

**TURKEY: TERRORISM  
FINANCING LAW HAS  
IMMEDIATE 'CHILLING EFFECT'  
ON CIVIL SOCIETY**

IMPACT OF LAW NO. 7262 ON NON-PROFIT ORGANIZATIONS

AMNESTY  
INTERNATIONAL



# CONTENTS

<b>CONTENTS</b>	<b>2</b>
<b>1. Summary</b>	<b>3</b>
<b>2. Methodology</b>	<b>3</b>
<b>3. Background</b>	<b>4</b>
<b>4. Disproportionate impact of the law on non-profit organizations</b>	<b>4</b>
4.1 “Chilling effect” of law no. 7262	5
4.2 Burdensome audits	6
4.3 Unpredictable nature of discretionary powers granted to the executive	8
4.4 Constraints on essential fundraising	9
4.5 Reluctance to engage in activities involving cooperation with others	10
<b>5. Conclusions and recommendations</b>	<b>10</b>
Recommendations to FATF	11

# 1. SUMMARY

*“The new law hangs over our heads like the sword of Damocles”<sup>1</sup>*

This briefing paper reflects the views of representatives of civil society organizations in Turkey regarding the early impact of Law No. 7262 on the Prevention of the Financing of the Proliferation of Weapons of Mass Destruction (Law No. 7262). The law was adopted in December 2020 in response to recommendations by the Financial Action Task Force (FATF) in 2019. It imposes unnecessary and burdensome audits on non-profit organizations (NPOs); increases prison sentences and already high administrative fines for the breach of auditing obligations; provides for the removal of NPOs’ executives and suspension of NPO activities, as well as the possible dissolution of NPOs for breaches of the law; and hinders NPOs’ online fundraising activities. Amnesty International has interviewed and surveyed a wide range of NPOs in Turkey about the impact of this relatively new law, which international and national human rights organizations, independent experts and human rights mechanisms have criticized for going far beyond what is required by the FATF and for constituting a serious infringement of the rights to freedom of association and expression.<sup>2</sup>

The findings of this research reveal that the combined threat of the sweeping and unforeseeable nature of the measures introduced by Law No. 7262 and the prevailing political climate in Turkey – marked by the increasing repression of civil society – have created a distinct “chilling effect” on NPOs that inhibits them from carrying out their legitimate work due to fears of falling afoul of these measures. The lack of consultation with NPOs ahead of the law’s passage and accompanying lack of legal clarity and foreseeability about its implementation have caused deep concern among civil society organizations and their members, causing many to take pre-emptive actions that have adversely affected their fundraising activities and their willingness to cooperate and collaborate with other organizations, particularly international groups. Communications with NPO actors in Turkey clearly indicate that the “chilling effect” of Law No. 7262 is on wide display (see section 4 below regarding “chilling effect” under international law).

Amnesty International urges FATF Member States, the Secretariat and leadership to pay careful attention to the impact of the measures adopted by the Turkish government to purportedly meet FATF recommendations to combat money laundering and terrorism financing. Early signs show that although the law has yet to be fully implemented, it is already deterring NPOs from performing their legitimate activities in line with their internationally recognized rights to freedom of association and expression.

## 2. METHODOLOGY

This briefing paper is based on interviews with representatives of Turkish NPOs and responses to a survey that Amnesty International distributed to some 230 out of 694 NPOs that had expressed their concerns about the potential negative impact of Law No. 7262 in a joint public statement issued on 22 December 2020.<sup>3</sup>

The survey questions addressed how NPOs viewed Law No. 7262 and how they were preparing to respond or adapt, if at all, to the requirements of the law, as well as the impact that the law has had so far on their operations.

In total, 23 NPOs working in the fields of LGBTI+ rights; youth empowerment; conflict resolution and peace studies; freedom of religion; impunity for human rights violations; gender equality; prisoners’ rights; women’s rights; rights of people with disabilities; refugee rights; economic, social and cultural rights; social services; and

<sup>1</sup> Interview by video call with a member of a Turkish NPO, 23 September 2021.

