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Meeting: 1483rd meeting (December 2023) (DH)

Communication from an NGO (Ifade Ozgurlugu Dernegi (IFOD – Freedom of Expression Association)) (10/10/2023) in the case of COX v. Turkey (Application No. 2933/03).

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1483^e réunion (décembre 2023) (DH)

Communication d'une ONG ((Ifade Ozgurlugu Dernegi (IFOD – Freedom of Expression Association)) (10/10/2023) dans l'affaire COX c. Turquie (requête n° 2933/03) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



DGI

10 OCT. 2023

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

RULE 9.2 COMMUNICATION

in the Case of *Cox v. Turkey* (no. 2933/03)

by

İFADE ÖZGÜRLÜĞÜ DERNEĞİ (İFÖD)

10 October 2023

An independent non-governmental organization specialized in defending and promoting freedom of expression



DGI

10 OCT. 2023

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

DGI Directorate General of Human Rights and Rule of Law

Department for the Execution of Judgments of the ECtHR

F-67075 Strasbourg Cedex

FRANCE

10.10.2023

Rule 9.2 Communication from İfade Özgürlüğü Derneği (“İFÖD”) in the Case of *Cox v. Turkey* (no. 2933/03)

I. Introduction

1. This submission is prepared by **İfade Özgürlüğü Derneği (“İFÖD”** – Freedom of Expression Association), a non-profit and non-governmental organization which aims to protect and foster the right to freedom of opinion and expression in Türkiye. İFÖD has been informing the Committee of Ministers (“the Committee” or “the CM”) on the recent developments concerning the persistent failure of Turkish authorities in full and effective implementation of general measures in **the case of *Cox v. Turkey* (no. 2933/03)**.
2. On 17.06.2021,¹ the Turkish Government submitted an Action Report regarding the case of *Cox v. Turkey*. However, this Action Plan is almost identical to the Government’s previous Action Report which was submitted on 18.06.2015.² The Government submitted its latest Action Report on 11.05.2023,³ which will be scrutinised below.
3. Regarding the case of *Cox v. Turkey*, İFÖD submitted its first Rule 9.2 communication on 03.01.2022.⁴ In its submission, İFÖD provided the Committee with examples demonstrating that structural problems observed by the Court and the Committee of Ministers remained and had not been properly addressed by the Turkish authorities. İFÖD further asked the CM to request from the Government detailed data about the implementation of relevant provisions of Law No. 6458 on Foreigners and International Protection Law. İFÖD argued that the submitted examples by the Government were dated back to 2014, whilst following the migration *en masse* caused by the conflict in Syria, thousands of other incidents occurred, in which foreigners were deported or subjected to criminal charges after exercising their right to freedom of speech. Therefore, İFÖD asked the Committee to ask the Government to provide examples from recent judicial practice including from the Constitutional Court, where foreigners have been deported and imposed bans for re-entry to Türkiye under article 54(d) of Law No. 6458 on Foreigners and International Protection Law.
4. The aim of this submission is to inform the Committee concerning the recent application of Law No. 6458 insofar as it relates to the freedom of expression of foreigners. For that purpose, first, a brief background on the execution of the case of *Cox v. Turkey* will be provided. Secondly, the Government’s latest Action Report of 11.05.2023 will be scrutinised. Thirdly, recent examples of journalists and academics who were denied entry to Türkiye or deported therefrom on public order and security grounds will be provided. Finally, İFÖD will argue that the relevant provisions of Law

¹ DH-DD(2021)618.

² DH-DD(2015)669.

³ DH-DD(2023)596

⁴ See İFÖD’s submission dated 03.01.2022 in relation to the execution of the Cox judgment: DH-DD(2022)59, at [https://hudoc.exec.coe.int/eng/?i=DH-DD\(2022\)59E](https://hudoc.exec.coe.int/eng/?i=DH-DD(2022)59E).



6458 do not satisfy the foreseeability requirement of Article 10 of the Convention nor provide any safeguards against abuse of power by public authorities.

