as in Nigeria with its partner Boko Haram. The political and humanitarian consequences of the inexorable advance of Daesh are incalculable. Another big challenge is the position of the Kurds in Iraq and Syria and their active role in this conflict. They are asserting their existence more and more every day in a territory to which they lay claim and which they are defending and winning back on their own. That is not without its consequences for the Kurdish question in Turkey. This is a specific situation, to be sure, but it highlights the Kurdish reality and the need for rapid responses. Syria's uncertain future is made worse by the problem of relations with Iran after the signing on 2 April 2015 of a framework agreement on the Iranian nuclear programme with the so-called "G5 + 1" group (United States, Russia, China, France, the United Kingdom and Germany) and the expectation of a possible agreement on 30 June 2015. The Middle East issue is complex and involves all the major powers, including the United States and Russia, not to mention the fact that this is a conflict between the Shiite power Iran together with its partners and the Sunni power Saudi Arabia and its allies. If this agreement on Iran's nuclear programme is reached, it is likely to have a political and strategic impact on the development of relations and of the situation.

52. Turkey is continuing its political transition. It has dividing lines running through it that separate the Kemalists, the (religious) conservatives and the alleged members of the Gülen movement, and this in a sluggish European context that holds out hardly any prospects for integration into the European Union. In the meantime, the purges are continuing. On the other hand, the country's stabilisation is dependent on the outcome of the last parliamentary elections in June 2015, which have marked a turning-point. The AKP remains the dominant political force in the country (40.87% of the vote and 258 seats) but has lost its 13-year-old parliamentary majority (276 seats), and this is going to force it to reach an agreement with the CHP (24.95%, 132 seats), the MHP (16.29%, 80 seats) or the HDP (13.12%, 80 seats). It should be noted that the pro-Kurdish HDP party succeeded in crossing the 10% threshold by combining support both for the various minorities and the defence of social rights. It also received protest votes, especially from citizens who oppose the possibility of a presidential system. These results therefore lead us to ask ourselves many urgent questions about the composition of the final government majority. The situation will have resolved itself in the next few days. It is worth repeating that fresh parliamentary elections are conceivable if the government is not formed within 45 days ...

53. In the areas of the separation of powers, the independence of the judiciary and freedom of expression, I already expressed concerns after my previous visit in 2014 with regard to these key aspects where we had to verify compliance. These concerns have been confirmed and have even grown, especially with the application and interpretation of the latest very restrictive security laws relating to the internet or internal security. The increased recourse to criminal proceedings for insulting the President and the pressures on the media, especially of an economic nature, are helping to create a climate of mistrust – and tend to limit free and critical expression even more. These are key points that the newly elected parliament will have to consider as a matter of urgency.

54. However, Turkey remains a great country and a vital partner in the region. Turkish society has confirmed in these elections that it desires to preserve the freedoms it has achieved and protect the democratic culture it has been able to establish in the course of its history. The elections have undeniably curbed the aspirations of President Erdoğan, who wanted to establish a strong presidential system with or without the balances necessary in a democracy. The Turkish people assessed the risk and rejected this prospect, demonstrating considerable political maturity. The much more representative parliament that has been elected reflects a broad range of political and cultural affiliations in the country, which is a significant step forward for Turkey.

55. The post-monitoring dialogue procedure with Turkey will therefore continue. Many commitments are still to be honoured as far as compliance with the twelve requirements to be verified is concerned and in respect of which the expected replies have not been forthcoming. Turkey is duty-bound to honour its commitments. The Council of Europe stands ready to help the Turkish authorities, especially its Venice Commission with regard to the revision of the constitution.

56. This year, Turkey is increasing its numerical representation at the Council of Europe, and therefore its political influence. It is a great country and a key political and strategic partner.

57. Let us salute the Turkish people and welcome their deep democratic aspirations. Let us also salute their exceptional ability to demonstrate exemplary solidarity to fellow peoples in difficulty.