<sup>2</sup> Venice Commission Opinion on the Compatibility with International Human Rights Standards of Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction, CDL-AD(2021)023cor, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)023cor-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)023cor-e); Letter of the mandates of the UN Special Rapporteur on the promotion and protection of human rights while countering terrorism; Special Rapporteur on the rights to freedom of assembly and association; Special Rapporteur on the rights to freedom of peaceful assembly and association; and Special Rapporteur on the situation of the human rights defenders to the Turkish government with regard to their serious concerns with Law No. 7262, 11 February 2021, [OL TUR 3/2021](https://www.ohchr.org/en/docd/OLTUR3/2021); Council of Europe Commissioner for Human Rights, Turkey: Authorities should refrain from further restricting NGOs activities and freedom of association in the name of counterterrorism, 10 March 2021, <https://pace.coe.int/en/news/8147/rapporteurs-urge-turkish-parliament-not-to-adopt-new-restrictions-on-ngos->; TUSEV, An analysis of the application of financial action task force recommendations and its implication on civil society in Turkey, Info Note, February 2021 [https://www.tusev.org.tr/userfiles/images/MaliEylemGorevGucuSivilToplumEN\\_26022021.pdf](https://www.tusev.org.tr/userfiles/images/MaliEylemGorevGucuSivilToplumEN_26022021.pdf); Amnesty International, Weaponizing Counterterrorism: Turkey Exploits Terrorism Financing Assessment to Target Civil Society, 18 June 2021, <https://www.amnesty.org/en/documents/eur44/4269/2021/en/>; Civil Society Development Centre, General Remarks on the Bill on the Prevention of the Financing of the Proliferation of Weapons of Mass Destruction, 23 December 2020, <https://www.stgm.org.tr/sites/default/files/2020-12/on-the-prevention-of-the-financing-of-the-proliferation-of-weapons-of-mass-destruction.pdf>.

<sup>3</sup> The statement and the list of its signatories can be found here: <https://siviltoplumsusturulamaz.org/>

protection of the ecology and environment responded to the survey. Amnesty International also conducted nine virtual, telephone and in-person interviews with representatives from human rights organizations between 1 and 24 September 2021.

Information regarding the names of the individuals interviewed and their organizations, and the organizations that replied to the survey, has been kept confidential to maintain their privacy and ensure their safety due to potential reprisals.

### 3. BACKGROUND

*“We are of the view that with this law, civil society organizations can be paralyzed by political or administrative justifications at any time.”<sup>4</sup>*

On 31 December 2020, the Turkish Parliament passed Law No. 7262 in an expedited manner without consultation with the NPO sector, purportedly to combat money laundering and terrorism financing. According to the authorities, the law was in response to FATF’s 2019 Mutual Evaluation Report on Turkey, which indicated that Turkey was not in full compliance with FATF’s recommendation on terrorism financing and potential risks associated with the non-profit sector.<sup>5</sup> The law has been widely criticized for exceeding what is required by the FATF, undermining the principle of legality with its overly broad and vague provisions, and threatening to further infringe on the rights to freedom of association and expression, and a range of other human rights that are routinely violated by the state under existing laws in Turkey. It contains several provisions that can and likely will be used in the government’s ongoing attacks on human rights defenders (HRDs) and civil society organizations, a clampdown that has been well-documented by Amnesty International and many other organizations.<sup>6</sup>

The promulgation of Law No. 7262 is an “unintended consequence” of FATF policy and practice, which require a targeted risk-based approach and proportionate risk mitigation measures to ensure that legitimate NPO activity is not disrupted, criminalized or penalized.<sup>7</sup> Law No. 7262 subjects all NPOs in Turkey to the same disproportionate risk mitigation measures, including those groups at little or no risk of vulnerability to involvement in terrorism financing. It imposes intensified and burdensome audits on all NPOs and includes provisions that will hinder online fundraising activities of all NPOs without justification based on actual risk. The law includes provisions that enable easier suspension of board members and employees, as well as the dissolution of NPOs, without adequate and effective judicial safeguards.

Turkey was on the agenda of FATF’s June 2021 plenary meeting regarding its compliance with Task Force recommendations where it had fallen short, including Recommendation 8 on NPOs.<sup>8</sup> Turkey is now in an enhanced follow-up period during which FATF will continue to monitor Turkey’s progress in addressing deficiencies identified in its 2019 Mutual Evaluation Report, including those related to the non-profit sector. Turkey will again be on the agenda of FATF’s 19-22 October 2021 plenary meeting.

### 4. DISPROPORTIONATE IMPACT OF THE LAW ON NON-PROFIT ORGANIZATIONS

---

<sup>4</sup> Response to online survey, 26 August 2021.