II. Background of the case of *Cox v. Turkey*

5. The case of *Cox v. Turkey* concerns a violation of the right to freedom of expression on account of an administrative decision imposing a ban on the applicant, a citizen of the United States of America who has spent considerable time in Türkiye as a student as well as a lecturer, who was expelled from Türkiye in 1986 with an order of the Ministry of Interior. The order also imposed a re-entry ban if the applicant ever returned. A subsequent entry ban was imposed when the applicant returned to Türkiye in 1996. The expulsion, as well as the re-entry bans, were related to the applicant's views and expressions on heated political issues. Although the applicant was not convicted nor tried ever for her expressions; following her appeal against the administrative decision, Ankara Administrative Court rejected the applicant's appeal on the ground that her political ideas and activities were incompatible with national security and also with political imperatives.⁵ Her appeal and request for rectification were also dismissed by the Supreme Administrative Court in 2000 and 2001. The European Court found that the ban imposed on the applicant for her expressions was not necessary in a democratic society within the meaning of article 10 § 2 of the Convention, considering that controversial expressions may also require tolerance and broadmindedness, and the ban imposed was designed to repress the applicant's right to freedom of expression. The Court further added that domestic courts failed to justify the interference with the applicant's freedom of expression.
6. The case of *Cox v. Turkey* illustrates **structural problems** with respect to **the full and effective** enjoyment of freedom of expression of foreign nationals in Türkiye as a result of **lack of legal safeguards** for foreigners against restrictions arising from the application of article 54 (d) of Law No. 6458 on Foreigners and International Protection Law. Subject to this provision, a deportation order might be imposed on foreigners causing a threat against public order, public security or public health. For those who have been subjected to an article 54(d) order, a ban of re-entry to the country could also be ordered subject to article 9 of the same law. The significance of this case was the authorities' demonstrated failure to show a certain degree of tolerance towards critical expressions and the lack of legal safeguards for foreigners against arbitrary deportation orders and subsequent imposition of bans on their re-entry to Türkiye.

III. The 11.05.2023 Action Report of the Government

7. On 11.05.2023, the Turkish Government submitted a new Action Plan regarding the case of *Cox v. Turkey*.⁶ The Action Report is for the most part a repetition of the previous Action Report, even though, the government mentioned additional case-law related developments. The Government argued that the present case was an isolated incident. In support of this argument, the government claimed no similar incident occurred and there has been no other communicated case to the Government nor exists any other pending applications before the European Court. The Turkish Authorities further informed the Committee on training and awareness-raising activities carried out by the Ministry of Justice aiming to provide a more freedom-based perspective for the judges and public prosecutors.
8. It must be noted from the outset that the information submitted in the **Action Report is flawed and misleading** from legal and practical perspectives.
9. In the latest Action Report, the Government presented a decision of the Turkish Constitutional Court, four sample decisions of the Council of State and five sample decisions of the 10th Chamber

⁵ See *Cox v. Turkey*, no. 2933/03, 20.05.2010, § 15.

⁶ DH-DD(2023)596.



of the Ankara Regional Administrative Court. As will be explained in detail below, none of these decisions can be regarded as evidence of compliance with the *Cox v. Turkey* case.

A. The Constitutional Court's A. G. judgment (App. No. 2018/6143)

10. The Constitutional Court judgment of A.G. (App. No. 2018/6143, 16.12.2020, Official Gazette, 25.02.2021, no 31406) relates to the deportation and subsequent entry ban order imposed on a national of Russia with a Chechen ethnic origin. As is understood from the judgment, the applicant was injured in a bomb attack in Grozni and lost one of his legs in the attack. Following this, he came to Türkiye with his family in 2005 “to escape the oppression and persecution of Chechens.” (§ 8) The Directorate General of Migration Management issued the applicant with a residence permit in 2015. The applicant’s wife of Russian Federation nationality, whom he married on 28.10.2013, and his four minor children acquired Turkish citizenship in 2014.
11. In a letter dated 30.03.2016 of the Istanbul Provincial Police Department, it was stated that the applicant and two persons of Russian nationality who were with him on the international arrivals floor of Atatürk Airport on 30.03.2016 were suspected and interviewed, and it was evaluated that they might have contact with the conflict zones due to their contradictory statements. In his police interrogation, the applicant stated that he was of Russian (Chechnya) nationality, that he had last entered Türkiye from Ataturk Airport on 17.05.2005 with his passport, that he had a residence permit, that he had come to the airport with his friends to meet an acquaintance and that he had no connection with terrorist organisations.
12. Upon the letter of the Istanbul Provincial Police Department, a deportation and administrative detention decision was taken against the applicant on 30.03.2016. Furthermore, on 13.04.2016, a G-87 restriction code was created on the grounds of “general security” and a ban on entry into the country was imposed.
13. The Constitutional Court found a violation of the right to privacy and family life of the applicant. The TCC ruled that “the reasoning in the administrative and judicial decisions regarding the ban on entry into the country is not sufficient in the context of the right to respect for family life” and that there was “no balancing between the public interest in the protection of public order and security and the applicant’s right to respect for family life.” Therefore, the elements included in the decisions are not detailed and clear enough to allow this balancing” (§ 57).
14. As is clear from the above-presented reasoning of the TCC, the **judgment presented by the Government does not pertain to the same Convention right as the case of *Cox v. Turkey***. The TCC found that the right to privacy and family life of the applicant was violated as he was banned from re-entering Türkiye where the rest of his family lives, without any substantial evidence of him being a foreign fighter in an armed conflict. Neither the reason for the ban nor the assessment of the TCC relate to the exercise of the applicant’s right to freedom of expression. The *locus decidendi* or the *obiter dictum* of the judgment has little to nothing to do with the Court’s reasoning and findings in the *Cox v. Turkey* judgment. The main reason why the TCC found a violation regarding the application was the lack of an assessment of the implications of the entry ban on the applicant’s family life, which revolves around Türkiye. Therefore, the presented judgment cannot be indicative of the implementation of the general measures stemming from the judgment of *Cox v. Turkey*.

