

The Human Rights Action Plan: Towards a New Era in Turkey's History

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(Doğukan Keskinliç - Anadolu Agency)

What does the recently announced Human Rights Action Plan mean for Turkey's political future? How is it related to Ankara's efforts to draft a new and civilian constitution as well as its ongoing EU-bid? This policy outlook explores Turkey's extensive legal reform initiative and argues that it ushers a new era of human rights in the country amidst the approaching 100th anniversary of the Republic.

Introduction

Turkey announced a judicial reform initiative in accord with its 2023 goals on 2 March 2021. Titled “Human Rights Action Plan”, the plan aims to introduce reforms on issues such as human rights, judicial procedures and cyber-crimes. [Speaking](#) on the plan, Turkish President Recep Tayyip Erdoğan highlighted that this plan’s ultimate goal is a new civilian constitution. “There is no doubt that the constitution has a fundamental and key role in the implementation of the activities foreseen in the plan. Therefore, the ultimate goal of the Action Plan is a new civilian constitution.” He also noted: “The main determinants in drawing up Turkey’s Human Rights Action Plan were the needs and demands of the people.”

Including nine main goals, 11 principles, 50 targets, and 393 actions, the plan is based on the vision of “Free Individuals, Strong Society: More Democratic Turkey” and extensive consultations [made](#) with the local and international human rights monitoring organisations. In the scope of the two-year plan, several institutions will also be established to enhance the reforms, create a better environment for investments and boost the effectiveness of the structure for individual applications to the Constitutional Court.

As the 100th anniversary of the Republic approaches, this human rights action plan constitutes a milestone for Turkey’s efforts to draft a new constitution for leaving the legacy of military tutelage behind and a new chapter in modern Turkish history by prioritising civilian politics. This policy outlook explores Turkey’s extensive legal reform initiative, which ushers a new era of human rights in the country and protects civilian and democratic rule, following on the heels of the 2018 adoption of the presidential system.

Background

The Human Rights Action Plan is part of the Judicial Reform Strategy Document that was [unveiled](#) in 2019, which emphasises the importance of a more predictable legal system. It has been [reported](#) that almost half of the Strategy document’s actions have been made into law by the Turkish parliament as part of three judicial reform packages passed since 2019. These actions include regulations on expanding the definition of freedom of speech, employing alternative ways to execute punishments, and enabling the trial processes more functionally. In sum, regulations brought under the Judicial Reform Strategy Document can be regarded as preliminary steps of facilitating a better legal system to settle a more efficient atmosphere in drafting new laws concerning human rights.

Together with its human rights agenda, the Action Plan has also an economic agenda. It is [reported](#) that Turkish Justice Minister Abdülhamit Gül prepared the draft with Treasury



Turkish Justice Minister Abdülhamit Gül discusses judicial reforms on Anadolu Agency’s Editors’ Desk in Ankara, Turkey on March 03, 2021.
(Mustafa Murat Kaynak - Anadolu Agency)

and Finance Minister Lütfi Elvan after conducting a series of consultations with business people, labour unions and civil society organisations. This incident demonstrates how creating an investment-friendly legal environment is paramount for those who prepared the plan.

As indicated in the [plan](#), the initiative is the continuation of previous reforms. These include the 2004 regulation that integrated international conventions on fundamental rights and freedoms into the Turkish legal system. The 2010 referendum introduced the right of individual application to the Constitutional Court and the 2014 Action Plan was designed to prevent breaches of the European Human Rights Convention. With all these reforms taken into consideration, the latest Human Rights Action Plan can be seen as a step in which the EU *acquis*¹ is re-interpreted for the local needs of Turkey with reforms by way of a bottom-up approach.

Action Plan: Principles and Aims

The Human Rights Action Plan has two strongly interrelated dimensions: First, there are 11 principles, which represent the spirit of the reform and the vision that will be pursued when the reforms are being implemented. These principles are the following:

1. *Human beings have natural and inalienable rights, and the duty of the state is to protect and advance these rights.*
2. *As the most fundamental of all rights, human dignity is under the effective protection of the law.*
3. *Everyone is equal before the law without any discrimination based on language, religion, race, colour, gender, political views, philosophical beliefs, sect or other reasons.*

¹ The EU’s *acquis* is the body of common rights and obligations that are binding on all EU countries, as EU Members.