<sup>5</sup> FATF, Anti-money laundering and counter-terrorist financing measures, Turkey Mutual Evaluation Report, December 2019 <https://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-turkey-2019.html>.

<sup>6</sup> Amnesty International, Weaponizing Counterterrorism: Turkey Exploits Terrorism Financing Assessment to Target Civil Society, 18 June 2021, <https://www.amnesty.org/en/documents/eur44/4269/2021/en/>.

<sup>7</sup> FATF, International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations, Interpretive Note to Recommendation 8 (Not-Profit Organizations), Updated October 2020, <https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>

<sup>8</sup> Amnesty International met with the FATF Secretariat on 10 September 2021 to discuss the negative impacts of the Law. No.7262 on NPOs and the FATF’s recently launched project to mitigate the “unintended consequences” of FATF standards.

## RIGHT TO FREEDOM OF ASSOCIATION

The right to freedom of association not only encompasses “the ability of individuals or legal entities to form and join an association but also to seek, receive and use resources - human, material and financial - from domestic, foreign and international sources”.<sup>9</sup> Any restriction on the right to freedom of association should be in strict compliance with international law and standards and should be prescribed by law, and must pursue a limited legitimate aim and be necessary and proportionate to that legitimate aim.<sup>10</sup>

States have the positive obligation to facilitate the exercise of the right to freedom of association by creating a safe and enabling environment in which associations can operate freely and without fear of reprisals. Legislation that impacts the right to freedom of association should strive to simplify all conditions and procedures relating to the activities of associations, including with regards to their registration and their ability to secure funds for their operations.<sup>11</sup> Equally important, its provisions should be sufficiently clear, precise and certain to ensure its correct application by relevant implementing authorities and avoid its arbitrary application.<sup>12</sup>

### 4.1 “CHILLING EFFECT” OF LAW NO. 7262

Responses to the survey and interviews regarding the impact of Law No. 7262 reflected in Section 4 below strongly indicate that the law has already had a chilling effect on civil society, despite the fact that it has not yet been fully implemented. Some NPOs have halted certain activities, such as various forms of online fundraising; others have experienced hardship in gaining members or retaining and attracting people to serve on their boards; and some have declined to engage in collaborative work with international organizations, which might cause unwarranted heightened scrutiny of funding sources through burdensome state audits. These actions and operational problems have arisen due to justifiable fears of potentially running afoul of Law. No 7262.

In a March 2021 report on the chilling effect in international law, Professor of European Law, Laurent Pech, offered this general definition:

**“From a legal point of view, chilling effect may be defined as the negative effect any state action has on natural and/or legal persons, and which results in pre-emptively dissuading them from exercising their rights or fulfilling their professional obligations, for fear of being subject to formal state proceedings which could lead to sanctions or informal consequences such as threats, attacks or smear campaigns. State action is understood in this context as any measure, practice or omission by public authorities which may deter natural and/or legal persons from exercising any of the rights provided to them under national, European and/or international law, or may discourage the potential fulfilment of one’s professional obligations (as in the case of judges, prosecutors and lawyers, for instance).”<sup>13</sup>**

Governments’ obligations to avoid obstacles to the full enjoyment of human rights as a result of the chilling effect of a law, policy or measure, are well-established in the jurisprudence of the European Court of Human Rights, to which Turkey is a state party.<sup>14</sup> While the concept has largely been considered in the context of the right to freedom of expression and media freedom,<sup>15</sup> it has gained considerable ground as well with regards to the

<sup>9</sup> Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/23/39, 24 April 2013, para. 8, [https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.39\\_EN.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.39_EN.pdf)

<sup>10</sup> European Court of Human Rights, Guide on the Article 11 of the European Convention on Human Rights: Freedom of Assembly and Association, updated on 31 August 2021, [https://www.echr.coe.int/Documents/Guide\\_Art\\_11\\_ENG.pdf](https://www.echr.coe.int/Documents/Guide_Art_11_ENG.pdf)

<sup>11</sup> Joint Guidelines of the Venice Commission and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on Freedom of Association, CDL-AD(2014)046, para. 75, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)046-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)046-e)

<sup>12</sup> Venice Commission Opinion on the Compatibility with International Human Rights Standards of Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction, CDL-AD(2021)023cor, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)023cor-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)023cor-e)

<sup>13</sup> Laurent Pech, The concept of chilling effect: Its untapped potential to better protect democracy, the rule of law, and fundamental rights in the EU, Open Society European Policy Institute, March 2021, p. 4.