B. The Council of State Decisions

15. The decisions of the 10th Chamber of the Council of State submitted by the Government (docket no. 2016/16059, decision no. 2021/3251, 10.06.2021; docket no. 2016/3770, decision no. 2021/2312, 17.05.2021 and docket no. 2016/2309, decision no. 2021/2311, 17.05.2021 and docket no. 2016/1132, decision no. 2020/80, 29.01.2020) do not relate to the execution of the European Court decision at hand as none of these cases involve deportation and subsequent re-entry ban orders as a



result of the exercise of the freedom of expression of the persons concerned. Undoubtedly, they do not refer to the *Cox v. Turkey* decision.

16. Without a doubt, the legal and practical reasons of the 10th Chamber of the Council of State have little to do with exercising Convention rights, let alone the right to freedom of expression. Therefore, these decisions cannot be considered to have any value in the context of the execution of the *Cox v. Turkey* case. If anything, they demonstrate the dangerous arbitrariness of the administrative decisions linking foreigners to armed conflicts without any substantial evidence or indication.

C. The 10th Chamber of the Ankara Regional Administrative Court Decisions

17. As mentioned above, the Government submitted five sample decisions of the 10th Chamber of the Ankara Regional Administrative Court (docket no. 2023/1648, decision no. 2023/2368, 13.04.2023; docket no. 2023/1887, decision no. 2023/2367, 13.04.2023; docket no. 2023/2437, decision no. 2023/2366, 13.04.2023; docket no. 2022/4744, decision no. 2022/2911, 07.09.2022; docket no. 2022/1280, decision no. 2022/1534, 06.04.2022). As in the case of the Council of State decisions, four of these decisions do not involve any issues related to the exercise of the right to freedom of expression.
18. However, one of the cases, namely, docket no. 2023/2437, decision no. 2023/2366, 13.04.2023, involve a case related to the exercise of the right to freedom of expression at least on its facts. The details of the case are only understood from the minority decision and the case involved a Syrian citizen who, subsequent to a street interview in which a Turkish citizen stated “*I can’t eat bananas, they can eat kilos of bananas,*” shared through his TikTok account on 02.11.2021 an exaggerated video of eating bananas. This particular video was widely shared by many Syrian nationals on social media platforms, leading to reactionary comments from the Turkish public. Subsequently, a criminal complaint was filed and it is understood that he removed the video in response to the reactions received. He was though prosecuted and found not guilty of “publicly inciting hatred and enmity among the people” subject to article 216/1 of the Criminal Code. However, the reason for his acquittal was that the prosecution could not establish that “the accused committed the alleged crime” rather than that the video sharing was considered with the limits of freedom of expression. His appeal to the 10th Chamber of the Ankara Regional Administrative Court against the deportation decision was successful subject to a majority vote.
19. In any case, none of the cases, including the bananas case, relate to the *Cox v. Turkey* case and they should not be considered as evidence of compliance with the *Cox v. Turkey* judgment.

