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Sida Decentralised Evaluation

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# Independent Evaluation of the Programme “Assessing the Judicial and Constitutional Reform Process in Turkey 2012-2015” implemented by TESEV

Final Report



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Programme “Assessing the Judicial  
and Constitutional Reform  
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**Final Report**  
**June 2015**

**Meriç Özgüne**  
**Pierre Robert**

**Authors:** Meriç Özgüne and Pierre Robert

The views and interpretations expressed in this report are the authors' and do not necessarily reflect those of the Swedish International Development Cooperation Agency, Sida.

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# Foreword

The evaluators would like to thank Koray Özdil and Hande Özhabeş at TESEV's Democratisation Programme for their help in organising the evaluation. They also wish to thank Prof. Dr Uğur, Chairman of TESEV, and the organisation's General Director Özge Aktaş Mazman, for their interest and support for the evaluation and their open discussion of their views about the programme. The evaluators would also like to thank the former Director Can Paker and Özge Genç for their views on the implementation of the programme. They are also grateful for the support and trust of the Embassy of Sweden in Ankara, and in particular for the help provided by Annika Palo and Onur Ariner.

## **Disclaimer**

Although the evaluators drew heavily on interviews and written sources listed in the report, they remain responsible for all errors and omissions. The views expressed in this report are those of the evaluators. They do not represent those of TESEV, the Embassy of Sweden or of any of the institutions referred to in the report.

## **Authors**

Meriç Özgünes and Pierre Robert wrote this report. Johanna Lindström provided editorial and methodological advice and quality assurance.

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# Abbreviations and Acronyms

AKP	Justice and Development Party
BoD	Board of Directors
CoE	Council of Europe
DAC	Development Assistance Committee
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
HRAP	Human Rights Action Plan
KCK	Kurdistan Communities' Union
MoJ	Ministry of Justice
NGO	Non-governmental organisation
OECD	Organisation for Economic Cooperation and Development
SEK	Swedish Crown
Sida	Swedish International Development Cooperation Agency
SWOT	Strengths, Weaknesses, Opportunities and Threats
TESEV	Turkish Economic and Social Studies Foundation
TOR	Terms of Reference



# Executive Summary

This report is the independent evaluation of the programme entitled “Assessing the Judicial and Constitutional Reform Process in Turkey, 2012-2015”, implemented by the Turkish Economic and Social Studies Foundation (TESEV) with funding provided by the Swedish Embassy in Ankara. Sweden supported the programme with a grant totalling about SEK9.8m. The programme consisted in research, training, publication and advocacy activities in four areas:

- Assessing judicial reform.
- Building the capacity of human rights lawyers.
- Supporting police reform.
- Monitoring constitutional reform.

## Findings

In broad terms, the programme has performed well against the criteria, particularly in relation to relevance and effectiveness, and achieving a degree of sustainability. However, a number of shortcomings are noted, that are related in part to programme design and in part to programme management. There is scope to improve both, while maintaining the significant achievements of the programmes to date, and building on good practices and positive experiences. Programme and organisational management need to be built upon, with a view to further reinforce TESEV’s capacity, particularly after the recent loss of key staff. It will therefore be necessary to engage in a degree of consolidation and prioritisation in the next programming period, to ensure sustainable programme development and enhancement of impact.

In general terms, the programme was remarkably relevant, in that it identified and addressed key issues in Turkey’s democratic governance and human rights. The relevance of the programme design benefited from TESEV’s understanding of government thinking and from the organisation’s strong links with civil society organisations. Credibility among the academic community was (and remains) a key strength, which arguably underpinned TESEV’s credibility with other socio-political actors. In areas such as judicial and constitutional reform, the project’s relevance also benefited from TESEV’s good understanding of legislative and constitutional reform processes.

However, there were two elements of programme design that hampered its overall relevance:

- The formulation of outcomes and some bridging outcomes (and to a lesser degrees outputs) in the successive logical frameworks lacked precision and appeared over-ambitious.
- Risks – including crucially the risk of lack of political will to maintain the momentum of reform – were not fully integrated in the programme design.

