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The Implication of Closer Turkish-Serbian Cooperation on Implementation of Human Rights Standards

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Background

According to many expert opinions, 2009 is seen as a year when closer cooperation between Turkey and Serbia has started. During that year, a free trade agreement was signed¹, as well as a defence cooperation agreement. In October 2009, President Abdullah Gul paid a visit to Serbia and became the first Turkish President who visited Serbia since 1986, while President Boris Tadic paid a visit a month later². The highlight of this period of closer cooperation was the abolishment of visa regime between two countries, signed by Ministers for Foreign Affairs Vuk Jeremic and Ahmet Davatoglu on 12 July 2010³.

According to two officials of the previous government of Serbia⁴ who were involved in establishing “new relations” with Turkey, the key reason from Serbian side was always economy, but many other implications always existed:

“It was impossible to ignore the role of Turkey anymore, regardless relations in the past. Turkey is a regional power and, in that period, become strong in many senses with growing interest toward the Balkans. From the Serbian side, reasons, why we want Turkey as a close friend, are numerous. Kosovo, Sanjak and Bosnia and Herzegovina are just on the top of the list. Of course, the economy is the most important for both countries, but many political implications were there. Moreover, Erdogan was “a good guy” so we were thinking in many directions.”

Period of intensive cooperation between the two countries got a new dimension after both countries slowly entered into authoritarian phase with the apparent democratic deficit and poor respect of international human rights standards. In Serbia, this period is related to the arrival of Aleksandar Vucic in 2012, who fully consolidate his power in 2014 when he became Prime Minister of Serbia. Several months later, Mr Erdogan became President of Turkey.

The political context in Turkey

In 1997, the Turkish army once again ousted the ruling party, this time through a series of “recommendations” issued in a memorandum. The Islamic prime minister was forced to resign, and the ruling Welfare Party was closed down. A number of its members, including the current president Erdogan, went on to found the Justice and Development Party which came into power in 2002. By this time, Turkey had initiated its European Union candidacy, and all remaining state of emergency measures were lifted⁵.

On 15 July 2016, a faction of the Turkish military orchestrated another attempted coup. A coordinated armed operation was launched in several major cities, including Istanbul and Ankara, with the aim of overthrowing the government and President Erdogan. Groups of

¹ Sporazum o slobodnoj trgovini sa Republikom Turskom (“Official Gazzete – International Agreements”, br. 105/2009), signed 1 June 2009, entered into force on 1 September 2010

² “Serbia”, <http://www.abdullahgul.gen.tr/guests/389/50012/serbia.html> (last visited 1 April 2019)

³ Agreement entered into force on 3 December 2010, <http://www.mfa.gov.rs/sr/index.php/konzularne-vesti?lang=lat&start=125> (last visited 1 April 2019)

⁴ Lead by Democratic Party

⁵ “OHAL’i, yasakları AK Parti kaldırdı”, *Akşam Daily*, 26 May 2015, <http://www.aksam.com.tr/siyaset/ohali-yasaklari-ak-parti-kaldirdi/haber-408323> (accessed 22 Mar. 2018).

soldiers and tanks took to the streets. In Istanbul, the Bosphorus Bridge was blocked as soldiers and opponents clashed. In Ankara, bombs were dropped on the Grand National Assembly, and the Chief of the General Staff, Hulusi Akar, was kidnapped by his own security personnel. After a night of violent clashes, and what looked to be yet another in a series of coups in Turkey's troubled history, groups of soldiers began to surrender. The violent night saw 241 killed and 2,194 injured⁶. The attempted coup was condemned both by the public and by political parties and blamed by the Turkish government on a movement led by US-based cleric Fethullah Gulen⁷.

The then United Nations Secretary-General, Ban Ki-moon, followed the developments and made a statement through his spokesman: *"The Secretary-General is following closely and with concern the fast-moving developments in Turkey. At this moment of uncertainty in the country, the Secretary-General appeals for calm, non-violence and restraint. Preservation of fundamental rights, including freedom of speech and assembly, remain of vital importance."*⁸

After the failed coup, Turkey's Council of Ministers presided over by President Erdogan, introduced a nationwide state of emergency under Article 120 of the Turkish Constitution and the State of Emergency Act no. 2935⁹. Under the state of emergency, the president can issue statutory decrees with neither parliamentary scrutiny nor the possibility of appeal to the Constitutional Court. Only two days after the state of emergency decree was published in the Official Gazette of the Republic of Turkey (T.C. Resmi Gazete) on 21 July, it was declared that 35 health institutions and organisations, as well as 1,043 private education institutions, organisations, dormitories, and hostels, were closed down for having alleged links to Gulen's movement. The decree shows the extent to which post-coup measures have affected all sectors of society.