IV. Recent examples of entry bans imposed on journalists and intellectuals

20. In order to refute further the Government’s argument that the case has an isolated nature, recent examples of journalists and intellectuals who are denied entry into Türkiye or deported therefrom on the grounds of public order and security will be provided. First of all, as will be demonstrated below with several examples, a number of foreign journalists have been banned entry to Türkiye in recent years. The government has not always provided clear reasons for these bans, but they have often been seen as a way to silence critical reporting on a variety of topics, including the Kurdish issue, the Syrian refugees, the Turkish government’s crackdown on dissent, and the treatment of its minorities.
21. On this matter, the examples vary based on the security codes issued to the addressees of the measures. This is due to the fact that a recent trend has emerged since 2019, which is characterised by requiring journalists and activists from Northern Cyprus to obtain a visa to enter Türkiye while the standard procedure for Northern Cyprus nationals is that they do not require a visa to visit Türkiye. The restriction code for this is called N-82, which stands for “a foreigner whose entry is



subject to prior permission”.⁷ The visa requirement translates into a *de facto* entry ban as it is reported that journalists’ visa applications are denied routinely.

22. The second category of persons who were denied entry with the security code G-82 are foreign journalists, academics and civil society members. The code G-82 stands for “activities against national security” and is predominantly reliant on information possessed and disseminated by the intelligence service.⁸
23. Turkish authorities have been denying entry to Turkish Cypriot journalists and civil society members who are critical of the Turkish government since 2019. For example, Ulaş Barış, a journalist, was denied entry to Türkiye recently on 15.04.2023. Barış was reportedly told that he was denied entry because he was on a list of people who are considered to be a threat to national security pursuant to the restriction code N-82.⁹
24. This is not the first time that Turkish authorities have denied entry to Turkish Cypriot journalists. In recent years, several other journalists have been denied entry, including Aysu Basri Akter, a former director of the Turkish Cypriot state television station. Akter recently published a special report in a Cypriot newspaper documenting a series of external interventions by Ankara in the internal political affairs of the Turkish Cypriot community.¹⁰ Akter, who was then denied entry with the code N-82, was told that she could go to Türkiye after obtaining a visa but Akter’s application to the Turkish Embassy in Nicosia was unsuccessful. Akter was kept in police custody for 19 hours at the airport, then deported to Cyprus.
25. On 06.07.2021, journalist Ali Bizden, who directed the press office during President Mustafa Akıncı’s term, stated that he was told at Istanbul Sabiha Gökçen Airport that a 5-year entry ban was imposed on him as of 08.09.2020, pursuant to the code G-82.¹¹ Former President of Northern Cyprus Akıncı is known to be critical about the AKP government’s involvement in Cypriot politics while there were strong indicators that the government supported Akıncı’s opponent in the last presidential elections.¹²
26. Dr Ahmet Cavit An, a researcher and writer, was also deported from Istanbul Sabiha Gökçen Airport without being allowed to enter Türkiye on the grounds of an entry ban during July 2021. An, who is a paediatrician and author of numerous books and articles on Cyprus, arrived at Istanbul Sabiha Gökçen Airport to transit to Izmir via Istanbul with his sister and was denied entry into the country by the officials at the passport control, citing the G-82 restriction code.¹³
27. On 10.10.2021, Ali Kışmir, a journalist and the head of the Turkish Cypriot Press Trade Union, was briefly detained at Istanbul Airport and then deported from Türkiye due to an “entry ban”. Kışmir was on his way back from the annual meeting of the European Federation of Journalists

⁷ The security codes are classified and applied pursuant to article 9 of Law No. 6458 on Foreigners and International Protection.

⁸ *Ibid.*

⁹ Cenk Mutluyakalı, Diken, “Kıbrıslı Türk muhalif gazetecilere Türkiye duvarı”, 17.04.2023, <https://www.diken.com.tr/kibrisli-turk-muhafif-gazetecilere-turkiye-duvari/>.

¹⁰ CoE, Safety of Journalists Platform, Alert No. 231/2022, “Cypriot Turkish Journalist Aysu Basri Akter Denied Entry to Türkiye”, 28.07.2022, <https://fom.coe.int/en/alerte/detail/107637828;globalSearch=true>.

¹¹ Yenidüzen, “Cumhurbaşkanlığı eski iletişim koordinatörü Türkiye’ye alınmadı”, 06.07.2021, <https://www.yeniduzen.com/cumhurbaskanligi-eski-iletisim-koordinatörü-turkiyeye-alinmadi-142083h.htm>.

¹² BBC News Türkçe, “Mustafa Akıncı’dan Erdoğan’ın 'külliye müjdesine' tepki: 'Devletlerin itibarı, binalarının ihtişamı ile ölçülmez”, 21.07.2021, <https://www.bbc.com/turkce/haberler-turkiye-57907231>.