The programme was consistent with Sweden's strategy on Turkey. However, it might be argued that the strategy for engagement with Turkey on judicial reform, as well as TESEV's approach, were overly optimistic and did not fully recognise the power of the negative factors that could hamper reform. While TESEV had clearly identified risk factors in this respect – which were no doubt known also to the drafters of Sweden's strategy, their potential impact may have been under-estimated.

The activities implemented and outputs produced by the four components of the programme were all relevant to the topic and the needs in terms of basic research, information dissemination, advocacy and awareness raising. The activities were particularly well suited to contribute to dialogue amongst a wide range of actors. The targeting of stakeholders was also very relevant to the programme's aims and conducive to the achievement of impact, in that the range of government institutions addressed by each programme component was comprehensive.

Against this positive background, however, the following limitations should be noted with regard to the choice of actors:

- As a consequence of the hardening of the government's stance against alleged members of the Gülen movement, several of the senior MoJ officials, judges and prosecutors, with whom TESEV has worked with in the early years of the programme, were demoted or reassigned to different positions, often outside Ankara, to be replaced by personnel who were not, or less, familiar with TESEV's work.
- Some of the research topics may have been influenced by the wish to initiate or maintain dialogue. In particular, as mentioned above, the decision to conduct a public trust survey of the police may have been made to the detriment of a more critical study – for example one that would have focused on the impact of previous police reforms.
- The evaluators also noted that TESEV did not systematically engage in following-up the use of reports by their intended audiences.

The original programme document contained a broad provision on gender mainstreaming, but no specific action was outlined. In general terms, gender issues were not a significant focus of the programme's design, though some activities reflected concern for gender equality.

The programme was broadly **effective**, in the sense that many of the planned activities were achieved and that a number of significant outputs were delivered, and inroads were made towards achieving bridging outcomes and outcomes. The level of

achievement was satisfactory in that reports produced were of high standard in terms of evidence base, impartiality and methodology. Against this generally positive backdrop, two elements hampered the programme's effectiveness:

- The judicial and constitutional reform components of the programme were, to a significant extent, reactive rather than pro-active, in the sense that many if not most of the outputs consisted in analysing legislative reforms proposed by the government (in the successive packages), and in reviewing proposed and possible constitutional changes, rather than TESEV putting forward an agenda of change of its own or systematically assessing the path of change in particular thematic areas.<sup>1</sup>
- A related concern was that the programme in general did not seem to have clear, explicit follow-up strategies designed to achieve the expected outcomes. The only component where this concern probably did not apply was the one concerning capacity building on human rights.

The progress reports submitted by TESEV to the Embassy were generally well informed, detailed and timely. However, the reports also had some weaknesses:

- The reports tended to focus more on activities and the delivery of outputs and less on the achievement of bridging outcomes and outcomes.
- The reports often lacked an explicit strategic overview of the political context. This was particularly a concern in view of the challenges posed by the context in Turkey.
- A third and less significant weakness was that the reports did not contain a preview of activities planned for the subsequent reporting period.

Interviews with stakeholders confirm the progress reports' conclusion that, for the most part, outputs and bridging outcomes have been achieved. Achievement was less clear at outcome level. In the view of the evaluators, weaknesses in the programme's achievements at outcome level should not hide actual achievements:

- The programme's approach (based on research, report-writing and dissemination to targeted groups) was well suited to the programme in general.

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<sup>1</sup> This is not to say that some of the key activities of TESEV did not proactively engage actors on certain issues to initiate dialogue and enrich the reform process. The Berlin meeting is one example as well as the achievements outlined in the respective sections regarding human rights litigation.

- The human rights component of the programme was in a category of its own, since its stakeholders were essentially human rights defenders (NGOs and lawyers acting on behalf of victims of human rights violations).

