




## POLICY PAPER


**Supporting the rule of law and the dismissed civil society in Turkey through reoriented IPA funds**

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## 1. Introduction and background

As a negotiating candidate country to the European Union, at least officially, Turkey continues to benefit from pre-accession assistance (IPA). Turkey's negotiating process, in fact, has been ailing for a long time and gradually reaching the standstill point, duly taken into account by the European Council on 26 June 2018, which declared:

“The Council notes that Turkey has been moving further away from the European Union. Turkey's accession negotiations have therefore effectively come to a standstill and no further chapters can be considered for opening or closing and no further work towards the modernization of the EU-Turkey Customs Union is foreseen.”

Political conducts of the heavy-handed administration of president Recep Tayyip Erdoğan, particularly since July 2016, came to worsen an already substandard negotiation process, in which parties were showing little or no enthusiasm since 2008-9. The Commission's regular progress reports recorded, over years, a systematic decline in the pre-accession outcomes. Finally, Turkey fell noticeably short of complying with the Copenhagen Political Criteria, a *conditio sine qua non* to continue to negotiate, although that fact was never plainly inscribed in any official document.

The Commission, while taking due note of the above-mentioned Council declaration, continued its work to revise Turkey's IPA II allocations and finalized on 10 August 2018 a new set<sup>1</sup> that addresses the state of affairs (hereafter the Commission Paper). IPA funds were underutilized due to poor pre-accession preparations, but new needs have emerged in the meantime. Gross deficiencies on the rule of law have become evident by the day. And the civil society in Turkey has been facing unprecedented challenges, whereby its space for action and overall maneuverability has been shrinking day-by-day. The Commission Paper has taken the initiative to duly address these developments.

We can safely say that the state of affairs won't change, neither in Turkey, nor in Europe, in the foreseeable future. Thus, the Commission's proposals need to be properly implemented. The purpose of the policy paper is to highlight potential complications pertaining to the implementation of the proposal, and to analyze the future prospects to optimize the new deal for the benefit of all parties.

## 2. State of play

### 2.1. Turkish civil society under unprecedented stress

To sense the dire circumstances prevailing in Turkey regarding the human rights, the rule of law and the activities of the civil society I recommend, *inter alia*, the latest Turkey chapter of the Human Rights Watch's World Report 2019<sup>2</sup>. Turkish civil society appears to be one of the primary victims of the ongoing de-democratization.

<sup>1</sup> <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180817-revised-indicative-strategy-paper-2014-2020-for-turkey.pdf>

<sup>2</sup> <https://www.hrw.org/world-report/2019/country-chapters/turkey>

According to DERBİS<sup>3</sup> (Associations Information System) of the Turkish Ministry of Interior, which supervises the CSOs, there were, as of April 2019, 116 603 CSOs operating in Turkey out of which 131 were of foreign origin. The membership of the CSOs (comprising associations, foundations, non-for-profit institutions and trade unions) totaled 11 029 825 citizens.

The main legislative act, governing the operations of the CSOs, is the Law on Associations (No. 5253), that entered into force on 23 November 2004 and its Regulation of 31 March 2005. The Law is more or less in line with the requirements of Copenhagen Political Criteria and with some of the European standards. It is surely more liberal than the previous act dating back to 1983 and massively influenced by the post-coup d'état era. It is noteworthy that several international CSOs have established branch offices in Turkey, following the entry into force of this act. This being said, CSOs in Turkey are under the scrutiny of no less than 19 laws.<sup>4</sup>

Last but not least, the provisions of the article 33 of the Constitution remain in place and constitute a Damocles' sword on CSO activities, particularly through the expansive reading of contravening to "national security, public order, prevention of commission of crime, public morals, public health and protecting the freedoms of other individuals".<sup>5</sup> Turkish legislature never attempted to improve the above-mentioned act of supervising CSOs, in order to facilitate their functioning and operations, confirming the general drift away from the reformist path. For instance, reforms envisioned under Turkey's "National Action Plan for the EU Accession," covering the period 2014 to 2019, were never implemented. Quite to the opposite and consistent with the "de-Europeanisation," the legal and political environment for CSO operations became patently more restricted.