¹³ Nikolaos Stelya, Gazete Duvar, “Türkiye’nin 'yasaklı Kıbrıslılar' listesi genişliyor: Araştırmacı yazar Dr. An geri gönderildi”, 12.07.2021, <https://www.gazeteduvar.com.tr/turkiyenin-yasakli-kibrislilar-listesi-genisliyor-arastirmaci-yazar-dr-an-geri-gonderildi-haber-1528336>.



- (“EFJ”) in Croatia. Kişmir, who was planning to enter Türkiye to take a PCR test, found out about the entry ban while attempting to pass through passport control.¹⁴
28. On 25.02.2022, Famagusta Initiative member, former Republican Turkish Party MP, Unite Cyprus Now and peace activist Dr. Okan Dağlı was also not allowed to enter Türkiye due to an entry ban based on the G-82 restriction code.¹⁵ Similarly, the delegation of the “Left Movement” arrived in Türkiye in June 2022 to make contacts with opposition parties and organisations in Türkiye with the agenda of the Cyprus problem. “Left Movement” Secretary General Abdullah Korkmazhan was not allowed to enter Türkiye on the grounds of the restriction code G-82.¹⁶
29. Moreover, on 20.05.2022, musician and folklorist Can Sözer, who actively supported Mustafa Akıncı in the presidential elections, was also denied entry to Türkiye.¹⁷ On 27.09.2022, Münür Rahvancıoğlu, author and the Deputy Secretary General of “Independence Path”, who travelled to Ankara from Northern Cyprus with the party delegation to make a series of official visits, was not allowed to enter Türkiye citing the N-82 restriction code.¹⁸ On 16.11.2022, Cypriot journalist Başaran Düzgün, chief editor for the Cyprus newspaper *Havadis*, was denied entry to Türkiye due to the N-82 restriction code. The journalist argued that Türkiye’s government has been intervening in the domestic policies of Northern Cyprus, and his critical reporting on these matters led to his ban.¹⁹
30. In October 2021, a list of 42 Northern Cypriot intellectuals, writers, journalists and politicians who criticised Türkiye’s policies were banned from entering the country became the subject of news reports. It was claimed that those on the list, including former TRNC President Mustafa Akıncı, would not be allowed to enter the country for up to five years because they “pose a threat to Türkiye’s national security”. It was claimed that the decision on the “banned Turkish Cypriots” list pursuant to the restriction code G82 was made in September 2020. The former Ministry of Interior Spokesperson İsmail Çataklı commented on the news claiming that this was a lie.²⁰
31. The Turkish government’s practice of denying entry to Turkish Cypriot journalists, academics and politicians **serves as a glaring example of censorship**, representing a deliberate effort to stifle dissenting voices. By systematically barring these individuals from entering the country, the government effectively curtails their ability to report on critical issues and express opinions that may challenge the official narrative. This method of silencing dissent not only undermines the principles of a free press but also hampers the democratic exchange of ideas and inhibits the flow of information to the public. Such actions raise concerns about transparency, accountability, and the protection of fundamental rights within the Turkish government’s approach to media freedom and freedom of expression. There exist strong indicators to conclude that Cypriot journalists and intellectuals are banned due to their support for the former president Mustafa Akıncı or a peaceful

¹⁴ International Press Institute, “Turkish Cypriot journalist banned from entering Türkiye” 14.10.2021, <https://freeTürkiyejournalists.ipi.media/turkish-cypriot-journalist-banned-from-entering-Türkiye/>.

¹⁵ Yenidüzen, “Dr. Okan Dağlı da Türkiye’ye alınmadı” 25.02.2022, <https://www.yeniduzen.com/dr-okan-dagli-da-turkiyeye-alinmadi-150067h.htm>.

¹⁶ Kıbrıs Postası, “Sol Hareket Genel Sekreteri Korkmazhan’ın Türkiye’ye girişine izin verilmedi”, 27.06.2022, https://www.kibrispostasi.com/c35-KIBRIS_HABERLERI/n428459-sol-hareket-genel-sekreteri-korkmazhanin-turkiyeye-girisine-izin-verilmedi.

¹⁷ Bugün Kıbrıs, “Müzisyen, halk bilimci Can Sözer de Türkiye’ye giriş yapamadı”, 20.05.2022, <https://bugunkibris.com/2022/05/20/muzisyen-halk-bilimci-can-sozer-de-turkiyeye-giris-yapamadi/>.

¹⁸ Ceren İskit, Bianet, “Kıbrıslı yazar Münür Rahvancıoğlu Türkiye’ye alınmadı”, 27.09.2022, <https://m.bianet.org/bianet/yasam/267677-kibrisli-yazar-munur-rahvancioglu-turkiye-ye-alinmadi>.