The human rights capacity building element of the programme achieved a degree of **sustainability** by establishing a mechanism for civil society information sharing on human rights that has become autonomous from TESEV and has received separate funding (from the EU). There are other elements of sustainability in the programme, mainly as a result of the fact that research reports theoretically have a long shelf life: for example the constitutional reform monitoring report contain analyses of issues that will be relevant whenever the reform process starts again. The same can be said to a large extent about the reports prepared as part of the judicial reform component. The police component can also be said, in a more limited way, to have a degree of sustainability, in the sense that it has spurred interest for dialogue with (selected) think tanks on the part of the Ministry of Interior and the Police Academy.

Nevertheless, the programme's sustainability has been hampered by the worsening political polarisation. The programme's sustainability was also weakened by the fact that it did not have an appropriate "exit strategy", which could have included the handing over of specific tasks to individual stakeholders (on the model of the transfer to the Memory Foundation of the Failibelli website).

The programme was broadly **efficient**, in the sense that the total grant amount provided by Sida was reasonable in view of the amount and quality of research outputs produced, and of the other activities implemented, such as publications, meetings, study visits, etc. In the absence of analytical accounting the exact allocation of resources is difficult to assess, but the analysis conducted by the evaluators confirm that personnel costs were the main area of expense, as is to be expected of a research-intensive programme such as this.

### Conclusions of the evaluation

- The TESEV programme was remarkably relevant, in that it identified and addressed key needs in Turkey's democratic governance and human rights.
- Although generally well thought out, the programme design presented some weaknesses: a lack of precision and rigour in the formulation of some outcomes and bridging outcomes; lack of integration of risk analysis into the research programme; and lack of an explicit, comprehensive advocacy strategy.
- The programme (and to some extent Sweden's strategy) was based on the optimistic assumption that political will to implement reforms would be lasting.
- The programme was sound but reactive instead of taking a proactive agenda-setting stance with important exceptions such as the human rights litigation component as well as stakeholder dialogue meetings organised.

- The programme was broadly effective. The level of achievement was satisfactory in that reports produced were of high standard.
- The programme addressed a wide and appropriate range of actors in Turkey.
- The original programme document contained a broad provision on gender mainstreaming, but no specific action was outlined.
- The progress reports to Sida were generally well informed, detailed and timely. However they often lacked an explicit strategic overview of the political context.
- As a result of the departure of the team and managers who implemented the programme, TESEV is now in a situation where it needs to reinvent itself.
- TESEV capitalised on its national and international credibility as a think tank to interact with government institutions as well as with human rights organisations. This capacity to engage with “both sides”, at a time when government institutions and human rights organisations have little direct interaction, reinforced TESEV’s credibility with both sets of actors. This doubtless also contributed to the relevance of the programme, by ensuring participation of all necessary actors.
- The credibility of TESEV as a research institution, and many of its international contacts, is preserved.
- There were significant elements of sustainability in the programme, particularly as a result of new mechanisms (such as the Failibelli website) or thanks to the quality of research and reporting.
- The programme constituted adequate value for money, and the body of outputs is coherent with overall spending.

## Recommendations

### To the Swedish Ministry of Foreign Affairs

*Strategy:* Sweden should review its Turkey engagement strategy to take account of the current political context. In particular it should assess, including by consulting appropriate experts, the extent to which events of recent years may have influenced the outlook of the Government of Turkey on domestic reform and on Turkey’s role in the region.

### To the Embassy of Sweden

- *Support to TESEV:* The Embassy of Sweden should consider providing TESEV with a small, short-term grant aimed at helping the organisation reorganise its management systems and prepare a new multi-year action plan.

- Should the previous step have been satisfactorily implemented, the Embassy should consider contributing to further TESEV research activities, provided the following conditions are met:
  - TESEV has management and accountability systems in place that ensure the impartiality and independence of its research and advocacy;
  - TESEV proposes a programme based on a sound social, political and economic analysis and fulfilling the recommendations below;
  - There are reasonable prospects for TESEV to diversify its sources of funding for its proposed programme.