Following the failed coup of 15 July 2016, CSOs appeared to be the prime targets of the repression, which still characterizes Turkish politics today. On 21 July 2016 the authorities officially notified the Secretary General of the Council of Europe about the decision to apply a derogation from the European Convention on Human Rights, obviously including article 11 on the right to freedom of assembly and association. Indeed, after the declaration of the state of emergency, the authorities dissolved scores of CSOs and seized their assets. Overall, thirty-seven emergency degrees were issued, of which seven were directly affecting the operations of CSOs.

<sup>3</sup> <https://www.dernekler.gov.tr/tr/anasayfalinkler/yillara-gore-faal-dernek.aspx>

<sup>4</sup> In addition to the Laws on Associations and Foundations and the Civil Code, the Law on the Collection of Donations (called Charity in official Turkish translation), the Laws on Taxation, Income Tax, Property Tax, Stamp Tax, Corporate Tax, VAT as well as the Penal Code, the Law on the Fight against Terrorism and the Law on Demonstrations are directly or indirectly supervising the CSOs.

<sup>5</sup> XI. Rights and freedoms of assembly; A. Freedom of association; Article 33- (As amended on October 3, 2001; Act No.4709) Everyone has the right to form associations, or become a member of an association, or withdraw from membership without prior permission. No one shall be compelled to become or remain a member of an association. Freedom of association may be restricted only by law on the grounds of national security, public order, prevention of commission of crime, public morals, public health and protecting the freedoms of other individuals. The formalities, conditions, and procedures to be applied in the exercise of freedom of association shall be prescribed by law. Associations may be dissolved or suspended from activity by the decision of a judge in cases prescribed by law. However, where it is required for, and a delay constitutes a prejudice to, national security, public order, prevention of commission or continuation of a crime, or an arrest, an authority may be vested with power by law to suspend the association from activity. The decision of this authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours. The judge shall announce his/her decision within forty-eight hours; otherwise, this administrative decision shall be annulled automatically. Provisions of the first paragraph shall not prevent imposition of restrictions on the rights of armed forces and security forces officials and civil servants to the extent that the duties of civil servants so require. The provisions of this article shall also apply to foundations. [https://global.tbmm.gov.tr/docs/constitution\\_en.pdf](https://global.tbmm.gov.tr/docs/constitution_en.pdf)

In a recent speech<sup>6</sup>, The Minister of Interior Süleyman Soylu has put the number of banned CSOs at 1419. These were associations *stricto sensu* to which 139 foundations should be added to have the total figure. Although there is no reliable breakdown of these figures and the figure is negligible compared to the total number of associations (*circa* 116 500), it is important to note that the dissolved CSOs were almost exclusively related to the Kurdish human rights advocacy, the Gülen Community and various left-leaning and liberal activism.

Today, CSO operations in Turkey are regulated by the newly established Directorate General for Relations with Civil Society under the Ministry of Interior by virtue of the Presidential Decree No. 17 published in September 2018<sup>7</sup>. Legally speaking, CSOs are still supervised by the above mentioned 2004 Law on Associations and its recently amended Regulation of 1<sup>st</sup> October 2018. From July 2016 onwards the administration has repeatedly declared its determination to further extend the control over CSOs. Ultimately, the executive presidency's Annual Program for 2019 published in the Official Gazette on 27 October 2018 seems to have had the final say. The section on CSOs aims to introduce several changes until the end of this year, all aiming to exert more control and supervision on them.

So far, a concrete step in this direction has been taken by the Directorate General for Relations with Civil Society, who requested, in October 2018, that all CSOs immediately provide the personal information of their 11 029 825 members by virtue of the amended Regulation. All associations active in Turkey had to provide the names, surnames, identity numbers and occupations of their members as well as the dates when their memberships were approved or terminated. In case of the membership of a foreigner, the association is obliged to inform the Ministry about the foreign identification number provided by the Directorate General of Civil Registration and Citizenship Affairs.