¹⁹ Committee to Protect Journalists, “Cypriot journalist Başaran Düzgün denied entry into Türkiye”, 06.12.2022, <https://cpj.org/2022/12/cypriot-journalist-basaran-duzgun-denied-entry-into-Türkiye/>.

²⁰ See <https://twitter.com/ismailcatakli/status/1448258426514067468>.



solution to the decades-long Cyprus problem. As such opinions go against the official narrative and the military advantages of Türkiye, certain individuals are banned from entering Türkiye.

32. In addition to Turkish Cypriot journalists and intellectuals, a vast number of journalists from several different countries were denied entry into Türkiye in the years that followed the *Cox v. Turkey* judgment. The examples are not hard to come by, hence a few will be conveyed in this submission. For example, on 09.09.2015, Dutch journalist Frederike Geerdink was detained in Yüksekova district of Hakkari province for participating in a demonstration and deported.²¹ On 09.02.2016, Norwegian newspaper Aftenposten reported that their Istanbul correspondent Silje Ronning Kampesaeter was denied a press card in Türkiye and deported because her fiancé was Kurdish.²² On 16.03.2016, British academic Chris Stephenson who lived in Türkiye for over 25 years was deported after being found with invitations to Kurdish new year Newroz celebrations. Chris Stephenson was detained at the Istanbul courthouse where he had gone to support three “Academics for Peace” scholars charged with making terrorism propaganda.²³ After Stephenson was allowed to return to the country, he was charged with making terror propaganda but was acquitted.²⁴
33. Moreover, on 17.03.2016, Hassain Kazim, Türkiye correspondent for Spiegel Online, a leading German news magazine, was forced to leave Türkiye because his accreditation was not extended. Kazim had temporarily left Türkiye in 2014 after receiving death threats following an article he wrote after the Soma mine explosion in which 301 people died.²⁵ Similarly, on 19.04.2016, Volker Schwenck, a reporter for the German public broadcaster ARD, whose satirical clip about President Erdoğan was broadcasted, was denied entry to Türkiye. At that time, Schwenck wanted to enter Türkiye to report on Syrian refugees.²⁶ According to BBC Turkish News Service, on 23.04.2016, Greek photojournalist Giorgos Moutafis arrived in Istanbul to cross to Libya via Türkiye but was denied entry. Moutafis said that he learnt that his name had been put on a list.²⁷
34. On 25.04.2016, Freelance correspondent David Lepasca, who wrote for the Guardian, Al Jazeera, Foreign Affairs and others, told Reuters that immigration officers at Istanbul’s Ataturk Airport informed him that an “entry ban” had been placed on his visa and he was therefore deported to the

²¹ Bianet English, “Journalist Frederike Geerdink Detained in Yüksekova”, 07.09.2015, <https://m.bianet.org/bianet/media/167439-journalist-frederike-geerdink-detained-in-yuksekoa#:~:text=Geerdink%20announced%20she%20was%20detained,of%20them%20could%20take%20time>.

²² International Press Institute, “Turkey denies accreditation to Norwegian correspondent”, 04.09.2015, <https://ipi.media/turkey-denies-accreditation-to-norwegian-correspondent/>.

²³ The Guardian, “British academic deported over Kurdish new year invitations”, 16.03.2016, <https://www.theguardian.com/world/2016/mar/16/british-academic-deported-over-kurdish-new-year-invitations>.

²⁴ The Guardian, “Turkey acquits British academic over 'terror' leaflets charge,” 23.07.2016, at <https://www.theguardian.com/world/2016/jun/23/turkey-acquits-british-academic-over-terror-charge-chris-stephenson>.

²⁵ Noah Barkin, Reuters, “German magazine pulls reporter from Turkey ahead of EU summit, 17.03.2016, <https://www.reuters.com/article/turkey-media-germany-idINL5N16P2YK>.

²⁶ Deutsche Welle English, “Turkey briefly detains German correspondent”, 19.04.2016, <https://www.dw.com/en/german-ard-correspondent-schwenck-held-at-istanbul-returns-to-cairo/a-19198753>.

²⁷ Aylin Yazan, BBC Türkçe, “Türkiye’nin ‘yasaklı yabancı gazeteciler’ listesi mi var?”, 27.04.2016, https://www.bbc.com/turkce/haberler/2016/04/160427_gazeteci_sinir_disi_liste.