Since the initial 90-day state of emergency was first declared, it has been renewed seven times and finally on 18n July 2018. Moreover, according to amendments to Article 119 of the constitution, approved by the 16 April 2017 referendum, the president has the power to declare a state of emergency single-handedly and extend it indefinitely with four-month intervals.

The presidential referendum in April 2017 further formalised these executive powers. President Erdogan assumed said powers under circumstances of pervasive censorship and prisons filled with political opponents¹⁰. In total, 34 statutory decrees have been issued, most of which prescribe measures in breach of human rights standards and Turkey's obligations

⁶ "Turkey's Failed Coup Attempt: All You Need to Know", *Al Jazeera*, 15 July 2017, <https://www.aljazeera.com/news/2016/12/turkey-failed-coup-attempt-161217032345594.html> (accessed 22 Mar. 2018).

⁷ "Turkey's Coup Attempt: What You Need to Know", BBC, 17 July 2016, <http://www.bbc.com/news/world-europe-36816045> (accessed 22 Mar. 2018); T. Gumrukcu and E. Toksabay, "Turkish Lawyers Say Decree Grants Impunity for Political Violence", Reuters, 25 Dec. 2017, <https://www.reuters.com/article/us-turkey-security/turkish-lawyers-say-decree-grants-impunity-for-political-violence-idUSKBN1EJOMW> (accessed 22 Mar. 2018).

⁸ "Statement Attributable to the Spokesman for the Secretary-General on Turkey", United Nations Secretary-General, 15 July 2016, <https://www.un.org/sg/en/content/sg/statement/2016-07-15/statement-attributable-spokesman-secretary-general-turkey> (accessed 22 Mar. 2018).

⁹ Turkey Declares 'State of Emergency' after Failed Coup", *Al Jazeera*, 21 July 2016, <https://www.aljazeera.com/news/2016/07/erdogan-declares-state-emergency-turkey-160720203646218.html> (accessed 22 Mar. 2018).

¹⁰ "World Report 2018: Turkey, Events of 2017", Human Rights Watch, n.d., <https://www.hrw.org/world-report/2018/country-chapters/turkey> (accessed 18 March 2018).

under international law¹¹. While the government claims that the democratic order and fundamental rights are at risk, the state of emergency itself has become the primary threat to democracy and human rights.

The political context in Serbia

Changes in 2000 were a great potential for democratisation of Serbia. However, the lack of comprehensive devotion to the democratic changes and fight against organised crime and corruption was demonstrated through the assassination of Prime Minister Djindjic in 2003. In 2012, after slightly over a decade of the dominance of parties that had overthrown Milosevic, a shift in the political sphere occurred again. The dominant political position of the Serbian Progressive Party (former members of the extreme right Serbian Radical Party) has been reinforced continuously through several early presidential and parliamentary elections since 2012.

The country has unfinished business with many of its neighbors. Under the EU pressure, Serbia and Kosovo hold regular meetings to normalise relations, but problems remain. Serbia and Croatia have a fraught relationship, due to lack of systematic and unequivocal dealing with the past. Serbia is also an important factor in stabilising Bosnia and Herzegovina. The country has good ties with the Republika Srpska, a constituent legal entity of Bosnia mostly populated by ethnic Serbs and these relations are misused continuously in raising ethnic tensions. Serbia's relations with Macedonia complexified in 2017, after the right-wing authoritarian government in Macedonia was changed. Namely, in a tumultuous and highly tensed political spring in 2017 in Macedonia, nationalists stormed into the Parliament and physically attacked the newly establish majority. On the day of the attack, a Serbian high-ranking embassy official and an intelligence officer were seen in the Parliament which caused significant diplomatic conflict between the countries which has led to Serbian authorities withdrawing their entire personal from the embassy.

Serbia is a candidate country for membership to the EU. In December 2015, Serbia opened the first chapters of the accession negotiations. At the same time, Serbia also keeps close economic and political ties with Russia. Russia is also a key political ally for Serbia: Moscow does not recognise Kosovo's independence and is a primary supporter in Belgrade's claims to the breakaway territory.