Prior to the amendment, the associations had to simply provide the local administrative authorities (and not the central ones) with a rough number of members and detailed information of founders during the first four months of a calendar year. Regarding the funding, which obviously constitute the lifeline of CSO operations, and as for the foreign funding, although no limitation is foreseen, the foundations must notify authorities within a month after having received the funding and the associations before using it.

The collection of funds in Turkey is very strictly regulated by an old legislation dating back to the illiberal post-coup era. The Law on the Collection of Donations of 23 June 1983 and its Regulation of 27 December 1999 are highly bureaucratic and require for the smallest fundraising activity a set of very strict and inclusive information, on the objective, the expected amount, the *modus operandi*, the number of persons to be involved, the expected period of collection and its place, to be presented altogether to the local administrative authority for approval.

Finally, to illustrate the duress and the stress on Turkish civil society and Turkish CSOs, I would mention three developments and this single fact: Today there is no longer any Kurdish rights based

<sup>6</sup> [www.islamianaliz.com/haber/soylu-ohalde-kapatilan-dernek-sayisi-sadece-bin-419-64656#sthash.ifm7L7Mg.k2kyMWT8.dpbs](http://www.islamianaliz.com/haber/soylu-ohalde-kapatilan-dernek-sayisi-sadece-bin-419-64656#sthash.ifm7L7Mg.k2kyMWT8.dpbs)

<sup>7</sup> <http://www.resmigazete.gov.tr/eskiler/2018/09/20180913-6.pdf>



nor any Gülen Community related CSO in Turkey. The three developments are the following: The investigation and detention of human rights' activists on 5 July 2017 (Büyükkada Group), the investigation and detention of well-known civil personalities in connection with the 2013 Gezi protests, and the voluntary closure of the local branch of the Open Society Foundation.

On 5 July 2017 the police, acting on the basis of an anonymous complaint, raided a workshop on digital security and well-being of human rights activists in the Büyükkada island in Istanbul. They were first jailed and then released. The seventh hearing of the case composed of 11 rights defenders, including several Amnesty International activists, has taken place on 21 March 2019. The case has proceeded for 17 months without any concrete evidence on "terrorism and membership of an armed group" charges. Actually, through the case, the authorities are giving a very strong warning to the civil society, basically implying that anybody, irrespective of any concrete wrongdoing punishable by the law, could face charges and endless judicial harassment.

The Gezi Park indictment has been another worrisome event in the clampdown against CSOs. Approved by the prosecution on 4 March 2019, it went after activists, CSOs (including the Open Society Foundation), philanthropists, academicians, artists, writers, actors, educators, and urban planners, who were trying to raise awareness and protest against the authorities' plans to transform one of the few green spaces left in the very centre of Istanbul (Taksim) into a shopping mall in the shape of an Ottoman-era military barracks.

The indictment seeks life sentences against the accused and was given the green light despite previous rulings from the Constitutional Court that have declared the lawfulness of the 2013 protests. Through its 657 pages the prosecution blames the accused of a wide conspiracy of seeking to overthrow the government and destroy the constitutional order, which is an offense punishable by a life sentence that equates to death penalty - thankfully abolished in 2002 in line with EU requirements. One of the defendants, an emblematic figure of the civil society Osman Kavala, is "preventively" jailed since 18 October 2017 within the framework of the indictment. On 25 March 2019 the Human Rights Watch has published a detailed analysis of the proceeding with a self-explanatory title: "Turkey: Baseless Charges Over Landmark 2013 Protests".<sup>8</sup>

"Faced with an increasingly hostile political environment and a number of baseless accusations, the Open Society Foundation in Turkey has decided to cease its operations in Turkey"<sup>9</sup> stated the press release of The Open Society Foundation on 26 November 2018:

"Since its founding in 2001, the Foundation has conducted its activities in compliance with the laws of Republic of Turkey. The Foundation [has] supported Turkey becoming an EU candidate in 2004, which was commended by the Turkish government, women's rights across Turkey, and education and employment for the Roma minority in Turkey. The Foundation's activities have been regularly monitored, and audited, by the Ministry of Interior and the General Directorate of Foundations. The Foundation's bylaws state, 'A decision in favour of

<sup>8</sup> <https://www.hrw.org/news/2019/03/25/turkey-baseless-charges-over-landmark-2013-protests>

<sup>9</sup> <https://www.opensocietyfoundations.org/press-releases/open-society-foundation-turkey-ceases-its-operations>

the closure of the foundation can be taken upon the conclusion that the foundation could no longer serve its purpose or there is any benefit left in its continuation” explained the statement.

The website of the branch office is not reachable anymore. The official statement of the Open Society Foundation tells a lot about the dire state of Turkish civil society. Actually, we are witnessing a major and unprecedented - even by comparison with the 12 September 1980 coup d'état era - surveillance and censorship, as well as the muzzling of rights-based CSOs in Turkey.

## 2.2. The Commission takes note of the shortcomings, announces a new deal

In its August 2018 paper the Commission makes a number of noteworthy proposals to readdress the extremely difficult situation faced by the CSOs as well as the rule of law. Here is the evaluation:

“CSOs are facing increasingly severe challenges. In particular, there have been closures of around 1500 CSOs as part of the government’s post-coup measures and more challenging legal environment, characterised by more bureaucratic obstacles, in particular relating to their operation, their funding and, in some cases — such as for federations — their legal creation and core issues. Complex rules create difficulties for small or medium-sized associations. (...) cooperation between institutions and civil society needs to be improved, particularly in the area of fundamental rights and freedom of expression and media, but also in other sectors where needs exist such as environment and climate action.” (...)

And here are the recommendations:

“Broader dialogue between civil societies in the EU and Turkey continues to be a priority, as well as the enabling environment for civil society activities as set out in the 2014-2020 Guidelines for EU support to civil society organizations in the enlargement countries. Civil society development and civil society dialogue have been supported since the beginning of IPA I. Civil society funding under IPA II has been nearly doubled in the period 2014-2017, but the needs remain vast. Financial assistance for civil society until 2020 will build on this experience, with the Ministry of EU Affairs<sup>10</sup> acting as the lead institution in this sub-sector. A further shift on the management mode for the actions in the field of civil society development will be taken and the bulk of assistance will be directly managed by the Commission *inter alia* via the Civil Society Facility. Pre-accession assistance to Turkey is largely managed under indirect management, i.e. EU budget implementation tasks delegated to the Turkish authorities. (...) For IPA in indirect management, there is a growing contracting backlog and significant shortcomings in implementing efficiently EU funds. (...) The direct management mode will be increasingly used for civil society support and possibly for fundamental rights. Cooperating with International Financial Institutions (IFIs) and International Organisations (IOs), and delegating budget implementation tasks to them, may be an option in some cases, if the relevant requirements are met, as they are key delivery partners in leveraging the impact of EU policies and financial support to the country.

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<sup>10</sup> The Ministry of EU Affairs was abolished on 9 July 2018 to become an undersecretariat under the Ministry of Foreign Affairs. It would have existed for seven years only.

For actions in all sectors, twinning shall be used whenever relevant. (...) Indirect management by the Turkish authorities will apply, particularly for the civil society dialogue component and some actions to support civil society development and fostering an enabling environment. However, direct management by the Commission will be increasingly used in 2018-2020 in the context of a changing operating environment for the CSOs following the coup attempt and also because a serious contracting backlog hampers the absorption of additional funds. The Commission will consider grant schemes and other funding modalities that aim to improve the representativeness, credibility and institutional capacities of CSOs and that are implemented via the Civil Society Facility. The European Instrument for Democracy and Human rights (EIDHR) will remain available to complement the IPA II support covered under this Strategy Paper.”