### To TESEV

#### *Management aspects*

- TESEV should review its organisational structure and management systems, including by building on the 2012 system-based audit report, to ensure:
  - That team leaders as well as middle and senior managers exercise effective, accountable and ethical management;
  - That the Executive Director is effectively accountable to the Board of Trustees and exercises his or her duties without undue interference;
  - That Trustees and other members of the General Assembly fully respect management mechanisms and do not interfere with the work of staff, consultants and managers under the authority of the Executive Director;
  - That management is as collegial as is compatible with effective action, and in particular that departmental managers exercise a degree of peer review of their counterparts' work plans.
- TESEV should review its programme design and planning processes, and where necessary devote additional human and financial resources to ensure that:
  - Programmes are based on a sound social, economic and political analysis and theory of change;
  - That the theory of change is appropriately reflected in programmes logical frameworks;
  - That risk analysis is fully integrated into programme planning, including where appropriate by commissioning research into the causes of identified risks;
  - TESEV should design future logframes with a more precise – and perhaps less ambitious – wording of objectives, outcomes and bridging outcomes;
  - Indicators should be more detailed, so that they better reflect the degree to which a particular outcome is met;
  - Programmes should systematically include a follow-up strategy that specifies target audiences and specific policy recommendations tai-

lored to each audience. Appropriate resources should be devoted to that aspect, in keeping with TESEV's nature as a think tank.

- TESEV should seek advice from comparable think tanks in Turkey and abroad on fundraising, diversification of funding sources, and maximisation of own resources. In particular, TESEV is encouraged to:
  - Consider setting up partnerships with other academic institutions or think tanks with a view to carrying out joint fundraising exercises on the basis of joint programming;
  - Consider joining EU and other research networks in relevant fields to seek EU funding for appropriate research programmes.

*Democratisation research and advocacy aspects*

- TESEV should develop a programme of research that follows on from the 2012-2015 programme, building on the programme's achievements outlined in the present report, and in particular:
  - Aiming to set and monitor the fulfilment of an agenda of judicial reforms coherent with Turkey's international commitments and the *acquis*;
  - Supporting the constitutional reform process if this is revived, by setting clear recommendations and monitoring their fulfilment, in complementarity with other relevant national and international experts;
  - Reinforcing the links between TESEV and the human rights community on an appropriate and prioritised set of issues, ensuring in particular the complementarity of TESEV's inputs with that of other stakeholders;
  - Addressing other thematic issues on which TESEV has relevant expertise, taking into account the need to develop pro-active, reasonably comprehensive policy reform agendas and to monitor their implementation in the course of research programmes.
- Such a future programme, or programmes, in addition to meeting the design requirements outlined above, should integrate an appropriate advocacy strategy. An exit strategy aimed at maximising the sustainability of the programme's outcomes should also be developed at the outset.

# 1 Introduction and Background

## 1.1 OVERVIEW

This report is the independent evaluation of the programme entitled “Assessing the Judicial and Constitutional Reform Process in Turkey, 2012-2015”, implemented by the Turkish Economic and Social Studies Foundation (TESEV) with funding provided by the Swedish Embassy in Ankara. The programme, implemented from March 2012 to March 2015, consisted in research, training, publication and advocacy activities in four areas:

- Assessing judicial reform. The aim of this component was to contribute to the development of an independent and impartial judicial system through research and dialogue among judicial professionals and policy makers.
- Building the capacity of human rights lawyers. This component sought to contribute to due process in cases concerning human rights violations, including through the fight against impunity for perpetrators and the support to human rights lawyers through information sharing and broader networking.
- Supporting police reform. This component sought to contribute to the emergence of democratic policing through evidence-based policy recommendations and publication of analyses about the needs and principles of democratic policing.
- Monitoring constitutional reform. This component aimed at contributing to a democratic constitutional reform process through research on issues addressed in the reform process and interaction among policy makers and civil society representatives.

Sweden supported the programme with a grant totalling about SEK9.8m. Sida also supported a system-based organisational audit of TESEV, conducted in October 2012, which provided recommendations on management systems and accountability processes to TESEV’s Board of Directors (BoD).

The present report is structured as follows:

- The introduction provides background information on the programme to be evaluated and on the political context in which it was implemented, highlighting in particular the situation of the main stakeholders targeted by the various activities and the key changes that took place during the project period.