<sup>14</sup> See for instance Sabuncu and Others v Turkey (Application No: 23199/17; Kavala v Turkey (Application No: 28749/18); Navalny v Russia (Application No: 29580/12)

<sup>15</sup> Trine Baumbach, “Chilling Effect as a European Court of Human Rights Concept in Media Law,” Bergen Journal of Criminal Law and Criminal Justice, Vol. 6, Issue 1, 2018, pp. 92-114.

exercise of other rights, including different matters concerning states' clampdowns on civil society and targeting of groups or organizations that defend human rights and the rule of law.<sup>16</sup>

Pech has identified three main prongs of a state's desire to create and maintain a chilling effect:

- Adoption of deliberately ambiguous legal provisions
- Arbitrary enforcement of those provisions against critics of the authorities
- Adoption of disproportionate sanctions to discourage people from exercising their rights, thus limiting the need for future arbitrary enforcement of the relevant legal provisions whose lack of foreseeability is intentional.<sup>17</sup>

The adoption of Law No. 7262, especially when considered in the broader context of numerous repressive measures rolled out over the last five years that have ruthlessly targeted civil society in Turkey, and the fact that human rights organizations have not been identified as particularly "at risk" of terrorism financing abuses, appears to be a deliberate addition to the constellation of measures intended to dissuade NPOs from engaging in otherwise lawful conduct and activities to promote and defend human rights.

As this briefing makes clear, all three techniques are engaged in the adoption of Law No. 7262. The law has created a climate of self-censorship and self-restraint for some NPOs and thus the negative impact of the law – further silencing and repression of civil society – is met even before the law goes into full effect.

## 4.2 BURDENSOME AUDITS

*"Audits could be quite useful if they are not used for punitive purposes; they increase our transparency and empower us. [But] the frequency of audits that we have already started to experience before the law causes anxiety on us, we feel that we are being watched."*<sup>18</sup>

Non-profit organizations interviewed by Amnesty International expressed their concern about the provisions for increased auditing provided for in Law No. 7262. Representatives of several organizations pointed to the anxiety created by the law among their executive boards due to increased administrative fines and prison sentences. The imposition of intensified and burdensome audits is mostly perceived by NPOs as a punitive measure that can and will be arbitrarily used by the government to target civil society organizations and undermine their ability to carry out their legitimate activities. One organization stated that "the significant increase in the administrative fines disturbed us. If we receive a high fine, it would not be possible for us to pay it. We could not reassure the executive board and many opted to resign. It was not easy to find new members for the board."<sup>19</sup> Some other organizations also raised concerns about such increased fines that could lead to the closure of their associations.

It is important to note that suspension of an organization's activities and/or involuntary dissolution of an association are among the most severe restrictions on the right to freedom of association. Most of the organizations that responded to the survey and agreed to interviews (see below) expressed serious concerns that increased fines, burdensome audits that take them away from their critical work, limitations on online fundraising, the removal of staff or members, and the very real potential for the association or organization to be linked to terrorism-related activities could lead to their dissolution or closure. The impact of insurmountable restrictions and the threat of criminal prosecution may amount to *de facto* dissolution of an association, in contravention with international human rights law and standards.<sup>20</sup>

---

<sup>16</sup> See for examples, Venice Commission, Hungary: On the draft law on the transparency of organisations receiving support from abroad, Opinion 889/2017, CDL-AD(2017)015; and Joint Opinion of Venice Commission and OSCE/ODIHR, Ukraine (Draft Law No. 6674): On introducing changes to some legislative acts to ensure public transparency of information on finance activity of public associations and of the use of international technical assistance, CDL-AD(2018)006, 16 March 2018.

<sup>17</sup> Pech, p. 5.

<sup>18</sup> Interview in person with NPO representative, 12 September 2021.

<sup>19</sup> Same interview

<sup>20</sup> International Covenant on Civil and Political Rights, Article 22(2). See also, *Belyatsky v Belarus*, Human Rights Committee, UN Doc CCPR/C/90/D/1296/2004, 24 July 2007, para. 7.3: "The reference to the notion of 'democratic society indicates,' in the Committee's opinion, that the existence and operation of associations, including those which peacefully promote ideas not necessarily favorably received by the government or the majority of the population, is a cornerstone of a democratic society...The mere existence of reasonable and objective justifications for limiting the right to freedom of association is not sufficient. The State party must further demonstrate that the prohibition of an association is necessary to avert a real and not only hypothetical danger to national security or democratic order, and that less intrusive measures would be insufficient to achieve the same purpose."

