



Ankara, May 2021

**THE GOVERNMENT'S SUBMISSION IN RESPONSE TO THE COMMUNICATION
FROM THE FREEDOM OF EXPRESSION ASSOCIATION (İFÖD) DATED 3 MAY
2021**

Işıkırık Group of Cases (41226/09)

1. The Turkish Authorities would like to make the following explanations in response to the communication of Freedom of Expression Association (İFÖD) dated 3 May 2021 in the *Işıkırık Group of Cases* (41226/09).

2. At the outset, the Action Plan submitted to the Committee in March 2021, within the context of *Işıkırık Group of Cases*, comprises Turkey's actions regarding the issues raised in the communications. The authorities reiterate its submissions in this regard.

3. In this submission the Authorities would like to clarify the following issues raised in the communications.

4. In the relevant communication it was mainly stated that there has been no progress achieved with regard to the provision of Article 10 and 11 and full and effective implementation of *Işıkırık Group of cases*.

5. As indicated in detail in the action plan dated 31 March 2021, by the Law no. 6352 dated 02.07.2013, the provision that "*The sentence to be imposed for being a member of an organization may be reduced by half*" was added to the 6th paragraph and it was ensured that the sentence to be imposed would be less than the sentence to be imposed for the offence of being a member of an organisation.

6. In the same vein, by the Law no. 6352 dated 02.07.2013, the provision that "*The sentence to be imposed for being a member of an organization may be reduced to up to one-third according to the assistance provided*" was added to the 7th paragraph.

7. Additionally, the concerns about the broad application of Article 220 § 6 of the Turkish Criminal Code (TCC) were eliminated by the sentence that "*This provision shall only be applied in respect of armed organizations*" which was added by Article 11 of the Law no. 6459. Thus, where an offence is committed on behalf of an organisation, which has not been qualified as an "armed organisation" the person will not be held liable for the offence of committing an offence on behalf of an organisation without being a member of it. In this respect, the authorities are of the opinion that the problem leading to the violations has been

resolved by the legislative amendments introduced in 2013 in respect of Article 220/6 of the TCC.

8. Concerning Article 220/7 of the TCC, this article was amended by Law no. 6352, which entered into force on 2 July 2012. According to this amendment, the penalty to be imposed under 220 § 7 may be reduced to up to one-thirds, depending on the nature of the assistance. Owing to this amendment, currently, aiding (illegal) organisation (Article 220 § 7 of the TCC) is subject to a lesser imprisonment term compared to the offence of being a member of a terrorist organisation (Article 314§ 2 of the TCC). Therefore, the problem underlined by the European Court in the judgments has been eliminated by the legislative amendments.

9. To conclude, the Turkish authorities would like to note that although the phrase they shall be sentenced as members of an organization" is included in Article 220 §§ 6 and, this phrase is used only to determine the penalty to be imposed. Moreover, as a result of "7the legislative amendments explained above, the offences of committing an offence on behalf of an organisation and aiding the organisation, which are regulated in Article 220 §§ 6 and 7 of the TCC, have been completely separated from the offence of being a member of a terrorist organisation in the light of the findings of the ECtHR. The authorities are of the opinion that no further legislative amendments are required in this respect.

10. The authorities would also like to underline that a Convention compliant judicial practise has been adopted following the legislative amendments. Many sample judgment have been explained in the action plan submitted.

11. Lastly the Turkish authorities would like to note that in the submission in question there are speculations on issues which are not subject to supervision of the execution of the Işıkırık group of cases. The authorities would not like to comment on these speculations and judgments which are not examined under Işıkırık group of cases.

Conclusion:

12. The Turkish Government kindly invites the Committee to take into consideration its above-mentioned explanations within the scope of the execution of the Işıkırık group of cases.