As a consequence, the Commission revised the early indicative allocations for Turkey for 2014-2020 from 4,453 million EUR down to 3,533 million. The new indicative allocations under the heading “Democracy and Rule of Law” and comprising two sub items “Democracy and governance” and “Rule of law and fundamental rights” reorient the funding, foreseeing respectively 916 and 515 million EUR for a total of 1,431 million. That is over 40 percent of the grand total of 3,533 million EUR for 2014-2020. Within the same conceptual framework, the European Parliament in its most recent resolution<sup>11</sup> on 13 March 2019 in para 9 declared:

“calls on the Commission and the Member States to increase their protection of and support for human rights defenders at risk in Turkey, including through emergency grants” and in para 21 “asks the Commission to use the funds currently allocated under the Instrument for Pre-Accession Assistance (IPA II and the future IPA III) to support, through a dedicated envelope directly managed by the EU, Turkey’s civil society, human rights defenders and journalists and to increase opportunities for people-to-people contacts, academic dialogue, access for Turkish students to European universities, and media platforms for journalists with the objective of protecting and promoting democratic values and principles, human rights and the rule of law.”

### 2.3 The new diaspora and the brain drain

There is a perceptible acceleration of Turkish citizen’s emigration, particularly towards Western Europe, where networks of old immigration exist. Kurdish immigration is certainly a case in point. But the movement is not limited to Turkish citizens of Kurdish origin. Since July 2016 the displacement consists also of those, who were targeted by the emergency decrees, excluded in one way or another from societal life and condemned to civil death. Dismissed from their jobs, deprived of any social right, rejected by their social environment and victimized, many leave the country through legal or illegal channels to seek asylum abroad. These are, in addition to Turkish Kurds and

<sup>11</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2019-0200+0+DOC+XML+V0//EN&language=EN>



persons supposed to belong to Gülen Movement<sup>12</sup> academics, journalists, judges and military personnel. Several artists and writers are among the new exiles as well.<sup>13</sup>

Since July 2016, 7619 academics have been summarily dismissed from academia.<sup>14</sup> In parallel, 2212 academics have been targeted for having asked in January 2016 for peaceful solutions to the Kurdish conflict.<sup>15</sup> As of 5 April 2019, 586 of them have been tried and 177 of them have been sentenced to prison. Although there is no precise figure, nor any meaningful study yet, it is estimated that around 1500 of dismissed academics have left Turkey so far. There are plenty in the pipeline, willing to leave, but not having passport.

Today in several universities across the world there are highly qualified academics from Turkey, who emigrated in search of a better life. Some have benefited from scholarships and research grants through national networks after being listed as Scholars at Risk<sup>16</sup>. These solidarity networks include: Philipp Schwartz Initiative<sup>17</sup> and Academy in Exile<sup>18</sup> in Germany or PAUSE (Programme national d'aide à l'Accueil en Urgence des Scientifiques en Exil) in France<sup>19</sup>. These academicians form the visible tip of the “brain drain iceberg” of qualified professionals, who leave *en masse*. The situation has been further exacerbated by the imposed hands-on attitude of the executive, which appoints universities' top administrations. All in all, departures of academics and the loss of autonomy have dealt a huge blow on Turkish academia.

As for the media, the Media Ownership Monitor's 2016 survey<sup>20</sup> was already showing a dreadful picture in terms of independence. Media outlets, media funding and news portals were already under high level of political control. Today the number of independent media outlets is estimated to be no more than five percent of all media. Independent media is fighting to survive in Turkey with around ten newspapers or news portals and two tv channels Artı TV and Medyascope TV. Journalists have also paid a heavy price, as Turkey is considered one of the worst journalist jailers in the world according to the Committee to Protect Journalists.<sup>21</sup> Another account by the Expression Interrupted initiative puts the total figure of imprisoned journalists at 145.<sup>22</sup>

In addition to Zaman newspaper being summarily shut down in July 2016 and countless newspapers close to Kurdish political movement being systematically closed to be re-published under new names, the case of a center-left newspaper Cumhuriyet is exemplary for the ways the authorities deal with

<sup>12</sup> According to a recent account, persons who were investigated on the basis of their alleged link to the Movement stood at 500.650 as of 18 January 2019 <http://www.diken.com.tr/500-bin-650/>

<sup>13</sup> There is a noticeable rise in the asylum applications by Turkish nationals in EU MS since July 2016. According to different sources, including UNHCR the stock of asylum applications hovers around 40.000.