## SCRUTINY OF FOREIGN AND INTERNATIONAL FUNDING

*“As public funding is mostly given to pro-government NPOs, we have no choice other than depending on international funds to continue our work to provide social services for our beneficiaries.”<sup>21</sup>*

Some NPOs that have gone through an audit process after Law No. 7262 entered into force have indicated that the focus of auditors was their reliance on foreign or international funds. According to the Law on Associations No. 5253, it is already a legal requirement to notify the authorities about any funding received from abroad.<sup>22</sup> One organization reported that an audit had been carried out because they had notified the authorities that they received foreign funding within this year. The auditors mainly reviewed all relevant documents for the last two years and all foreign funding received during this period. The association was also asked to show the documents related to foreign funding they received in 2017.<sup>23</sup> While the association did not receive questions about the foreign funding they received in 2021, they were largely questioned about the use of funds they received in 2017 from a US-based funding institution that was recently the subject of a government smear campaign.<sup>24</sup>

A leading human rights organization also reported that their use of foreign funding was examined in detail during their audit process. The organization was of the view that while the purported aim of the audit was to inspect their operations and accounting records, the real purpose was to inspect and record the fact that international funding was received and for the auditors to note that for possible further action under the new law. According to the same organization, having been audited directly by inspectors from the Ministry of Interior but not from the provincial branch of the General Directorate for Relations with Civil Society, the administrative authority responsible for routine audits of NPOs, strengthened their assumption in this respect.

There seems to be little clarity in relation to which institution is in charge of the various audits. While some organizations were directly audited by inspectors from the Ministry of Interior, others were audited by inspectors from the provincial branches of the General Directorate for Relations with Civil Society under the Ministry. There are no established rules regarding what circumstances would require an audit to be conducted directly by the Ministry of Interior. According to one representative of a human rights organization, “there are no rules; there is no criteria for audits; even if they exist, they are not disclosed to the civil society organizations; [...] audits are applied arbitrarily. While some organizations are frequently audited, others are not. It is not clear if some organizations were audited more because of the type of activities they carry out or because of their use of foreign funding.”<sup>25</sup>

For example, one NPO representative explained that their organization was audited by inspectors from the Ministry of Interior for a month in the summer of 2021 soon after the organization was targeted by some pro-government media outlets for allegedly “making propaganda on behalf of a terrorist organization”.<sup>26</sup> The association was even asked by the auditors to share all personal data of their volunteers and beneficiaries, which raised serious concerns regarding interference with the right to the privacy of beneficiaries and volunteers of the association, and ultimately hindering the right to association as well.

An LGBTI organization that was audited four times in the last one and a half years reported that they were audited again this year.<sup>27</sup> During their audit process, they were asked to prepare a table that set out the funding they received in the last year. They were asked to provide detailed information about the funding institutions, the purpose of the funding, and the reason that their organization had applied for this funding. Further to that, the association was asked about how they came to know about a particular funding source.

The director of a social assistance association told Amnesty International that auditors even asked why a Christian organization was supporting them because the name of the international funding organization included

---

<sup>21</sup> Same interview.

<sup>22</sup> Article 21.

<sup>23</sup> Interview by video call, 21 September 2021.

<sup>24</sup> Recently, a smear campaign targeting several US-based funding institutions and media companies and non-profit organizations which received funding from those organizations was launched by pro-government media outlets and senior government officials.

<sup>25</sup> Interview by voice call, 9 September 2021.

<sup>26</sup> Interview by video call, 10 September 2021.

<sup>27</sup> Interview in person with NPO representative, 12 September 2021.

the word "Christian".<sup>28</sup> The same organization was also questioned about their international partnerships and if they submit reports to those organizations.

These intrusive and irrelevant questions on the sources of funding have the potential of creating a disincentive for NPOs to seek much-needed funding from foreign and international sources. Moreover, the auditing processes carried out by administrative authorities lack transparency and appear to be arbitrary. All organizations which were audited recently reported that the authorities did not share audit reports with them. Organizations were expected to continue their activities without having any feedback on the reporting process and were thus left in the dark regarding possible concerns the state may have or what information the auditors have culled for possible future targeting of an NPO. The lack of response by the authorities about NPOs' compliance with the audit increases the anxiety of members of civil society and can have a wider chilling effect, inhibiting their operations.

