



This project is financed by the European Union

OUTLOOK OF FREEDOM OF ASSOCIATION IN TURKEY-II

▶ Current State of Civil Society in 2019-2020
in Turkey and Across the World



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Report Title

Outlook of Freedom of Association in Turkey-II
Current State of Civil Society in 2019-2020 in Turkey and Across the World

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ABBREVIATIONS

- AI:** Amnesty International
- AMER:** Association for Monitoring Equal Rights
- AYM:** Constitutional Court of the Republic of Turkey
- BEDK:** Republic of Turkey Ministry of Justice Review Board of Access to Information
- BILGI CCSS:** Istanbul Bilgi University Centre for Civil Society Studies
- BILGI MIGRATION:** Istanbul Bilgi University Centre for Migration Research
- BTK:** Information Technologies and Communications Authority
- CIMER:** Communication Centre of the Presidency of the Republic of Turkey
- CMK:** Code of Criminal Procedure
- CMUK:** Code of Criminal Procedures [of 1929, repealed]
- Conference of INGOs:** The Conference of International Non-Governmental Organisations of the Council of Europe
- CSO:** Civil Society Organisation
- DERBIS:** Information System of Associations
- DGF:** Republic of Turkey Ministry of Culture and Tourism Directorate General of Foundations
- DGRCS:** Directorate General for Relations with Civil Society
- Directorate for EU Affairs:** Republic of Turkey Ministry of Foreign Affairs Directorate for EU Affairs
- ECAS:** The European Citizen Action Service
- ECHR:** European Convention on Human Rights
- ECtHR:** European Court of Human Rights
- EU:** European Union
- FATF:** Financial Action Task Force
- GNAT:** Grand National Assembly of Turkey
- HRA:** Human Rights Association
- HRFT:** Human Rights Foundation of Turkey
- HRW:** Human Rights Watch
- IHOP:** Human Rights Joint Platform
- IPA:** European Union's Instrument for Pre-Accession Assistance
- Kaos-GL:** Kaos Gay and Lesbian Cultural Studies and Solidarity Association
- KHK:** Statutory Decree
- OECD:** Organisation for Economic Co-operation and Development
- OHCHR:** Office of the United Nations High Commissioner for Human Rights
- OSCE:** Organization for Security and Co-operation in Europe
- PSB:** Presidency of Republic of Turkey Presidency of Strategy and Budget
- SGK Law:** Social Security and Universal Health Insurance Law
- STGM:** Civil Society Development Centre
- TESEV:** Turkish Economic and Social Studies Foundation
- TCK:** Turkish Penal Code
- TMEK:** Turkish Civil Code
- TMK:** Anti-Terrorism Law
- TTK:** Turkish Code of Commerce
- TURKSTAT:** Republic of Turkey Ministry of Treasury and Finance Turkish Statistical Institute
- TUSEV:** Third Sector Foundation of Turkey
- UN:** United Nations
- UNHCR:** United Nations High Commissioner for Refugees
- YADA:** YADA Foundation

FOREWORD

For civil society to get stronger and become an essential element of democracy, it is imperative that there is an enabling legal and administrative environment for civil society activities. In this light, through its efforts of monitoring freedom of association, the Civil Society Development Centre (STGM) seeks to primarily contribute to further improvement of the civic space in Turkey where civil society organisations operate. In parallel, STGM also aims to encourage generation of statistics by relevant agencies in compliance with international standards, which has been considered to be inadequate in Turkey so far, as well as collection of official, public, and systemic data concerning civil society.

The report entitled "Outlook of Freedom of Association in Turkey-II" has been prepared by STGM as part of the project "Capacity Building for CSOs and Civil Networks for Further Development of Freedom of Association and Right to Participation" (The Right to Participation)" financed by the European Union.

This second report covering the period 2019-2020 is a sequel to the first report entitled "**Outlook of Freedom of Association in Turkey-I**"¹.

This report has been prepared in the light of the monitoring indicators formulated as part of the Right to Participation Project. In an effort to discuss and finalize these monitoring indicators, a "**working group**" was set up including the representatives of civil society organisations and public institutions. The preliminary monitoring indicators drafted by the project team was presented to the working group to receive their opinion and suggestions. These draft indicators were reviewed by different members of the working group at three separate meetings held in April and May 2019. Later in July 2019, STGM presented the indicators formulated for monitoring Freedom of Association in Turkey to the participants of a well-attended meeting hosted by the Directorate for EU Affairs as part of the IPA-III programming process to collect their feedback and suggestions. During this meeting attended by civil society organisations, public institutions, and the Delegation of the European Union to Turkey among others, it was envisaged to set up an inclusive "**civil society working group**" to continue this process, and to arrange visits to institutions for that purpose. However, due to the restrictions introduced to contain the Covid-19 pandemic, which impacted Turkey as much as everywhere else across the world, this process had to be halted and the working group could not continue its meetings.

Nevertheless, the monitoring exercise itself was continued and fully completed under the circumstances of the pandemic. This being the case, we had to replace the initially planned meetings to consult with a large segment of civil society on monitoring methods with one-on-one meetings we carried out as part of other STGM activities. We do very much hope that monitoring freedom of association series will continue in the upcoming years, and we will be able to produce new reports thanks to even greater participation of civil society organisations and more effective cooperation with public administration.

1. Outlook of Freedom of Association in Turkey-I, STGM, September 2020, access: <https://bit.ly/2lUaYl0>

INTRODUCTION

Scope and Methodology

Individuals' right to come together to protect their own interests and to undertake activities towards a specific purpose has been recognized in numerous conventions and resolutions of both the United Nations as well as the Council of Europe. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the European Convention on Human Rights are the primary legal instruments safeguarding freedom of association.

Article 20 of the Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly on 10 December 1948 and recognized by Turkey on 6 April 1949 through a Cabinet Decree, enshrines provisions related to freedom of peaceful assembly and association. According to this Article, everyone has the right to freedom of peaceful assembly and association, and as such no one may be compelled to belong to an association.

The International Covenant on Civil and Political Rights was adopted in 1966, and entered into force on 23 March 1976. Turkey signed the Covenant in 2000 and ratified it in 2003. Article 22 of the Covenant acknowledges that everyone shall have the right to freedom of association with others towards achieving shared goals, including the right to form and join trade unions for the protection of his interests. Meanwhile in its Article 11, the European Convention on Human Rights (ECHR), in effect since 1953 and ratified by Turkey on 19 March 1954, recognized the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

While the freedom of association has been broadly defined in international human rights mechanisms, conventions also include some restrictive provisions. For instance, both ICCPR and ECHR note that State parties may place restrictions on the exercise of freedom of association in the interests of national security, public safety or public order, for the prevention of disorder or crime, for the protection of public health or morals or for the protection of the rights and freedoms of others.

The conventions mentioned above constitute the fundamental legal instruments governing freedom of association. In addition to these conventions, this report also draws from general comments, recommendations of the UN Human Rights Committee, reports/resolutions/opinions of the European Commission and the Council of Europe as well as other documents that are not necessarily binding on governments yet provide guidance on freedom of association.

When it comes to the national legislation, the Constitution, Turkish Civil Code, Law on Associations, and Law on Foundations were taken as the main reference points on national legislation governing freedom of expression in respect of associations and foundations.

Article 33 of the Constitution of the Republic of Turkey lays down provisions on freedom of association. According to this Article, everyone has the right to form associations, or become a member of an association, or withdraw from membership without prior permission. This Article also bans people to compel others to become or remain a member of an association. In its subsequent sections, the Article sets the framework of restrictions that may be placed on freedom of association and provides for the procedure for termination of association activities.

The Turkish Civil Code no. 4721 of 2001 governs the procedures and principles concerning the establishment and functioning of associations in its Articles through 56 to 100, and of foundations through 101 to 117.

The Law on Associations no. 5223 enacted in 2004 sets out provisions for associations, branches or representative offices of associations, federations, confederations, foreign associations as well as the Turkey branches and representative offices of non-profit organisations with their headquarters abroad other than associations and foundations, including their operations, liabilities, auditing, penalties to be imposed and other matters.

Whereas the Law on Foundations no. 5737 adopted in 2008 includes provisions concerning the management, operations, and auditing of foundations as well as the registration, maintenance, repair, and protection of their movable and immovable properties at home and abroad, and operation of foundation assets in an economically viable fashion.

In addition to the laws mentioned above, this report also examined the special laws that include provisions which may restrict the activities of civil society organisations, hence freedom of association, including the Law no. 2860 on Aid Collection, the Anti-Terrorism Law no. 3713, the Law no. 2911 on Meetings and Demonstration Marches as well as Presidential Decrees that may impact civil society organisations, regulations governing the operation of relevant public agencies, circulars, directives, policy documents, strategic and action plans.

The legal instruments and documents listed above have been monitored in the light of the project monitoring indicators, and problem areas have been identified accordingly. During this exercise, we used the data generated or compiled by public institutions, civil society organisations as well as various experts working in the field. In addition to the interviews with public institutions and civil society organisations as well as right to information petitions, the report also benefited from open resources, publicly available.

The report **“Outlook of Freedom of Association in Turkey-II”** consists of three main chapters. The first chapter provides an overall assessment of the impact of the Covid-19 pandemic on civil society organisations on the top of the rising populism and shrinking civic space in Europe and Turkey.

The second chapter takes a closer look into Turkey by following the monitoring indicators, and examines the legal and administrative processes impacting freedom of association. This particular analysis has been limited to associations and new foundations. On the other hand, the report also briefly touches upon online forms of associations, which constitute a very important field of activity for associations and new foundations due to the regulations on social media platforms.

The second chapter is organised under the following subheadings: freedom of association in Turkey and the right to become a member of existing CSOs; CSOs' right to conduct activities towards achieving their objectives without any intervention; government's positive obligation to safeguard the rights of CSOs; CSOs' right to carry out fundraising activities and safeguard their resources; CSOs' freedom of expression and peaceful assembly. The second chapter of the report provides only a brief account of CSOs' right to participate in decision-making and public processes, as this particular subject will be addressed in a separate assessment report by STGM.

The third chapter and conclusions section include a number of recommendations. While formulating the recommendations, we have taken into account the overall experience in the drafting of this report, international conventions addressing freedom of association where Turkey is a party to, general comments and recommendations developed by the monitoring mechanisms of these conventions as well as the decisions made in individual applications filed to these mechanisms.

Chapter 1

Outlook of
Civil Society in
Turkey and
Across the
World

1- Outlook of Civil Society in Turkey and Across the World

One of the most frequently encountered problem as echoed in the reports published by civil society organisations and international organisations, particularly in the past two years, has been **“the shrinking civic space”**². The United Nations defines **“civic space”** as an **“environment that enables people and groups – or “civic space actors” – to participate meaningfully in the political, economic, social and cultural life of their societies”**³ The freedoms of association, expression, peaceful assembly and the right to participation constitute the most vital components of the “civic space”. Besides as expressed by the Office of the UN High Commissioner for Human Rights, **“today, civic space is under pressure. Repressive laws are spreading, with increased restrictions on freedoms to express, participate, assemble and associate”**⁴. Civil society actors are also facing a **“pushback”**⁵ across the world. This issue has also been articulated by the Secretary General of the Council of Europe in the last two terms. Challenges in civic space including its shrinkage have been explicitly noted in the 2019 annual report of Thorbjørn Jagland⁶, the former Secretary General of the Council of Europe, and in the 2020 annual report of his successor Marija Pejčinović Burić.

In the 2018-2020 editions of “The State of Civil Society Report”, CIVICUS, a global alliance striving to empower civil society organisations throughout the world, continues to draw attention to the rising populism and its negative impact on civil society. CIVICUS 2020 report depicts **“civic space on a downward spiral”**, while civil society in Turkey has been rated as **“repressed”** both in 2019⁷ and 2020⁸ reports. Similar observations and remarks have also been voiced by other internationally acclaimed rights organisations⁹.

In her 2020 annual report, Marija Pejčinović Burić, the first female Secretary General of the Council of Europe, calls attention to the role of the Covid-19 pandemic in the shrinking civic space:

Countries across the Council of Europe area have vibrant civil societies, which benefit to a large extent from the rights to freedom of expression, assembly, and association. However, civic space in Europe is shrinking. Before the Covid-19 pandemic there was already evidence of situations resulting in excessive restrictions – legal and practical – on the work of NGOs. This has been seen in relation to human rights defenders, democracy activism and the rescue and support of migrants and refugees. The pandemic has, however, led to an increased number of emergency declarations and derogations from the European Convention on Human Rights.

In some cases, their scope, duration and impact have been criticised by civil society representatives who worry that 2020 might ultimately mark the further, lasting loss of civic openness in Europe, weakening an important democratic safeguard.¹⁰

Meanwhile UN Special Rapporteurs, recalling UN High Commissioner for Human Rights Michelle Bachelet's remarks that all measures to be taken during the pandemic should be adopted with a rights-based approach¹¹, noted that measures should primarily aim for protecting public health, and should not be used beyond its purpose such as for silencing human rights defenders. UN Special Rapporteurs particularly emphasised that all emergency measures should be lifted with return to normalcy¹². However, the developments so far have taken the opposite course:

The United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule has pointed to the fact that while governments should see civil society as strategic partners in their fight against the Covid-19 pandemic, this resource is not being utilised in

2. During this interactive dialogue with United Nations Deputy Secretary-General Amina Mohammed organised by the UN Human Rights Council and attended by international civil society organisations as well as intergovernmental organisations, the participants frequently referred to the issue of “shrinking civic space” in the wider region and many countries including Turkey. Human Rights Council holds interactive dialogue with United Nations Deputy Secretary-General Amina Mohammed, UN Human Rights Council, 7 March 2019, access: <https://bit.ly/34-cLa1g>

3. UN Guidance Note On The Protection And Promotion of Civic Space, United Nations, September 2020, p.3, access: <https://bit.ly/3oMnl8o>.

4. Protecting and expanding civic space, OHCHR, access: <https://bit.ly/3gQ2oqi>.

5. Protecting and expanding civic space, OHCHR, access: <https://bit.ly/3gQ2oqi>.

6. Ready For Future Challenges – Reinforcing The Council of Europe, Report by the Secretary General for the Ministerial Session in Helsinki, 16-17 May 2019, access: <https://bit.ly/3oXTVnP>

7. The State of Civil Society Report 2019, <<https://bit.ly/2PS8IE7>>

8. The State of Civil Society Report 2020, <<https://bit.ly/39GGByH>>

9. Turkey: NGOs unite to defend civil society from destruction, Amnesty International, 27 February 2019, <<https://bit.ly/3dvqjdk>>; World Report 2020, Human Rights Watch, <<https://bit.ly/2Omjlly>>

10. Multilateralism 2020, Annual report of the Secretary General of the Council of Europe, June 2020, access: <https://bit.ly/2KGbGcu>

11. Coronavirus: Human rights need to be front and centre in response, says Bachelet, OHCHR, 6 March 2020, access: <https://bit.ly/3rvdM>

12. COVID-19: States should not abuse emergency measures to suppress human rights – UN experts, 6

practice : **“civil society’s ability to contribute to [the Covid-19] response has been constrained by restrictive and hastily passed emergency laws introduced by many governments”**¹³ . International civil society organisations make similar observations as well. Among others, these observations particularly establish how authoritarian regimes ruling by decrees have adopted emergency laws with no sunset clause¹⁴.

Civil society organisations in Turkey have also been adversely affected by the Covid-19 pandemic. 2021 Annual Programme of the Presidency of the Republic has listed these adverse effects as follows:

*The Covid-19 pandemic has had a significant impact on CSOs and has caused CSOs to experience problems in their access to resources and funds, employment capacity, service delivery, capacity building, project preparation, grant utilisation, and fundraising*¹⁵.

2021 Annual Programme of the Presidency also points to the need to strengthen the capacity of CSOs to eliminate the negative impact of the Covid-19 pandemic on civil society. However, other than "capacity building training sessions"¹⁶ set out in "Measure 778.2", the 2021 annual programme has not put forward any concrete measures.

In April and August 2020, the Third Sector Foundation of Turkey (TUSEV) conducted a Survey on the Impact of Covid-19 Outbreak on Civil Society Organisations Operating in Turkey. According to the findings of this survey,

*78% of the 141 CSOs participating in the survey stated that the pandemic affected their activities such as seminars, conferences, and performances, while 60% highlighted the effects on training activities. In addition, 39% of the respondents stated that fundraising activities were affected; 38% reported their services were affected due to closure of their service centres and halted fieldwork; 16% said that the pandemic had an impact on advocacy activities. 16% of the CSOs reported that all of their activities have completely stopped*¹⁷.

A comparison of the first survey conducted by TUSEV in April 2020 with the second survey conducted in August 2020 reveals that while the impact of the pandemic on training and other activities undertaken by CSOs still continues, they are experiencing a partial recovery in other areas.

Another study to understand the impact of the Covid-19 pandemic on civil society and activism was carried out by STGM as part of the "Together" project. Aiming to provide institutional support to local CSOs, the project held an online meeting attended by 58 representatives from 39 CSO beneficiaries operating in various areas including Gender, LGBTI+ and Women's Rights, Ecology, Environment and Animal Rights, Rights of People with Disabilities, Rights of the Child, Elderly and Youth, Right to the City, Rights of the Roma, Human Rights and Penal Execution System. During the meeting, the participants raised the following issues:

- Groups within the intersecting inequality axis such as the Roma, LGBTI+, Syrian refugees as well as poverty-stricken individuals and families have experienced difficulties in accessing basic necessities including food and sanitation.
- People with disabilities, individuals, groups, and families suffering from poverty have experienced difficulties in accessing public services such as education, health, judicial services, income and employment, which are essential to ensure their economic, psychological and physical well-being.
- Women, children, LGBTI+ individuals and groups have been exposed to increased number of gender-based violence risks and incidents, and experienced difficulties in accessing legal services, psychological support, and counselling needed for protecting themselves from violence and requesting measures against perpetrators.
- Those who do not have sufficient means due to their economic or social standing have experienced difficulties in accessing and using digital tools¹⁸.

13. UN Special Rapporteur on the Rights to Freedoms of Peaceful Assembly and of Association Clément Nyaletsossi Voule, "States responses to Covid 19 threat should not halt freedoms of assembly and association" 18.12.2020, Turkish translation: <https://bit.ly/38EVOza>

14. Protection International, The Role of Civil Society Organisations During and in a Post-COVID-19 World, Joint Declaration, 27.4.2020, access: <https://bit.ly/37TenAp>

15. 2021 Annual Programme of the Presidency, Presidency of the Republic of Turkey Presidency of Strategy and Budget p. 389, access: <https://bit.ly/3nTXETb>. Drafted jointly by the Ministry of Treasury and Finance of the Republic of Turkey and the Strategy and Budget Office of the Presidency of the Republic of Turkey, the programme was published in the Official Gazette no. 31287 (duplicate) dated 27/10/2020 following the approval of the President Recep Tayyip Erdoğan.

16. *ibid.*, p. 391

17. TUSEV, Survey on the Impact of COVID-19 Outbreak on Civil Society Organisations Operating in Turkey – II Report, September 2020, p.12, access: <https://bit.ly/3pStRBn>

18. STGM, BİRLİKTE [Together], Assessments on the Impact of COVID-19 on Civil Society and Activism, 08.07.2020, p. 4, access: <https://bit.ly/3mShTiS>

During a meeting organised as part of the STGM's BİRLİKTE [Together] Programme, participating CSOs reported that they had experienced difficulties in the following areas:

- Outreach and communication with the target audience (for example, providing counselling services to women who have been victims of violence, communicating with students taking part in training activities, and providing training support)
- Communication with members and volunteers
- Managing the association and maintaining its activities
- Reaching public institutions to ensure the provision of necessary support for the basic or urgent necessities of the target audience
- Monitoring and advocating of rights violations arising in relation to the Covid-19 crisis¹⁹.

UN Women conducted a baseline assessment in October 2020 in an effort to measure the impact of the Covid-19 pandemic on CSOs working on preventing and ending violence against women and girls. The assessment reveals that there has been a significant increase in violence against women, highlighting the important role of CSOs, especially women's organisations, in preventing gender-based violence. The assessment also acknowledges that the **"uncertainty"** of the situation makes it difficult for CSOs to plan and deliver their services and programmes. Financial problems, the risk of burnout due to the magnitude of the problem, and the closure of CSOs due to the economic crisis are among the difficulties expressed in the assessment brief²⁰. The reports prepared by women's organisations from Turkey are in line with the findings of the UN Women. The monthly violence data compiled by the We Will Stop Femicide Platform as well as the reports drafted by the Mor Çatı/Purple Roof Women's Shelter Foundation since May 2020 in the context of the Covid-19 indicate that violence against women has risen in Turkey and women's organisations that struggle to prevent violence are operating under extremely dire conditions²¹.

With the Covid-19 outbreak in Turkey, the measures taken to curb the spread of the pandemic have also limited the freedom of association for an indefinite period through vaguely defined terms. Through its circulars, the Ministry of Interior banned the activities and general assemblies of civil society organisations that would "bring people together". These restrictions remained in effect for more than a year. The Ministry of Trade has allowed companies to hold their general assemblies online due to the Covid-19 measures, although there is no such provision in their articles of association [that would provide for online assemblies; yet a similar opportunity has not been provided for associations. Although face-to-face general assembly meetings are allowed as of March 2021, the discrepancies between the Ministry of Interior circulars and the decisions of the Provincial Public Health Boards have caused great difficulties for associations in holding their general assemblies. For instance, in a city where the Provincial Public Health Board decided to allow the convening of a general assembly, due to the ongoing weekend curfews, it was not possible to determine from which authority and how the members could obtain travel permits to attend the general assembly, which is often held on weekends. Since members of organisations have been required to obtain necessary permits individually from their respective local administrative authorities, which was not easy in practical terms, in most cases general assemblies have been postponed ex officio. However, since the Regulation on Associations does not allow the postponement of the general assembly more than once, except for cases where the quorum could not be established, this situation brings along a risk of dissolution for the associations that could not convene their general assembly for the second time.