- United States.²⁸ It was alleged by Lepeska that his ban came amid heightened sensitivity towards coverage of the Syrian refugee crisis and security operations against Kurdish militants.²⁹
35. On 17.01.2017, journalist Rod Nordland, upon arriving at Istanbul airport from London, was stopped by border police who informed him that he was denied entry based on an Interior Ministry order, without providing any explanation.³⁰ The reason given by the airport police was “national security” but no further details were provided. Turkish officials had previously expressed dissatisfaction with Mr Nordland’s articles, particularly one focusing on the aftermath of clashes between government forces and the outlawed Kurdistan Workers’ Party (PKK), in Diyarbakır.
36. Italian journalist Gabriele Del Grande was arrested on 09.04.2017, close to Türkiye’s border with Syria. He was detained in Türkiye for two weeks while doing research for a book, then was released and deported back to Italy. His detention caused strains between Rome and Ankara, with Italian Foreign Minister Angelino Alfano intervening directly to try to secure his release.³¹ Similarly, in March 2019, three German journalists, namely, Thomas Seibert, Jörg Brase and Halil Gülbeyaz were expelled from Türkiye as a result of the refusal to renew their press accreditation cards.³²
37. On 30.09.2022, Italian journalist Giuseppe Acconcia, who was invited as a speaker to the “International Aegean School of Human Rights Workshop”, could not attend the workshop on the grounds that he was banned from entering Türkiye.³³ Acconcia was previously detained on 18.06.2015 in the Suruç district of Urfa while trying to cross into Türkiye to cover the clashes between YPG and ISIS in Rojava. He was working for Il Manifesto at the time. Acconcia and three other journalists were released after their detention and deported on 20.06.2015. Acconcia, whose accreditation was cancelled by the General Directorate of Press and Information, has now been banned from entering Türkiye.
38. On 26.08.2022, Greek journalist Evangelos Areteos announced that he has been deported from Türkiye on the grounds of “public order.” In a written statement shared on his social media account, Areteos said that he flew from Brussels to Istanbul’s Sabiha Gökçen Airport and was interrogated by the police for seven hours.³⁴ Most recently, a team of international election observers from Spain, who were members of the left-leaning Podemos party, EH Bildu, and Esquerra Republicana, were detained and deported from Türkiye on 14.05.2023, on the day of the General Elections and the first-round of Presidential Election.³⁵ The observers, who were invited by the leading Kurdish party HDP, were detained in the Kurdish-majority city of Siirt. They were held in police custody for several hours before being released on the condition that they leave the country. The Spanish

²⁸ Ayla Jean Yackley, Reuters, “An American journalist living and working in Türkiye was barred from re-entering the country”, 25.04.2016, <https://www.businessinsider.com/david-lepeska-barred-from-Türkiye-2016-4>.

²⁹ David Lepeska, Foreign Policy, “How I Became Another Victim of Erdogan’s Press Crackdown”, 02.05.2016, <https://foreignpolicy.com/2016/05/02/how-i-became-another-victim-of-erdogans-press-crackdown/>.

³⁰ Rick Gladstone, The New York Times, “Veteran Times Reporter Denied Entry to Türkiye”, 17.01.2017, <https://www.nytimes.com/2017/01/17/world/europe/rod-nordland-Türkiye.html>.

³¹ Reuters, “Italian reporter freed from Türkiye after two-week detention”, 24.04.2017, <https://www.reuters.com/article/uk-italy-Türkiye-reporter-idUKKBN17Q0WU>.

³² BBC News, “Türkiye expels three German journalists”, 10.03.2019, <https://www.bbc.com/news/world-europe-47513366>.

³³ Bianet, “İtalyalı gazeteci “giriş yasağı” nedeniyle Türkiye’ye alınmadı”, 30.09.2022, <https://m.bianet.org/bianet/medya/267876-italyali-gazeteci-giris-yasagi-nedeniyle-turkiye-ye-alinmadi>.

³⁴ Duvar English, “Greek journalist Evangelos Areteos deported from Türkiye”, 29.12.2022, <https://www.duvarenglish.com/greek-journalist-evangelos-areteos-deported-from-Türkiye-news-61187>.

³⁵ Ryan Grim, The Intercept, “Erdogan Arrested and Expelled International Officials Observing Turkish Election”, 16.05.2023, <https://theintercept.com/2023/05/16/erdogan-arrested-deported-election-observers-Türkiye/>.



government has condemned the detention.³⁶ Finally, on 29.05.2023, Irina Alleman, a host on the YouTube channel Popular Politics, associated with the imprisoned Russian opposition figure Alexei Navalny, was denied entry to Türkiye.³⁷ Turkish border guards at the Istanbul airport informed Alleman that she had been prohibited from entering the country for a duration of five years, citing “national security” concerns. Alleman had planned to travel to Türkiye to cover the runoff presidential election held on May 28th but was unable to do so due to the entry ban.