Differences and similarities relevant to the implementation of human rights standards

The first big difference between Serbia and Turkey is the size of the country since Turkey is eleven times bigger than Serbia when it comes to population and has ten times bigger territory than Serbia. While Turkey is an important member of The North Atlantic Treaty Organisation (NATO), the official position of Serbia is neutrality, despite the participation in Partnership for Peace programme. Moreover, Turkey was one of 13 NATO members that

¹¹ S. Demirtaş, "Emergency Rule Should Not Be Turkey's New Normal", *Hurriyet Daily News*, 3 Jan. 2018, <http://www.hurriyetdailynews.com/opinion/serkan-demirtas/emergency-rule-should-not-be-turkeys-new-normal-125141> (accessed 22 Mar. 2018).

participated in the NATO bombing of Yugoslavia¹² (Operation Allied Force) between 24 March and 10 June 1999.

According to researchers¹³ *“Turkey's policy towards Kosovo before NATO bombing moved through concession and passive stances in general, favouring the preservation of the status quo to offering active support for NATO military operations. Laying behind the incontestable principles of the UN charter and the OSCE documents, Turkey was firm about the preservation of the territorial integrity of Yugoslavia and sympathised with the calls for refrain from the use of force and interference into the internal affairs.”*¹⁴

Both countries are member states of the United Nation (UN), the Organisation for Security and Cooperation in Europe (OSCE) and the Council of Europe (CoE). Membership in these organisations means that similar international human rights standards are ratified by both Serbia and Turkey, while jurisprudence of the European Court on Human Rights is giving the correct interpretation of different standards in many situations. However, unlike Serbia, Turkey is still not state party of some important human rights treaties such as Roma Statute on the International Criminal Court or International Convention for the Protection of all Persons from Enforced Disappearance.

Both countries are candidate countries for membership to the European Union. Although Turkey obtained candidate status in 1987 and Serbia in 2009, it looks that both countries will not join the EU in the coming decade. So-called European Commission progress reports for both countries are giving a good overview when it comes to lack of progress in the implementation of human rights standards in both countries.

Respect for international human rights standards in recent years

Both countries are not fully respecting international human rights standards. Comprehensive thematic comparison of respect of all civil and political rights in both countries in past ten years will be beyond the scope of this paper, but a short overview of the present situation concerning crucial human rights issues will provide sufficient information for the further comparison.

Freedom of expression in Turkey

One of the most severe issues in Turkey is the erosion of freedom of expression due to a systematic crackdown on independent media and journalists. It is grounded in a series of executive decrees that were implemented during the state of emergency declared on 20 July 2016 and which continue to exist although the state of emergency has been lifted. The state of media freedom in Turkey was in decline even before the coup in July 2016, and it continued to deteriorate more drastically during the two-year state of emergency – a trend that continues today.

¹² Serbia and Montenegro

¹³ Enika Abazi. Kosovo Conflict and the Post-Cold War Order: Russia and Turkey Policies. Turkish Review of Balkan Studies, 2002, 7, pp.217-236.

¹⁴ Ibid.

Since the attempted coup in 2016, the government has persisted with the suppression on media, journalists and critical citizens which has resulted in many media outlets being shut down and with many journalists being held in detention or fleeing the country. According to local monitoring sources¹⁵ at least 304 journalists and media representatives faced 46 aggravated life imprisonment, up to three thousand 23 years and ten months in prison and immaterial compensation of 3 million 540 thousand Turkish Lira¹⁶ on charges ranging from "being coup plotters" to "insult".

The government-controlled media conducts regular smear campaigns against dissidents. Anyone that dissents from the official view is at risk of being charged with espionage, terrorism and or treason. Journalist faces severe challenges, as the new legal regulations rely on ambiguity and vague definitions, allowing authorities to interpret it at will and label a wide range of publications and media work as terrorist propaganda. The Government has taken advantage of the legislation enacted during the state of emergency to suppress human rights defenders, investigative journalism and the work of academics and civil society groups. As an illustration, in the period 2015 – 2017, 12.000 people were prosecuted, while in 2018, 38.000 people were investigated under article 299 of the Turkish Criminal Code which regulates *insulting the President of the Republic of Turkey*.

Media outlets that have been forced to close have reported news and publishing articles that are in public interest. Usually, they are shut down under allegations of terrorism and helping the Kurdish militants or being linked in any way to the cleric in FETO group, whom the Turkish government has accused of the failed coup.

Ownership of existing media is also highly problematic as an overwhelming majority of all media outlets (print, TV, radio and online) are owned by business groups which have close financial and political ties to the government. These groups operate in a wide range of business sectors; mostly depending on public contracts thus are not independent and professional, which results, among other things, with a large number of journalists working in precarious conditions, being dismissed and forced to resign. Inevitably, unemployed journalists are even more vulnerable in case of the prosecution. The number of local media outlets has also decreased in recent years as many of them were closed down or ceased their operations due to political pressures and economic difficulties. The remaining local outlets are struggling to survive and, in most cases, the difficulties that these local media outlets and local journalist face are under the radar of international bodies and media organisations.