19. *ibid.*

20. UN Women, COVID-19 and the impact on Civil Society Organizations (CSOs) working to end violence against women and girls, 6.10.2020, access: <https://bit.ly/2McP6c4>

21. We Will Stop Femicide Platform, Data, access: <https://bit.ly/3aYGPTB>; Mor Çatı/Purple Roof, Reports, access: <https://bit.ly/3nVGS61>

Chapter 2

Freedom of
Association in
Turkey

Freedom of Association in Turkey

2.1. Freedom of association and right to become a member of existing CSOs in Turkey

Universal Norm	Referenced national and international policy documents	Indicator
1.1. All individuals and legal entities can express themselves freely, assemble peacefully and establish, join and participate in non-formal and/or registered organisations. No one may be subjected to discrimination in establishing an organisation or becoming a member of an organisation. No one may be compelled to become a member of an organisation against his/her will.	UDHR, Article 20	11.1. Quality and evolution of the legislation on freedom of association
	ECHR, Articles 11 & 14	11.2. Existence of a legal framework that recognizes the freedom of association for everyone, including legal entities
	International Covenant on Civil and Political Rights, Article 22	11.3. Number of associations and foundations that are members of networks/platforms/coalitions in Turkey and abroad and their breakdown by field of activity
	The Declaration on Human Rights Defenders, Article 5	11.4. Number of associations, foundations and platforms
	CM/Rec(2007)14 Recommendations on the Legal Status of NGOs in Europe	11.5. Total number of female members of associations
	Joint Guidelines on Freedom of Association (OSCE/ODIHR and Venice Commission) Constitution of the Republic of Turkey, Article 33	11.6. Total number of male members of associations
	Turkish Civil Code, Article 37	11.7. Total number of female members of foundations (founding members & members elected by the board of trustees)
	International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families, Article 40	11.8. Total number of male members of foundations (founding members & members elected by the board of trustees) 11.9. Guaranteeing by law the equality of persons and groups wishing to form an association, including non-citizens, foreigners, children, and civil servants
	Convention on the Rights of the Child, Article 15	11.10. CSOs' ability to freely determine their purpose and goals during the founding stage
	CEDAW, Article 7	
	Convention Relating to the Status of Refugees, Article 15	
	Report A/HRC/26/29 of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association	
Convention Relating to the Status of Refugees, Article 15,		

There has been a widespread debate suggesting that the historical roots of civil society in Turkey can be traced back to the foundations established during the Ottoman Empire. The common ground of these argumentations is that the foundations in the Ottoman period were institutions specific to the Ottoman Empire. However, the discussions about the Ottoman Foundations take place around two approaches. While the first school of thought argues that Ottoman Foundations can be described as a CSO²², the second view describes the Ottoman Foundations as part of the Ottoman state's **"civil administration and property system."**²³ The Foundations Law no. 5737 of 2008, which is still in force as of today, defines foundations in 5 main categories: Fused Foundation (Mazbut); Annexed Foundation (Mülhak); Community Foundation (Cemaat); New Foundation, and Artisans' Guilds (Esnaf). Among these foundations, Fused and Annexed Foundations are foundations established during the Ottoman Empire before the enactment of the Turkish Civil Code no. 743 of 1926 (repealed), which is not in force today, and they are administered by the Directorate General of Foundations (DGF). Community Foundations refer to the foundations established by non-Muslim communities holding citizenship of the Republic of Turkey, as per the Law on Foundations No. 2762 of 1935. Foundations that are operating as CSOs in present-day Turkey are included under the "New Foundation" category.

22. Abdulkadir Buluş, Sivil Toplum Kuruluşlarına Tarihsel Bir Örnek: Osmanlı Vakıfları [A Historical Example of Non-Governmental Organisations: Ottoman Foundations], Sosyal Ekonomik Araştırmalar Dergisi [Journal of Social and Economic Research] Vol 8, No 16, 2009, 20 - 36, Dergipark 2009, <<https://bit.ly/3dxlTMC>>

23. Mehmet Ali Kılıçbay, Osmanlı'da Vakıf [Foundations in the Ottoman Empire], (Ekonomik Yaklaşım [Economic Approach], 1980; 1(1): 141-152), <<https://bit.ly/2OjDBRs>>

Freedom of Association in Turkey

2.1. Freedom of association and right to become a member of existing CSOs in Turkey

In Turkey, freedom of association was first codified in the 1908 amendment of the Ottoman Constitution of 1876 (Kanun-ı Esâsî), and it continued to exist in the constitutions of the Republican period²⁴. The first law governing the freedom of association has been the Law on Associations (Cemiyetler Kanunu) dated 03.08.1909. This law continued to prevail in the first years of the Republic. In the later years of the Republican period, although the regulations on freedom of association were improved from time to time, they were completely restricted particularly during the military coups²⁵. The relative improvement of freedom of association came only after the 2000s as part of the EU Harmonisation reforms²⁶. As a matter of fact, the Law on Associations No. 5253 of 2004, which is still in force today, was also adopted and enacted within the scope of the EU Harmonisation reforms.

Article 33 of the Constitution of the Republic of Turkey, Article 37 of the Turkish Civil Code, and Article 3 of the Law on Associations do provide an overall framework that recognizes the freedom of "any person to form associations without prior permission", including legal entities

The Directorate General for Relations with Civil Society (DGRCS) has publicised the number of active associations in Turkey as 122,286²⁷. This figure also includes branches of associations²⁸. According to the DGF data, the number of New Foundations is 5352 (1003 Social Assistance and Solidarity Foundations; 12 Environmental Protection Foundations; 4337 Other/Multi-Purpose Foundations)²⁹. The current number of members of associations and New Foundations is unknown. Meanwhile, until 2019, DGRCS announced the total number of association members as well as a breakdown of female and male members. However, following the amendments introduced to the Articles 23 and 32 of the Law on Associations (Date 2004; No:5253) through the omnibus law no. 7226 published in the duplicate issue of the Official Gazette no 31080 of 26 March 2020³⁰, DGRCS first removed the numbers and presented the data in percentiles, and then removed all the data related to association membership from its website.

On the other hand, the Expert Council of NGO Law, created by the Conference of INGOs of the Council of Europe, included the following figures in its report concerning the amendments introduced to Articles 23 and 32 of the Law on Associations (Date 2004; No:5253):

According to official data, the total number of memberships in associations decreased from 11,239,693 members in 2017 to 7,374,281 members in 2019 with a sudden fall. Although there may be various reasons to explain this decline, the membership notification requirement, which was introduced in 2018, undoubtedly has contributed to this decrease³¹.

By way of the amendments introduced to Articles 23 and 32 of the Law on Associations (Date 2004; No: 5253) through the omnibus law no. 7226, associations are now obliged to notify their current members, new members as well as termination of membership within 45 days [of any changes] to the local administrative units responsible for associations, located in the association's headquarters. This requirement seems to have resulted in the loss of members for the associations, as indicated by the current decline in the number of members. It also has a high potential to pose problems in acquiring new members. As such, the amendments introduced to the law seem to be problematic in respect of the international documents safeguarding the freedom of association, in particular the ECHR Article 8 on right to respect for private and family life as well as Article 11 on freedom of assembly and association, hence **"fail to meet the legality and proportionality requirements under Article 11 of the European Convention on Human Rights"**³².

Another challenge for associations concerning their membership is posed by the amendments intro-

24. Prof. Dr. Suna Kili and Prof. Dr. A. Şeref Gözübüyük, Türk Anayasa Metinleri [Turkish Constitutional Texts], Türkiye İş Bankası Yay, 2. Edition, May 2000.

25. Tijen Dündar Caesar, Dernek Kurma Özgürlüğünün İçeriği ve Gelişim Süreci Üzerine Karşılaştırmalı Bir İnceleme [A Comparative Study on the Scope and Development Process of the Freedom of Association], Dokuz Eylül Üniversitesi Sosyal Bilimler Enstitüsü Dergisi [Dokuz Eylül University Journal of Institute of Social Sciences], Vol 10, No.1, 2008, p. 34-7.

26. E. Fuat Keyman, Türkiye'de Sivil Toplumun Serüveni: İmkansızlıklar İçinde Bir Vaha [The Story of Civil Society in Turkey: An Oasis Among Impossibilities], STGM, 2006. <<https://bit.ly/3dzejad>>

27. <https://www.siviltoplum.gov.tr/faal-ve-fesih-dernek-sayilari>

28. <https://www.siviltoplum.gov.tr/illere-ve-faaliyet-alanlarına-gore-dernekler>

29. <https://bit.ly/3sQPTzQ>

30. For an assessment conducted on this subject, please see: Outlook of Freedom of Association in Turkey, STGM, <<https://bit.ly/3106JDr>>

31. Expert Council on NGO Law - Opinion on the compatibility of amendments to the Law on Associations of Turkey with European standards, Drafted by the Expert Council of NGO Law, created by the Conference of INGOs of the Council of Europe, April 2020, para.42.<<https://bit.ly/3cRoLYI>>

32. Expert Council on NGO Law - Opinion on the compatibility of amendments to the Law on Associations of Turkey with European standards, ibid, para.39-40

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duced to the Law on Associations (Date 2004; Law no.5253) by means of the **"Law on Preventing Financing of Proliferation of Weapons of Mass Destruction"** (Date 2020; Law no 7262). CSOs were not consulted during the drafting of the bill. The bill in its preamble³³ makes a reference to the 2019 Turkey Report prepared by Financial Action Task Force (FATF)³⁴. CSOs were informed of the bill only after it was tabled to the Grand National Assembly of Turkey. Despite all the objections from CSOs and opposition parties in Turkey³⁵ the draft bill was adopted in the Plenary Session of the General Assembly of the Grand National Assembly of Turkey on 27 December 2020, and entered into force after its publication in the Official Gazette No.31351- 5 (duplicate) dated 31.12.2020³⁶. By means of Article 12 of this particular Law (no. 7262), the following paragraph has been added to Article 3 of the Law on Associations (Date 2004; Law no.5253), to come after its second paragraph:

"Even if the time-limits stipulated in Article 53 of the Turkish Criminal Code No. 5237 dated 26/9/2004 have elapsed or have been pardoned; those convicted of crimes under the Law on the Prevention of the Financing of Terrorism No. 6415 dated 7/2/2013 as well as crimes of production and trade of narcotic drugs or psychotropic substances or laundering of assets acquired from an offence as prescribed in the Turkish Criminal Code cannot be assigned to legal organs of associations other than the general assembly. Those who get convicted of the above crimes after being elected to the legal organs of associations shall be terminated from their duties in organs. Should there be a decision made for the restitution of restricted rights, the provisions of this paragraph shall not be applicable."

While the above-mentioned amendment exacts a direct negative impact on the members of the associations, it also leads to arbitrary intervention of the administration in the internal functioning of the associations. In Turkey, restriction of freedom of association on grounds that associations and association members **"being affiliated with terrorism"** is not a new phenomenon. Previously, freedom of association of individuals and associations **"being affiliated with terrorism"** has been restricted in different ways, as a result of which Turkey was not only convicted before the ECtHR, but also the Turkish Constitutional Court (TCC) found violations in individual applications it was lodged with.

Recently, after reviewing the individual applications it was lodged with, the TCC³⁷ ruled that being a member of a legally established association and being a participant to the activities of such an association cannot be used as an evidence in legal proceedings/convictions on charges of "membership of terrorist organisation", and in cases where it is used, this will amount to a violation of freedom of association safeguarded by Article 33 of the Constitution. In its rulings concerning the cases where applicants' membership of associations or their participation to association activities were used as evidence to establish their "membership to terrorist organisation", the TCC held that **"[his] conviction for being a member of a terrorist organisation does not correspond to a pressing social need, and hence does not comply with the requirements of a democratic society"**.

In the case of the **Association for Mutual Aid and Solidarity with the Families of Prisoners and Convicts in Adana (Adana TAYAD v. Turkey, application no. 59835/10 Final Judgment 21 October 2020)** ECtHR held that there had been a violation of Article 11 of the ECHR safeguarding freedom of assembly association. In the Adana TAYAD case, on 12 August 2008, Adana Public Prosecutor's Office filed an indictment requesting the dissolution of the association on the grounds that it carried out acts supporting terrorist activities and adopted an illegal position. 14. On 17 September 2009, the Civil Court of First Instance granted the request of the Public Prosecutor's Office. As a result, the association was dissolved by the decision of the Adana Civil Court of First Instance. On 3 December 2009, 7th Civil Chamber of the Court of Cassation upheld the judgment, ruling that it was in compliance with the law. As the case was brought before the ECtHR, the European Court reiterated that **"the outright dissolution of an association was a very harsh measure entailing significant consequences for its members, and could be**

33. Grand National Assembly of Turkey, <https://www.tbmm.gov.tr/sirasayi/donem27/yil01/ss247.pdf>

34. FATF, Anti-money laundering and counter-terrorist financing measures – Turkey, December 2019, <<https://bit.ly/3t1fQwE>>

35. The Bill on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction is Contrary to the Constitution and Freedom of Association!, <https://siviltoplumsusturulamaz.org/>

36. <https://www.resmigazete.gov.tr/eskiler/2020/12/20201231M5-19.htm>

37. Ahmet Urhan (Application no. 2014/13961) judgment (Date of Judgment: 9/10/2019; Official Gazette Date and Number: 8/11/2019-30942); Tuncay Yıldız and Others (Application Number: 2014/12717) judgment (Date of Judgment: 8/1/2020) and Hakan Yılmazöz (Application Number: 2017/37725) judgment (Date of Judgment: 3/6/2020; Official Gazette Date and Number: 30/6/2020-31171)

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taken only in the most serious cases. Under Article 11, States had a heightened duty to provide reasons justifying such a measure". The ECtHR also established that the dissolution decision "was liable to have a chilling effect on the applicant association and its individual members, but also on human rights organisations generally". The ECtHR held that "the Government had not provided sufficient evidence that the dissolution of the association had been the only option" and interference had not been shown to be "necessary in a democratic society", and found a violation of Article 11.

There is no publicly available data concerning the membership of New Foundations in 2019 and 2020. However, according to the data published until 2018, the number of members of New Foundations is as follows³⁸:

Years		2014	2015	2016	2017	2018
Membership to New Foundations	Real persons	1.165.166	1.064.795	1.091.481	1.146.370	1.219.614
	Legal entities	24.668	54.052	59.301	31.312	27.927

As is evident from the table above, there has been a significant decrease in the number of real and legal entity members of foundations.

Article 93 of the Turkish Civil Code lays down the provisions for formation of associations by non-citizens in Turkey as well as their membership to existing associations. According to this article, foreign real persons holding a legal residence in Turkey can establish associations or become members of existing associations. This condition does not apply to honorary membership.

Associations are free to determine their mission and purpose at the stage of establishment except for the limitations specified in Article 30 of the Law on Associations. In a similar vein, New Foundations are free to set their own purposes in their Foundation Charter, except for the limitations specified in Article 101 of the Turkish Civil Code. However, the statutes of associations are subject to review by DGRCS and charters of foundations are subject to review of DGF. Following this review exercise, these authorities may request correction in the founding documents; and in cases where associations or foundation fail to make the requested corrections, associations may face a lawsuit for dissolutions and the establishment of foundations may not be permitted. One of the most recent examples to this is the ECtHR judgment in *Altinkaynak v. Turkey* case (Application no.12541/06, Finalized Judgment 9 September 2019). The applicants began the registration process in 2004 to establish a foundation with its headquarters in Istanbul, which they named the Foundation of the Seventh-day Adventists. The foundation was intended to meet the religious needs of people residing in Turkey who embraced the Seventh-day Adventist faith of Christianity. However, during the registration process of the foundation, DGM, who later became the intervening party to the case acting in the capacity of the competent authority in charge of registration of foundations in Turkey, stated that "**paragraph 4 of Article 101 of the Turkish Civil Code prevents foundations from institutionalizing in a particular religious field [community]**" and requested "**the [local] Court to reject the registration of the foundation.**" The court ruled out the establishment of the foundation upon the request of the DGM. As the applicants' tried and exhausted all domestic remedies, the case was brought before the ECtHR. In this particular case, the ECtHR held that "**the exceptions provided for in Article 11 of the Convention can only be interpreted narrowly, and any restrictions on freedom of association must be established convincingly and justified by an overriding requirement**", and established that the decision to reject the registration of the foundation "**does not correspond a pressing social need, by all means disproportionate to the legitimate aims pursued, and therefore was not a necessity in a democratic society**", finding a violation of Article 11 of ECHR by Turkey.

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Universal Norm	Referenced National and International Policy Documents	Indicator
1.2. The number of persons required for establishing an association must be set a level that does not discourage establishment.	Rec(2007)143 ³⁹	1.2.1. Number of persons required for establishing an association

Under Article 2 of the Law on Associations, at least seven real persons or legal entities are required for the establishment of an association. On the other hand, the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association considers as a best practice the legislation "that requires no more than 2 persons to establish an association"⁴⁰. The legislation does not specify a minimum number of individuals as a requirement to establish a foundation.

In addition, associations are required to hold a general assembly meeting six (6) months after their establishment. For the General Assembly to convene, it is necessary to have at least twice as many members as the Executive Board and its bodies. Given that the Executive Board consists of at least 5 persons and the Supervisory Board consists of at least 3 persons, the minimum number of members required for the association to continue to function is 16.

Universal Norm	Referenced National and International Policy Documents	Indicator
1.3. The procedure for establishing an association should be simple, non-onerous, free of charge and speedy.	A/HRC/20/27 ⁴¹	1.3.1. Time elapsed between the application and the acquisition of legal entity
		1.3.2. Application fees
		1.3.3. Number of documents to be submitted for application
		1.3.4. Matters that must be included in the Statutes
		1.3.5. Number of applications filed to establish associations and foundations
		1.3.6. Number of applications whose founding documents were rejected
		1.3.7. Availability of online application
		1.3.8. Availability of guidance/counselling services for CSOs regarding the application procedure
		1.3.9. Number of books that CSOs are obliged to keep

Under Article 3 of the Law on Associations, prior permission is not required to establish an association. It is sufficient to make a notification with the annexes specified in Article 5 of the Regulation on Associations. Citizens of the Republic of Turkey are required to submit two annexes namely, the founding declaration and the Statutes of the Association. The number of documents increases if those who are establishing the association are legal entities or real persons who are not citizens of Turkey. For foreign legal persons to be the founder of an association, it is required to be established in Turkey with the permission of the Ministry of Interior.

No fees are required for establishing an association.

As soon as the notification is completed, associations acquire legal personality. However, there are complaints that associations are sometimes prevented from making a notification by the authorities at the time of making a notification and that their notifications are not admitted. However, there is no data source to identify such situations. In addition, DGRCS examines the notifications and may request modifications to the Statutes if any gap or non-compliance is identified. In such cases, the founders of the association are given thirty (30) days to make the necessary corrections. If they fail to do so within the

39. The Council of Europe; Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe.

40. Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, (A/HRC/20/27, p 14, para 54), <<https://bit.ly/3migWEO>>

41. UN Human Rights Council, A/HRC/20/27, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, 21 May 2012.

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30-day period, DGRCS can file a lawsuit for annulment before the Civil Court of First Instance to dissolve the association.

Information about how to establish an association is available on DGRCS⁴² website and information about how to establish a foundation is available on the website of DGF⁴³. In addition, DGRCS publishes training videos. DGRCS has also set up a help desk for supporting users of the DERBİS (Information System of Associations) which is mainly used for notifications. Under DGF, there is a Directorate for Guidance and Inspection. While DGF's Directorate for Guidance and Inspection is mainly responsible for auditing it also has a guidance role. In addition, there are support services provided by and guidelines⁴⁴ developed by civil society organisations.

It is much more difficult and costly to establish a foundation. To establish a foundation, a minimum endowment is required at the time of establishment. Pursuant to Article 5 of the Law on Foundations and subparagraph (ğ) of Article 111 of the Regulation on Foundations, the minimum amount of assets to be allocated for the purpose of establishing a new foundation was determined as TRY 80,000 by the Council of Foundations' decision no. 391/391 dated 30/11/2020⁴⁵. Furthermore, pursuant to Article 102 of the Turkish Civil Code, after the will to establish a foundation is declared - through an official deed to be issued before a public notary or a testamentary disposition - it is necessary to apply to an authorised civil court of first instance to register the foundation. Registration by the civil court of first instance is followed by additional bureaucratic procedures such as registration by DGF and publication in the Official Gazette.

DGRCS and DGF do not share any data regarding applications filed annually to establish associations and foundations, applications that are rejected or the lawsuits filed in this regard.

The books that foundations and associations are obliged to keep can mainly be divided into two groups: Books that are kept with the operating account method and those that are kept on the basis of the balance sheet method. The books that associations are obliged to keep are provided for in Article 32 of the Regulation on Associations. Associations with an income of less than TRY 500,000 - including their branches - that do not have a public benefit status are required to keep the necessary books with the operating account method. Associations with an income of more than TRY 500,000 - including their branches - that have a public benefit status are required to keep the necessary books based on the balance sheet method⁴⁶.

Under the operating account method, associations including branches are required to keep four (4) separate books: Decisions, Member Registration, Document Registration and Operating Account Books. They also fill out the Table of Operating Account specified in Annex-16 of the Regulation on Associations. Keeping inventory ledgers and books of receipt is not mandatory. In addition, associations keep Journal Books and General Ledgers in accordance with the principles of the Tax Procedure Law and the General Communiqué on the Implementation of the Accounting System published with the authorisation granted by this Law to the Ministry of Treasury and Finance.