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:

- i. 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;
- ii. 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;
- iii. recognise the **right of conscientious objection** and establish an alternative civilian service;
- iv. establish **the institution of ombudsman**;
- v. **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;
- vi. **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**;
- vii. 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;
- viii. **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;
- ix. continue the **training of judges and prosecutors** as well as the police and gendarmerie, with the Council of Europe’s assistance;
- x. **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;
- xi. 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**;
- xii. continue efforts to **combat female illiteracy and all forms of violence against women.**”

APPENDIX II : Implementation of Resolution 1380 (2004) on post-monitoring dialogue with Turkey

Updated: 15 June 2015

	Points mentioned in paragraph 23 of Resolution 1380 (2004)	Developments (dark grey shading indicates points honoured and light grey shading points in the process of being honoured)
23.i.	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;	Following the constitutional referendum of 12 September 2010 comprising 26 articles: opening of the trial of the leaders of the coup d'état of 12 September 1980; reform of the procedures for the appearance before civil courts of members of the military; increase in the number of members of the Constitutional Court (CC) and the High Council of Judges and Prosecutors (HSYK); adoption of the principle of the establishment of the institution of ombudsman; introduction of the right of individual appeal to the CC in matters falling within the scope of the European Convention on Human Rights (ETS No. 5); broadening of the scope and substance of trade-union rights and the right to freedom of association. Following the referendum, adoption in 2010 of laws on the HSYK, judges and prosecutors of Turkey, the organisation of the CC and the organisation of the Ministry of Justice. Establishment of regional courts of appeal (in progress). The work of the joint conciliation committee set up to draft a new constitution (October 2011-December 2013) produced a consensus on 60 articles; the major reform of the constitution remains to be carried out, in co-operation with the Venice Commission.
23.ii.	amend the electoral code to lower the 10% threshold	No change. The CHP has introduced a bill to lower the electoral threshold to 3%. The AKP did not rule out electoral reform and the creation of single-seat constituencies.
	and enable Turkish citizens living abroad to vote without having to present themselves at the frontier;	Since the 2014 presidential elections, Turks living abroad have been able to vote abroad without presenting themselves at the frontier. The system was introduced in 2014 for presidential elections and improved in 2015 for the parliamentary elections, in which nearly 40% of Turks living abroad participated.
23.iii.	recognise the right of conscientious objection and establish an alternative civilian service;	After the judgments of the ECtHR in the case of <i>Ulke v. Turkey</i> , among others, individual cases were settled. However, there have been no legislative advances towards recognition of conscientious objection (despite the Court's recent case law) or the establishment of an alternative civilian service.
23.iv.	establish the institution of ombudsman ;	The constitutional reform of 12 September 2010 provided for the establishment of the institution of ombudsman. On 14 June 2012, the Turkish parliament passed Law No. 6328 establishing the ombudsman institution and appointed Mr Nihat Ömeroğlu to this post.
23.v.	ratify the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime ,	The Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS No. 141) was ratified on 6 October 2004 .
	the Framework Convention for the Protection of National Minorities ,	The Framework Convention for the Protection of National Minorities and the Charter for Regional or Minority Languages have neither been signed nor ratified. The signing of these instruments is not on the agenda.
	the European Charter for Regional or Minority Languages	
	and the Revised European Social Charter ,	The revised Social Charter (ETS No. 163) was ratified on 27 June 2007.

	and accept the provisions of the Charter which it has not already accepted;	
23.vi.	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;	<p>Amendment in May 2008 of Article 301 of the Criminal Code. Adoption of the 3rd democratisation package in 2012 and the 4th package in 2013. Launch of a human rights action plan in March 2014 to align Turkish legislation with the case law of the ECtHR, following its many decisions finding violations by Turkey of freedom of expression, freedom of assembly and the right to a fair trial. However, several articles of the Criminal Code and legislative provisions remain problematical. Their narrow interpretation represents an obstacle to freedom of expression. This had led to the detention of many journalists (the number has since been reduced, particularly as a result of the revision of the Anti-Terrorism Law).</p> <p>The interpretation of Art. 301 of the Criminal Code as amended in 2008 remains problematical, as do the large-scale use of Article 299 of the Code ("Insulting the President") and the restrictive laws adopted in 2014 and 2015 in the field of internal security and communications (the Internet). In January 2015, PACE asked the Venice Commission to give an opinion on Articles 216, 301 and 314 of the Turkish Criminal Code and Law No. 5651 [on blocking of the Internet], and their practical implementation.</p> <p>The excessive use of force to disperse demonstrations (in Gezi Park in 2013) and the failure to execute the many judgments of the Court in this area also raise an issue with regard to the exercise of the right of association and the right to demonstrate. In the context of the "purges" organised first against the "deep state" (i.e. members of the military, academics and journalists), then against so-called "parallel" structures and the Gülen movement, questions arose regarding compliance with procedural rules and the actual functioning of the justice system.</p>
23.vii.	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;	<p>The constitutional amendments of September 2010 broadened the scope and substance of trade-union rights and the right of association. Adoption of the 5th democratisation package in March 2014, including the restriction of pre-trial detention to 5 years (instead of 10) in terrorism cases; abolition of the last three special criminal courts conducting major trials (Ergenekon, Balyoz and KCK) in 2013, but introduction of "criminal judges of peace" in 2014. Lowering of the public funding threshold to parties which obtained 3% of the votes (instead of 7%) (democratisation package of 3 March 2014), but the reforms in this area must be continued in line with the recommendations made by GRECO in its November 2014 report (RC-III (2013)). Since then (see GRECO interim report RC-III (2014) 24E of February 2015), ratification of the Additional Protocol to the Criminal-law Convention on Corruption in December 2014 (entry into force in April 2015), amendment of Article 12 of the Criminal Code concerning offences committed by foreign nationals, but no tangible progress noted in "Transparency of party funding" since the adoption of the 2nd Compliance Report. GRECO notes with concern that the "draft bill on the amendment of certain laws for the purpose of ensuring transparency in the financing of elections" has still not been approved by the Government or submitted to Parliament, and that no precise information has been provided on its content.</p>
23.viii.	reform local and regional government and introduce decentralisation in accordance with the principles of the European Charter of Local Self-Government (ETS No. 122);	Introduction of a reform of local authorities and creation of metropolises in 2013, but a reform of decentralisation remains to be carried out, if appropriate as part of the constitutional revision.