- The methodological section provides an overview of the evaluation scope and methodology. It sets out the key constraints and limitations of the evaluation, as well as the manner in which the evaluators have addressed these to gather the evidence base for their findings and conclusions.
- The evaluative section provides an assessment of the programme under the evaluation criteria set out in the Terms of Reference (ToR, annexed to this report), in accordance with internationally agreed definitions of these criteria.
- The conclusions synthesise the findings into key bullet points, which seek to draw the main lessons from the programme's implementation. These conclusions stem directly from the findings of the evaluative section, and are formulated so as to be of relevance to the broad range of users of the evaluation, as set out in the ToR.
- The final section contains recommendations based on the findings and conclusions. These are primarily aimed at the Swedish Embassy and at TESEV, though they may be of use also to other stakeholders.

Annexes include the evaluation ToR as well as lists of people interviewed by the evaluators and of documents consulted. A draft of the present report was commented on by the Embassy of Sweden, TESEV and former TESEV staff. Their comments have been taken into account in the preparation of this final report.

## 2 Rationale and Methodology of the Evaluation

### 2.1 SPECIFIC OBJECTIVES OF THE EVALUATION

The evaluation seeks to assess the effectiveness, relevance, sustainability and efficiency of the project implemented by TESEV with Swedish support from 2012 to 2015. The ToR do not list specific evaluation objectives, but its list of evaluation users (which includes TESEV trustees, executives and staff as well as target groups delineated in the Sida-supported programme) suggests that the evaluation should contribute to the development of TESEV's institutional capacity, and also that it should contribute to the understanding of the programme by the target groups.

It is therefore clear that the evaluation has programming and institutional dimensions. In programming terms, the evaluation covers the four areas of work carried out by TESEV:

- Assessing the judicial reform process;
- Capacity-building for human rights lawyers;
- Rule of law and perspectives for police reform;
- Monitoring the constitutional process.

In institutional terms, the evaluation covers implementation and management of the programme by TESEV, and the governance/accountability processes internal to TESEV, regarding the programme.

### 2.2 EVALUATION OBJECT AND SCOPE

The evaluation covers the TESEV programme and its management as described above. It is important to note that the evaluation does not specifically cover the performance of the target groups and partners with which TESEV interacted during this period. As the ToR state, TESEV had to “steer troubled waters” to implement the project, and it cannot be expected to have exercised control on the performance of outside entities. However, it was appropriate to assess TESEV's response to the changing environment of the programme's implementation: that environment worsened over the years, as described in the context section above. It was also important to assess the extent to which TESEV correctly analysed the positions and needs of the various stakeholders, and the extent to which its strategy to influence them was appropriate.

The ToR also note that TESEV identified outcomes, bridging outcomes and outputs, with the help of a Results-Based Management (RBM) training received in 2013. The

ToR prioritise the assessment of the “connections” between outputs, bridging outcomes and outcome levels, as well as the validity and relevance of the programme’s selected indicators. The role of the logical framework is also highlighted as a priority for assessment. These elements show that the programme design needs to be assessed in detail – not just in terms of the original design, though that will be important too, but also in terms of the degree of flexibility exercised by TESEV in programme implementation. The strategic level of the programme design – which conditioned the identification of outcomes – is also part of the assessment, inter alia because it may have influenced the way in which TESEV management and board exercised control over the implementation of the programme.

## 2.3 METHODOLOGY

The following standard OECD-DAC evaluation criteria are applied: relevance, effectiveness, sustainability and efficiency. The criterion of impact was specifically excluded by the TOR, though some elements of impact are discussed in the sections on effectiveness and sustainability, in keeping with the evaluation questions set out in the TOR and reviewed below. This evaluation did not pose particular methodological complications or challenges. Documentation received was of good quality and very comprehensive (a list of documents used for the evaluation is appended to this report).