<sup>14</sup> <https://www.gazeteduvar.com.tr/gundem/2017/04/25/ohalde-7-bin-619-akademisyen-issiz-kaldi/>

<sup>15</sup> <https://bianet.org/english/freedom-of-expression/206763-4-academics-sentenced-to-15-months-1-academic-to-2-years-6-months-in-prison>

<sup>16</sup> <https://www.scholarsatrisk.org/>

<sup>17</sup> <https://www.humboldt-foundation.de/web/philipp-schwartz-initiative-en.html>

<sup>18</sup> <https://www.academy-in-exile.eu/en/>

<sup>19</sup> <https://www.college-de-france.fr/site/programme-pause/index.htm>

<sup>20</sup> <https://www.mom-rsf.org/en/countries/turkey/>

<sup>21</sup> <https://cpj.org/reports/2018/12/journalists-jailed-imprisoned-turkey-china-egypt-saudi-arabia.php>

<sup>22</sup> <https://expressioninterrupted.com/census/>

dissenter voices.<sup>23</sup> Comprehensibly, Turkey ranks 157<sup>th</sup> of 180 countries surveyed in Reporters Without Borders' 2018 World Press Freedom Index.<sup>24</sup>

Today, exiled journalists are trying to get organized abroad, particularly in EU countries. Three “generalist” media platforms emerge next to those, which belong to Gülenists and Kurds, Artı Gerçek<sup>25</sup>, Özgürüz<sup>26</sup>, Ahval<sup>27</sup> by order of their establishment date. Still, academicians, journalists and other artists and writers in exile, working to self-sustain and to keep alive the hope of a democratic society, are not explicitly among the target groups of beneficiaries of the reoriented IPA funds. Maybe they should be.

### 3. Future prospects

#### 3.1 Political and technical impediments to the implementation

Politically speaking, judging from the Commission Paper, all EU institutions alike make the basic assumption that Turkey is still a country, where the rule of law could prevail, despite an obvious drift away, starting from July 2016. Reoriented IPA funds towards “democracy and governance” and “rule of law and fundamental rights” confirm this basic assumption. Thus, the Commission postulates that through the implementation of a massive support via IPA funds, shortcomings on democracy, governance, rule of law and fundamental rights could be addressed.

Theoretically two main beneficiaries stand for this programmatic action: Police and Justice authorities and the civil society. Turkey according to the Rule of Law Index 2019 of World Justice Project<sup>28</sup> ranks 109 out of 126 countries. The judiciary as a separate power does not exist any longer. As for the legislative power it is under the firm control of the executive presidency. It is none other than the presidency, who interprets and overtly disregards the rule of law. Scores of national and international bodies such as the European Court of Human Rights, the Venice Commission and international human rights' watchdogs as well as EU institutions' reports have duly and repeatedly reported this state of affairs. Instead of the rule of law, the law of the rule, in the sense of strong executive, prevails. So, the paradox: How will more funding for judiciary authorities firmly controlled by the executive, which blatantly disregards the rule of law, help them to counterbalance that same executive? The answer is obvious.