Although independent media outlets continue to exist in Turkey, they face tremendous political pressure and are routinely targeted through legal action. The prosecution and imprisonment of journalists have reached unprecedented levels, and Turkey is known as one of the world's leading jailers of media workers. Authorities are waging a persistent war against the independent media through physical assaults, arrests, intimidation and harassment of journalists. Media outlets are consistently subjected to censorship and journalists are forced into exile. One of the results is a significant and growing number of Turkish journalists living in Western European countries where they continue to work, at least in some capacity. They

¹⁵ BIA Media Monitoring Report of July-August-September 2018

¹⁶ approximately 545,000 EUR

are now known as “Diaspora journalists” as they continue to cover Turkey but remain undocumented and underutilised.

In a joint statement, the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, David Kaye, and the Organization for Security and Cooperation in Europe Representative on Freedom of the Media, Harlem Desir, declared that the life sentences were “unprecedented” and called “on Turkey to reverse [the] decision and release the journalists.” They stated:

“Imprisonment for journalism not only silences the journalists, but it also deprives Turkish citizens of their right to access pluralistic views on issues that can directly affect their lives.”¹⁷

Judicial harassment toward media has also been extended to those who criticise the military operation that Turkey has launched in Syria. The air and ground campaign – codenamed “Operation Olive Branch” – started on 20 January 2018 and targeted Syria’s Afrin enclave, controlled by Kurdish forces. There have been demonstrations in Turkey both for and against the military operation. President Erdogan has made threats against those who oppose the action and says that they will pay a “heavy price”¹⁸. More than 800 social media users, including around a dozen journalists, have been arrested for allegedly criticising the operation¹⁹. One may speculate that this military incursion marks a new chapter of declining democracy and respect for human rights in Turkish history.

Freedom of expression in Serbia

The World Press Freedom Index for 2018 registered Serbia as one of the worst countries in the Western Balkans when it comes to media freedoms. Serbia managed to backslide by ten positions on the Index. Reporters Without Borders acknowledged that Serbia had become a *country where it is unsafe to be a journalist*. In 2017, media organisations recorded 92 incidents, while in 2018 a total of 101 incidents were observed. Another trend is the increase in the number of threats against journalists made via social media. In general, it can be observed that the culture of dialogue and freedom of expression is in steady deterioration.

Besides, Serbia has a track record of unsolved cases of journalists’ assassinations. Serbia has over 2,000 registered media, while the state of the economy is very poor. In this market, most of the media, primarily the local media depend on public funds for media projects that are of public interest, which represents an instrument for the authorities to control the media content.

Pressures reported in the media or by journalists include surveillance, initiation of different court proceedings with high punitive damage requests, administrative harassment, evictions, public statements made by officials, economic pressure, discrimination and limitation of

¹⁷ “Turkey: Life Sentences for Journalists Are ‘Unprecedented Assault on Free Speech’, say UN and OSCE Experts”, Office of the United Nations High Commissioner for Human Rights, 16 Feb. 2018, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22670&LangID=E> (last visited 1 April 2019).

¹⁸ “Erdogan: Meydanlara çıkma yanlısına düşenler bedelini çok ağır öder”, Sputnik Türkiye, 21 Jan. 2018, <https://sptnkne.ws/g6qQ> (last visited 1 April 2019).

¹⁹ “5 Arrests in 3 Cities for ‘Propaganda’ on Social Media”, Bianet English, 8 Mar. 2018, <http://bianet.org/english/freedom-of-expression/194971-5-arrests-in-3-cities-for-propaganda-on-social-media> (last visited 1 April 2019).

access to public events. Another trend is the increase in the number of threats against journalists made via social media. The most violent physical attack against journalists which occurred in 2018, was the attack against Milan Jovanovic, a local journalist from a small municipality near Belgrade. In December 2018, Milan's house and car were subjected to an arson attack. As a result of the investigation, the executors were arrested during December, and President of *Grocka* municipality was arrested in January 2019. Mr Simonovic, who is also a member of the general committee of the ruling Serbian Progressive Party, was suspected to be the person who ordered the arson attack.