The evaluation questions set out in the TOR were used, with some additional questions on project management added at inception stage to the section on efficiency. The evaluation questions were the following (subtitles in bold in the findings chapter refer to these questions):

### **Relevance**

- The relevance of the four Program areas to Swedish policy;
- The relevance of the four Programme areas to the judicial reform agenda in Turkey both at the beginning of the project and the continued relevance of the areas throughout the project implementation period;
- The relevance of the activities undertaken and actors chosen in each Programme Area to the objectives set out for each Area in the inception of the Programme;
- The extent to which the Programme has shown flexibility and has been responsive to emerging contingencies;
- The extent to which a gender perspective has been taken into consideration.

### **Effectiveness**

- Quality and timeliness of annual, interim and final narrative and financials reports to Sida,
- A comparative effectiveness of achievement of objectives at the output, bridging outcome and outcome levels;
- An analysis of causal attribution at the output, bridging outcome and outcome

levels;

- Adequacy of funds for programme implementation up to the date in which the evaluation is made;
- Evaluation of areas in which cooperation has been most effective, and areas in which it has been least effective in terms of achieving objectively verifiable results;
- The extent to which the Programme is credited with having achieved concrete results as well as increase in knowledge and discourse/mentality shifts by the beneficiaries;
- TESEV's ability to continue working towards project objectives in the face of external risks that have materialized.
- Recommendations towards a more effective intervention.

### Sustainability

- Sustainability of gains achieved with regard to results;
- Sustainability of participatory mechanisms and instruments used in the programme to bring together state and civil society actors around the same table;
- Sustainability of the capacity development of human rights lawyers and their networks;
- Sustainability of the quality and division of labour of TESEV as an institution, with a focus on organizational challenges for the Democratization Team in particular.

### Efficiency

- Has the programme been managed with reasonable regard for efficiency? What measures have been taken during planning and implementation to ensure that resources are efficiently used?
- Have adjustment requests led to a more efficient implementation of the project?
- Could the intervention have been implemented with fewer resources without reducing the quality and quantity of the results?
- Could more of the same results have been produced with the same resources?
- Appropriateness of governance and accountability mechanisms:
- How robust is the RBM system implemented by TESEV? How has this contributed to the efficiency and effectiveness of the programme?
- How does TESEV management supervise staff and maintain accountability? Are systems adequate to the workload and socio-political environment?
- How do trustees supervise TESEV's managers? Are there appropriate procedures in place to ensure timely information of the board of trustees?

The evaluation criteria were interpreted as follows:

- **Relevance.** Relevance of the programme to Swedish policy was assessed primarily vis-à-vis the "Cooperation Strategy for development cooperation with Turkey 2010-2013". The relevance also assessed the relevance of the pro-

programme overall to the pre-accession process and accession priorities in terms of the judiciary and fundamental rights sectors. The evaluation assessed whether TESEV had correctly identified problems and needs, and whether its programmes' design was appropriate to address the needs identified. It is under the relevance criterion that the evaluators also considered overall issues of programme design, including risk identification and mitigation.

- **Effectiveness.** The key evaluation issues here concerned the delivery of outputs and the achievement of outcomes and bridging outcomes. The TOR also suggested that cooperation between TESEV and external stakeholders should be analysed to assess the extent to which it helped achieve results. The TOR also referred to elements that can be assimilated to impact (reference to beneficiaries' mentality shifts), including elements related to attribution. It was possible to assess the extent to which TESEV helped shape a conceptual framework in the field of judicial reform, and to set or achieve specific milestones in its other areas of work.
- **Sustainability.** Beyond the contingencies of funding, this aspect of the evaluation assessed the extent to which processes, approaches or structures have been established by TESEV, or with its support, to support judicial reform and other programme-related activities, beyond the period of the programme. In particular, the evaluators considered the extent of the commitment of TESEV's partners and programme stakeholders, and any initiative they may have taken as a result of their interaction with TESEV. Sustainability of outcomes at the institutional level was also a concern of the evaluation, as was the sustainability of the programme within TESEV.
- **Efficiency.** In addition to assessing the appropriateness of the use of human and financial resources, this aspect of the evaluation considered issues of programme management, which are often key to the achievement of value-for-money. The added value of the programme as a whole was assessed in a synthetic manner as a combination of the assessment of the various criteria. It was not possible to conduct a scoping study of all alternative ways in which judicial and constitutional change results could have been achieved, but the assessment helped form a judgement as to the appropriateness of the work of TESEV in the period under consideration. Gender equality was considered under each of the evaluation criteria and questions, but given specific consideration in terms of the management of the programme, addressed under this criterion.