Regarding the CSO-oriented action, the *modus operandi* proposed by the Commission, shifting from indirect implementation of IPA funds to direct implementation is no easy task. Although the Commission's proposals are still in an early stage of application it is possible to identify potential impediments.<sup>29</sup>

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<sup>23</sup> <https://www.hrw.org/news/2018/04/27/turkey-journalists-convicted-doing-their-jobs>

<sup>24</sup> <https://rsf.org/en/ranking/2018#>

<sup>25</sup> <https://www.artigercek.com/>

<sup>26</sup> <https://ozguruz.de/newsletter-de/>

<sup>27</sup> <https://ahvalnews.com/?amp>

<sup>28</sup> [https://worldjusticeproject.org/sites/default/files/documents/Turkey\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/Turkey_0.pdf)

<sup>29</sup> It seems Commission's DG NEAR, Desk for Turkey has officially informed the Turkish counterpart in Ankara about the new modalities for IPA on 19 March 2019 [https://www.ab.gov.tr/deputy-minister-of-foreign-affairs-and-director-for-eu-affairs-ambassador-faruk-kaymakci-came-together-with-bernard-brun\\_51554\\_en.html](https://www.ab.gov.tr/deputy-minister-of-foreign-affairs-and-director-for-eu-affairs-ambassador-faruk-kaymakci-came-together-with-bernard-brun_51554_en.html)

The difficult legal, political and financial environment for CSO operations surveyed in para 2.1 above constitute a major obstacle, particularly regarding foreign funding. The current CSO legislation is way below the European standards on free speech and freedom of assembly to safeguard an unhindered operability. Moreover, an arbitrary judiciary system provides no legal guarantees that can prevail in case of an illegal act by the supervising authority against a CSO. The judicial system that is under the full control of the presidential executive, appoints and promotes the judges and prosecutors; thus, the interpretation and reading of law is under the sole authority of the president.

We should note that the harmonization of legislation with the EU *acquis communautaire* as well as the accepted European standards on free speech and freedom of assembly, as practiced even partially in the early stages of the candidacy (2002-2004) has taken the opposite direction, particularly since the end in early 2015 of the so-called “resolution process” i.e. the peace making with the Kurdish population and since the post-coup d’état era, after July 2016.

Secondly, it is highly inconceivable that the authorities would wholeheartedly allow the remaining few rights-based CSOs or individuals, including those who were dismissed from their jobs, to have an easy access to EU funds - be it through the EU representation in Ankara or from Brussels, through relevant programmes and instruments. Moreover, the fact that the funds have now been reoriented by reducing the share of the governmental action, bears a potentially negative impact.

Thirdly, the national focal point for indirect implementation of grants to civil society, the Central Finance and Contracts Unit under the Ministry of Treasury and Finance, has become over years an office faithfully serving almost exclusively pro-governmental CSOs. A significant example can be found in the recent award notice for 40 CSOs,<sup>30</sup> among them only three local CSOs, specializing on environmental advocacy, are known to be independent. Direct implementation would result in the reduction of Central Finance and Contracts Unit’s resources and its partisan impact, thus generating negative spirits among governmental circles.

Fourthly, direct implementation would mean recognizing CSOs as legal entities that are fully proficient in running EU funds and programmes. Recalling CSOs’ weaknesses underlined by the Commission Paper itself, it looks highly unlikely that few remaining CSOs could quickly adapt to the requirements of direct implementation by the Commission. As for the proposal to perform the direct implementation through IFIs, IOs and national agencies of MS including twinnings, that doesn’t necessarily solve the problem either, bearing in mind the strict control and supervision of foreign funds by the authorities. Besides, it is not given that EU’s foreign implementing partners would be willing to take the risk of antagonizing the authorities by supporting *non grata* CSOs and individuals, and to jeopardize their own operations in Turkey.

### 3.2 The need for a paradigm shift

Generally speaking, today, in the political thinking and the praxis of the Turkish ruling elite European norms, standards, principles and particularly values are considered no more as resources, but impediments to governmental action.

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<sup>30</sup> Award Notice for “Supporting Civil Society Dialogue Between EU and Turkey Grant Scheme (CSD-V)” (TR2015/DG/01/A5-02 - EuropeAid/139354/ID/ACT/TR) is published.

On the other hand, the EU leverage on the ways to bring back to life the rule of law in Turkey has ended with the *de facto* end of Turkey's EU membership prospects. Keeping the conventional channels of communication open, being critically engaged, setting preconditions for the modernization of the Customs Union and for the Schengen visa exemption (in other words putting pressure on Ankara through positive conditionality to redress the present situation) seems simply unworkable, if not irrelevant.