### **4.3 UNPREDICTABLE NATURE OF DISCRETIONARY POWERS GRANTED TO THE EXECUTIVE**

*“There was already a trustee regime before; trustees were appointed to municipalities and companies. In the current situation, by referencing an international entity [the FATF], the government can interfere with non-governmental organizations and legitimate its actions by referencing FATF.”<sup>29</sup>*

Many NPOs reported that Law No. 7262 has negatively impacted their members and executive boards. Some NPOs reported declining memberships and individual donations as well as difficulties in recruiting new members to their organizations or finding members willing to take part in executive and supervisory bodies.

The newly adopted Article 30/A of the Law on Associations introduced in Law No.7262 enables the Minister of Interior, as a temporary measure, to suspend executives and/or relevant members of an association if a prosecution is launched against them for terrorism-financing related offences allegedly linked to the association's activities. The article makes it possible to replace executives of an association with government appointed trustees, in violation of the association's right to privacy that requires states to ensure they can be free to determine their own internal matters, including decisions and activities of the association and election of board members.<sup>30</sup> In a context where human rights defenders and civil society actors are routinely falsely charged with terrorism-related offences,<sup>31</sup> the new article amending the Law on Associations has also led organizations to undertake a risk assessment of their members and staff. This creates anxiety and suspicions among colleagues and members of staff, undermining an organization's cohesiveness and ability to carry out its activities without fear that a person associated with the organization might come within the purview of the new law.

Some human rights organizations noted that they had to remove members who were subjected to criminal proceedings for terrorism related charges and keep them from taking or maintaining positions in executive and supervisory boards to reduce the possible risk of the government appointing trustees to their managerial boards and/or the potential closure of their organization. One organization further reported that they had to remove members who were subjected to criminal proceedings in order not to be associated with “terrorism”.<sup>32</sup>

A women's rights organization, some of whose members – including some holding positions on its executive board – had been prosecuted under trumped up terrorism-related charges last year, reported that their offices were raided by police this year and the prosecutor's office seized all their official books and documents. Based on a secret witness statement, the association and its members are being accused of having alleged links with a “terrorist organization”. Their bank accounts were frozen by the Financial Crimes Investigation Board (MASAK) for some time this year during which they could not get any information from the authorities concerning the reason behind this decision. The organization went through an audit in April during which auditors checked/reviewed the content of their work. The director of the association told Amnesty International that they

---

<sup>28</sup> Interview by video call, 15 September 2021.

<sup>29</sup> Interview by video call with NPO representative, 23 September 2021.

<sup>30</sup> Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/20/27, 21 May 2012, para. 65 [https://www.ohchr.org/documents/hrbodies/hrcouncil/regularsession/session20/a-hrc-20-27\\_en.pdf](https://www.ohchr.org/documents/hrbodies/hrcouncil/regularsession/session20/a-hrc-20-27_en.pdf)

<sup>31</sup> Amnesty International, Weathering the Storm: Defending Human Rights In Turkey's Climate of Fear, 26 April 2018,

<sup>32</sup> Response to online survey, 25.08.2021.



were made to understand that their association could be closed down at any time. For this reason, they postponed most of their planned activities, fearing that their executive board could be replaced by government appointed trustees.<sup>33</sup>

## 4.4 CONSTRAINTS ON ESSENTIAL FUNDRAISING

*"Due to the anxiety created by the new legislation, we had to suspend our fundraising activities as of March."<sup>34</sup>*

Many NPOs that responded to the survey stated their hesitation to engage in fundraising activities with international donor institutions due to ambiguities in the new legislation. A representative from a leading NPO told Amnesty International that inflammatory public statements by senior government officials and pro-government media representatives targeting some foreign donor institutions by presenting them as supporting "terrorist activities" in Turkey have created concern among NPOs who have curtailed their fundraising activities as a result.<sup>35</sup> These high-profile smear campaigns have routinely been used by government officials and in the pro-government media against civil society actors and human rights defenders in the last few years, with reference to any relationships between NPOs and international actors and donors as alleged proof of an NPO's involvement in "terrorist acts" or "crimes against the state". The ambiguities in the new law have increased fear and anxiety among the members of NPOs with respect to being prosecuted for terrorism related charges and/or having their organizations face dissolution and closure.