Foundations, which are required to keep books according to the operating account method, are obliged to keep the decision book, operating account book, and book of donation receipts as per Article 51(a) of the Regulation on Foundations. Article 50(2) of the same Regulation makes a distinction between Foundations that are obliged to keep books based on the balance sheet method under Article 177(2) (First class merchants) of the Tax Procedure Law and other foundations. Therefore, Foundations whose gross business revenue generated over a one-year period exceeds TRY 150,000 shall keep books on the basis of the balance sheet method. There are five books that foundations must keep based on the balance sheet method: decisions, journal ledger, general ledger, inventory and book of donation receipts.

Associations have to store the books they are obliged to keep for 5 years, and foundations have to store those they are obliged to keep for 10 years. DGRCS examines the books that associations are obliged to keep during auditing and DGF does the same for foundations.

42. <https://www.siviltoplum.gov.tr/>

43. <https://www.vgm.gov.tr/ana-sayfa>

44. STGM <https://www.stgm.org.tr/destek/stgm-destekleri>; TÜSEV <https://www.tusev.org.tr/tr/yasal-calismalar/vakif-ve-dernekleri-ilgilendiren-mevzuat-tablosu>; <https://sivilalalan.com/>

45. <https://www.vgm.gov.tr/vakif-islemleri/vakif-nasil-kurulur-/asgari-kurulus-mal-varligi>

46. DGRCS, <<https://bit.ly/3dATxaz>>

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Universal Norm	Referenced National and International Policy Documents	Indicator
1.4. It is not mandatory to form a legal entity in order to exercise the freedom of association. Everyone has the right to organize as they wish.	Rec(2007)14	1.4.1. Forms of organising permitted by laws governing freedom of association
1.5. It should not be obligatory to re-apply to open a branch in the country or abroad or to become a member of a union.	Rec(2007)14	1.5.1. Procedures to open a branch or to become a member of a union in the country
		1.5.2. Procedures to open a branch or to become a member of a union abroad
1.6. Foreign CSOs should not be subject to more stringent rules than those established domestically.	Rec(2007)14	1.6.1. Procedures followed by foreign CSOs in order to (a) open a branch /representative office, (b) obtain licence to operate, (c) establish an association/umbrella organisation or become a member thereof (including average processing times and approval period)
	Joint Guidelines on Freedom of Association (OSCE/ODIHR and Venice Commission)	1.6.2. Number of foreign CSOs applying to (a) open a branch/representative office, (b) obtain licence to operate (c) establish an association/umbrella organisation or become a member thereof, acceptance rates
	European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations (Turkey is not a party to this Convention)	1.6.3. Breakdown of the reasons for rejection or non-renewal of applications

In Turkey, freedom of association and establishing associations and foundations is regulated within a constitutional and legal framework. In addition, Article 25 of the Law on Associations allows the creation of platforms without legal personality. Apart from this, they can be organised through online platforms and networks and especially through social media. Cooperatives can also apply to grant schemes announced for associations and foundations, provided that these schemes correspond to the condition **“shall not seek profit or distribute the profits they make to the founders”** as laid down in cooperative statutes.

Recently, “social enterprises” have become one of the most common forms of organising. The report entitled **“Legal Status of Social Entrepreneurship in Turkey: Needs and Recommendations”** which was published by the Turkey Social Entrepreneurship Network, examines the legislation regarding the legal structures that social entrepreneurs in Turkey may prefer under 9 headings: (1) Trader (Real Person) (Also known as Sole Proprietorship); (2) Ordinary partnership (a contract concluded by two or more (real or legal) by combining their labour and/or property); (3) Collective Company [TCC (Date: 2011; No 6102) Article 211 et seq.]; (4) Limited Partnership [TCC art. 304 et seq.]; (5) Limited Liability Company (TCC 573); (6) Joint Stock Company (TCC 339); (7) Cooperatives (Law on Cooperatives Date: 1969; No:1163); (8) Association (Law on Associations Date 2004; No: 5253; TCC 56); (9) Foundations [TCC 101-9; Law on Foundations (Date 2008; No: 5737)] In addition, the aforementioned report recommends introducing specific regulation on “social entrepreneurship”⁴⁷.

It is possible for associations and new foundations to open branches and representative offices in the country and become a member of a union. Associations should state that they can open branches and representative offices in their statutes and foundations should make the same statement in their charters. The procedure for establishing branches for associations is laid down in Articles 7 and 8 of the Regulation on Associations. According to the said articles, associations can apply to the provincial directorates of DGRCS, through 3 individuals authorised by their executive board decision who shall submit their founding declarations and the annexes specified in the Regulation on Associations. According to Article 24 of the Law on Associations, associations may open a representative office in the province of their choosing through a decision of their executive board. In order to open a representative office, it is suffi-

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cient to submit the decision of the executive board to the provincial directorate of DGRCS and to have an authorized person notify the provincial directorate of DGRCS with a petition. The procedure for opening branches by New Foundations is regulated in Articles 17 and 18 of the Regulation on Foundations. New Foundations may open branches and representative offices by notifying the Regional Directorate of Foundations of the decision of the executive board.

Foreign associations and foundations can operate in Turkey in four ways: (1) opening a branch, (2) opening a representative office, (3) temporary operating license, (4) being a member of an umbrella organisation based in the Republic of Turkey. Each of the aforementioned paths are subject to the opinion of the Ministry of Foreign Affairs of Turkey and approval from the Ministry of Interior of Turkey. Article 5 of the Law on Associations regulates this matter. The establishment of branches and representative offices in Turkey by foreigners is subject to the same principle. In addition, under Article 5 of the Law on Foundations, foreigners can establish a new foundation in Turkey based on de jure and de facto reciprocity. According to DGRCS data, as of December 2020, the number of foreign associations and foundations which have been allowed to open a branch or representative office in Turkey is 133⁴⁸:

Foreign Associations and Foundations That Have Been Granted a Temporary License to Operate in Turkey	8
Foreign Associations and Foundations Which Have Been Authorized to Become a Member of an Umbrella Organisation Headquartered in Turkey	11
Foreign Associations and Foundations Which Have Been Authorized to Open a Branch in Turkey	21
Foreign Associations and Foundations Which Have Been Authorized to Open a Representative Office in Turkey	93
TOTAL (December 2020/Source DGRCS)	133

In Turkey, there has been a visible increase in the number of licenses obtained to open branches, representative offices, or to operate especially after 2012. The presence of international CSOs especially humanitarian organisations among the license holders is noteworthy. It is possible to explain this situation with the provision of humanitarian assistance to Syrian refugees under temporary protection⁴⁹ who fled to Turkey due to the onset of the crisis in Syria in 2012 and whose number has reached 3,665,946 according to data from the Directorate General for Migration Management. According to UNHCR data, Turkey hosts the highest number of refugees globally, including asylum-seekers under international protection as well as migrants from countries other than Syria⁵⁰. However, the permission procedure required for foreign CSOs to operate in Turkey is an extremely burdensome and lengthy process⁵¹. The number of foreign CSOs that have applied to open a branch or representative office or operate in Turkey in the last two years and were not granted permission despite filing an application is not known.

2.2. The right to conduct activities of CSOs towards achieving their objectives without any intervention

Universal Norm	Referenced National and International Policy Documents	Indicator
2.1. States are obliged to take the necessary legal and administrative measures so that CSOs can operate autonomously without intervention in their internal affairs	Rec(2007)14	2.1.1. The legislation includes provisions that will protect CSOs from interference by the State or third parties
	Joint Guidelines on Freedom of Association (OSCE/ODIHR and Venice Commission)	
	UN Human Rights Council Resolution No. A/HRC/22/L.13	2.1.2. Cases of government intervention in the objectives, statutes, membership, communications, resources or functioning of CSOs and their breakdown by sector/ area or activity

The legislation on freedom of association in Turkey grants significant discretionary power to public administration. In particular, with an article added to the Law on Associations by way of the “**Law on the Prevention of the Financing of the Proliferation of Weapons of Mass Destruction**”, the Ministry of Interior was granted authority to temporarily suspend associations' activities and to dismiss the legal organs of associations and replace them with a government-appointed trustee. The authority granted

48. DGRCS, <<https://bit.ly/3cVkJXss>>

49. DGMM, <https://www.goc.gov.tr/gecici-koruma5638>

50. UNHCR, <<https://bit.ly/3rUzwAT>>

51. TUSEV, Registration Processes of Foreign CSOs in Turkey under Freedom of Association, Information Note, <<https://bit.ly/3rFg7H>>

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to the Ministry of Interior by Article 27 of the Law on Associations no.5253 has thus been further expanded, increasing the likelihood of associations being subject to arbitrary practices of public administration. Under Article 115 of the Turkish Civil Code, the Ministry of Interior has the authority to take similar administrative measures with respect to Foundations.

There is no publicly available information about the number of lawsuits filed in 2019-2020 for the dissolution of associations. On the other hand, the information that the Ministry of Interior sent a letter to several human rights organisations to conduct auditing following the amendment introduced to the Law no. 7262 has spread across CSO networks.

Universal Norm	Referenced National and International Policy Documents	Indicator
2.2. The government and public administration should treat all types of organisations equally in good faith, without discrimination and objectively.	Rec(2007)14	2.2.1. Assessments of government or public officials concerning CSOS from different segments
		2.2.2. Number of organisations using public financing through direct allocation without an open call
		2.2.3. The process of determining privileged status such as public benefit and tax-exempt
		2.2.4. The nature of the public benefit status (opportunities, advantages, disadvantages etc.)
		2.2.5. Number of applications filed for acquiring public benefit status in the past year
		2.2.6. Acceptance and rejection rates for applications for public benefit status filed in the past year

There is no regulation that guarantees equal treatment of CSOs representing different segments (of society) by government or public officials. In this case, especially the resources provided by local authorities to civil society are directed to organisations that local administrations or the government considers as politically close to themselves or risk-free. For instance, in cases such as irregular migration or disaster response, it is sometimes stated that organizations close to the government are more easily accepted into the area.

In addition, a significant amount of in-cash and in-kind resources are transferred to civil society organisations in Turkey. Yet, no information is made publicly available about the CSOs that receive these transfers or the criteria and conditions that apply to the transfers and allocations.

In addition, there is no publicly available information about the in-cash and in-kind resources transferred to civil society organizations in Turkey by public institutions, to which organizations, with what criteria and under what conditions. The petitions filed to seek information on this matter have not yielded any results.

Similarly, there are some examples that the statements made by government officials to the press includes discrimination against some civil society organisations in Turkey⁵².

Universal Norm	Referenced National and International Policy Documents	Indicator
2.3. The procedure for functioning of CSOs should be simple, non-onerous, free of charge and speedy.	Rec(2007)14	2.3.1. Notification requirements by type and size of CSOs
		2.3.2. Declaration requirements by type and size of CSOs

According to Article 19 of the Law on Associations, associations are required to submit a declaration about the previous activity period by the end of April every year. Declarations are made in accordance with Article 83 of the Regulation on Associations. Declarations can be submitted electronically via DERBIS. According to Article 84 of the same Regulation, declarations are examined by governorships, and associations can be audited where necessary. In addition, under Article 32 (I) of the Law on Associations, administrative fines are imposed on the executives of associations that fail to submit a declaration.

52.For example, Yeni Şafak Daily columnist Yusuf Kaplan, posted on his social media account on 26 December 2020 the following statement: "CSOs will be closed on the pretext of terrorism. It will be easy to appoint a trustee! This is a measure against terrorism. But the consequences can be disastrous when the climate changes! This move makes it possible to obstruct Islamic studies by labelling them as reactionary/terrorist. This is very dangerous! This legislative effort must be stopped immediately!" Another message posted by Yusuf Kaplan the following day, on 27 December 2020 on his social media account read as follows: "STATEMENT BY MINISTER SOYLU Minister of Interior H.E. @suleymansoylu called me. We talked for half an hour. He said that the CSO law would by no means weaken civil society, that it would not prevent CSOs from conducting Islamic studies, and that he would be the first to oppose this. I am sharing his message." <https://twitter.com/yenisafakwriter/status/1342967530244206596?s=20>

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2.2. The right to conduct activities of CSOs towards achieving their objectives without any intervention

Associations are also obliged to submit the general assembly results notification to DGRCS within 30 days following their general assembly, pursuant to Article 23 of the Law on Associations⁵³ Furthermore, as per Article 21 of the Law on Associations, associations are obliged to notify any donations received from abroad, prior to using such donations, to the provincial directorates of DGRCS in line with the Notifications of Receipt of Donations from Abroad as specified in Articles 18 and 19 of the Regulation on Associations. Aids and donations from abroad must be obtained via bank transfers. Otherwise, an administrative fine equal to 25% of the aid received would be imposed under Article 32(c) of the Law on Associations. A similar administrative fine would be imposed if they fail to make a notification in accordance with Article 32(k) of the same law. In this case, the executives of the association shall be imposed an administrative fine from TRY 5,000 to TRY 100,000.

New Foundations, on the other hand, are obliged to submit the previous year's declarations electronically within the first six months of the calendar year in accordance with Article 32 of the Law on Foundations and the procedures laid down in Articles 34 and 38 of the Regulation on Foundations. New Foundations would be subject to administrative fines in accordance with Article 11 of the Law on Foundations if they fail to submit the declarations and notifications.

Universal Norm	Referenced National and International Policy Documents	Indicator
2.4. In case of violation of a rule, sanctions should be lawful, proportionate and at a level that is necessary in a democratic society.	Rec(2007)14	2.4.1. Administrative and financial auditing of associations and foundations (number, frequency, type, procedure)
	Joint Guidelines on Freedom of Association (OSCE/ODIHR and Venice Commission)	2.4.2. Number and distribution of administrative fines applied to associations and foundations

Administrative financial audits for associations are a common practice. The administrative auditing of foundations headquartered abroad are carried out by the Ministry of Interior inspectors and/or DGRCS officials. Foundations headquartered in Turkey are audited by DGF officials. Associations and foundations are also inspected by tax authorities and the Social Security Institution.

There is no data that is made publicly available by public agencies about the number of associations and new foundations that are audited or imposed administrative fines per year. The petitions filed to seek information on this matter have not yielded any results.

Universal Norm	Referenced National and International Policy Documents	Indicator
2.5. CSOs, like everyone else, must be subject to the obligations that exist under administrative, civil and criminal law.	ECHR, Article 17	2.5.1. Penal provisions in the Law on Associations and the Law on Foundations
	Declaration on Human Rights Defenders, Articles 17-19	2.5.2. Offences specific to CSOs and penalties envisaged in the Turkish Criminal Code and Misdemeanour's Law
	UN Human Rights Committee, Concluding Observations Turkey (CCPR/C/TUR/CO/1)	
	Report A/HRC/23/39 of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association	
	Joint Guidelines on Freedom of Association (OSCE/ODIHR and Venice Commission)	

Article 32 of the Law on Associations and Article 11 of the Law on Foundations include penal provisions. Penalties range from TRY 500 to TRY 100,000. In case of failure to receive aid from abroad via bank transfers, the penalties are significantly higher with 25% of the amount of aid received. There is also a prison sentence of 1 to 3 years. There are also fines concerning tax and social security contribution payment obligations.

53. The initial version of the Law envisaged administrative fines in case of failure to make a notification regarding the General Assembly. However, this was annulled with the introduction of Article 22 of the Law no. 7226 dated 25/3/2020.

Freedom of Association in Turkey

2.2. The right to conduct activities of CSOs towards achieving their objectives without any intervention

Universal Norm	Referenced National and International Policy Documents	Indicator
2.6. CSOs have the right to appeal against sanctions imposed on them.	ECHR, Article 13	2.6.1. Number of administrative lawsuits filed by CSOs (SSI, DGF, Ministry of Interior, Ministry of Treasury)
		2.6.2. Number of administrative decisions/regulations annulled by administrative courts in favour of or against CSOs.

There is no data that is made publicly available by public agencies about the number of administrative lawsuits filed by CSOs in Turkey and decisions rendered by administrative courts in favour of or against CSOs. The petitions filed to seek information on this matter have not yielded any results.

2.3. Positive obligation of the State to protect the rights of CSOs

Universal Norm	Referenced National and International Policy Documents	Indicator
3.1. States are obliged to protect CSOs from all kinds of threats such as defamation, violence, inhuman treatment, punishment and restriction.	A/HRC/20/27	3.1.1. Legal and administrative measures that protect CSOs from threats such as defamation, violence, inhuman treatment and punishment by third parties
		3.1.2. Judicial processes followed in cases of threats to CSOs and the final decisions and outcomes of due process

There is no specific regulation and mechanism in Turkey that protects CSOs from third-party defamation and violence. In fact, in some cases, the administration can be part of smear campaigns. In particular, foreign CSOs may face charges of **"espionage"** from time to time. CSOs can demand rebuttal and file a lawsuit against news articles published in the press on this matter. However, these applications often fail to yield an effective result. In fact, the whole may turn out to be counter-productive. For instance, an article is published in Sabah Daily, entitled **"Foreign humanitarian organisations in Hatay swarming with spies"**. In this column, Ersin Ramoğlu (Güney) accused some of the CSOs operating in Hatay of being spies and supporting terrorism. These include internationally acclaimed organisations such as International Medical Corps (IMC), Save The Children International (SCI), Catholic Relief Services (CRS), Mercy Corps, The International Rescue Committee (IRC), GOAL which are reputable organisations that have served in advisory and consultative roles to inter-governmental organisations such as the UN, Council of Europe, and EU. Adjectives such as "dishonourable", "traitor", "enemy" have been also used while referring to these organisations⁵⁴. About a month later, Anadolu Agency, reported that **"The licenses of 5 civil society organisations of foreign origin, which mainly carry out activities under the name of "refugee assistance" in Turkey, were revoked when it was determined that they were engaged in activities other than humanitarian assistance."** The CSOs whose activities were suspended are as follows: "Coordination of the Organizations for Voluntary Service (COVS)", "International NGO Safety Organisation (INSO)", "Business Software Alliance Incorporation (BSA)", "Turkish Coalition of America's Representation in Turkey" and "Mercy Corps' Representation in Turkey"⁵⁵.

A similar smear campaign was carried out for the Open Society Foundation in 2018. At the end of this campaign, which saw direct engagement of top government officials, the Foundation decided to cease its activities in Turkey. The Foundation made the following statements in the information note it released on this issue: **"In November 2018, the Foundation announced that it had terminated its activities due to a baseless government campaign that misrepresented the Foundation's positive contributions to Turkey's social and economic development."**⁵⁶

The Open Society Foundation was dissolved in accordance with the decision no. 2019/505 with the merits no. 2018/577 dated 12/12/2019 of the 6th Civil Court of First Instance of Istanbul, which was finalized on 18/02/2020.

Another example in this direction is the "Büyükkada Case", where 11 human rights defenders were

54. Foreign humanitarian organisations in Hatay swarming with spies, Sabah Daily, 6.3.2017, <<https://bit.ly/31Txre4>>

55. Yurt dışı kaynaklı 5 STK'nın faaliyet izinleri durduruldu [The licenses of 5 CSOs with foreign origin revoked], Anadolu Ajansı [Anadolu Agency], 15.4.2017, <<https://bit.ly/3dKoAAX>>

56. Open Society Foundations Turkey, <<https://osf.to/3ta51IV>>

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detained and arrested following a meeting held in Büyükkada, İstanbul. The human rights defenders were accused by some media outlets of being a member of "FETÖ/PDY, PKK/KCK and DHKP/C" terrorist cocktail, espionage, and of continuing the 15 July coup attempt⁵⁷. On 3 July 2020, the trial before the 35th High Criminal Court of İstanbul resulted in a verdict to acquit 7 of the 11 human rights defenders tried before the court, while Taner Kılıç was sentenced to 6 years and 3 months in prison and Günal Kurşun, İdil Eser, and Özlem Dalkıran were each sentenced to 1 year and 13 months in prison⁵⁸.

CSO activist and philanthropist businessperson Osman Kavala's detention continues despite the ECtHR judgment. The Constitutional Court, which examined Osman Kavala's individual application on 29 December 2020, ruled that Osman Kavala's right to personal liberty and security, which is guaranteed in Article 19 of the Constitution, was not violated. The decision was taken by a majority of 7 to 8 votes⁵⁹. As with many other human rights defenders, several biased news reports and articles were published about Osman Kavala while the due process was underway. For instance, Yeni Akit Daily gave the news with the headline "Kızıl (Red) Soros was detained."⁶⁰ Ali Karahasanoğlu, who writes in the same newspaper, accused Osman Kavala of participating in the attempted coup of 15 July together with CIA agents, committing "sedition" and having "ill intentions" in his column entitled "Let us Get to Know Osman Kavala" on 22 February 2020 while Osman Kavala's trial was still ongoing⁶¹.

According to the statement made by the Human Rights Defenders Network on 17 December 2020, judicial investigations were launched against many executives of the Human Rights Association, and some executives were given prison sentences.

The report entitled "Human Rights Violations Against Women and Their Experiences During the Curfews and Forced Migration" published by the Migration Monitoring Association has been subject to an investigation on charges of "openly humiliating the military and security forces of the state".

Lawyer members of the Association of Lawyers for Freedom (OHD) have been subjected to countless operations and investigations. Attorney Adnan Erol who is a member of OHD is still in pre-trial detention. The fact that the Istanbul Convention was put up for debate increased police pressure on women and the LGBTI+ movement while the President of Religious Affairs targeted LGBTI+ individuals in a Friday sermon in April 2020, just as he did in July 2019, and singled them and those living with HIV out as the cause of the COVID-19 pandemic. The directors and members of the Rosa Women's Association, whose main field of activity is to counter all forms of violence against women, were detained and arrested in a series of police raids that began in May 2020.

These cases are only the ones that come on the public agenda through news articles published by media outlets. Aside from these, the number of investigations and lawsuits filed against CSOs and activists locally, especially outside of large metropolitan cities, is not known clearly.