### Conduct of Interviews

The main evaluation tool other than the analysis of the documentation listed in the annex to this report was a set of semi-structured interviews with a broad range of stakeholders in the programme, ranging from TESEV staff, managers, board members and consultants to representatives of government institutions, civil society organisations, etc. The list of people consulted is annexed to this report. In view of the

wide variety of backgrounds among the people interviewed, it was to be expected that many would not know about Sweden's support to TESEV, and would mostly be able to talk about the influence of TESEV's programme on their own work. This is why interviews focused on informants' subjective assessment of the benefits or otherwise, for their own work, of TESEV's programme. Similarly, informants were asked whether they used input from other organisations similar to TESEV, and whether they had views on the kind of work TESEV should conduct in the future. Informants were asked to provide specific examples of TESEV's work that they found of interest. These subjective views were triangulated with one another, and with the overview given by TESEV itself of the effectiveness and influence of their programme. TESEV staff and former staff were asked to describe their work methods and – with the benefit of hindsight – to give their views about the main achievements of the programmes, and its main challenges. Current TESEV managers (who had not been involved in the implementation of the programme) were asked to address issues related to TESEV's current and future plans, including an overview of how the just-ended programme could feed into the think tank's plans for the future.

### **Constraints and Limitations**

The key constraint faced by the evaluation was that a number of officials who had participated in TESEV activities until 2013 and early 2014 were subsequently demoted and moved to posts outside Ankara, where they were not in a position to discuss their previous involvement. TESEV having advised the evaluators against conducting focus group meetings, the evaluator sought individual meetings only. The timing of the evaluation made it difficult to meet people involved in the constitutional reform process, because of the pre-election period. Nevertheless, TESEV helped the evaluators arrange a meeting with a member of the Constitutional Committee.

The evaluators, in arranging meetings, sought to strike a balance among informants so that input could be received on the multiple components of the programme and tried their utmost to have an informant corresponding to one or more of the components of the programme. Despite the unavailability of some informants, the evaluators were able to form a well-rounded view of the programme on the basis of other interviews. The list of people consulted is annexed to this report.

## 3 Context<sup>2</sup>

### 3.1 ADDRESSING JUDICIAL REFORM IN TURKEY

The democratisation process in Turkey, spurred by reforms that followed the acceptance of the country's candidate status to the European Union (EU), has made important achievements on the political and societal level. This has been especially true for the reform process that gained momentum in the early 2000s and intensified during the post-2005 period with the opening of accession negotiations with the EU, despite the ensuing blockage of eight important negotiation chapters by some EU Member States.

The last decade in Turkey has been characterised by the rule of the AKP (Justice and Development Party) elected for a third term in 2011 – the elections that took place on 7 June 2015 did not return an absolute parliamentary majority for any party. Several EU harmonisation packages were adopted, primarily in an attempt to align Turkish legislation with political criteria and the *acquis communautaire* requirements under the relevant EU membership negotiation chapters, bringing important changes (despite some setbacks) to legislation concerning freedom of assembly, freedom of speech, access to justice among others. In the Screening Report of the European Commission, opening benchmarks were identified under Chapter 23 (Judiciary and Fundamental Rights), including the Judicial Reform Strategy (JRS) to be developed to strengthen the independence, impartiality and efficiency of the judiciary.