Some organizations have restricted or temporarily suspended their fundraising activities as they are not sure how they would be affected by the new law. A newly founded association reported that their organization was hesitant to fundraise and decided to try to cover costs only through membership fees and individual donations.<sup>36</sup> A representative from an LGBTI+ organization shared their fears, stating: "we said we should not be the first to experience the implementation [of the new law], we are already fragile."<sup>37</sup>

The Law on Aid Collection No. 2860 already requires individuals and institutions to obtain prior permission for their aid collection activities.<sup>38</sup> Amendments to this law brought in by Law No. 7262 mean that online aid collection activities are now subjected to prior authorization as well. One of the main problems with the legislation on aid collection is that although identified as separate activities, there is no clear distinction made between the concepts of "donation" and "aid collection".<sup>39</sup> While donations can be accepted by associations via their websites and do not fall under the restrictions imposed on online aid collection activities, due to the ambiguity in Law No. 7262, some NPOs expressed their reluctance to collect donations online.

Amendments to the Law on Aid Collection further empower the Ministry of Interior to identify "unauthorized" fundraising activities online and to request that a judge block the content. The judge must issue a decision within 24 hours without a hearing, leaving no opportunity for an association to defend itself against the claim that the fundraising activity was not authorized.

Some organizations reported that they had been either in the process of considering or had decided to collect donations via their websites prior to the new law. But due to the lack of judicial safeguards and increased administrative fines introduced by Law No.7262, they decided not to collect donations online, fearing falling afoul of measures restricting online aid collection activities. With the amendment to Article 29 of the Law on Aid Collection included in Law No. 7262, fines from 5,000 TRY to 100,000 TRY (500 EUR to 10,000 EUR) can be imposed for aid collection without authorization and are doubled for unauthorized online aid collection. The vast difference between lower and upper limits of the fine and the lack of clarity regarding the criteria for the determination and application of the fine leave the way open for its arbitrary application.

---

<sup>33</sup> Interview by video call, 5 September 2021.

<sup>34</sup> Response to online survey, 25 August 2021.

<sup>35</sup> Interview in person, 1 September 2021.

<sup>36</sup> Response to online survey, 2 September 2021

<sup>37</sup> Interview in person, on 12 September 2021.

<sup>38</sup> Article 6 of the Law on Aid Collection

<sup>39</sup> TUSEV, Türkiye'de Yardım Toplama Mevzuatına Dair Değerlendirme, Sorunlar ve Engeller, Bilgi Notu, 18 March 2020, [https://www.tusev.org.tr/userfiles/images/YardimToplamaBilgiNotu\\_Ulusal.pdf](https://www.tusev.org.tr/userfiles/images/YardimToplamaBilgiNotu_Ulusal.pdf)

NPOs, especially those working in the field of human rights, are concerned about the arbitrary application of the law against them and the pursuant imposition of substantial/punitive fines. Organizations working with limited budgets are reluctant to assume this risk since significant fines could lead to their closure.

Access to resources is vital to the survival of NPOs and their ability to exercise their functions and fulfil their missions independently. Measures introduced by Law No. 7262 not only threaten the existence of the associations themselves but also the enjoyment of human rights by those benefiting from their work.<sup>40</sup>

## 4.5 RELUCTANCE TO ENGAGE IN ACTIVITIES INVOLVING COOPERATION WITH OTHERS

*“We had to take more self-control actions regarding our cooperation actions and joint statements with other organizations”.*<sup>41</sup>

Several NPOs also reported their reluctance to engage in cooperation with national and international non-profit organizations. The amendment to the Law on Associations contained in Law No. 7262 enables administrative authorities to request the audit of organizations with which the associations have a partnership. An LGBTI organization reported that while considering project partnerships with other organizations, they have started to assess the probability of that organization facing an audit, fearing that such an audit of a partner organization might be extended to them.<sup>42</sup>

According to another representative from an NPO, identifying themselves as a rights-based charity, the climate of fear that has been created by the authorities in the last five years has been so intense that they already keep a low profile and pay careful attention to the content they share publicly. The same person stated that restrictive legislation like Law No.7262 pursued the aim of forcing NPOs to engage in self-censorship and restrict their activities and manner of expression when conveying their messages to the public.<sup>43</sup>