Universal Norm	Referenced National and International Policy Documents	Indicator
3.2. Everyone has the right to request and access information held by public institutions in their country of residence.	Recommendation No. R(81)19 of the Committee of Ministers of the Council of Europe	3.2.1. Right to information petitions filed by CSOs
	Recommendation No. Rec (2002)2 of the Committee of Ministers of the Council of Europe	3.2.2. Responses containing the requested information

In Turkey, the right to information is protected by the article 74 of the Constitution of the Republic of Turkey and the Article 10 of the ECHR, The right to information is also regulated by the Law on the Right to Information no. 4982 dated 2003. In addition, in case of rejection of right to information petitions, an objection can be filed to the Review Board of Access to Information (BEDK) pursuant to Article 14 of the Law on the Right to Information. Right to information petitions can be filed by postal mail or through CIMER. However, there is a word limit for petitions filed through CIMER and only one application can be filed per day. BEDK submits a report to the Office of the Speaker of the Grand National Assembly of Turkey on the right to information petitions on a regular basis every year. According to the 2019 report

57. Selin Girit, Büyükkada Davası: 'Ben ve arkadaşlarım casus değiliz' [Büyükkada Trial: 'I and my friends are not spies'], BBC Turkish, 25 October 2017, <https://www.bbc.com/turkce/41744958>

58. Büyükkada davasında 4 mahkûmiyet 7 beraat 14 convictions and 7 acquittals in the Büyükkada trial, DW, 03.07.2020, <https://p.dw.com/p/3ekKz>

59. Free Osman Kavala, Legal Process, <https://www.osmankavala.org/en/judicial-process>

60. "Kızıl Soros" gözaltına alındı | "Red Soros" has been detained, Yeni Akit, 19.10.2017, <<https://bit.ly/3utM83F>>

61. Ali Karahasanoğlu, Osman Kavala'yı Tanıyalım [Let us get to know Osman Kavala], Yeni Akit, 22 February 2020, <<https://bit.ly/2PYEsYi>>

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submitted by BEDK to the Office of the Speaker of the Grand National Assembly of Turkey, the petitions filed with public institutions and agencies within the scope of the Law on the Right to Information no. 4982 in 2019 showed a downward trend compared to 2018. In this context, the total number of applications (1,435,025) in 2019 decreased by approximately 17.23% compared to 2018 (1,733,779).

The number of those who appealed to the court due to the rejection of their right to information petitions is 796⁶².

Administrative authorities reject requests for statistical data, especially on the basis of the following section of Article 7 of the Law no. 4983 which reads: **"the requested information can be generated as a result of a separate and special study, research, examination or analysis"**.

Within The Right to Participation Project, nine separate petitions were filed with DGF, DGRCS, Revenue Administration, Ministry of Justice, and Social Security Institution to obtain statistical data and information on CSOs. Administrative authorities did not provide the requested information in any one of those 9 applications, grounding their response on Article 7 of the Law no. 4982 on the Right to Information. The administration responds to the right to information petitions within 15 days as stipulated in the law, but the answers provided do not correspond to the questions asked. At this point, the objections to BEDK did not yield any results. However, all four institutions have obligations to collect statistical data and to compile this data by anonymising it so that it can be shared with and reported to the public. It is observed that the respective public institutions do not show sufficient care for providing information to public.

Universal Norm	Referenced National and International Policy Documents	Indicator
3.3. The state underlines/acknowledges the importance of civil society development and cooperation with CSOs.	UDHR, Articles 20-21	3.3.1. Existence of a national strategy for civil society or the extent of civil society in national strategies
	UN International Covenant on Civil and Political Rights, Articles 21-22-25	3.3.2. Existence of information provision services on notification and declaration procedures for associations and foundations
	ECHR, Article 11	3.3.3. Improvement in public institutions' perception of civil society
	Council of Europe Guidelines for Civil Participation in Political Decision Making	3.3.4. Quality and evolution of legislation on freedom of association for grassroots organisations and disadvantaged groups

There is no civil society strategy for cooperation with CSOs, prepared with participatory methods, in consultation with relative parties starting from the design phase. However, the Section no. 2.5.1.3 of the 11th Development Plan prepared by the Presidency of Strategy and Budget of the Republic of Turkey and approved in the 105th plenary session of the Grand National Assembly of Turkey on 18.07.2019 is dedicated to civil society. This section describes the plan's objectives as follows: **"775. The main objective is to increase awareness about civil society, to consolidate organised civil society, to provide that CSOs are in conformity with principles of transparency and accountability, and to ensure their effective participation in public decision-making process"**⁶³. The 11th Development Plan also puts forward 4 policies and measures. These policies and measures include 16 articles including their sub-paragraphs.

Another important document in this manner is the Presidential Circular no. 2019/20 on the Management of the EU Pre-Accession Funds (IPA) and the Participation in the Union Programmes⁶⁴, which was published in the Official Gazette no. 30908 dated 4 October 2019. "Civil Society" appears as a sub-sector under the "Democracy and Governance" sector in the "Preparatory Reforms for Accession to the Union" section as one of the policy areas in the circular's IPA-II Policy Areas and Sectors and Responsible Institutions chapter. The responsible institution was identified as the Directorate for EU Affairs of the Ministry of Foreign Affairs. The circular also mentions Civil Society as a sub-sector under the Democracy and Governance Sector in the section on annual operating structures and cites the Directorate for EU Affairs of the Ministry of Foreign Affairs as the Lead Institution and the Central Finance and Contracting Unit as the Implementing Agency.

62. Assessment of the Year 2019 with respect to the Exercise of the Right to Information, GNAT, < <https://bit.ly/3dL5v1x> >, 2019 Right to Information Report, GNAT, < <https://bit.ly/2RiUs8L> >.

63. Republic of Turkey Presidency of Strategy and Budget of the Republic of Turkey, 11th Development Plan, 2019, 176-7, < <https://bit.ly/3uv1PYj> >

64. <https://ab.gov.tr/siteimages/birimler/hukuk/genelge/genelge-2019-20.pdf>

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2.3. Positive obligation of the State to protect the rights of CSOs

DGRCS and DGF make announcements, especially when annual declarations are due, concerning notification and declaration procedures through their own websites and social media accounts. DGRCS has a help desk dedicated to the Information System of Associations (DERBIS).

There are two studies that can indicate whether public institutions' perception of CSOs has improved or not. The first one is the survey entitled "Perceptions and Approaches Towards Civil Society Organisations" carried out by YADA Foundation in 2014⁶⁵. The second one is the "CSO Perception Report" conducted by DGRCS in 2019⁶⁶. The table below reveals public institutions' perception of CSOs based on questions that allow a comparison between the two reports.

PUBLIC OFFICIALS' PERCEPTION OF CSO	
YADA 2014	DGRCS 2019
<p>First Concepts Public Officials Think of When Hearing the Term CSOs (Top 5)</p> <p>Not Official 16.8% Limited number of examples such as TRC, AKUT, TEMA, GREEN CRESCENT 16.8% Representation 14% State of Being Organised 11.2% Public Benefit 8.4%</p>	<p>Which of the following defines the 'Civil Society Organisations' concept in the best way for you? (Please choose one)</p> <p>-Civic initiatives that contribute to the formulation of public policies, provide humanitarian aid for people in need, defend citizens' rights and interests, conduct studies for the solution of problems concerning the society and individuals: 45.15% -All civil society organisations and institutions that protect citizens' right and interests and reflect citizens' will, such as Associations, Foundations, Unions, Chambers, Political Parties, Trade Unions, and non-profit organisations: 40.72% -Individuals and organisations that are outside the public sector in a society. 8.31% -Civil society can be understood as a political sphere where volunteering citizens try to shape the rules governing public life. 1.34% -None of the above. 3.88%</p>
<p>Best Qualities of CSOs According to Public Officials</p> <p>Mobilising the community 13.7% Philanthropy/assistance 10.4% Awareness raising 8.7% Volunteering 7.9% Rights advocacy 7.9%</p>	<p>Strengths of CSOs in Turkey (top 5)</p> <p>-Humanitarian Aid 64.80% -Sensitivity to Social Needs 58.94% -Awareness Raising in the Society 58.94% -Molding Public Opinion 55.31% -Acting as a Bridge Between Citizens and Public Administration 44.41%</p>
<p>Factors Negatively Affecting CSOs' Credibility According to Public Officials (Top 5)</p> <p>Ideological 29.2% Personal Interest Oriented 16.7% Non-institutionalized 12.5% Ineffective 10.2% Lack of democracy within organisations 7.4%</p>	<p>Weaknesses of CSOs in Turkey</p> <p>-Interest-Focused 60.37% -Financial Incapability 56.10% -Inability to become institutionalized 52.44% -Lack of qualified personnel 37.20% -Abuse of good will 36.28%</p>
<p>Performance of CSOs According to Public Officials (Top 5)</p> <p>Communication 5.8% Activeness 5.7% Cooperation with the Public Administration 5.7% Cooperation Among CSOs 5.3%</p>	<p>How do you assess/evaluate the performance and success of CSOs in your region?</p> <p>Effectiveness of CSOs in national development</p> <p>-Very Effective 27.96% -Effective 56.53% -Ineffective 12.77% -I do not know 2.74%</p> <p>Impact of the CSO Activities</p> <p>-Very Impactful 2.55% -Impactful 35.35% -Slightly Impactful 56.69% -Not Impactful 5.41%</p>

Even though there are some differences in the scale of studies and the questions asked, the studies present similar findings in terms of civil servants' perception of CSOs. It is stated in both studies that civil servants seem to attribute a role in philanthropy and humanitarian aid to CSOs. Another common finding of the two studies is that CSOs are perceived as interest-focused and non-institutionalized. Finally, CSOs are considered not to be impactful enough. Therefore, it is difficult to say that there has been an improvement in civil servants' perception of CSOs.

65. YADA, 2014, <<https://bit.ly/2QasPxD>>

66. DGRCS, 2019, <<https://bit.ly/3cYGvEJ>>

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2.3. Positive obligation of the State to protect the rights of CSOs

Universal Norm	Referenced National and International Policy Documents	Indicator
3.4. Enabling conditions are ensured for CSOs to take part in service provision	UDHR, Articles 20-21	3.4.1. Existence of regulations that define the areas and conditions under which CSOs can provide services
	UN International Covenant on Civil and Political Rights, Articles 21-22-25	3.4.2. Operating conditions and rules applicable to CSOs providing services
	ECHR, Article 11	

There is no regulation dedicated to service provision by CSOs in Turkey. CSOs can be involved in service provision on the condition that they obtain necessary permits and fulfil necessary criteria except for the services listed in Article 30 of the Law on Associations and Article 116 of the Turkish Civil Code. The said permits are issued by line ministries. For example, building a school, falls under the mandate and supervision of the Ministry of National Education, while opening a hospital or a medical centre is under that of the Ministry of Health. In addition, Article 30 (c) of the Law on Associations stipulates that associations **“may not engage in preparatory educational or training activities for the military service, national defence and security services, and may not open up camps or training centres for this purpose”**.

Even though this restriction and permission procedure are legitimate regulations in terms of freedom of association, the **“Communiqué About Services for Syrians Under Temporary Protection”**⁶⁷ issued by the Ministry of Family, Labour and Social Services in 2018 concerning CSOs and international organisations wishing to provide services for Syrians under temporary protection still remains in force. The communiqué does not provide any **“legitimate”** or **“clear”** legal basis related to data collection except for the **“Law no.6698 on the Protection of Personal Data”**. Activities of CSOs and international organisations such as psycho-social support, case management, home visits, individual and group meetings, counselling and guidance, informative seminars, etc. for children, youth, women, men, people with disabilities, elderly and their families with special needs are subjected to permission. There is no clear and publicly available information as to how many CSOs and international organisations apply for permission for the said activities, how many are granted permission or rejected

Universal Norm	Referenced National and International Policy Documents	Indicator
3.5. There must be a legal framework that facilitates cooperation between CSOs and volunteers.	UN General Assembly Resolution A/RES/52/17	3.5.1 Number of people volunteering in associations and foundations
		3.5.2. Voluntary service time of volunteers in associations and foundations
	Guidelines for EU Support	3.5.3. Current legal framework and administrative acts related to volunteering
		3.5.4. Improvements in legislation governing volunteering

Even though Article 13 of the Law on Associations stipulates that **“association services shall be delivered through volunteers or paid workers who are recruited by the decision of the executive board”**, there is no regulation that defines **“volunteering”** in Turkey⁶⁸. However, there is ongoing work for drafting a “law on volunteering” in Turkey⁶⁹. The table below presents the number of volunteers working in associations in Turkey, based on DGRCS data⁷⁰. DGRCS has not published 2020 data yet.

67. <<https://bit.ly/36ZQK79>>

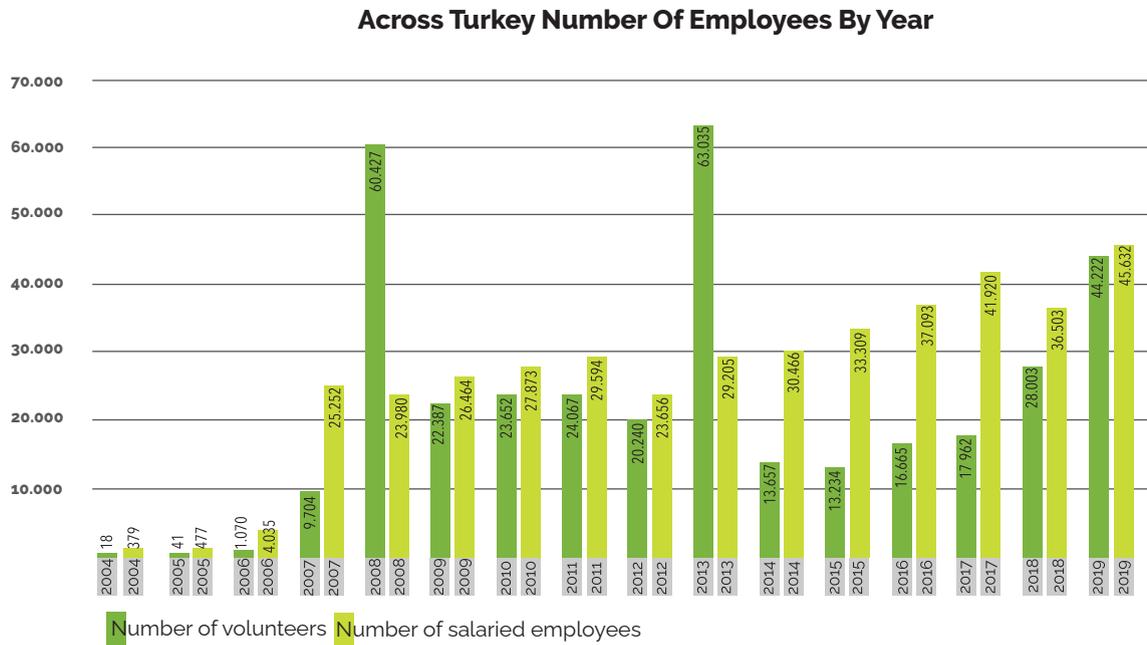
68. Kübra Doğan-Yenisey, Gönüllülük ve Hukuki Çerçevesi [Volunteering and Its Legal Framework], in Türkiye’de Gönüllülük, Deneyimler, Sınırlıklar ve Yeni Açılımlar [Volunteering in Turkey, Experiences, Limitations and New Expansions] Compiled By Emre Erdoğan, Pınar Uyan, Nurhan Yentürk, Laden Yurttagüler, İstanbul Bilgi University Press, November 2020, p.179-204; Nihat Erdoğan, Sivil Toplum Kuruluşlarında Gönüllü ve Profesyonel Çalışma [Voluntary and Professional Work in Civil Society Organisations], İlke Science, Culture and Education Foundation, 2020, p. 237-237.

69. Civil Society Sector, Workshop Report: “Workshop on Strengthening Public-CSO Cooperation and Volunteerism Processes in Turkey” October 17, 2019, <<https://bit.ly/3sbdHxg>>

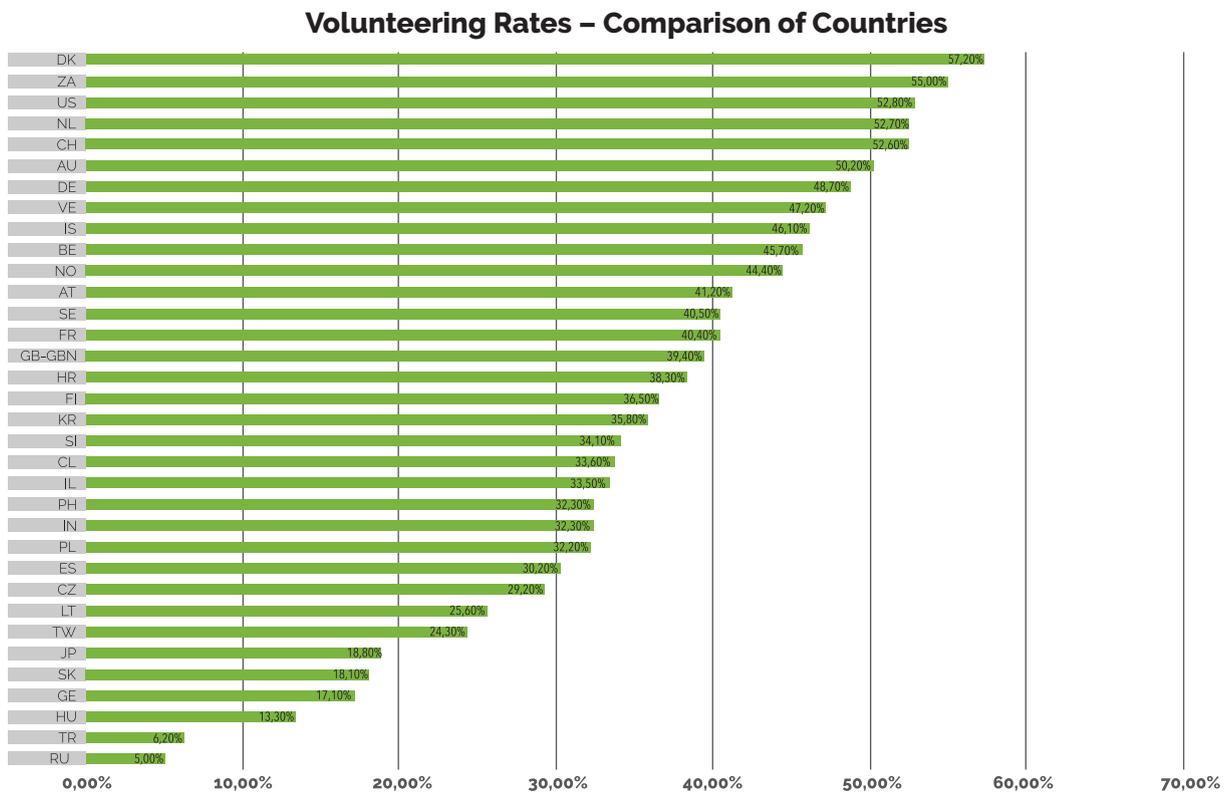
70. DGRCS, <<https://bit.ly/3uJLsHz>>

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There is no data shared by DGF on the number of volunteers for New Foundations. The rate of adults who are engaged in volunteering activities in Turkey is only 6.2%, as indicated in the graph below which analyses the findings of the International Social Survey Programme 2014. Below is the comparative table⁷¹ presented by the survey:



BILGI CCSS and BILGI MIGRATION conducted a survey entitled "Research on Volunteering in Turkey 2019: Profiles of Volunteers, Conditions and Gains of Volunteering" in fall 2019. 1,016 respondents participated in this qualitative survey conducted on the internet. Even though the survey had its limitations, it

71. ISSP Research Group (2016), Reported by Emre Erdoğan & Pinar Uyan-Semerçi, Türkiye Gönüllülük Araştırması 2019: Gönüllü Profili, Gönüllülerin Koşulları ve Kazanımları [Research on Volunteering in Turkey 2019: Profile of Volunteers, Conditions and Gains of Volunteering] in Türkiye’de Gönüllülük, Deneyimler, Sınırlıklar ve Yeni Açılımlar [Volunteering in Turkey, Experiences, Limitations and New Expansions], ibid, Figure-1, p. 3

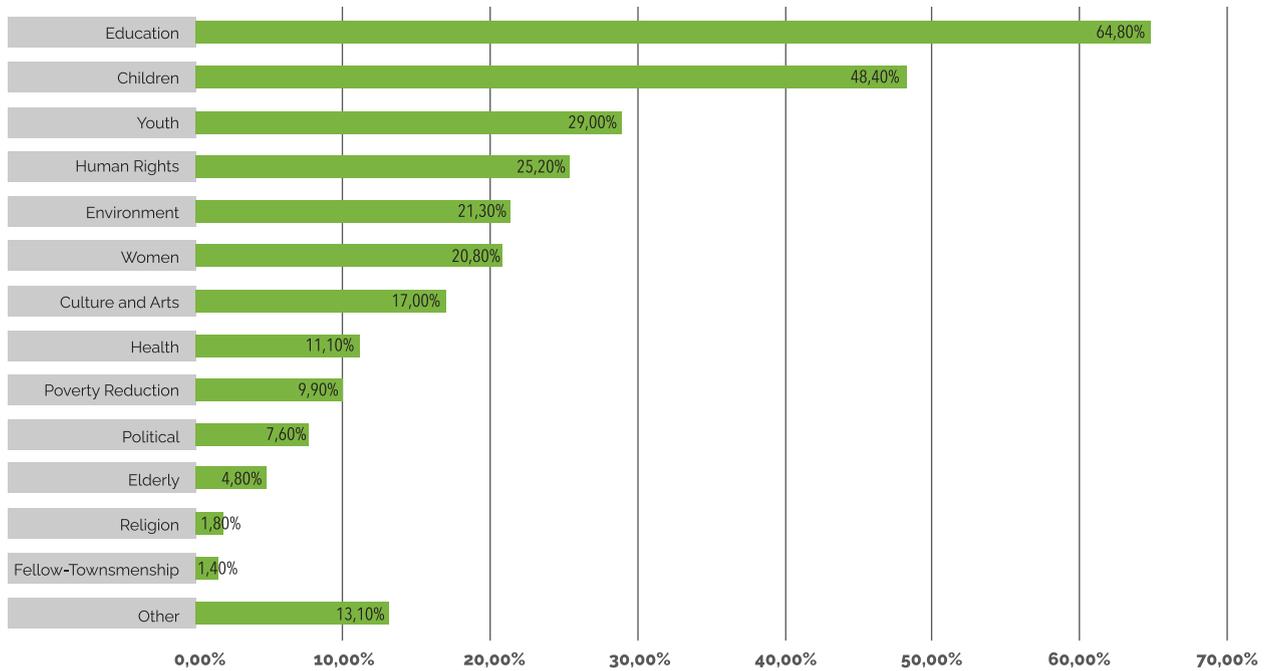
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is the only survey conducted on volunteering in recent years. According to the findings of the survey, among the respondents who define themselves as "volunteers", the rate of those whose father has a bachelor's degree is 21% while the rate of those whose mother holds a bachelor's degree is 13%. These rates are above Turkey's average. The survey takes this occasion to point to the question of "cultural capital". Voluntary participation in CSOs increases as the family education level goes up.