4. *The overarching principle for administrative activities is to provide public services to all with integrity and in an equal and impartial manner.*
5. *The legislation includes clear, understandable and foreseeable rules without room for doubt and public authorities implement these rules with due regard for the principle of legal security.*
6. *There can be no interference with the freedom of contract, which violates the principle of legal security and the protection of acquired rights.*
7. *The state protects and fosters freedom of enterprise and the right to work based on free-market rules based on competition and the welfare-state principle.*
8. *Judicial and administrative procedures are conducted by protecting, safeguarding and enforcing the presumption of innocence, the right not to be labelled as a criminal and the principle of individual criminal liability.*
9. *No one can be deprived of freedom due to their criticisms or expressing their thoughts.*
10. *The rule of law prevails in all areas to guarantee rights and liberties as well as justice.*
11. *Anyone whose rights are alleged to have been violated shall have unfettered access to effective legal remedies; access to justice is the basis for respecting rights and freedoms.*

These principles also complement each other in several terms. For instance, while the first four of them focus more on protecting freedoms and human dignity, the fifth and eighth principles highlight the need to prevent *fait-accomplis* born out of gaps and blind spots in the legal systems. Moreover, as seen in the sixth and seventh principles, granting functionality to the judicial process, especially for a market-based economic system, is underlined. On top of that, all principles are penned for stressing the individual's status in the rule of law.

These principles are also designed as a guide for achieving nine goals, which is the plan's second and more weighty dimension. In this regard, several points related to the actions within these goals are noteworthy. Reforms such as preventing practices that limit freedoms in hearing testimonies (Goal 5.3), reinforcement of standards in the principle of the presumption of innocence (Goal 2.3) and in the right to trial within a reasonable time (Goal 2.4), aim to enable a better functioning justice system within the Turkish judiciary mechanism. The plan also pledges to increase the capacity of the judicial mechanism by raising the qualifications of advocacy services (Goal 2.6) and judges, prosecutors and experts (Goal 3.3), together with establishing an independent Human Rights Monitoring Commission for Penal Institutions, including members from both bar associations and academics.

Besides these steps, which aim to strengthen the legal system's infrastructure, there will also be actions for relieving heavy bureaucratic procedures. For instance, the removal of the rule in which the Justice Minister can temporarily authorise judges within the framework of another trial process (Goal 2.1, Article C) and consolidating alternative methods of settling disputes (Goal 3.5) are examples in this regard. Moreover, the time limit for responding to administrative bodies' applications will be reduced from 60 days to 30, and the Human Rights Compensation Commission will cover the financial burden of long trials.

Several reforms and actions in this framework are also geared towards a better functioning market-based economic system. Some steps aim to increase transparency and predictability (Goal 3.1), accelerate the trial process for investment activities (Goal 3.4), and resolve ensuing issues. To complement these reforms, the Human Rights Action Plan also promises to achieve an improved system of property rights by pledging to resolve disputes caused by expropriation/sequestration activities (Goal 7.1 & 7.2), construction activities (Goal 7.3) and administrative courts (Goal 7.4). Establishing a new investment ombudsman's office will also help settle disputes between the administrative courts and investors.

Among the most noteworthy goals of the plan, additional measures in preventing violence against women are being brought forward. A law was promulgated in 2012, (law no. 6284) on the Protection of the Family and the Prevention of Violence against Women. This legislation is demonstrative of the fact that the Turkish state has taken concrete efforts to tackle this issue. Moreover, several actions will be taken in this regard, as indicated in Goal 6.3. These steps include support for lawyers representing victims of gender-based violence and enhancing technological protection for women under threat. The number of rehabilitation and special investigation offices will be increased across the country.