39. As is well-seen from the long list of examples submitted above, there exists no improvement in the practice which led to the violation judgment of the Court in *Cox v. Turkey*. Especially since the failed *coup* attempt, the government has been instrumentalizing the restriction codes G-82 and N-82 in order to repress independent journalistic activities which leads to the suppression of different views and critical coverage of the political, social and economic developments in the country. Consequently, freedom of expression and freedom of the press is undermined, as dissenting voices and alternative viewpoints are suppressed, impeding a comprehensive and transparent understanding of Türkiye’s current affairs.
40. In none of the above-presented examples, the journalists and intellectuals are provided with satisfactory explanations for the refusal to grant them entry to Türkiye. The high number of administrative bans on journalists and other intellectuals and the fact that all examples involved individuals critical of the political and social matters in Türkiye and Northern Cyprus signifies a trend of the government’s efforts to disrupt the dissemination of alternative opinions in and about Türkiye. In the case of Northern Cypriot journalists, the visa requirement turns into a *de facto* ban as the visa applications are rejected most of the time. None or very few of the addressees of the measures have an idea about the reasons behind such measures, while some have vague assumptions as to the hidden agenda behind the bans. These assumptions cannot be refuted or verified as there is no obligation on the administration to provide its reasoning for the perceived “national security” threats. The interferences, therefore, do not meet the procedural requirement of providing the addressees of the measures with relevant and sufficient reasoning.
41. The only legal remedy challenging the bans is the appeal at the administrative courts, which is not effective for two reasons. Firstly, there exists serious practical hurdles for foreigners who do not reside in Türkiye to have legal support in Türkiye. Secondly, the legal procedures take a considerable amount of time during which journalistic or other activities of a political nature such as observing elections are hindered. For example, the coverage of the elections or a specific demonstration would in that case be rendered impossible, even if the administrative courts lift the ban after a couple of years. In that case, the interference with the right to freedom of expression and media freedom of the individuals would be continuous as the bans have an ongoing effect that bars any potential future journalistic activities. The manner of carrying out the orders, detention at the airports and possible referral to the deportation centres are likely to create a chilling effect on critical reporters considering travelling to Türkiye.
42. As can be inferred from all of the above, both the legal framework and judicial practice cannot be said to be in alignment with Convention standards. İFÖD is of the opinion that article 54(d) of Law No. 6458 on Foreigners and International Protection Law provides broad and arbitrary power to the

³⁶ Europapress, “El Gobierno traslada su protesta a Turquía por la retención y expulsión de diez españoles, incluidos tres parlamentarios”, 16.05.2023, <https://www.europapress.es/nacional/noticia-gobierno-traslada-protesta-turquia-retencion-expulsion-diez-espanoles-incluidos-tres-parlamentarios-20230516111732.html>.

³⁷ RadioFree Europe, “Navalny Group’s YouTube Anchor Says Barred From Entering Turkey”, 29.05.2023, https://www.rferl.org/a/russia-navalny-alleman-turkey-refused-entry/32432879.html#0_8_10089_8766_2710_248516728.



administration by means of issuing deportation orders based on vague terms such as causing a threat to public order, and national security.

V. Conclusions and Recommendations

1. İFÖD considers that structural problems observed by the Court remain and have not been properly addressed by the Turkish authorities.
2. The Government should be asked to provide detailed data about the implementation of relevant provisions of Law No. 6458 on Foreigners and International Protection Law.
3. The Government provides some sample judgments that do not pertain to the same Convention right as the case of *Cox v. Turkey*. The Government, therefore, should also be asked to provide examples from recent judicial practice, where foreigners have been deported and imposed bans for re-entry to Türkiye under article 54(d) of Law No. 6458 on Foreigners and International Protection Law in relation to the exercise of their right to freedom of expression.
4. Finally, considering the significance of freedom of expression of foreign citizens living or working in Türkiye, the Committee should continue to supervise the implementation of the judgement of the European Court of Human Rights in the case of *Cox v. Turkey*.

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İfade Özgürlüğü Derneği (“İFÖD”) has been set up formally in August 2017 protect and foster the right to freedom of opinion and expression. The Association envisions a society in which everyone enjoys freedom of opinion and expression and the right to access and disseminate information and knowledge.