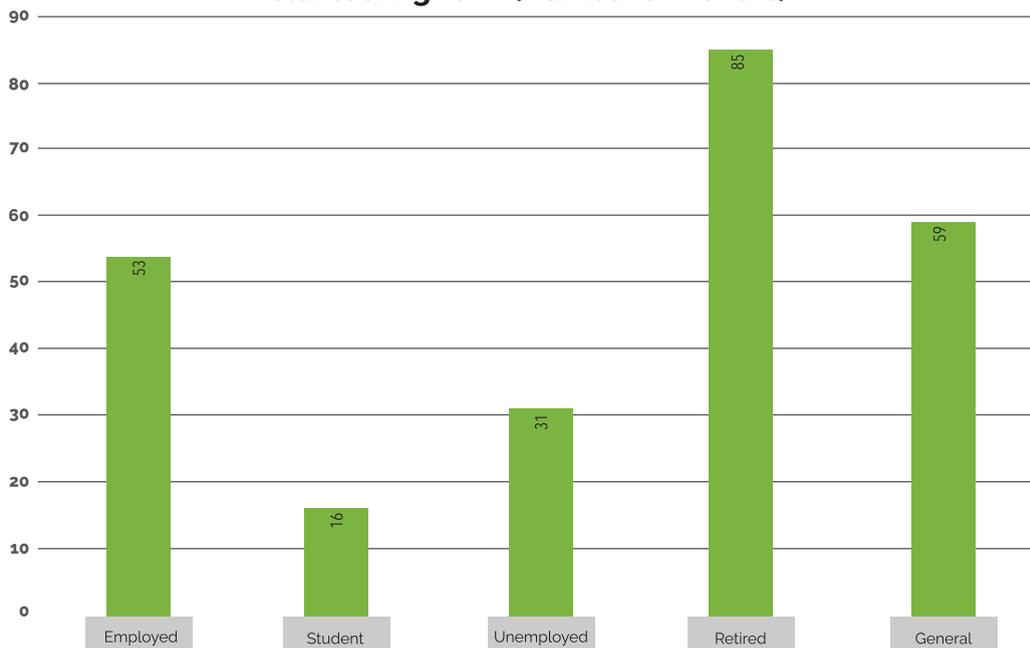
According to the data from the Research on Volunteering in Turkey 2019, the highest number of volunteering activities are observed in the fields of education and children⁷².

Main Field of Activity of Organisations Where Volunteering Takes Place



Volunteers' average volunteering time is generally 59 months. The retired and the employed make up the highest ratio in terms of the [volunteers'] status of employment.

Relationship with Organisations and Status of Employment: Volunteering Term (Number of Months)



72. Emre Erdoğan & Pınar Uyan-Semerçi, Türkiye Gönüllülük Araştırması 2019: Gönüllü Profili, Gönüllülerin Koşulları ve Kazanımları [Research on Volunteering in Turkey 2019: Profile of Volunteers, Conditions and Gains of Volunteering] in Türkiye'de Gönüllülük, Deneyimler, Sınırlıklar ve Yeni Açılımlar [Volunteering in Turkey, Experiences, Limitations and New Expansions] ibid, Figure-3, p.6

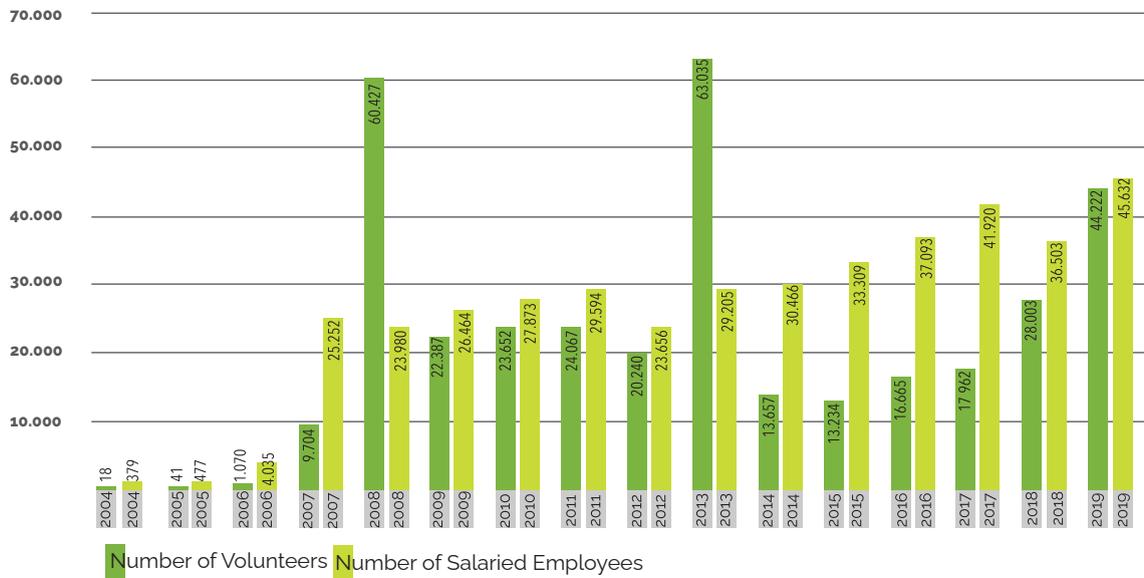
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2.3. Positive obligation of the State to protect the rights of CSOs

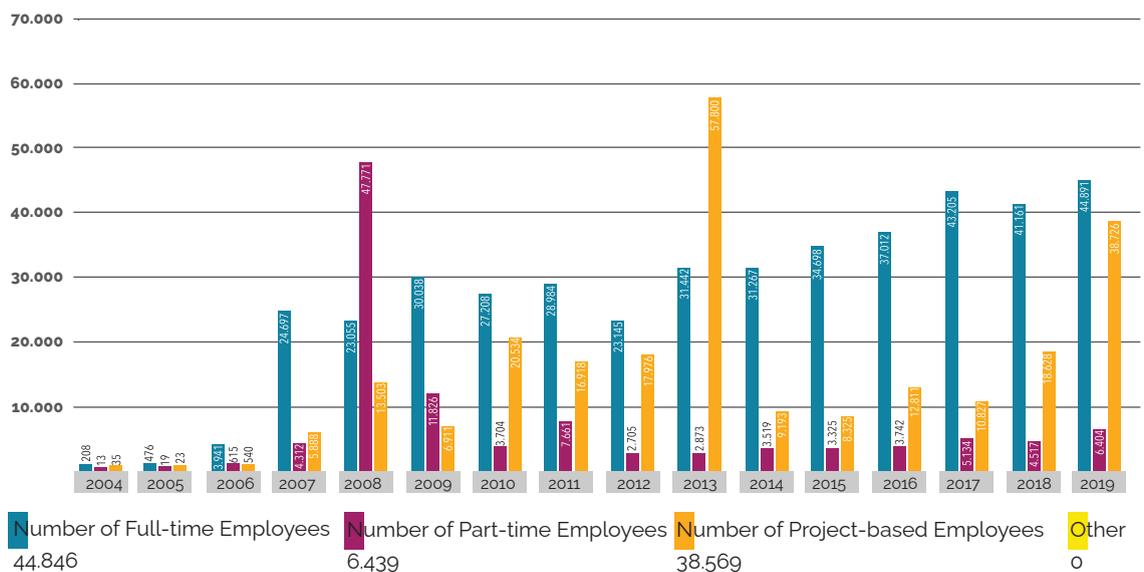
Universal Norm	Referenced National and International Policy Documents	Indicator
3.6. There must be a legal framework to facilitate the process for CSOs to recruit employees.	Guidelines for EU Support	3.6.1. Number of employees in associations and foundations
		3.6.2. Ratio of employees in associations and foundations to total employment
		3.6.3. Current legal and administrative restrictions related to payroll employment
		3.6.4. Legislative improvements related to payroll employment

According to DGRCS data, the number of salaried employees working in associations is 46,632. The number of employees by year and type of employment is as follows⁷³:

Across Turkey Number Of Employees By Year



Across Turkey Number Of Employees By Year And Term



73. DGRCS, <https://bit.ly/3uJLsHz>

Freedom of Association in Turkey

2.3. Positive obligation of the State to protect the rights of CSOs

According to DGRCS data, there is a notable difference between the number of salaried employees and the number of salaried employees by type of employment. According to the data above, the total number of full-time, project-based and part-time employees in associations is 89,854 in total. There is no clarification pertaining to which data forms the basis for DGRCS reports. It is known that the data is published on the DERBIS system and driven from the declarations provided by associations. However, the process of verifying and processing this data raises some questions. Even though DGF shares the data on the employees of annexed and community foundations, no data is shared related to the employees of New Foundations. DGF does not respond to right to information queries in this subject and directs enquirers to its website. However, the website does not contain the requested information.

Thus, it is not possible to calculate the ratio of people employed by associations and foundations in the overall employment. TURKSTAT data does not indicate the employment figures of CSOs as a separate category⁷⁴. Nevertheless, in the working group meetings organised as part of the project, TURKSTAT experts stated that the data they use is from DGRCS and DGF.

There is no separate legislation dedicated to those who are employed by CSOs. The current Law on Social Security and Labour Law are also applicable to the employees of CSOs. No amendment or reform has been undertaken in this area, which can be defined as "improvement" Although there is no explicit administrative restriction concerning the employees of CSOs, the restrictions on certain branches of work (e.g., physicians, psychologists, drivers, etc.) set forth in Article 53 of the Turkish Criminal Code do also apply to CSOs

2.4. The right to participate in political and public affairs

Universal Norm	Referenced National and International Policy Documents	Indicator
4.1. Organisations, like individuals, have the right to benefit equally from public services.	UN Human Rights Council Resolution No. A/HRC/22/L.13	4.1.1. Existence of mechanisms to ensure that all CSOs benefit from public services regardless of their political orientation

Turkey does not have an overarching mechanism through which all CSOs, regardless of their political orientation, can benefit from public services of any kind. The most widespread mechanism in this sense is local administrations⁷⁵. However, it is hard to say that services provided by governors' offices functioning under the central government or municipalities led by elected political party members abide by the **"regardless of their political orientation"** criterion.

Universal Norm	Referenced National and International Policy Documents	Indicator
4.2. CSOs must be included in law-making and political processes at local, national and international level.	Rec(2007)14	4.2.1. Existence of a framework law on dialogue, participation and cooperation between CSOs and public institutions
	Recommendation CM/Rec(2018)4 of the Committee of Ministers of the Council of Europe on the participation of citizens in local public life	4.2.2. Existence of regular and systematic consultation mechanisms between public institutions and CSOs
	Council of Europe Guidelines for Civil Participation in Political Decision Making	4.2.3. Quality of dialogue and cooperation structures and mechanisms between CSOs and public institutions (Their function, impact, CSO representation, equality among CSOs, visibility, governments' and civil society's perception of these mechanisms, etc.)
	Declaration on Human Rights Defenders, Articles 7 and 8	4.2.4. Information-sharing activities or consultations undertaken by the government or public administration for CSOs
		4.2.5. Ratio of laws/regulations, strategies and policy reforms issued in consultation with CSOs

74. TURKSTAT, <https://data.tuik.gov.tr/Bulten/Index?p=Isgucu-Istatistikleri-2020-37484>

75. Also see: Ulaş Bayraktar, *Demokratik Kentel Yönetişimde Güçlenen Sivil Toplum ve Etkin İş Birlikleri* [Strengthened Civil Society and Effective Communication in Democratic Urban Governance], TESEV, January 2020. <<https://bit.ly/3mJRRQ4>>

Freedom of Association in Turkey

2.4. The right to participate in political and public affairs

Turkey does not have a framework law on dialogue, participation and cooperation between CSOs and public institutions. Other than Article 13 governing the principle of fellow-citizenship⁷⁶ as well as Article 41 on Strategic Plan and Performance Programme of the Law on Municipalities⁷⁷, there is no regulation that openly and clearly sets forth citizens' right to participate in decision-making processes. The existing regulations on dialogue, participation and cooperation between CSOs and public institutions are quite fragmented, leaving it entirely up to the discretion of the government to include CSOs in these processes. The pilot report⁷⁸ prepared by the Civil Society Development Centre (STGM) as part of the Right to Participation Project on the information-sharing and consultation processes with civil society organisations conducted by the central administration, indicates that the two most prominent mechanisms in this field are the Directorate General on the Status of Women and the Directorate General of Child Services under the Ministry of Family, Labour and Social Services as per the relevant legislation.

The Council of Foundations is a good example of dialogue, participation, and cooperation between CSOs and the central administration. The Council of Foundations is governed by Articles 43 and 46 of the Law on Foundations and Articles 96 to 120 of the Regulation on Foundations. The Council of Foundations is composed of 15 members. 10 members of the Council of Foundations are appointed. 5 members of the Council of Foundations are composed of **"three members elected by new foundations and one member elected by annexed and community foundations each"**. The fact that 5 members of the Council of Foundations are elected can be considered an objective criterion in terms of participation. However, conditions for election stated in Article 97 of the Regulation on Foundations (Date of the Official Gazette: 27.09.2008/Number: 27010) are rather restrictive: The conditions specified in the Law on Civil Servants - being higher education graduate, not being dismissed from his/her duty in the foundation management by a final court decision - are of restrictive nature.

The most important recent regulation to be mentioned in terms of dialogue, participation, and cooperation between CSOs and the central administration is the "Directive on the Duties and Procedures of the Civil Society Consultation Council" drafted by DGRCS⁷⁹. A directive is the lowest level regulation in terms of the hierarchy of legislation. Considering that the Council of Foundations is regulated by means of a law and regulation, it is worth emphasizing that the Civil Society Consultation Council is regulated by a directive. In addition, even though the directive is on "consultation with civil society", it was prepared and published without any consultation with CSOs. Article 8 of the directive states that the Council convenes "at least two times a year".

The first meeting of the Council was held without any prior notice. Social media was the sole means of getting information about the meeting. Article 6 (c) of the directive lays down the criteria for the CSOs to be included in the Council. These criteria include whether they have a special status or not (public benefit, tax-exempt status, etc.), number of members, financial size, number of branches and offices. Expertise and experience are not among these criteria. The number of CSOs to take part in the Council is not specified. CSOs are not elected for the Civil Society Consultation Council, unlike the Council of Foundations. It is the Ministry of Interior that determines the CSOs to be in the Council. As a consequence, the CSOs to be included in the Council are left up to the discretion of the central administration.

The most suitable mechanism for the active participation of CSOs within the GNAT (the legislative branch) is through the GNAT Specialized Committees⁸⁰. However, the participation of CSOs in the activities of specialized committees is also under the discretion of the central administration.

76. The Fellow-citizenship or the fellow-citizenry means "every individual residing or being present or having connections within the boundaries of a municipality". This term was translated as "townsmen" in the Law on Municipalities (No: 5393).

77. Information Note on the Participation of CSOs in the Strategic Planning Processes of Municipalities, STGM, 7 January 2020, <https://www.katilimhakkı.org/ornek-yayın-2-proje-katılım-hakkı/>

78. The Right to Participation Project, STGM, <https://www.katilimhakkı.org/>

79. DGRCS, <<https://bit.ly/3wPCOZY>>

80. GNAT Committees, <https://komisyon.tbmm.gov.tr/>

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2.5. Right to seek, access and secure resources

Universal Norm	Referenced National and International Policy Documents	Indicator
5.1. CSOs can seek and use funds from various local and international sources in order to support their activities.	The Declaration on Human Rights Defenders, Article 13	5.1.1. Regulations governing the way CSOs use their sources
	Rec(2007)14	5.1.2. Conditions for financing and resource utilization by non-legal entities
	UN Human Rights Council Resolution No. A/HRC/22/L.13	5.1.3. Regulations governing the CSOs access to foreign resources
		5.1.4. Administrative fines imposed for the violation of the notification requirement while accessing foreign resources

CSOs can receive in-kind or in-cash aid from foreign sources provided that they submit prior notifications. This is regulated by Article 21 of the Law on Associations and Article 25 of the Law on Foundations. According to Articles 18 and 19 of the Regulation on Associations, associations are required to fill in the Annex-4 Notification for Receiving Aid from Foreign Sources of the regulation and submit it to the local administrative authority. Foundations are required to fill in the Annex-3 Notification for Receiving Aid from Foreign Sources as stated in Article 35 of the Regulation on Foundations and submit it to the local administrative authority.

Associations that fail to submit the notification shall be imposed an **“administrative fine of TRY five thousand to TRY one hundred thousand”** pursuant to Article 32(k) of the Law on Associations (Date: 2004; No: 5253). Similarly, Foundations that do not notify the aids that they receive from foreign sources are subjected to administrative fines as per Article 11 of the Law on Foundations (Date: 2008; No:5737).

Universal Norm	Referenced National and International Policy Documents	Indicators
5.2. CSO efforts of seeking and receiving support from individual or corporate donors is facilitated; aid and donation activities can only be restricted by the laws generally applicable to customs, foreign exchange and money laundering and those on the funding of elections and political parties.	Rec(2007)14	5.2.1. Legislation facilitates/encourages the collection of aids and donations by CSOs
	Report A/HRC/23/39 of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association	5.2.2. Application procedures for collecting aids and donations
		5.2.3. Incentives for donors (individual and corporate)
		5.2.4. Number of associations and foundations applying for permission to collect aids, rate of approval and rejection, reasons for rejection
		5.2.5. Ratio of aid and donation income to total revenues of CSOs

The process of collecting donations and aids is subjected to two separate regimes for CSOs in Turkey. However, it is hard to say that the legislation on CSOs facilitates or encourages the collection of aids and donations for CSOs.

Receiving donations

In Turkey, incentives such as tax exemption for donations made to CSOs are extremely limited. One exception in this field applies to the donations made to “Social Assistance and Solidarity Foundations” pursuant to Article 9 of the Law no. 3294 on Social Assistance and Solidarity. These donations are exempted from “taxes, fees, charges and funds”. However, although “Social Assistance and Solidarity Foundations” have the status of New Foundation, they are in fact established by the Ministry of Family, Labour and Social Policies of the Republic of Turkey. In other words, it is not possible for them to be considered as a CSO.

Another exemption in this field applies to donations made to the Turkish Red Crescent Society and the Turkish Green Crescent Society. All in-cash donations and aids made to these institutions may be deducted from the corporate income or earnings pursuant to subparagraph 11 of the first paragraph of

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the Article 89 of the Income Tax Law no. 193 and paragraph 1(f) of the Article 10 of the Corporate Tax Law no. 5520. The amount of in-kind donations to be made to the Red Crescent and Green Crescent Societies [that can be deductible as expenses] are subject to a limitation of 5% of a given year's income (10% in priority regions for development). However, it should be noted right away that even though the Turkish Red Crescent Society has the status of an association, as it is clearly stated in its Statute, it operates **"under the aegis of the Presidency** [of the Republic]"⁸¹. It is therefore disputable whether it can be considered as a CSO in its current form. Although there is no such phrase in the Statute of the Turkish Green Crescent Society, it remains to hold a public-benefit status since 1934. It has very close relations with the central administration. It is possible to conclude that although the Society has the status of an association, it almost operates as a public institution.

The only associations that are considered as CSOs and eligible for tax exemption in donations are those that are granted the public-benefit status. The authority to grant public benefit status rests with the President [of the Republic]. The number of associations that have been granted the public-benefit status in Turkey is 358⁸². A similar situation applies to foundations. Donations made to tax-exempt foundations are 100% deductible from income and corporate tax. The President [of the Republic] has the sole authority to determine which foundations are eligible for tax-exempt status. The number of foundations that have been granted tax exemption is 292⁸³. In addition, the entire cost of food, cleaning, clothing, and heating materials donated to associations and foundations engaged in food banking is deductible from the income reported in their respective annual declaration. Apart from this, there exist no incentives - neither tax exemptions nor deductions - for donations and aids made to associations and New Foundations, which make up the majority of CSOs, and there is no overarching policy regarding donations and aids to CSOs as such.