The Human Rights Action Plan also includes specific provisions (as part of Goal 8) for children, youth, disabled and the elderly. Actions such as intensifying efforts to protect children from cyberbullying and arranging child-friendly hearing rooms (Goal 8.1 / Article A & G), the establishment of a United Nations Youth Centre in Istanbul (Goal 8.3 / Article H) and the promotion of employment of disabled people's in senior public offices (Goal 8.4 / Article A)

Moreover, one of the most significant aspects of the Action Plan is its "restorative justice" approach, which Turkish Justice Minister Gül has also [highlighted](#) on previous occasions. Consequently, punitive measures and rehabilitative solutions will be implemented hand in hand. The aim is to serve the victims and enhance their rights in the legal system. In this regard, several of the plan's goals frequently refer to concepts such as "rehabilitation" and "raising awareness".

What is the Action Plan's significance?

New Civilian Constitution

Legal experts have welcomed the reform package, praising its proposed vision, the promise of judicial independence and the objective of making the legal system more functional. Metin Feyzioğlu, the chairperson of the Turkish Bar Association, [said](#) that the action plan should be seen as reform and a revolution and indicated that the plan offers concrete solutions that touch directly upon people's lives. "There will be revolutionary-like regulations in the administrative law. [...] [for example] if one case is heard by the court and resolved, this will be a basis for all similar cases." This provision is indicative of the emphasis being put on cutting through bureaucratic red-tape and ensuring that justice is served without subjecting people to unnecessarily long legal proceedings.

Several other experts also [share](#) in common the view that a new civilian constitution can be the ultimate goal of the Human Rights Action Plan. Muharrem Özen, a law professor and dean of the law faculty at Ankara University [commented](#) that, with these reforms, Turkey has entered a new era in human rights and each of the action plan's goals will enhance the place of human rights in Turkey. Fatih Uşan, the dean of the Faculty of Law at Yıldırım Beyazıt University, highlighted that some of the regulations in the plan are linked to the amendments in the current 1982 constitution. "The renewal of the electoral system, [...] and the updating of the constitution -- more precisely, the implementation of a civil constitution -- are in fact our expectations," Uşan said.

Constitutional reform efforts have a long history in Turkey that [goes](#) back to the late Ottoman Empire. Following a decades-old process through the Charter of Alliance (1808), the Tanzimat Edict (1839) and the Ottoman Reform Edict (Islahat Fermani) (1856), the first constitution was drafted in 1876, marking the beginning of the constitutional era in Turkey. After the 1921 constitution, there was also the 1924 constitution, the first constitution of the modern Republic of Turkey. Since then, two more constitutions that were executed in 1961 and 1982 consecutively were the outcomes of the 27 May 1960 and 12 September 1980 military coups. Many amendments were also made to the 1982 constitution. Voters were requested to decide on an 18-article bill to switch from a parliamentary to a presidential system in the 2017 referendum. However, President Erdoğan still [underlined](#) the need for the Republic of Turkey to welcome its 100th anniversary in 2023 by having its first civilian-drafted constitution.²



Foreign Minister of Turkey Mevlut Cavusoglu (L) and High Representative of the European Union for Foreign Affairs and Security Policy, Josep Borrell (R) hold a joint press conference ahead of their meeting in Brussels, Belgium on January 21, 2021. (Dursun Aydemir - Anadolu Agency)

Relations with the EU

Another significance of the Action plan is the demonstrated willingness to align with the EU *acquis* as mentioned above. The plan frequently refers to the fact that EU committees took an active role in the preparation process of the draft in constant consultation with Turkish authorities. In several parts, the plan also pledges to adopt EU regulation standards, namely the first, third and sixth goals. It is worth mentioning that the European officials [welcomed](#) the initiative, indicating that this is a key document that will shape future cooperation between Europe and Turkey. In parallel to this statement, Turkish Foreign Minister Mevlüt Çavuşoğlu [stated](#) that the plan aims to "broaden the rights and freedoms of our people" along with being beneficial for relations with the EU. However, Turkey also wants to see "honesty and political will from the EU side."