Amendments introduced by the new law also subject international NPOs to control by the executive branch. With the amendment to Article 36 of the Law on Associations, the provisions of the law together with criminal provisions could be applied to foreign associations as well as to permissions for their operations and cooperation in Turkey. However, the law is not clear in terms of which operations and what types of cooperation activities of international NPOs will be subjected to a requirement of prior permission by Turkish authorities, paving the way for its broad and arbitrary application.<sup>44</sup> One organization reported that they have limited their relations with international organizations due to ambiguities in the new law.<sup>45</sup> Other NPO representatives said that they would monitor how the law would be implemented in practice and restructure their relations with their international partner institutions accordingly. The ambiguous scope of the law has caused several NPOs to restrict their cooperation and collaboration with other organizations, particularly international NPOs.

## 5. CONCLUSION AND RECOMMENDATIONS

The vague and overly broad measures introduced by Law No. 7262 can and almost certainly will be used to target the legitimate work of NPOs. The adoption of the law has played a role in creating a chilling effect on NPOs in Turkey, causing many to take pre-emptive actions to protect themselves against the ambiguities of the law, thus hindering their ability to engage in legitimate and lawful activities.

---

<sup>40</sup> UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Report to the UN Human Rights Council (Funding of associations and holding of peaceful assemblies), UN Doc. A/HRC/23/39, 24 April 2013, para 9.

<sup>41</sup> Response to online survey, 26 August 2021.

<sup>42</sup> Response to online survey, 31 August 2021.

<sup>43</sup> Interview by voice call, 24 September 2021.

<sup>44</sup> Also see the opinion of the Venice Commission, on the Compatibility with International Human Rights Standards of Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction, CDL-AD(2021)023cor, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)023cor-e para. 77-79](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)023cor-e para. 77-79).

<sup>45</sup> Response to online survey, 26 August 2021.

In replies to independent experts and international human rights mechanisms that have expressed concern about the human rights implications of Law No. 7262, the Turkish authorities have defended the law as fulfilling FATF recommendations.<sup>46</sup> The new legislation constitutes a prime example of the “unintended consequences” of FATF policy and standards which are all too often misused by repressive governments to suppress civil society and restrict the rights to freedom of association and expression in the name of combating money laundering and terrorism financing. FATF must work to ensure that its standards and recommendations are not weaponized by governments to silence critics, halt the work of human rights defenders, and obstruct the legitimate activities of NPOs.

## RECOMMENDATIONS TO FATF

Amnesty International urges FATF Member States, the Secretariat and leadership of FATF to:

- Require in their upcoming plenary meeting on 19-22 October 2021 and in any continuing follow-up procedures that the Turkish authorities amend all relevant provisions of Law No. 7262 to comply with Turkey’s obligations under international human rights law as a pre-condition for an upgrade on its current rating of only “partial compliance” with Recommendation 8 on Non-Profit Organizations;
- Include in the research for FATF’s “unintended consequences” project, information about Turkey’s use of FATF standards as justification for promulgating a law that infringes on individuals’ and NPOs’ freedoms of association and expression.

---

<sup>46</sup> [Reply](#) of the Minister of Interior to the [letter](#) of Council of Europe Human Rights Commissioner addressed to the Minister of Interior and Minister of Justice regarding the Law no. 7262, 4 March 2021; Reply of Turkish government to Letter of the mandates of the Special Rapporteur on the promotion and protection of human rights while countering terrorism; the Special Rapporteur on the rights to freedom of assembly and association; the Special Rapporteur on the rights to freedom of peaceful assembly and association; and the Special Rapporteur on the situation of the human rights defenders, to Turkish government with regard to their serious concerns with Law No. 7262, 11 February 2021, [OL TUR 3/2021](#), <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=36144>

**Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.**

  
info@amnesty.org

  
facebook.com/  
AmnestyGlobal

  
@Amnesty

## Contact

  
amnesty.org



Amnesty International  
Peter Benenson House  
1 Easton Street  
London WC1X 0DW, UK

Except where otherwise noted, content in this document is licensed under a Creative Commons (attribution, non-commercial, no derivatives, international 4.0) licence (see [creativecommons.org/licenses/by-nc-nd/4.0/legalcode](https://creativecommons.org/licenses/by-nc-nd/4.0/legalcode)).

Where material is attributed to a copyright owner other than Amnesty International, this material is not covered by the Creative Commons licence.

For more information, visit the [permissions page](#) on Amnesty International's website.