There are certain procedures CSOs are subject to for receiving donations. In associations, donations are received as per the procedure named "revenue collection". Persons authorized to collect revenues are determined by the decision of the executive board. Following the board's decision, the president of the executive board needs to approve the Annex-19 form of the Regulation on Associations. For each revenue they collect for the association, the persons authorized by the executive board issue a "Income Receipt" document as per Annex-17 of the Regulation on Associations. As for the in-kind donations, "In-Kind Donation" document is issued as per Annex-15 of the Regulation on Associations. Foundations can collect donations by issuing donation receipts.

Aid Collection

Aid collection by CSOs is subject to permission. Aid collection activities of both associations and foundations are governed by the Law no. 2860 on Aid Collection and the Regulation on the Procedures and Principles of Aid Collection. Drafted by the military administration following the 12 September 1980 coup, the Law on Aid Collection includes highly bureaucratic provisions that make it extremely difficult for CSOs to secure a permission for and undertake the activity of aid collection. Furthermore, the Law granted a rather disproportionate discretion to the competent authorities in their assessment of the incoming applications as well as determination of the circumstances of aids collected as a result of aid collection activity.

The "Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction" has broadened the scope of the Law on Aid Collection, introducing provisions about aids to be made in addition to aid collection.

Procedures relating to aid collection are carried out by DGRCS.

CSOs that are eligible to collect aid without permission are also determined by the President [of the Republic]. There are 30 Associations and New Foundations which are entitled to collect aid without permission. Among these associations and foundations, at least 6 of them are associations and foundations established by public institutions and agencies, and therefore it is questionable whether their status is tantamount to CSO. For example, the Turkish Religious Foundation of the Presidency of Religious Affairs, the Turkish Armed Forces Foundation, the Turkish Police Force Foundation as well as other

81. Turkish Red Crescent Society, Statutes. <<https://bit.ly/3ses095>>

82. DGRCS. <<https://bit.ly/2OgYq0x>>

83. Turkish Revenue Administration. <<https://bit.ly/2OoXyxh>>

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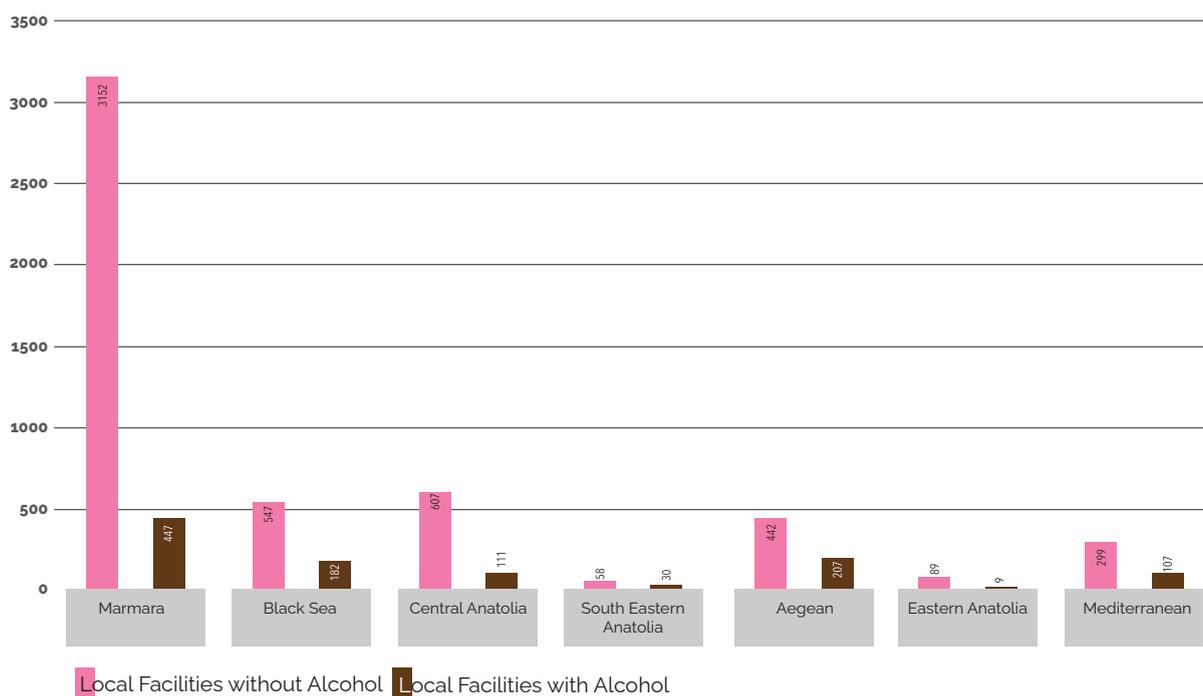
foundations established to serve the members of the armed forces and police officers are among the foundations that have special status⁸⁴.

DGRCS and DGF do not disclose the number of CSOs that apply for obtaining aid collection permission. Therefore, the number of CSOs who applied for aid collection permission as well the number of CSOs granted or rejected the permission remains to be unknown.

Universal Norm	Referenced National and International Policy Documents	Indicator
5.3. CSOs should be free to engage in any legal economic and commercial activity in support of their non-profit initiatives without the need for a special permit.	Joint Guidelines on Freedom of Association (OSCE/ODIHR and Venice Commission)	5.3.1. Rules applicable to CSOs with income generating activities
	Rec(2007)14	5.3.2. Number of associations and foundations with economic enterprises
		5.3.3. Tax rate applicable to the income generated by economic enterprises of associations and foundations
		5.3.4. Income generated by economic enterprise of associations and foundations & its ratio to total revenues

Apart from collecting donations and aids, a common fundraising method for associations and foundations is to establish economic enterprises⁸⁵. Other than these, associations are obliged to provide all their activities free of charge, with the exception of the local facilities they have established for their members. Foundations, on the other hand, may acquire movable/immovable property, and can generate income in return for services and use them in the pursuit of their objectives.

DGRCS does not disclose any data on the number of associations owning economic enterprises. However, DGRCS published the following data regarding the local facilities of associations:



DGRCS has not disclosed any data on the income generated through the local facilities of associations. Furthermore, DGRCS does not share any data on the income generated through the economic enterprises of associations. This being the case, the ratio of income generated through the local facilities and enterprises of associations to the total revenues of associations remains to be unknown.

According to DGF data, the total revenues of the New Foundations as well as the sources of these revenues is as follows⁸⁶:

84. DGRCS, <<https://bit.ly/32bPoWT>>

85. STGM, Frequently Asked Questions on Commercial Enterprise Management for Associations and Foundations, <<https://bit.ly/3shOvoT>>

86. DGF, <<https://bit.ly/3mLcKKR>>

Freedom of Association in Turkey

2.5. Right to seek, access and secure resources

Financial Situation

		Total Of Assets (x1.000.000.-TL)	55.182	65.896	65.333	73.720	82.487
Total Revenues (x1.000.000.-TL)	Membership Fees	3.440	3.515	4.117	4.913	5.621	
	Aids collected from abroad	216	199	214	236	291	
	Aids provided by public institutions	3.128	2.916	3.825	1.630	1.863	
	Other aids and donations	5.799	5.256	6.369	6.895	5.850	
	Income generated by economic enterprises	177	236	215	269	264	
	Financial revenues	2.537	2.866	3.969	5.443	6.938	
	Other income	3.365	3.996	5.781	5.909	6.624	

Universal Norm	Referenced National and International Policy Documents	Indicator
5.4. Organisations with legal entity have the right to access banking transactions and manage their bank accounts.	Joint Guidelines on Freedom of Association (OSCE/ODIHR and Venice Commission)	5.4.1. Rules and procedures applicable to associations and foundations while opening a bank account
	Rec(2007)14	5.4.2. Specific cases where the banking operations of CSOs are restricted

In order for associations and foundations to open a bank account, they need a decision by their executive boards and to attest a list of authorized signatures from the public notary. By means of this notary attested list of authorized signatures, they can open and close bank accounts. Apart from that, there are no special restrictions on banking transactions.

Universal Norm	Referenced National and International Policy Documents	Indicator
5.5. The state should support organisations to pursue their objectives through public funding and other means.	Rec(2007)14	5.5.1. Existence of a legal framework for public funds available to CSOs
		5.5.2. The amount of public funds made available to CSOs and their ratio to the total revenues of CSOs
		5.5.3. Annual changes in public funds available to CSOs

The legal framework regarding public funds available to CSOs in Turkey is underpinned by the "Law on Associations and Foundations' Relations with Public Institutions and Authorities" and Article 29 of the Law on Public Financial Management and Control governing aid allocations from budgets. In addition, each public institution makes its own directives on the matter.

According to the 2018 General Activity Report of the Presidency of Strategy and Budget, the current transfers made to support associations, foundations, unions, and similar organisations is TRY 818 million⁸⁷. According to the 2019 General Activity Report of the Presidency of Strategy and Budget, this figure stands at TRY 841 million⁸⁸. The 2020 General Activity Report of the Presidency of Strategy and Budget has not yet been published during the reporting period. Although these reports list the public institutions making the current payments as well as the support purpose, it does not provide information on which CSOs and what activities are supported through current payments. Therefore, there is no information on the number of CSOs supported through this scheme. The reports include though information about the share of current transfers in the overall budget.

The following tables illustrate the current transfers made to support associations, foundations, unions, and similar organisations; the public institutions making them; the share of total current transfers in the overall budget in 2018-2019. In the light of these tables, it is possible to calculate the share of current transfers made to support associations, foundations, unions, and similar organisations within the overall state budget.

87. Presidency of Strategy and Budget, 2018 General Activity Report, p. 31-2. <<https://bit.ly/2QpKaTc>>

88. Presidency of Strategy and Budget, 2019 General Activity Report, p. 29. <<https://bit.ly/3tnlWGA>>

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2.5. Right to seek, access and secure resources

2018

Table 11: Breakdown of Public Institutions making Current Transfers to Associations, Foundations and Others

(Bin TL)	Realization
Ministry of National Education	171.710
Ministry of Culture and Tourism	129.481
Ministry of Health	121.857
Ministry of Transport, Maritime and Communications	119.965
Presidency of Religious Affairs	82.862
Ministry of Youth and Sports	45.668
Ministry of Interior	27.521
Presidency of the Republic	6.000
Ministry of Foreign Affairs	1.421
Ministry of Economy	1.150
Ministry of National Defence	755
GNAT	575
Ministry of Justice	264
Ministry of Labour and Social Security	120
Ministry of Environment, Urbanization and Climate Change	2
Ministry of Science, Industry and Technology	1
Subtotal of Public Institutions under the General Budget	709.352
DG for Sports	101.091
Turkish Standards Institution	7.266
TUBITAK	22
DGF	10
KOSGEB	8
Yıldız Technical University	3
Presidency of Defence Industry	2
Subtotal of Public Institutions under the Special Budget	108.402
Banking Regulation and Supervision Agency	190
Subtotal of Regulatory and Supervisory Authorities	190
Total Budget of the Central Government	817.944

Source: SPO, e-budget System

In 2018, initially a total of TRY 299,399 million was envisaged for current transfers; however, due to the additional allocations made within the framework of the legislation, the actual year-end budget allocation for current transfers was TRY 328,249 million. By year-end, the total budget expenditure made out of these allocations stood at TRY 322,879 million.

2019

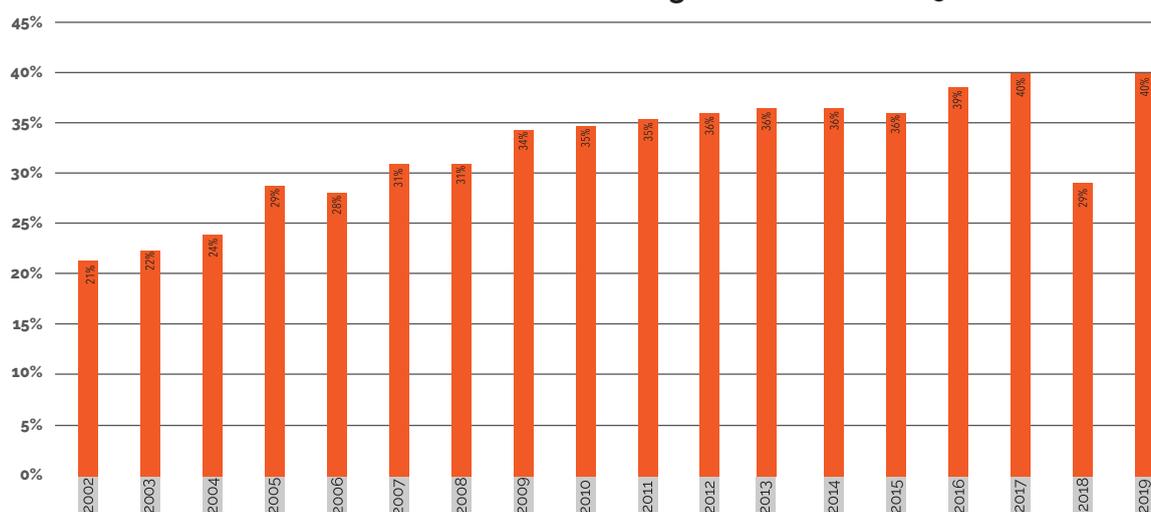
Table 11: Breakdown of Public Institutions making Current Transfers to Associations, Foundations and Others

(Bin TL)	Realization
Ministry of National Education	428.553
Ministry of Culture and Tourism	129.031
Ministry of Health	111.285
Ministry of Youth and Sports	81.159
Presidency of Religious Affairs	29.290
Ministry of Interior	27.041
Ministry of Foreign Affairs	10.345
Presidency of the Republic	7.500
Ministry of National Defence	835
GNAT	200
Ministry of Family, Labour and Social Services	140
Ministry of Justice	5
Ministry of Science, Industry and Technology	1
Subtotal of Public Institutions under the General Budget	825.385
Turkish Standards Institution	10.259
TUBITAK	2.186
Burdur Mehmet Akif Uner University	1.500
Isparta Applied Sciences University	487
Mersin University	288
National Boron Research Institute	250
Bandırma 17 September University	30
DGF	13
Firat University	5
Anadolu University	2
Düzce University	2
Presidency of Defence Industry	2
Aydın Adnan Menderes University	2
Turkish Atomic Energy Authority	1
Subtotal of Public Institutions under the Special Budget	15.027
Banking Regulation and Supervision Agency	113
Subtotal of Regulatory and Supervisory Authorities	113
Total Budget of the Central Government	840.525

Source: SPO, e-budget System

In 2019, initially a total of TRY 391,337 million was envisaged for current transfers; however, due to the additional allocations made within the framework of the legislation, the actual year-end budget allocation for current transfers was TRY 402,222 million. By year-end, the total budget expenditure made out of these allocations stood at TRY 400,316 million.

The Share of Current Transfers in the Total Budget for the 2002-2019 Period (%)



Note: The data for the period 2002-2019 was produced based on the Central Government Budget

Based on the tables above, the share of current transfers made to support associations, foundations, unions, and similar organisations within the overall budget is 0.20% for 2018 and 0.21% for 2019. As it stands, the annual change in the current payment allocations to associations, foundations, unions, and similar organisations for the period between 2018 and 2019 is 0.01%.

Another issue related to the use of public funds for CSOs is capital transfers. In 2018, the total amount of capital transfers made to support associations, foundations, unions, and similar organisations stood at TRY 30 million⁸⁹; whereas in 2019, the amount in question was TRY 93 million⁹⁰. There is no available

89. Presidency of Strategy and Budget, 2018 General Activity Report, p. 38-9, <<https://bit.ly/2QpKaTc>>
90. Presidency of Strategy and Budget, 2019 General Activity Report, p. 36-7, <<https://bit.ly/3tnlWGA>>

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information about which associations, foundations, unions and similar organisations and what activities were supported through capital transfers. Public institutions making capital transfers are shown in the comparative table below. In the light of these tables, it is possible to calculate the share of capital transfers made to support associations, foundations, unions, and similar organisations within the overall state budget.

2018

Table 12 : Breakdown of Public Institutions making Capital Transfers to Associations, Foundations and Others

(Bin TL)	Realization
Ministry of Culture and Tourism	5.531
Ministry of Youth and Sports	22.715
Ministry of Environment and Urbanization	1.790
Ministry of Industry and Technology	404
Total Budget of the Central Government	30.440

Source: SPO, e-budget System

In 2018, initially a total of TRY 15,324 million was envisaged for capital transfers; however, due to the additional allocations made within the framework of the legislation, the actual year-end budget allocation for capital transfers was TRY 20,608 million. By year-end, the total budget expenditure made out of these allocations stood at TRY 16,746 million. Of this amount, TRY 16,451 million consists of domestic capital transfers, and TRY 294 million constitutes international capital transfers.

2019

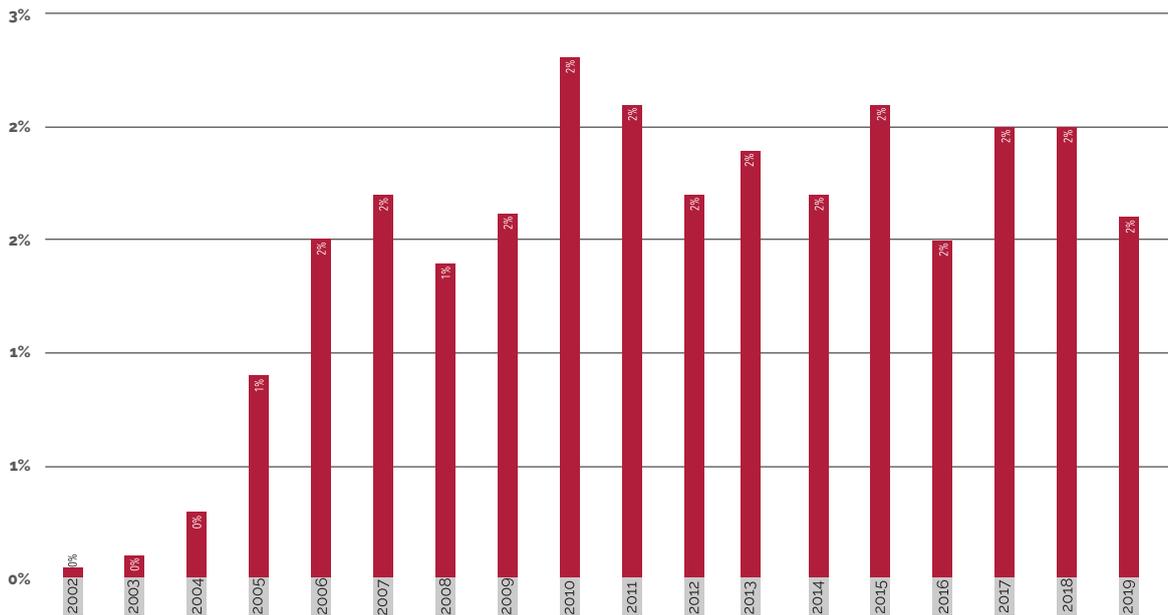
Table 12 : Breakdown of Public Institutions making Capital Transfers to Associations, Foundations and Others

(Bin TL)	Realization
Ministry of Culture and Tourism	83.462
Ministry of Youth and Sports	7.159
Ministry of Environment and Urbanization	1.768
Ministry of Industry and Technology	467
Total Budget of the Central Government	92.856

Source: SPO, e-budget System

In 2019, initially a total of TRY 10,046 million was envisaged for capital transfers; however, due to the additional allocations made within the framework of the legislation, the actual year-end budget allocation for capital transfers was TRY 19,919 million. By year-end, the total budget expenditure made out of these allocations stood at TRY 16,316 million. Of this amount, TRY 16,026 million consists of domestic capital transfers, TRY 290 million consists of international capital transfers.

The Share of Capital Transfers in the Total Budget for the 2002-2019 Period



Note: The data for the period 2002-2019 was produced based on the Central Government Budget

Based on the tables above, the share of capital transfers made to support associations, foundations, unions, and similar organisations within the overall budget is 0.18 % for 2018 and 0.56% for 2019.

Universal Norm	Referenced National and International Policy Documents	Indicators
5.6. Any form of state support should be governed by clear and objective criteria	Rec(2007)14	5.6.1. Objectivity and transparency of public funding application and evaluation processes
		5.6.2. Improvement in the CSO perception of funds provided by public institutions (transparency, equity, equality, etc.)
	Joint Guidelines on Freedom of Association (OSCE/ODIHR and Venice Commission)	5.6.3. Existence of publicly available information about the in-kind and in-cash support provided to CSOs

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When the funds transferred by public institutions to CSOs are realised by way of "call for project proposals", the guidelines, forms, and deadlines of these applications are announced on the websites of the relevant public institutions. However, apart from the call for project proposal itself, there is no clear information about the procedures, criteria, and evaluation processes by which the funds are transferred from public institutions to CSOs. This situation is considered problematic in terms of transparency, equity, and equality criteria. The Court of Accounts of the Republic of Turkey has established violations of the legislation particularly in connection with the aids made by Special Provincial Administrations to associations and foundations⁹¹.

Universal Norm	Referenced National and International Policy Documents	Indicators
5.7. CSOs must have access to tax benefits for various sources of income	Rec(2007)14	5.7.1. Tax liabilities of CSOs
	Joint Guidelines on Freedom of Association (OSCE/ODIHR and Venice Commission)	5.7.2. Tax benefits for CSOs (tax relief & exemption)

Although CSOs are referred to as "**non-profit organisations**" in Turkey, their taxation, including associations and new foundations, is almost the same as the taxation of real persons. Associations and foundations are subject to the Income Tax Law. As revealed in the study entitled "**Tax Legislation Related to Foundations and Associations in Turkey and Public Benefit Status**" prepared by TUSEV⁹², the few exemptions provided for associations and foundations in Turkey are reserved only for those with public benefit or tax-exempt status⁹².