Therefore, a major paradigm shift is needed in handling Turkey and not only in terms of assistance to the civil society. Turkey today is bitterly divided at least in two poles: The "official Turkey" or the pro-regime bloc that looks openly and proudly anti-European and the opposition, which remains more or less committed to European norms, standards, principles and values. The latter, however, lacks any margin of maneuver and strength in face of a hegemonic power centre.

Turkish opposition doesn't exist as an entity; it remains dispersed and utterly disunited. Those in the EU or elsewhere in the international community, committed to support this "multiple" opposition, need to invent new channels of communication, new ways of interacting with it, be it in Turkey or abroad. In any case, there is an urgent need to acknowledge this "Other Turkey" next to the official one, like in the past with anti-Francoist, anti-Fascist, anti-Nazi, anti-Stalinist oppositions in respective countries or more recently Solidarność in Poland.

For that purpose, solidarity networks of "Friends of Democratic Turkey" could be set up and grown in every country and in every field of expertise to become the privileged interlocutors of the EU institutions and their implementing partners. It goes without saying that solidarity networks would encompass already existing structures in various countries and fields.<sup>31</sup>

## Conclusion

In view of the unending and overtly undemocratic practices in Turkey the Commission, the Parliament and score of European policy makers have declared for some time now, the need to pay attention to the plea of the "Other Turkey" represented by CSOs, and still concerned with European norms, standards, principles and values. They likewise point to the need of supporting them massively by revising and reorienting the IPA funds. In order to ascertain that these constructive intentions, expressed to support the "Other Turkey," don't become self-fulfilling prophecies or simply paroles to appease the spirits one needs to take into full consideration the *modus operandi*. Unfortunately, the implementation and the delivery of funds within Turkey look far from being easy, as described in detail above.

On the other hand, European advocacy for "Other Turkey" has so far designated only those CSOs, activists and professionals abused in Turkey, overlooking those, who have left the country because of the very abuses. Vocal Europe in a recent policy paper<sup>32</sup> published on November 2018 was rightly recommending to pay due attention to this omitted group by recommending the following:

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<sup>31</sup> One of such networks is in formation within academia and is already quite active. It recently published an "Open Letter in Support of Prof. Füsün Üstel and All Other Academics in Turkey Facing Imprisonment for Advocating Peace"

<https://www.euroscience.org/news/open-letter-in-support-of-academics-in-turkey/>

<sup>32</sup> <https://www.vocaleurope.eu/wp-content/uploads/The-revival-of-EU-Turkey-relations-Erdog%CC%86an%E2%80%99s-double-strategy-of-rapprochement-FINAL.pdf>

“...the EU could provide support to endangered Turkish individuals both in Turkey and in Europe due to post-coup crackdown by Erdogan Administration. Such support could be carried out through CSOs. This strategy would be approached with a view to humanitarian and financial support to Turkish professionals which are struggling to find a job and seeking to flee the country to the EU due to current political realities of Turkey.”

This is an important and timely call, which needs to be given due consideration assuming the dreadful situation of the civil society in Turkey. But then again, to expand the scope of the IPA funds, as to encompass the “residual” civil society, thousands of dismissed civil society activists and closed CSOs within Turkey without attracting the wrath of the authorities remains an arduous task. Actually, it calls for all-out imagination beyond the classical channels.

Outside Turkey, targeting the new diaspora looks more attainable. Nonetheless, it entails its recognition as well new schemes to engage with and new solidarity networks capable to deliver on the sought-after results. Additionally, a recognized and empowered diaspora could in turn become a channel for reaching out to the civil society in Turkey thanks to existing bonds, thereby concretising a three-way interaction amongst the EU institutions and their implementing partners, the European solidarity networks and diaspora bodies and the hibernating civil society in Turkey. Here lies the fresh challenge for all concerned.

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