The most damning influence on freedom of expression is the atmosphere in which the head of state openly or silently supports smear campaigns against investigative journalists. Such attitudes resonate alarmingly among the lower levels of authority, including public prosecutors and judiciary. Moreover, pro-government tabloid media started publishing information obtained from the Security Information Agency and other confidential sources (bank statements) in order to intensify smear campaign against independent investigative journalists and their media. Given the context, timing and media that published leaked information, journalists perceive these actions as intimidation. On the other hand, in fear of job loss, many journalists are turning to self-censorship and 'safe' reporting. This trend has been recognised as a more efficient way of influencing a journalist than threats and attacks.

Unclear ownership structures and financing from state resources, especially at the local level, continue to be a feature of the media environment since the privatisation of the state media. Political and economic influence over the media continues to be a source of concern, while informal pressure on editorial policy is exerted through the distribution of advertising funds.

There has also been a rise in the selective use of tax inspections, as a method of administrative harassment. Several independent media were put through lengthy and energy-draining undue tax inspections that found no significant irregularities, but contacted commercial customers of those media, as well as family members of the employees.

When it comes to the media as a source of information, television still represents the dominant media in Serbia for the majority of the local population. However, the content that is distributed through television is not providing a sufficient amount of information on most pressing issues. While the Law on Electronic Media envisages the obligation of the regulatory body to protect media pluralism, Regulatory Body for Electronic Media (RAEM) did not monitor presidential elections in 2017 quoting 'lack of personnel' at the time of the election, although it is monitoring the work of broadcasters. The RAEM does not use all existing legal options to act against those who are acting contrary to the law, and while the law prescribes transparency, the RAEM does not publish all the documents that it is obliged to publish and does not conduct monitoring as defined by law.

Human Rights of the LGBT+ community in Turkey

Since the state of emergency was officially declared, all human rights efforts in the country have been strongly affected, including those concerning the LGBT+ community. Fractures in society have contributed to the rise of homophobia and transphobia. Already disadvantaged groups such as women, children, LGBT persons, ethnic and religious minorities, and refugees

are facing more acute problems than before the attempted coup in July 2016. Reported cases of violence against women and children have climbed rapidly, and all LGBT+ events are banned.

The Istanbul Pride Parade has been a regular feature in Turkey since 2003. In 2015, the parade was banned for the first time. The decision was justified with concerns over the “safety of citizens and participants” and the stability of the public order. Following the attacks on LGBT+ persons throughout 2016 and 2017, the Pride parade was banned by the local government in Istanbul. Activists who had gathered for a small and peaceful protest were violently pushed back by the police like events in 2016 when members of the LGBT community were dispersed with tear gas and rubber bullets.

On 19 November 2017, the Office of the Governor of Ankara issued a statement declaring that all LGBT+ events – including film screenings, theatre plays, panel discussions, and exhibitions – were prohibited until further notice. The local authorities claim that the intention of the ban, which is an apparent attempt to intimidate LGBT +activists, is to create peace and security in Ankara as well as to protect public health and morality.

The governor’s office stated that Turkey is a diverse society with significant social, cultural, racial, religious, and regional diversity, which is why LGBT +activism poses an imminent danger to public safety. However, the authorities have not disclosed any particular incidents or threats to back up their claims.

Turkish LGBT organisations are essential and respected human rights actors, committed to creating an equal society. The long-term restrictive measures imposed by the authorities are now depriving LGBT activists and persons of their fundamental rights and freedoms, including their rights to freedom of expression, association, and participation in society. The current crackdown on all critical voices threatens the work of human rights organisations in Turkey while rising levels of homophobia are affecting the everyday lives of LGBT+ persons.

Human Rights of LGBT+ community in Serbia

Serbia introduced a relevant legal framework that was supposed to guarantee the safety of LGBT+ people, but this has not been fully implemented. Even though the status of LGBT+ people has significantly improved since 2000, the safety of LGBT+ people is still at risk. Attacks on the LGBT+ community are visible, but their exact number is not known due to a reluctance to report them. As a result, many crimes remain unreported, unprosecuted and therefore invisible. However, there are no signals that the Law on Registered Same-Sex Civil Partnerships will be proposed adopted.

Prejudices are widely present, and relevant research’s findings from 2018 show that 80% of the total population of Serbia would not want an LGBT+ person as their neighbor and only 20% claim to know and to have communicated with an LGBT+ person. Moreover, 66% of citizens²⁰ believe that homosexuality is illness, while 20% believe that homosexuals should be

²⁰ LGBTI public opinion poll in the Western Balkans, Ipsos Marketing, Civil Rights Defenders, National Democratic Institute, Victory Institute, June 2015, CRD archive

severely punished as criminals with 12% who believe that physical punishment of the LGBT+ community is acceptable.