Universal Norm	Referenced National and International Policy Documents	Indicators
5.8. Financial rules applicable to CSOs are clear and proportionate to their scale.	Guidelines for EU Support	5.8.1. Taxation procedures applicable to CSOs
		5.8.2. Accounting procedures applicable to CSOs
		5.8.3. Presence of units in relevant public institutions where CSOs can get support for accounting and financial transactions

In Turkey, CSOs (Associations and New Foundations) are not subject to corporate tax. However, even though Associations and New Foundations are not subject to corporate tax, their economic enterprises are subject to corporate tax according to Article 2(5) of the Corporate Tax Law. In addition to this, even if they do not have economic enterprises, Associations and New Foundations have to apply to the tax authorities they are registered with and obtain a tax number. In addition to the taxation procedures mentioned above, there are "Special Notices of Tax Status" issued by the tax authorities. These notices provide information as to the taxation procedures of the financial administration regarding the payments made by associations and new foundations. According to this:

- *In the event that the payments are made in a way that creates an employee-employer relationship based on a service contract, the payments made must be considered wages and taxed in accordance with Articles 61, 63, 94, 103 and 104 of the Income Tax Law,*
- *In the event that the payments are made to those who operate within the scope of the tradesmen tax exemption, 10% withholding tax must be applied on the payments made to them in accordance with Article 94/13-d of the Income Tax Law,*
- *No withholding must be applied on income tax regarding the payments made to those who do not benefit from the tradesmen tax exemption or do not have tax liability (in other words, those who do the cleaning work for once, not as a regular profession),*
- *Income tax withholding should not be applied on the payments made by tradesmen and artisans who are taxed in a simplified [small business taxation] or real procedure⁹³.*

In short, associations and new foundations are taxed with the salaries paid to contracted employees, and these taxes are deposited by associations and new foundations to the tax authorities they are registered with.

⁹¹Republic of Turkey Court of Accounts, 1st Chamber, Year 2017, Decision no: 10747, Decree no. 151, Date of Minutes: 5.3.2019, <<https://bit.ly/3wUAm4v>>; Republic of Turkey Court of Accounts, 3rd Chamber, Year 2018, Decision no: 342, Decree no. 20, Date of Minutes: 17.10.2019, <<https://bit.ly/3gdIFXU>>

⁹²Hayati Şahin, Tevfik Başak Ersen, Tax Legislation Related to Foundations and Associations in Turkey and Public Benefit Status, TUSEV, 2018, p.12-13, <https://bit.ly/3dZNFb8>; See also: Turkish Revenue Administration, Taxation Manual for Associations, 2012, <<https://bit.ly/3ebqCtU>>; Turkish Revenue Administration, Taxation Manual for Foundations, 2012, 93, <<https://bit.ly/3anOrhf>>

⁹³ Establishment and Tax Liabilities of Associations- Mahmut Bülent YILDIRIM, YMM, 28.11.2017, <<https://bit.ly/3agxyg3>>

Freedom of Association in Turkey

2.5. Right to seek, access and secure resources

In the cases that an invoice could not be received for the goods and services, sometimes associations and new foundations could issue expense slips and expense receipts for the payments they make. Also it should be noted that these are due to the taxes⁹⁴. In case these receipts are not issued properly, CSOs shall be punished with administrative fines in accordance with Article 32(d) of the Law on Associations, Article 11 of the Law on Foundations, and Article 353(1) of the Tax Procedure Law.

2.6. CSOs' freedom of expression and peaceful assembly

Universal Norm	Referenced National and International Policy Documents	Indicator
6.1. Everyone has the right to freedom of expression and the state must respect CSOs' freedom of expression.	UDHR, Article 18	6.1.1. Number of CSOs whose right to disseminate information, communicate with the public, and defend themselves or their target groups is restricted
	ECHR, Article 10	
	ECHR, Article 10	
	General Comment 34 of the UN Human Rights Committee	6.1.2. Number of professional media organisations facing defamation threat or legal sanctions
	Opinion CDL-AD (2011)035 of the Venice Commission	6.1.3. State-run media outlets' approach to CSOs having different perspectives
Report A/HRC/20/27 of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association	6.1.4. The extent of mainstream media coverage of CSOs with different perspectives (qualitative and quantitative evaluation)	

As of 2020, the ECtHR has found at least one violation of the ECHR by the Republic of Turkey in 3309 cases it examined. The Republic of Turkey ranks first among the Council of Europe member states in terms of the number of violation judgments delivered in 3309 cases⁹⁵. ECtHR held that Turkey had violated Article 10 of the ECHR on freedom of expression in 35 cases in 2019⁹⁶, and in 31 cases in 2020⁹⁷. As such, both in 2019 and 2020, Turkey ranked first among the member states of the Council of Europe which were found to have violated Article 10 of the ECHR safeguarding freedom of expression. This ranking is in line with the data in the World Press Freedom index of Reporters Without Borders. According to this index, Turkey ranked 157th with a score of 52.81 among 180 countries in 2019⁹⁸. In 2020, it ranked 154th with a score of 50.02⁹⁹. The table below shows the judgments where the Constitutional Court of the Republic of Turkey has found a violation of freedom of expression:

TCC Violation Judgments concerning Freedom of Expression		
2012-2018 ¹⁰⁰	2012-2019	2012-2020
261; %5,2	570; %6,6¹⁰¹	604; %4,2¹⁰²
Ranked 3rd in the list of rights with the highest number of violation judgements.	Ranked 3rd in the list of rights with the highest number of violation judgements.	Ranked 3rd in the list of rights with the highest number of violation judgements.

Based on the above-mentioned data, the number of violation judgements rendered by the TCC on freedom of expression is 309 in 2019 and 34 in 2020. Although there has been a significant decrease in TCC judgements in 2020, the violation judgements delivered in 2019 are approximately 1.15 times more than the total violation judgements rendered in previous years.

During this process, the **"Law on Making Amendments to the Law on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publication"**, which is closely related to CSOs and commonly known as the "Social Media Law" was adopted and published in the Official Gazette¹⁰³. As per the Law, social media platforms are required to open representative offices in Turkey, otherwise fines and restrictions shall be imposed. As a matter of fact, social media platforms such as Facebook, Instagram, Twitter, YouTube, Periscope, TikTok, which did not notify the ICTA on their designated representatives until 2 November 2020 were fined TRY 10,000 million¹⁰⁴.

94. Mintez Şimşek, Expense Receipts and Documents for Associations, 16.10.2018. <<https://bit.ly/3tAfnlm>>

95. The ECHR, Overview 1959-2020. <<https://bit.ly/3al3xnD>>

96. The ECHR, Annual Report 2019, p.135. <<https://bit.ly/32sJP4R>>

97. The ECHR in Facts & Figures 2020. <<https://bit.ly/2OEyZj6>>

98. Reporters Without Borders, World Press Index, 2019. <<https://rsf.org/en/ranking/2019>>

99. Reporters Without Borders, World Press Index, 2020. <<https://rsf.org/en/ranking/2020>>

100. Republic of Turkey TCC Presidency, 2018 Report. <<https://bit.ly/3xeV7lr>>

101. Republic of Turkey TCC Presidency, 2019 Report. <<https://bit.ly/3n5JX3R>>

102. Republic of Turkey TCC Presidency, 2020 Report. <<https://bit.ly/3tqF2ge>>

103. Official Gazette, Date 31 July 2020, no. 31202. <<https://bit.ly/3ghNMBH>>

104. Sosyal medya şirketlerine 10 milyon TL ceza [TRY 10 million penalty to social media companies], DW, 4.11.2020. <<https://bit.ly/3soNDyl>>

Freedom of Association in Turkey

2.6. CSOs' freedom of expression and peaceful assembly

Universal Norm	Referenced National and International Policy Documents	Indicator
6.2. Everyone has the right to peaceful assembly, and the state must respect CSOs' freedom of assembly.	UDHR, Article 20	6.2.1. Number of CSOs whose freedom of peaceful assembly is restricted
	ICCPR, Article 21	6.2.2. Number of CSOs under investigation or prosecution for exercising their freedom of peaceful assembly
	Reports A/HRC/23/39 and A/HRC/20/27 of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association	6.2.3. Interventions by law enforcement officers in the exercise of freedom of peaceful assembly
	Joint Guidelines on Freedom of Association (OSCE/ODIHR and Venice Commission)	6.2.4. Number of referrals to areas other than those requested by CSOs for exercising their freedom of peaceful assembly

As of 2020, the ECtHR held that in 108 cases the Republic of Turkey had violated Article 11 of the ECHR, which safeguards the freedom of assembly and association. 75% of the cases where the ECtHR found a violation of ECHR Article 11 by Turkey are cases concerning the freedom of peaceful assembly and demonstration. Turkey also ranks first among the member states of the Council of Europe in terms of violation of Article 11 of the ECHR. The table below shows the judgments where the Constitutional Court of the Republic of Turkey has found a violation of freedom of assembly in individual applications it examined:

TCC Violation Judgments concerning the Right to Assembly and Demonstration		
2012-2018 ¹⁰⁵	2012-2019 ¹⁰⁶	2012-2020 ¹⁰⁷
30; %0,6	53; %0,9	123; %0,9
10th in the list of rights with the highest number of violation judgements.	10th in the list of rights with the highest number of violation judgements.	10th in the list of rights with the highest number of violation judgements.

According to the table above, after examining the individual applications filed on freedom of assembly, TCC delivered violation judgements in 23 cases in 2019 and 70 cases in 2020. With respect to violation of freedom of assembly, the violation judgements delivered by TCC only in 2020 is 1.4 times more than the total violation judgements rendered in the previous 7 years.

Since 2017, the Association for Monitoring Equal Rights (AMER-ESHID) continues to monitor peaceful assemblies, demonstrations, and marches in Turkey, announcing the findings of monitoring exercise through periodical bulletins. According to the findings of AMER monitoring, the public administration banned many peaceful assemblies, demonstrations, and marches in 2019 and 2020, and the police officers inflicted violence on the demonstrators¹⁰⁸:

AMER Monitoring 2019 -2020			
January-September 2019		January – August 2020	
Banned	Intervened	Banned	Intervened
169	1014	208	405

A comparison of 2019 and 2020 data suggests a decrease in police intervention, yet a significant increase in the number of assemblies, demonstrations and marches that are banned. This may be attributable to the measures taken due to the Covid-19 pandemic. In line with these restrictions, there has been a sharp decrease in peaceful assemblies, demonstrations, and marches.

105. Republic of Turkey TCC Presidency, 2018 Report. <<https://bit.ly/3xeV7lr>>

106. Republic of Turkey TCC Presidency, 2019 Report. <<https://bit.ly/3n5JX3R>>

107. Republic of Turkey TCC Presidency, 2020 Report. <<https://bit.ly/3tqF2ge>>

108. AMER, Publications, Press Releases. <<https://www.esithaklar.org/yayinlar/>>

Chapter 3

Conclusion and
Recommendations

Conclusion 1:

The amendments made to Articles 23 and 32 of the Law No. 7226 on Associations as well as the additional provisional article introduced through the **“Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction”** do adversely affect the recruitment of new members to associations. It is considered that this regulation is not compatible with international documents protecting the freedom of association and means the restriction of constitutional rights.

Recommendation 1:

The amendments made to Articles 23 and 32 of the Law on Associations as well as the additional provisional article introduced into the said law by way of the omnibus law no. 7226 should be repealed completely.

Conclusion 2:

The amendments made to the Articles 6, 9, 16, and 29 of the Law on Aid Collection through the **“Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction”** have made it more difficult for associations to create their own resources.

Recommendation 2:

The amendments made to Articles 6, 9, 16, and 29 of the Law on Aid Collection by way of the **“Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction”** should be completely revoked. Associations and New Foundations should be exempted from the "permission requirement" stipulated in the Law on Aid Collection, and should only be subject to a notification requirement.

Conclusion 3:

The secondary legislation drafted on the basis of the Law on Associations is extremely fragmented, far from being comprehensible and restricts the exercise of freedom of association.

Recommendation 3:

The Law on Associations and its secondary legislation should be reviewed with a participatory method and a new regulation should be prepared in line with international standards. The relevant legislation concerning new foundations should also be included to this process. Also, it is critical to ensure active and meaningful participation of civil society.

Conclusion 4:

The level of CSO participation and input in the legislative processes, even on issues that concern them, is extremely limited.

Recommendation 4:

A framework law should be drafted which will make it an obligation to engage CSOs in legislation- and policy-making processes on issues relating to them. This law should be prepared with the participation of CSOs right from the drafting stage, and CSOs must be able to express their opinions.

Conclusion 5:

The legal framework concerning CSOs is extremely complex. Provisions on taxation, procedures and notifications are fragmented and difficult to understand. Moreover, CSOs may be subjected to administrative fines during the notification and declaration processes.

Recommendation 5:

The legal framework concerning CSOs should be simplified through a broad consultation process with CSOs. In cases where CSOs do not fulfil their obligations regarding notifications, declarations, and books and records they are obliged to keep, the sanctions should be proportionate, and corrective interim measures should be introduced instead of immediate penalties. Measures such as granting additional time and issuing a warning letter should be implemented in the first place. Penal sanctions should only be resorted in case of repeated failure to fulfil obligations despite the interim measures.

Conclusion 6:

Restrictions on CSOs that provide aid to refugees and other vulnerable groups in Turkey and conduct research on this issue negatively affect both CSO activities as well as those who benefit from CSO activities.

Recommendation 6:

Restrictions on CSOs that provide aid to refugees and other vulnerable groups in Turkey and conduct research on this issue should be lifted.

Conclusion 7:

Public institutions are reluctant to collect information and data within the scope of their duties and to share them with the public by anonymising them. The authorities reject the right to information petitions submitted in this regard citing especially Article 7 of the Law no. 4982 on the Right to Information.

Recommendation 7:

Comprehensive information and data on CSOs should be collected and shared with the public in an approach that will enable a better analysis of the current situation in the civil society field.

ANNEX-1

The table indicating the amendments introduced to the

Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction

State of Affairs Prior to the Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction (Date 2020; Law no. 7262)

**The Law on Associations (Date 2004; Law no. 5253)
Objective and scope**

Article 1- The objective of this law, which governs the associations, branches and representations of the associations, federations, confederations and foreign associations as well as the Turkey branches and representations of non-profit organisations - other than associations and foundations - that have headquarters abroad, is to set out provisions relating to the activities, obligations, auditing of the branches and representations of the non-profit organisations in Turkey that are subject to restriction or permission, as well as the applicable penalties and other matters pertaining to the associations.

**The Law on Associations (Date 2004; Law no. 5253)
The right to form association**

Article 3- Real and legal persons with capacity to act have the right to form an association without prior permission. However, the special laws put forward some limitations concerning members of the Turkish Armed Forces, law enforcement officers and officials working in public institutions and organisations.

Minors over 15 having the necessary power of discernment may either establish children's associations or become a member in order to foster and protect their physical, mental and moral capabilities; their rights to sport, education and training, social and cultural existence; their family structure and private lives with a written permission given by their legal representatives.

Minors who have completed the age of 12 can become members of children's associations with the permission of their legal representatives, but cannot take part in the executive and supervisory boards.

Those over the age of 18 cannot become founders or members of children's associations.

State of Affairs Prior to the Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction (Date 2020; Law no. 7262)

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The right to form association**

Article 3- Real and legal persons with capacity to act have the right to form an association without prior permission. However, the special laws put forward some limitations concerning members of the Turkish Armed Forces, law enforcement officers and officials working in public institutions and organisations.

(Additional paragraph: 27/12/2020-7262/12 art.) "Even if the time-limits stipulated in Article 53 of the Turkish Criminal Code no. 5237 dated 26/9/2004 have elapsed or have been pardoned; those convicted of crimes under the Law on the Prevention of the Financing of Terrorism no. 6415 dated 7/2/2013 as well as crimes of production and trade of narcotic drugs or psychotropic substances or laundering of assets acquired from an offence as prescribed in the Turkish Criminal Code cannot be assigned to legal organs of associations other than the general assembly. Those who get convicted of the above crimes after being elected to the legal organs of associations shall be terminated from their duties in organs. Should there be a decision made for the restitution of restricted rights, the provisions of this paragraph shall not be applicable."

Minors over 15 having the necessary power of discernment may either establish children's associations or become a member in order to foster and protect their physical, mental and moral capabilities; their rights to sport, education and training, social and cultural existence; their family structure and private lives with a written permission given by their legal representatives.

Minors who have completed the age of 12 can become members of children's associations with the permission of their legal representatives, but cannot take part in the executive and supervisory boards.

Those over the age of 18 cannot become founders or members of children's associations.

**The Law on Associations (Date 2004; Law no. 5253)
Obligation to submit declarations and auditing**

Article 19- The associations are obliged to submit their declarations containing the year-end results of the activities, income and expenditure transactions to the local administrative authority each year, until the end of April. The procedures and principles relating to preparation of the declaration are adapted in a regulation. Where deemed necessary, the Ministry of Interior or the local administrative authority may start auditing to determine whether the associations conduct their activities in parallel with the objectives stated in their statutes and whether records and

**The Law on Associations (Date 2004; Law no. 5253)
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books of associations are kept in compliance with laws. Law enforcement officers cannot be assigned for this auditing. The auditing to be performed by the Ministry of Interior and the local administrative authority shall be made within the business hours. Such audits are notified to the associations at least twenty-four hours in advance.

The authorities of the association are obliged to show all kinds of information, documents and records to the officers assigned with auditing duty, and to enable their access to their building and premises.

During the auditing, in case of determination of any activity that may constitute an offence, the local administrative authority shall immediately notify the Public Prosecutor's Office and the association.

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books of associations are kept in compliance with laws. (Additional sentences: 27/12/2020-7262/13 art.) It is essential that these audits are performed annually, no later than every three years, in line with the risk assessments to be conducted. Law enforcement officers cannot be assigned for this auditing. The auditing to be performed by the Ministry of Interior and the local administrative authority shall be made within the business hours. Such audits are notified to the associations at least twenty-four hours in advance.

(Additional sentences: 27/12/2020-7262/13 art.) Except for the civil inspectors of the Ministry of Interior and the auditors of associations, the amount of the fee payable to the public officials to be assigned to perform audits is determined jointly by the Ministry of Interior and the Ministry of Treasury and Finance and is covered by the allowance to be earmarked in the budget of the Ministry of Interior. The procedures and principles regarding those to be assigned in these audits are prescribed in the regulation. The authorities of the association are obliged to show all kinds of information, documents and records to the officers assigned with auditing duty, and to enable their access to their building and premises.

(Additional paragraph: 27/12/2020-7262/13 art.) Those assigned to perform an audit shall have the authority to request relevant information and documents from public institutions and organisations, real and legal persons including banks, limited to the scope of the duty. Those who are requested to impart information cannot avoid providing information and documents by relying on the provisions written in special laws.

(Additional paragraph: 27/12/2020-7262/13 art.) Without prejudice to the provisions in special laws, if so requested by the Ministry of Interior or the local administrative authority, all kinds of premises, facilities, and enterprises owned by associations as well as their affiliates shall be audited by relevant ministries and agencies, limited to the scope of the duty.

(Additional paragraph: 27/12/2020-7262/13 art.) During the audit, in cases where specific expertise or technical knowledge is required, an expert may be appointed by the Ministry of Interior, governorships and district governorships. The procedures and principles regarding the appointment of the expert are prescribed in the regulation. The amount of the fee payable to the expert is determined jointly by the Ministry of Interior and the Ministry of Treasury and Finance and is covered by the allowance to be earmarked in the budget of the Ministry of Interior.

During the auditing, in case of determination of any activity that may constitute an offence, the local administrative authority shall immediately notify the Public Prosecutor's Office and the association.

**The Law on Associations (Date 2004; Law no. 5253)
Aid collection from abroad**

Article 21- Associations may receive in-kind and in-cash aid from persons, institutions, and organisations abroad, provided that they notify the local administrative authority beforehand. The method and content of the notification are prescribed in the regulation. It is obligatory to receive in-cash aids through banks.

**The Law on Associations (Date 2004; Law no. 5253)
International aids**

Article 21- Associations may receive in-kind and in-cash aid from persons, institutions, and organisations abroad, provided that they notify the local administrative authority beforehand. The format and content of the notification are prescribed in the regulation. It is obligatory to receive in-cash aids through banks. (Additional paragraph: 27/12/2020-7262/14 art.) Aids to be made abroad shall be

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The Law on Associations (Date 2004; Law no. 5253)
Associations subject to restrictions and prohibited activities

Article 30- Associations;

- a) May not carry out activities other than those indicated in the Statute as the objective of the association.
- b) May not be founded to serve a purpose expressly prohibited by the Constitution or the laws, or to execute acts which may constitute an offence according to the laws.
- c) May not engage in preparatory educational or training activities for the military service, national defence, and security services, and may not open camps or training centres for this purpose. Besides, the associations may not use special cloths or uniforms for their members.

The Law on Associations (Date 2004; Law no. 5253)
Penalty clauses

Article 32- (Amended: 23/1/2008-5728/558)

Those acting contrary to this Law are subject to the following penalties:

- a) An administrative fine, at the amount of five hundred Turkish lira, is imposed to those who establish associations although not entitled to do so; those who become a

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notified to the local administrative authority by associations prior to the remittance of the aid abroad. The format and content of the notification as well as the procedures and principles regarding the aid to be made abroad are prescribed in the regulation.

The Law on Associations (Date 2004; Law no. 5253)
Associations subject to restrictions and prohibited activities

Article 30- Associations;

- a) May not carry out activities other than those indicated in the Statute as the objective of the association.
- b) May not be founded to serve a purpose expressly prohibited by the Constitution or the laws, or to execute acts which may constitute an offence according to the laws.
- c) May not engage in preparatory educational or training activities for the military service, national defence and security services, and may not open camps or training centres for this purpose. Besides, the associations may not use special cloths or uniforms for their members.