	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;	In the last ten years, a significant economic development and investment programme has been undertaken in the south-east regions. The "Return to the Villages and Rehabilitation Project" launched in 1994 has led to the return of over 180 000 people.
23.ix.	continue the training of judges and prosecutors as well as the police and gendarmerie , with the Council of Europe's assistance;	The Ministry of Justice has undertaken several training programmes for senior members of the judiciary, in cooperation with the Council of Europe, as well as for the police and gendarmerie. These should be extended.
23.x.	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;	The geographical reservation to the Geneva Convention has not been lifted. A law on foreigners and international protection, aimed at further improving conditions for foreigners, regardless of their status, was adopted in 2013. It seems necessary to strengthen the legal framework and implementation of the circulars on refugees and asylum-seekers. The national action plan for the adoption of the EU <i>acquis</i> in the field of asylum and immigration, signed in 2005, provides for the suspension of the geographical limitation applied to the Geneva Convention. Adoption of the circulars on "refugees and asylum-seekers" and "combating illegal immigration" on 19 March 2010. Signing of a re-admission agreement with the EU in 2013 (with a view to the preparation of a liberalised visa policy making it easier for Turks to enter the EU).
23.xi.	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;	Significant advances made in recognition of the cultural rights of minorities, in particular the use and teaching of languages other than Turkish (including Kurdish) and teaching in these languages in private institutions (5th democratisation package in March 2014). Possibility of conducting an election campaign in languages other than Turkish. A significant peace process was launched in April 2013 to resolve the Kurdish issue. Adoption of a "framework law to put an end to terrorism and enhance social integration" in July 2014. But the arrangements for negotiating a conflict resolution framework have yet to be agreed.
		Improvement of the conditions of detention of Abdullah Öcalan, after a return to solitary confinement from July 2011 to autumn 2012, following a collective hunger strike by hundreds of Kurdish prisoners. Öcalan has not had access to his lawyers since 27 July 2011. Since peace talks were launched in 2013, regular meetings (authorised by the Minister for Justice) of a parliamentary delegation of the pro-Kurdish HDP party. In its report published in March 2014, the Committee for the Prevention of Torture (CPT) asks Turkey to allow Öcalan to meet with his lawyers and not to be subjected to continuous solitary confinement.

		<p>As regards the religious minorities recognised by the 1923 Treaty of Lausanne, the legislative framework was improved by the Law on Foundations (2008). Some symbolic gestures, but also the return of the former orphanage on the island of Büyükkada to the Ecumenical Patriarchate on 20 November 2010, the holding of services at Sümela Monastery in Trabzon and at the Armenian church on Akdamar Island in August and September 2010. Adoption of Circular No. 2010/13 instructing administrative authorities to pay special attention to the protection of non-Muslim cemeteries and to the execution of judicial decisions relating to ownership disputes between non-Muslim foundations and the state, and instructions given to the responsible authorities to initiate proceedings against publications containing incitements to hatred and hostility towards non-Muslim communities. The lack of legal status of non-Muslim religious communities, the failure to reopen the Halki orthodox seminary and the continuation of the process of returning property remain problematical. With regard to the Alevi community (15-20 million people), the execution of the judgments of the ECtHR concerning them still poses problems, particularly as regards recognition of the "cemevis" as places of worship, exemption from compulsory religious instruction in schools and equality of treatment with other religious communities.</p>
23.xii.	<p>continue efforts to combat female illiteracy and all forms of violence against women.</p>	<p>Significant progress in combating illiteracy among girls and women. Despite legislative advances in the fight against violence towards women, including ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence ("Istanbul Convention"), acts of domestic violence are on the rise and women's rights are regularly called into question in public discourse, particularly in connection with reproductive health (attempts to limit the right of abortion) and women's place in public life. Slow progress of parity in Parliament (17.5% in June 2015 as compared with 4.4% in 2002).</p>