Unlike Istanbul Pride, the Belgrade Pride parade now takes place every year with reduced police presence every year. Although Parade as such represents an increase of visibility of LGBT+ people, in the long run, such event is insufficient for improvement of human rights of the LGBT+ community. In June 2017, new Prime Minister Ana Brnabic was appointed as the first female Prime Minister and the first member of the LGBT+ community on such a high political position in Serbia. This represents a paradox of its kind, given the track record of uninvestigated or unresolved attacks against the members of the LGBT+ community.

Human Rights Defenders in Turkey

Before the attempted coup in July 2016, arrests and detentions were sporadic and did not target human rights defenders or activists specifically. Today, they are constantly at risk, and the prosecution of human rights defenders has become normalised. The government justifies the purges, arrests, and detentions as measures to combat terrorism. Local and international rights groups have criticised the government for using the attempted coup as a pretext to silence any dissenting voices. Many international organisations have also expressed concern regarding the erosion of the rule of law in Turkey, which dropped two places in the World Justice Project's Rule of Law Index in 2016–2017²¹.

Purges of human rights defenders escalated in June 2017 with the arrest of the Chair of Amnesty International in Turkey, Taner Kilic, on suspicion of ties to the movement led by Fethullah Gulen²². The following month, ten human rights defenders were arrested, including another senior Amnesty International employee: Turkey Director İdil Eser, who was attending a digital security seminar. Among the arrested were the Swedish-Iranian IT expert Ali Gharavi, German NGO consultant and educator Peter Steudtner, Nejat Taslan from Equal Rights, Nalan Erkem and Ozlem Dalkiran from Citizens' Assembly, Veli Acu and Gunal Kursun from Human Rights Agenda Association, as well as İlknur Ustün and Seyhmuz Ozbekli from Rights Initiative. Together, they became known as the "Istanbul 11". While ten of the "Istanbul 11" were released on bail after 112 days in detention, Taner Kilic was in prison until August 2018²³.

Human Rights Defenders in Serbia

Pressure against the local HRDs exerted by the state is systemic. Not only that the state is not providing them with adequate legal and political protection and support but is taking part in putting additional pressure on them. Pro-government tabloids are being used as a tool of ruling structures to fight their political opponents through smear campaigns. Category of political opponents is quite broad and includes anyone who is criticising the government.

²¹ "Rule of Law Index 2016–2017", World Justice Project, n.d., <https://worldjusticeproject.org/our-work/wjp-rule-law-index> (accessed 22 Mar. 2018).

²² "Turkey Arrests Amnesty International Head and Lawyers in Gulenist Sweep", *The Guardian*, 7 July 2017, <https://www.theguardian.com/world/2017/jun/07/turkey-arrests-amnesty-international-head-and-lawyers-in-gulenist-sweep> (accessed 22 Mar. 2018).

²³ E. Sinclair-Webb, "Civil Society on Trial in Turkey: Istanbul 10 Released, Terrorism Cases Against Human Rights Defenders Continue", Human Rights Watch, 27 Oct. 2017, <https://www.hrw.org/news/2017/10/27/civil-society-trial-turkey> (accessed 22 Mar. 2018).

Minister for Innovation and Technological Development Popovic sued Crime and Corruption Reporting Network (KRIK) for publishing texts about his involvement in offshore companies and the profit he made through illegal business activities. The Minister sued KRIK by pressing four separate charges for the same issue, increasing administrative costs for KRIK, which represents a form of administrative harassment.

Minister of Interior Stefanovic won the case before the domestic court against the author of the text Vesna Pesic and independent web portal Pescanik for defamation in the text published on Pescanik's website. The text contained criticism of his activities and statements in a capacity of the Minister of Interior during his mandate in relation to illegal demolitions in Savamala in Belgrade when citizens reported the events and police did not come to the scene.

After several months of going through the documents of the local independent media portal Juzne vesti, tax inspectors found alleged irregularities related to the contract of the editor-in-chief and fined this media. This is the fourth time in the last five years that the tax inspection goes through this media's documents in detail. The process of their investigation has been energy-draining for Juzne vesti and their work every time.

Domestic court convicted 8 activists of the Youth Initiative for Human Rights (YIHR) for violating the Law on Public Order and Peace to fines of RSD 50,000²⁴, for protesting at an event in Beska in January 2017, where a convicted war criminal Veselin Sljivancanin was a speaker, by unfurling the banner "War criminals to remain silent, in order for victims to speak out" and blowing whistles. On the positive note, the Higher Court in Belgrade decision to find the editor of a pro-government tabloid guilty of using hate speech in an article about the YIHR represents a positive exception from the trend mentioned above.