"Suspension [of the legal organs of associations and individuals sitting in these organs] from duties and temporary suspension of [association] activities AR-TICLE-30/A.-(AdditionalSubparagraph: 27/12/2020-7262 / 15 art.)

ARTICLE 30/A -In relation to the activities of an association, in cases where those sitting in the legal organs of associations other than the general assembly or other related personnel face prosecution in connection with the offences under the Law on the Prevention of the Financing of Terrorism as well as the crimes of the production and trade of narcotic drugs or psychotropic substances or the crimes of laundering the assets acquired from an offence as prescribed in the Turkish Criminal Code, these persons or the organs they serve may be suspended from their duties by the Minister of Interior as an interim measure.

In the event that the measure specified in the first paragraph is not sufficient and any resulting delay is deemed to be objectionable, the Minister of Interior may temporarily suspend the activities of the association and immediately lodges an application with the court. The court make its decision on temporary suspension of activity within forty-eight hours and proceeds with the judicial proceedings continue in accordance with Article 89 of the Turkish Civil Code. The parties in question may always request the annulment of the order for temporary suspension of activity. The court shall decide on such requests without delay.

With respect to the appointments to be made to replace the legal organs [of associations] and their members who were temporarily suspended in accordance with the first paragraph [of Article 30/A] and subparagraph (f) of the first paragraph of Article 32; Article 27 [additional subparagraph of Law no. 5253] and the relevant provisions of the Turkish Civil Code shall apply.

The Law on Associations (Date 2004; Law no. 5253)
Penalty clauses

Article 32- (Amended: 23/1/2008-5728/558)

Those acting contrary to this Law are subject to the following penalties:

- a) An administrative fine, at the amount of five hundred Turkish lira, is imposed to those who establish associations although not entitled to do so; those who become a

State of Affairs Prior to the Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction (Date 2020; Law no. 7262)

member of an association although his/her membership in associations is restricted by the laws; those who purposely admit persons to membership although his/her membership is restricted by the laws, or the executives of the association who neglect to write off registration of such persons, or others who lost the credentials of a member.

b) An administrative fine, at the amount of five hundred Turkish lira, is imposed to the executives of the association, who hold the meetings of the general assembly contrary to the laws and the Statute, or convene the meetings at a place other than the head office or any other place not indicated in the Statute. Besides, the court may adjudicate cancellation of the general assembly meetings which are held contrary to the laws and the Statute.

c) An administrative fine corresponding to twenty five percent of the amount transferred from abroad is imposed to the executives of the association if the foreign fund in the form of aid is not received through the intermediary of the banks.

d) Executives of the association who do not keep the statutory books or records of the association or use uncertified statutory books shall be punished by a fine of three months to one year in prison or a punitive fine. Executives of the association and persons who are responsible for keeping the books shall be imposed an administrative fine of five hundred Turkish lira in case of not keeping these statutory books or records of the association properly. Persons who fundraise without authorization document and executives of the association who admit the person(s) to fundraise without authorization document shall be imposed to an administrative fine of one thousand Turkish lira.

e) Unless the offences do require heavier punishment, imprisonment from six months to two years and a punitive fine at the amount of five hundred Turkish lira is imposed to the persons who involve in mischief during the elections and voting, counting and breakdown of votes in the general assemblies and other organs of the association, who falsify, destroy, or hide the books or records.

f) The penalty set forth for the malfeasance offence in the Turkish Criminal Code is imposed to the chairperson and members of the board of directors, or auditors and other personnel of the association who use or produce or pledge or sell, conceal, destroy, deny, falsify, or modify a cash or a paper, bill or other properties with monetary value for their own benefit or for the benefit of others. Furthermore, during the proceedings, the court may decide to temporarily remove the defendants from their duties in the organs of the association.

g) An administrative fine, at the amount of one thousand Turkish lira, is imposed to those who open or operate the Turkey representations or branches of foreign associations and non-profit organisations which have headquarters abroad without the permission of the competent authorities; those who establish cooperation with these associations or admit members to these associations. The representations and branches which are opened unlawfully shall be closed.

h) An administrative fine, at the amount of five hundred Turkish lira, is imposed to the executives of the printing office who fail to fulfil the obligations stipulated in Article 16.

i) An administrative fine, at the amount of one hundred Turkish lira, is imposed to those who do not meet the obligations set out in Article 17.

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member of an association although his/her membership in associations is restricted by the laws; those who purposely admit persons to membership although his/her membership is restricted by the laws, or the executives of the association who neglect to write off registration of such persons, or others who lost the credentials of a member.

b) An administrative fine, at the amount of five hundred Turkish lira, is imposed to the executives of the association, who hold the meetings of the general assembly contrary to the laws and the Statute, or convene the meetings at a place other than the head office or any other place not indicated in the Statute. Besides, the court may adjudicate cancellation of the general assembly meetings which are held contrary to the laws and the Statute.

c) An administrative fine corresponding to twenty five percent of the amount transferred from abroad is imposed to the executives of the association if the foreign fund in the form of aid is not received through the intermediary of the banks.

d) Executives of the association who do not keep the statutory books or records of the association or use uncertified statutory books shall be punished by a fine of three months to one year in prison or a punitive fine. Executives of the association and persons who are responsible for keeping the books shall be imposed an administrative fine of five hundred Turkish lira in case of not keeping these statutory books or records of the association properly. Persons who fundraise without authorization document and executives of the association who admit the person(s) to fundraise without authorization document shall be imposed to an administrative fine of one thousand Turkish lira.

e) Unless the offences do require heavier punishment, imprisonment from six months to two years and a punitive fine at the amount of five hundred Turkish lira is imposed to the persons who involve in mischief during the elections and voting, counting and breakdown of votes in the general assemblies and other organs of the association who falsify, destroy, or hide the books or records.

f) The penalty set forth for the malfeasance offence in the Turkish Criminal Code is imposed to the chairperson and members of the board of directors, or auditors and other personnel of the association who use or produce or pledge or sell, conceal, destroy, deny, falsify, or modify a cash or a paper, bill, or other properties with monetary value for their own benefit or for the benefit of others. Furthermore, during the proceedings, the court may decide to temporarily remove the defendants from their duties in the organs of the association.

g) An administrative fine, at the amount of one thousand Turkish lira, is imposed to those who open or operate the Turkey representations or branches of foreign associations and non-profit organisations which have headquarters abroad without the permission of the competent authorities; those who establish cooperation with these associations or admit members to these associations. The representations and branches which are opened unlawfully shall be closed.

h) An administrative fine, at the amount of five hundred Turkish lira, is imposed to the executives of the printing office who fail to fulfil the obligations stipulated in Article 16.

i) An administrative fine, at the amount of one hundred Turkish lira, is imposed to those who do not meet the obligations set out in Article 17.

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j) A punitive fine at that is not less than 100 day is imposed to those who intentionally submit wrong information in the declaration mentioned in Article 19.

k) Those who do not comply with the obligation stipulated in the third paragraphs of Articles 9 and 19 as well as those who fail to apply to the competent court that presides over the jurisdiction where the headquarters of the association is located to obtain a certificate of loss within fifteen days from the date of learning that the mandatory books and documents to be kept by the association have become unreadable or lost due to reasons beyond control despite due diligence and care, or those who fail to present this document during the audit shall be sentenced to imprisonment up to three months or a punitive fine. In case of violation of the obligations in Article 21, the same penalty shall be applied.

l) An administrative fine, at the amount of five hundred Turkish Lira, is imposed to the executives of the association and representatives stipulated in Article 24 who fail to fulfil the notification requirement stipulated in Articles 22 and 24 and who fail to submit a declaration as per Article 19 of this Law.

m) An administrative fine, at the amount of five hundred Turkish Lira is imposed to the executives of the association who open the premises mentioned in Article 26 without permission, and the premises which opened unlawfully may be closed with decision of the competent authority.

n) Unless the offences do require heavier punishment, a punitive fine of not less than hundred days, is imposed to the executives of the associations who use the names in Article 28 without permission and act contrary to the prohibitions stated in Article 29, in spite of the warnings made in writing, and also decision is taken for the dissolution of the association.

o) A punitive fine of not less than fifty days is imposed to the executives of the association who act contrary to the restrictions stipulated in paragraph (a) of Article 30. Unless the offences do require a heavier punishment, imprisonment from one year to three year is imposed to the executives of the association who execute acts contrary to paragraph (c) of the same Article, and decision is taken to close down the premises.

p) Unless the offences do require a heavier punishment, imprisonment from one year to three years and a punitive fine of not less than 50 days is imposed to the executives of associations who act contrary to paragraph (b) of article 30, and establish associations prohibited in the same paragraph, and also decision is taken for the dissolution of the association.

r) An administrative fine, at the amount of one thousand Turkish Lira is imposed to those who do not meet the obligations stipulated in Article 31.

s) (Additional paragraph: 25/3/2020-7226/22 art.) An administrative fine of five hundred Turkish lira is imposed to the executives of the association who do not fulfil the notification requirement stipulated in Article 23.

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j) A punitive fine at that is not less than 100 days is imposed to those who intentionally submit wrong information in the declaration mentioned in Article 19.

k) (Amended: 27/12/2020-7262/16) Those who do not comply with the obligation stipulated in the third paragraphs of Articles 9 and 19 as well as those who fail to apply to the competent court that presides over the jurisdiction where the headquarters of the association is located to obtain a certificate of loss within fifteen days from the date of learning that the mandatory books and documents to be kept by the association have become unreadable or lost due to reasons beyond control despite due diligence and care, or those who fail to present this document during the audit shall be sentenced to imprisonment from three months to one year or a punitive fine. Those who act contrary to the obligations in the first and second paragraphs of Article 21 shall be fined from five thousand to one hundred thousand Turkish lira.

l) An administrative fine, at the amount of five hundred Turkish Lira, is imposed to the executives of the association and representatives stipulated in Article 24 who fail to fulfil the notification requirement stipulated in Articles 22 and 24 and who fail to submit a declaration as per Article 19 of this Law.

m) An administrative fine, at the amount of five hundred Turkish Lira is imposed to the executives of the association who open the premises mentioned in Article 26 without permission, and the premises which opened unlawfully may be closed with decision of the competent authority.

n) Unless the offences do require heavier punishment, a punitive fine of not less than hundred days, is imposed to the executives of the associations who use the names in Article 28 without permission and act contrary to the prohibitions stated in Article 29, in spite of the warnings made in writing, and also decision is taken for the dissolution of the association.

o) A punitive fine of not less than fifty days is imposed to the executives of the association who act contrary to the restrictions stipulated in paragraph (a) of Article 30. Unless the offences do require a heavier punishment, imprisonment from one year to three year is imposed to the executives of the association who execute acts contrary to paragraph (c) of the same Article, and decision is taken to close down the premises.

p) Unless the offences do require a heavier punishment, imprisonment from one year to three years and a punitive fine of not less than 50 days is imposed to the executives of associations who act contrary to paragraph (b) of article 30, and establish associations prohibited in the same paragraph, and also decision is taken for the dissolution of the association.

r) An administrative fine, at the amount of one thousand Turkish Lira is imposed to those who do not meet the obligations stipulated in Article 31.

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An administrative fine of five hundred Turkish lira is imposed to the executives of the association who do not fulfil the notification requirement stipulated in Article 23.

t) (Additional paragraph: 27/12/2020-7262/16 art.) "t) Those who act contrary to the fourth paragraph of Article 19 shall be fined from five thousand Turkish lira to twenty thousand Turkish lira. However, in the event that such a contravention occurs within public institutions and organisations, upon the

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notification to be made by the competent authority authorised in accordance with the third paragraph of Article 33, necessary disciplinary provisions shall be taken against those who work at the public institution and organisation in question, regardless of their employment contract, and the outcome shall be notified to the competent authority.

u) (Additional paragraph: 27/12/2020-7262/16) In cases where transactions of income, collection, expenditures and payments over seven thousand Turkish lira is not performed through banks and other financial institutions or the Postal and Telegraph Corporation, executives of the association shall be imposed an administrative fine of up to 10% of the transaction amount for each transaction. With respect to the monetary limit stipulated in this subparagraph; effective from the beginning of each calendar year, the monetary limit applied in the previous year shall be increased by the revaluation ratio determined and announced by the Ministry of Treasury and Finance in accordance with the provisions of the repeated article 298 of the Tax Procedure Law no. 213 dated 4/1/1961. The fraction of a Turkish Lira shall not be taken into account in the calculation of the limits determined in this procedure.

(Additional paragraph: 27/12/2020-7262/16) Those who perform duties in the legal organs of associations in contravention of the third paragraph of Article 3 of this Law as well as the executives of associations who do not terminate their respective duties within seven days despite the written warnings issued shall be subjected to an administrative fine of one thousand five hundred Turkish lira. In the event that these persons in the organs of the association are not terminated from their duties within thirty days despite the second written warning issued by the local administrative authority, the procedural action shall be taken in accordance with Article 89 of the Turkish Civil Code.

**The Law on Associations (Date 2004; Law no. 5253)
Applicable provisions**

Article 36- Including the penalty clauses, the provisions of this Law are applicable for the foreign associations as well as the branches and representative offices of non-profit organisations with their headquarters abroad other than associations and foundations. Where there is no provision in this Law on this subject, the relevant provisions of the Turkish Civil Code are applied.

**The Law on Associations (Date 2004; Law no. 5253)
Applicable provisions**

Article 36- (Amended:27/12/2020-7262/17) The provisions of this Law shall also apply to branches of associations, governing organisations of associations and foundations, Turkey branches or representative offices of associations, foundations or other non-profit organisations which have headquarters abroad, along with the penal provisions governing their permissions to operate or engage in cooperation in Turkey. In cases where there is no provision in this Law, the provisions of the Turkish Civil Code shall apply.

**The Law on Aid Collection (Date 1983; No.2860)
Obligation to obtain permission**

Article 6- Individuals and organisations may not collect aid without obtaining permission from the competent authority. However, the President [of the Republic] is authorized to determine and declare which public-benefit associations, institutions, and foundations are allowed to collect aid without obtaining permission.

(Amended paragraph: Article 77 of the Statutory Decree no. 700 of 2 July 2018) Aid collection activities undertaken without permission shall be immediately enjoined by the law enforcement offices and those responsible shall be prosecuted

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December 2020) In cases where it is established that the unauthorised aid collection activity is carried out on the internet, the relevant governorship or the Ministry of Interior shall notify the content and/or the hosting provider via e-mail or other means of communication about the respective domain name, IP address and information gathered through similar sources and request the removal of content related to the aid collection activity. In the event that the content is not removed by the content and/or hosting provider within twenty-four hours at the latest, or information regarding the content and hosting provider cannot be identified or notifications cannot be made due to technical reasons, the relevant governorship or the Ministry of Interior shall lodge an application with the Magistrate's Court to request a blocking order for the online content. The judge makes its ruling on the request within twenty-four hours at the latest without holding a hearing and directly notifies the Information and Communication Technologies Authority for taking necessary action. An objection can be filed against this court order in accordance with the provisions of the Turkish Code of Criminal Procedure no. 5271 dated 4/12/2004. The blocking order issued within the scope of this paragraph is enforced by means of blocking access to the content.

**The Law on Aid Collection (Date 1983; No.2860)
Review of the application and permission**

Article 9- Upon application, the authorities entitled to issue permission carry out a detailed review on the subjects such as importance of the work, competence of those undertaking the aid collection activity, compatibility of the services to be provided with the purpose [of the organisation] and public interest, whether the aid collection activity will be satisfactory, or not and other matters which are deemed necessary. The result of the review is notified to the applicant within latest two months.

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Article 9- Upon application, the authorities entitled to issue permission carry out a detailed review on the subjects such as importance of the work, competence of those undertaking the aid collection activity, compatibility of the services to be provided with the purpose [of the organisation] and public interest, whether the aid collection activity will be satisfactory, or not and other matters which are deemed necessary. The result of the review is notified to the applicant within latest two months.

(Additional paragraph: Article 8 of the Law no. 7262 of 27 December 2020) The procedures and principles regarding the aid to be made domestically and abroad are prescribed in a regulation.

**The Law on Aid Collection (Date 1983; No.2860)
Auditing of activities**

Article 16- Whether the net income generated by aid collection activities is used in line with the intended purpose is subject to the supervision and control of the competent authority granting permission. The authority issuing permission assigns sufficient number of controllers among their staff or outside the institution and notifies their names to the concerned bodies. The concerned bodies are obliged to deliver all kinds of information and documents relating to aid collection activity to the controllers. Additional control may be undertaken by the Directorate General of Foundations or the Ministry of Culture and Tourism if permission is obtained for collection of aid with the purpose of restoring historical artworks and monuments.

**The Law on Aid Collection (Date 1983; No.2860)
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Article 16- Whether the net income generated by aid collection activities is used in line with the intended purpose is subject to the supervision and control of the competent authority granting permission. The authority issuing permission assigns sufficient number of controllers among their staff or outside the institution and notifies their names to the concerned bodies.

(Amended paragraph: Article 9 of the Law no. 7262 of 27 December 2020) Those assigned to perform audit and mandated to grant permission shall have the authority to request relevant information and documents from parties related to the aid collection activity, public institutions and organisations, real and legal persons including banks provided that the request is limited to the scope of duty. Those who are requested to impart information cannot avoid providing information and documents by relying on the provisions written in special laws.

Additional control may be undertaken by the Directorate General of Foundations or the Ministry of Culture and Tourism if permission is obtained for collection of aid with

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**The Law on Aid Collection (Date 1983; No.2860)
Penalties**

Article 29 (Amended Article: Article 407 of the Law no. 5728 of 23 January 2008) Those who collect aid without permission, contrary to the provisions of this Law, shall be subjected to an administrative fine of seven hundred Turkish lira. An administrative fine of five hundred Turkish lira shall be imposed to those who collect aid outside of the permitted place.

Those who act contrary to the other provisions of this Law shall be fined two hundred Turkish lira provided that their actions do not constitute a criminal offence.

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**The Law on Aid Collection (Date 1983; No.2860)
Penalties**

Article 29 (Amended Article: Article 10 of the Law no. 7262 of 27 December 2020) Those who collect aid without permission, contrary to the provisions of this Law, shall be subjected to an administrative fine from five thousand Turkish lira to one hundred thousand Turkish lira. In cases where unauthorised aid collection takes place on the internet, an administrative fine from ten thousand Turkish lira to two hundred thousand Turkish lira shall be imposed.

Those who aid and abet unauthorised aid collection by providing space and necessary means and do not terminate their activity despite the warnings issued shall be subjected to an administrative fine of five thousand Turkish lira.

An administrative fine from five thousand Turkish lira to one hundred thousand Turkish lira shall be imposed to the board members in charge who collected and sent aid abroad in violation of the procedures and principles set forth in Article 9 of this Law.

Those who act contrary to the third paragraph of Article 16 of this Law shall be fined from five thousand Turkish lira to twenty thousand Turkish lira. However, in the event that such a contravention takes place within public institutions and organisations, upon the notification to be made by the relevant agency authorised in accordance with the ninth paragraph, necessary disciplinary provisions shall be taken against those who work at the public institution and organisation in question, regardless of their employment contract, in accordance with the relevant legislation, and the resulting measures shall be notified to the competent authority.

Apart from the permitted form of aid collection, those who collect aid without permission according to other forms of aid collection specified in Article 5, shall be sanctioned with an administrative fine from five thousand Turkish lira to twenty thousand Turkish lira if they do not terminate their activity despite the warnings issued.

Should those who collect aid outside the location authorised by the competent authority that grants necessary permissions do not terminate their activity despite the warnings issued, they shall be sanctioned with an administrative fine from five thousand Turkish lira to twenty thousand Turkish lira.

Those who act contrary to the other provisions of this Law shall be fined one thousand Turkish lira provided that their actions do not constitute a criminal offence.

The competent authority that grants permission to collect aid is also authorised to decide on the administrative sanctions prescribed in this Article. In case of an unauthorised aid collection, the governor shall decide on administrative sanctions. The governor may delegate this authority to deputy governors or district governors.

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This project is financed by the European Union

Capacity Building for CSOs and Civil Networks for Further Development of Freedom of Association and Right to Participation TR2014/DG/04/A1-02/001

Since it was established in 2004, Civil Society Development Centre (STGM – www.stgm.org.tr) with 15 years' experience, has been carrying out various projects. The "Capacity Building for CSOs and Civil Networks for Further Development of Freedom of Association and Right to Participation", whose short name is "the Right to Participation", is one of the projects carried out by STGM.

The Right to Participation project aims to contribute to ensure meaningful civil participation in political decision-making and to exercise the right to freedom of association.

The project is financed by European Union. The Republic of Turkey Ministry of Foreign Affairs EU Directorate is the Lead Institution as well as the End Beneficiary of the Action. The Republic of Turkey Ministry of Treasury and Finance Central Finance and Contracts Unit (CFCU) is the Contracting Authority of the project. Civil Society Development Centre (STGM), Capacity Development Association (KAGED) and Istanbul Bilgi University Centre for Civil Society Studies (CCSS) are responsible for the implementation of the Action. As part of the project, KAGED is conducting capacity building activities for civil networks and CCSS is conducting a Mentorship programme.

The activities are carried out by STGM could be grouped under two headings: Freedom of Association and Rights to Participation.

1- Activities for the Freedom of Association by STGM: Freedom of Association Training Sessions; Help Desk Service; Institutional Coaching Programme, Monitoring & Reporting Legal Environment in Relation to the Freedom of Association; Surveying the Capacities/Limitations of CSOs; info notes on the freedom of association. The publications of project are available at www.katilimhakki.org.

2- Activities for the Right to Participation by STGM: The Right to Participation Training Programme; desktop research on the right to participation; 6 local sharing experience workshops, 4 study visits to EU Member States by Joint Teams (CSOs & Public) and two-day national sharing experience workshop in Ankara.



www.katilimhakki.org

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