Since the plan indicates that efforts for visa liberalisation as part of EU accession negotiations will be intensified, it can be said that a new period in Turkey's EU agenda is set to begin. Although there have been previous [attempts](#) to advance visa liberalisation in the last couple of years, these attempts have all failed. However, the Human Rights Action plan can be considered as addressing the outstanding criteria needed to meet the requirements for visa liberalisation. For instance, modifications to the counter-terrorism law are underlined in Goal 5 of the plan, one of the most challenging requirements in the visa liberalisation process's criteria list. Another criteria, namely the protection of personal data, is mentioned in detail in Goal 6 of the plan, which further demonstrates that one of the aims in preparing the document is securing visa-free entrance to the EU zone.

² Although it was not an outcome of a military coup, the 1924 constitution is not regarded as a "civilian constitution" because it was drafted by the military.



Turkish Justice Minister Abdulhamit Gul (Far R) and Turkish Presidential Spokesman Ibrahim Kalin (Far L) hold a meeting with representatives of religious minorities and foundations at Dolmabahçe Presidential Working Office in Istanbul, Turkey on November 29, 2020. (Islam Yakut - Anadolu Agency)

Minority Rights

The rights of minority groups will also be expanded as part of the reform package. For instance, the third principle emphasises equality before the law without any discrimination with regards to religion and/or language. In this regard, President Erdogan also [stated](#) that a set of investigation guidelines on hate crimes have been prepared “to ensure a more robust collection of statistics and data by enhancing our capacity and training.” Both the principle of the plan and the President’s words address Turkish society’s multi-cultural structure. Such a drive was not present in the past. During the one-party rule under the Republican People’s Party (CHP), violent pogroms against the Jews of the Thrace region in 1934 and the Wealth Tax’s imposition in 1942 targeting wealthy non-Muslims forced a large number of people to leave the country. The pogroms on 6th-7th September 1955 and the deportation of non-Muslim Turkish citizens in 1964 also further deteriorated the situation for minorities in Turkey.

Moreover, the fourth objective of the plan, which aims to ensure the provision of public services to all sectors of society in an equal and impartial manner, constitutes a significant step for minority rights in Turkey. In this regard, employees and students of all faiths would be allowed to take leave during their religious holidays. There will be legal changes regarding the election and composition of the boards of directors of non-Muslim community foundations. Based on this regulation, which was [welcomed](#) by minority groups, further autonomy and transparency in managing minority foundations can be facilitated. These new regulations can also be seen as a continuation of [reforms](#) concerning minority foundations from 2011 onwards, including the return of more than 1,000 previously-confiscated properties to their rightful owners.

Conclusion

This policy outlook discussed the recently-announced Human Rights Action Plan and its implications for Turkish politics and relations with the EU. As the 100th anniversary

of the Turkish Republic nears, this reform package is demonstrative of the political will to enter Turkey’s centenary with a more functional and qualified legal system centred on human rights. Since coming to power in 2002, Justice and Development Party-led governments have implemented various reforms and regulations in the legal system. The Human Rights Action Plan should be seen as the latest and most significant step to date concerning the revitalisation of the Turkish legal system. However, as President Erdogan and legal experts also stated, the main objective is ultimately to adopt a new civilian constitution. Since Turkish politics have passed through unfortunate stages of military coups in 1960, 1971 and 1980, the post-modern coup in 1997, a memorandum in 2007 and the July 15th coup attempt in 2016, it is time for preparing Turkey’s first civilian constitution.

With these reforms, a new era in Turkish politics is set to begin. They also hold the potential to usher in a new era in Turkey-EU relations. Long-standing relations with the EU and the stalled accession negotiation process also needs to be restored. The plan can be seen as the latest sign that Turkey is taking the EU accession process seriously and making efforts to embrace EU standards for its legal system. It is also key to advancing visa liberalisation for Turkish citizens, a major contention since Turkey applied to the EU in 1963. Turkish foreign minister Çavuşoğlu implied that the EU’s attitude toward this plan would be a determining factor in ushering a new era in Turkey-EU relations.

Nevertheless, it should be highlighted that the reforms in the Action Plan and efforts relating to drafting Turkey’s first civilian constitution need to be embraced by all parties and political factions for a broad consensus across Turkish society to be achieved. It is also an important step towards developing a genuinely civilian constitution that prioritises human rights, unlike previous iterations promulgated by the military. President Erdogan insisted on this aspect. How the opposition parties will react to this solicitation remains to be seen.