Implications of closer co-operation on the implementation of human rights standards

According to interviews with journalists, experts and human rights defenders in Turkey, there is no influence of closer co-operation of Serbia and Turkey on implementation of international human rights standards in Turkey. However, there is agreement within interviewed stakeholders from Turkey that after the failed coup, President Erdogan "desperately" need international recognition.

"Of course, in a situation when West is criticising him because of the enormous number of arrests, pressure over media, academics and civil society, he desperately needs friends abroad. Apart from Putin and many similar authoritarian leaders. Mr Vucic is not a leader of a big country, but since Serbia is closer to the EU, it gives some legitimacy to Erdogan. He is happy to meet any leader who will be supportive toward measures that he is doing in Turkey, especially after a failed coup. It is visible that he is trying to get that from every single visit to different countries. Arrests of thousands of people and pressure after failed coup during the state of emergency are made with clear violations of international human rights standards, and Erdogan is under pressure to improve the situation. Leaders like Vucic are not mentioning any violation of human rights and welcoming actions taken after the coup. On the same time,

²⁴ Around 400 EUR

Turkish diaspora in Serbia is only 600 people, so it is not a big element in relations, while Russia with its non-democratic tendencies is a good friend of both countries. In general, there is no impact on the implementation of human rights standards in Turkey, but having Serbia on its side is useful."

According to interviewed experts from Serbia, indirect negative influence on the implementation of human rights standards in Serbia mostly comes from closer co-operation of Serbia with Russia, China, Azerbaijan, Turkey, Hungary and Belarus. Media articles in pro-governmental media and press releases after meetings with the highest officials and ambassadors from these countries are seen as crucial evidence for this.

"The common for all these media articles, press releases and statements are general mutual support between Serbia and some of those countries. If we exclude parts related to the improvement of economic relations and underlining that there are "open questions", it is visible that the two countries are supporting each other in violation of human rights standards. In general, this support is not explicit; it is more supporting toward "protection of the state", "measures taken" or "stability". The only exception is Kosovo, having in mind that Turkey recognised Kosovo and is a huge supporter of the Kosovo government. That question is a big taboo in the relation between two countries and Serbia is quite silent when it comes to relations between Kosovo and Turkey".

After the failed coup, many countries were under pressure to extradite Turkish citizens that are accused of terrorist activities or terrorist propaganda before, during or after the failed coup. Some countries in the region conducted several extraditions, while Serbia extradites Cevdet Ayaz, and thus violated UN Convention Against Torture.

Cevdet Ayaz is a Kurdish political activist since 1990s and was a member of different political parties. Security forces in Turkey arrested him on charges that he was a founder of the Revolutionary Party of Kurdistan (PSK). When he was transferred into the anti-terrorist department in Diyarbakir, his right to inform a third person on his whereabouts, the right to an attorney at law and the right to be medically examined²⁵. He was tortured in the coming 12 days to draw out a confession about his membership in PSK²⁶. After that, he was brought before the court in Diyarbakir when he was allowed to see his lawyer for the first time, but his signs of torture were never documented. The application was submitted to the European Court of Human Rights, and in 2006, the court found violations of the right to security and liberty, related to arbitrary detention, lack of access to a lawyer and judicial examination during detention²⁷. Shortly after, Mr Ayaz was sentenced to 15 years of imprisonment, while his complaint before the Supreme Court was rejected. The judgement is entirely based on statement extorted by the police, without the presence of a lawyer. Having in mind this sentence, he escaped and travelled through Azerbaijan, Russia, Iran, Montenegro and Ukraine intending to reach Germany. He was arrested in November 2016 on the border crossing between Bosnia and Herzegovina and Serbia based on an international arrest warrant issued by Turkey.

²⁵ Individual Communication to the Committee Against Torture with Request for Urgent Measures, Belgrade Centre for Human Rights, 7 December 2017

²⁶ Ibid.