APPENDIX III

Programme of the fact-finding visit to Istanbul, Şanlıurfa and Ankara (30 April – 4 May 2015)

Ms Josette DURRIEU, France, Socialist Group

Thursday 30 April 2015

In Istanbul

- 09:30 Erol ONDEROĞLU, journalist, Bianet
- 11:00-12:00 Aram ATEŞYAN, Turkish Armenian Patriarchal Archbishop
- 12:00-13:00 His All Holiness Ecumenical Patriarch BARTHOLOMEW I
- 14:00-15:00 Prof. İzzettin DOĞAN, President of the Alevi Foundation *Cumhuriyetçi Eğitim Ve Kültür Merkezi Vakfı* (CEM Vakfı)
- 16:00-17:00 Hadi SALİHOĞLU, Chief Public Prosecutor of Istanbul

Friday 1 May 2015

- 10:00 Etyen MAHÇUPYAN, Turkish-Armenian journalist of the daily newspaper *Akşam*, Adviser to the Prime Minister Mr Davutoğlu, writer and former editor in chief of *Agos* (2007-2010)
- 16.30 *Departure for Şanlıurfa (Urfa)*

Saturday 2 May 2015

In Şanlıurfa

- 08:30-09:45 Working breakfast with the representatives of the NGOs
- Celal CİFTÇİ, local newspaper *OLAY*
- Nalan DURDU, Chairperson of the Human Rights Association (IHD) of Urfa
- Atilla YAZAR, Vice-chairperson of IHD of Urfa
- 10:00-10:45 Celalettin GÜVENÇ, Mayor of Şanlıurfa
- 11:00-11:45 İzzettin KÜÇÜK, Governor of Şanlıurfa
- 14:00 Osman BAYDEMİR, candidate of HDP in Şanlıurfa
- 17:30 Meeting with representatives of NGOs
- Nalan DURDU, Human Rights Association (IHD) of Şanlıurfa
- Ferit SULTAN, Human Rights Association of Şanlıurfa
- 19:00 Dinner hosted by Mehmet Kasim GULPINAR, member of the Turkish delegation to the PACE, (candidate of AKP in Urfa)

Sunday 3 May 2015

- 10:00-10:45 Visit of the refugee camp of Suruç run by the Prime Ministry Disaster & Emergency Management Authority (AFAD)
Meeting with Abdullah CİFTÇİ, Sub-Prefect of Suruç
- 12:30 Visit of the border post of Suruç /Kobani

- 14:00-15:00 Zuhale EKMEZ, Co-Mayor (HDP) of Suruç
- 15:00-17:00 Visit of the refugee camp run by the municipality of Suruç
- 19:00 Dinner hosted by Mehmet Kasim GULPINAR, member of the Turkish delegation to the PACE
- 21.25 *Departure for Ankara*

Monday 4 May 2015

In Ankara

- 08:30-09:45 Working breakfast with the representatives of the NGOs
- Öztürk TÜRKDOĞAN, Chairperson of the Human Rights Association (IHD)
 - Canan GÜLLÜ, President of the Confederation of Turkish women associations
 - Ercan IPEKCI, former chairperson of the Platform for freedom of journalists
 - Murat Köylü, External relations coordinator, Association KAOS GL
- 10:00-10:30 Yalçın AKDOĞAN, Deputy Prime Minister
- 12:00-12:30 Mükerrer ÜNLÜER, Minister of the Interior
- 12:30-14:00 Lunch hosted by Mr Reha DENEMEÇ, Chairperson of the Turkish delegation to the PACE
- 14:00-14:30 Kenan IPEK, Minister of Justice and President of the High Council of Judges and Prosecutors
- 15:00-15:30 Ayşenur İSLAM, Minister for the Family and Social Policies
- 16:00-16:30 Zuhtu ARSLAN, President of the Constitutional Court
- 17:00-17:30 Sırrı Süreyya ÖNDER, MP, spokesperson of the HDP delegation in charge of peace process contacts