²⁷ Ayaz and others against Turkey, Application 11804/02

During the procedure before Higher Court in Sabac, Mr Ayaz did not get a competent translator, and confidential counselling with an attorney was not possible because of that. Court rendered pre-trial detention followed by a decision on extradition to Turkey on 19 January 2017. The procedures based on Mr Ayaz complaints were conducted during entire 2017. However, on 22 November 2017, the lawyer got a call from the judge with the explanation that hearing must be rescheduled since Ministry of Justice insisted that case must be completed before the end of the extradition detention period²⁸. The judge mentions that the reason for this is the wish of the Ministry of Justice to render the final decision on extradition in line with Article 32 of the Law on Mutual Assistance in Criminal Matters²⁹. On that day, UN High Commissioner for Refugees intervened and eight days later expressed intention to ask for asylum in Serbia³⁰. Court decided that Mr Ayaz should be released from pre-trial detention and sent to Asylum Camp in Banja Koviljaca³¹.

“22. While the attorney at law waited for applicant’s release in front of the prison (from 2:30 to 10 p.m.) During the late evening, two police vehicles entered Correctional Institution in Sabac and secretly took complainant to an unk. Around 11 p.m., the applicant's attorney at law addressed the correctional officer at the gates of the Correctional Institution in Sabac who informed her that the police took Mr Cevdet Ayaz and that he is not in the Correctional Institution in Sabac anymore. He did not want to reveal the location to which the applicant was taken. Having taken that into consideration, the applicant's attorney at law went to the Police Station in Sabac where she was informed that the applicant was transferred to the Detention for Foreigners in Padinska Skela (near Belgrade). At 12.30 a.m. on 1 December the applicant's attorney at law arrived at the Detention and asked for the decision on the applicant's detention. Her request was denied.

23. On 1 December 2017, at 9.50 am, the applicant's attorney at law received the HC's decision on extradition, reached on the same day (1 December 2017), stating that all the prerequisites for the applicant's removal to Turkey were met in line with Art. 7 and 16 of the Law on Mutual Assistance in Criminal Matters (Annex 35)”³².

On 11 December 2017, UN Committee Against Torture requested from Serbia, not to return Mr Ayaz to Turkey, while his complaint is under consideration. However, despite this interim measure, Mr Ayaz was extradited to Turkey several days later and immediately sent to prison.

The case of Cevdet Ayaz is the best proof that closer Serbian-Turkish cooperation negatively affects the implementation of international human rights standards ratified by Serbia. Two sources in the present Serbian government confirmed that the negative influence of Turkey exists:

²⁸ Limited to one year

²⁹ Zakon o potvrđivanju Ugovora između Republike Srbije i Republike Turske o uzajamnoj pomoci u krivičnim stvarima, http://www.parlament.gov.rs/upload/archive/files/lat/pdf/predlozi_zakona/1147-15%20lat.pdf (accessed 1 April 2019)

³⁰ Individual Communication to the Committee Against Torture with Request for Urgent Measures, Belgrade Centre for Human Rights, 7 December 2017

³¹ Ibid

³² Ibid.

“Turkey is now definitely regional power, and we cannot manage it through EU or EU accession process. It is much more unpredictable than before and since Erdogan has closer relations with Russia and many other countries with the democratic deficit, it creates Serbia lot of problems since must be sure that we have best possible relations. All requests we are receiving from Turkey are assessed carefully, and we cannot afford to reject the majority of them since that can influence our position not only in the region (Kosovo, Montenegro, Bosnia, Macedonia, Albania) but also in the country (Sanjak). That means that we are very flexible in everything.”

Like many other countries in the Western Balkans, Serbia also supported all actions of the Turkish government after the failed coup. Serbian authorities never condemn any human rights violations in Turkey that were justified by “fight against terrorism” or “terrorist propaganda”. Moreover, during the visit of Erdogan to Novi Pazar (Serbia) he mentioned that *“appreciate the support that Aleksandar Vucic and Serbia gave to Turkey after the coup attempt and that he believes that FETO will be soon kicked out from the Balkans and Turkey”*³³.

Conclusion

Closer cooperation between Serbia and Turkey affected implementation in of human rights standards in both countries. However, the consequences in both countries are different. The fundamental similarity is that both Serbia and Turkey are not criticising each other for human rights violations even in some extreme cases. Moreover, tacit consent for using non-democratic means is visible in both countries, while both sides are publicly underlining “highest level of cooperation”.

While Turkey needs Serbia to show that international support is stable even after human rights violations in the past three years, Serbia needs Turkey mostly related to regional problems and stability in Sanjak. The needs and interest of both countries are different, but the lack of reaction on poor human rights records is common for both governments. In that regards, Serbia is going even step further, with open violation of international human rights standards after a request from Turkey (Ayaz case).

³³ Vucic i Erdogan u Novom Pazaru, N1, <http://rs.n1info.com/Vesti/a334187/Vucic-i-Erdogan-u-Novom-Pazaru.html> (Access 1 April 2019)