The Government of Turkey has endorsed four Judicial Reform packages since 2009 in line with the objectives set out in the JRS. The updating process of the JRS has taken place under the coordination of the Presidency of Strategy Development and General Directorate of EU Affairs. As part of the 3<sup>rd</sup> and 4<sup>th</sup> reform packages, reforms announced in the democratisation package presented in September 2013 were adopted and implemented. These measures, among others, decreased the threshold for budget

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<sup>2</sup> The presentation of the context does not claim to be exhaustive of all developments and tries to provide an overview of main events that may have an implication on the evaluation of the programme. The information presented therein is primarily based on EC Progress Reports and on information provided by stakeholders during the field work. There are sound methodological reasons to use the EC reports as a basis for describing the context: they are public; developed through a consultative process involving the Government of Turkey; and follow the same methodology from year to year and constitute an element of the enlargement process.



support to political parties, allowed the conduct of political activity in languages and dialects other than Turkish, and provided for private education in languages and dialects other than Turkish. The adoption in March 2014 of the “Action Plan on Prevention of Violations of the European Convention on Human Rights” (ECHR) was an important step aimed at aligning Turkey’s legal framework and practice with the case law of the European Court of Human Rights (ECtHR). The Action Plan aims to bring the national legal framework in line with ECtHR case-law and covers key issues such as preventing violations of the right to life, preventing ill-treatment, ensuring effective access to courts and trials within a reasonable time, freedom of expression and media, as well as freedom of assembly. Despite these advances the measures taken (with little consultation) did not amount to a comprehensive action plan on fundamental rights and some areas of reform were left out (e.g. conscientious objection).

Attempts at solving long-lasting issues dominating the political divide were made on several occasions with a constitutional reform process that became defunct in 2013; the “opening” process targeting minorities (primarily the Kurdish community) and the reform packages that brought important changes in the fields of judiciary, justice and fundamental rights. While the democratisation process also opened up possibilities for more open and courageous debates on key political issues, existing stark divisions in Turkish society were reinforced especially in the last few years.

The debates on politics and reforms assumed an increasingly polarised character,<sup>3</sup> especially after the violent suppression of largely peaceful protests that broke out following police intervention against a sit-in demonstration in Istanbul’s Gezi Park in May 2013, and the corruption scandals that broke out in late 2013. The characterisation by the government of the protests as an opposition conspiracy enhanced the atmosphere of polarisation. The political discourse justified the stepping up of prosecutions against opposition figures such as journalists, civil society activists and public officials considered hostile to the government, including police officers, judges and prosecutors. Investigations into the authorities’ handling of the Gezi protests (which resulted in the death of seven protestors and a police officer) were hampered by loss of evidence and the initiation of court cases – reportedly given priority by courts – against protestors and people alleging torture and ill-treatment.

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<sup>3</sup> The 2013 EC Progress Report characterised the post-Gezi atmosphere as follows: “The political climate is still marked by polarisation and lacks a spirit of compromise. The government has tended to rely exclusively on its parliamentary majority to pass laws and decisions, including on socially sensitive issues, without sufficient consultation and dialogue with stakeholders.” [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/brochures/turkey\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/turkey_2013.pdf) (p. 2, accessed in April 2015). These factors contributing to polarisation were reiterated in the EC’s 2014 report.



The response of the government following allegations of corruption in December 2013 gave rise to concerns regarding the independence of the judiciary and the separation of powers. Prosecutors involved in the December 2013 anti-corruption investigations were reassigned or removed. Disciplinary and criminal investigations were initiated against some of them. A large number of police officers were removed, reassigned, or detained. It is significant that many of the Ministry of Justice officials and other civil servants involved in consultations held by TESEV under the programme have been reassigned and are no longer serving in positions where they may influence policy-making.

Despite the government's claim that they were not linked to the anti-corruption case, the reassignments and dismissals of police officers, judges and prosecutors impacted on the effective functioning of the relevant institutions, and raised procedural questions.<sup>4</sup> Attempts to ban social media, later overturned by the Constitutional Court, and pressures on the press leading to a widespread self-censorship, reflected a restrictive approach to freedom of expression. Implementation of reforms adopted in previous years continued but the aforementioned limitations raised serious concerns over the independence of the judiciary and the rule of law.<sup>5</sup>

The Constitutional Court found a number of provisions of the Law on the High Council of Judges and Prosecutors unconstitutional. As a result, Parliament amended the legislation and brought back previous provisions. Nevertheless, the decision of the Court was not retroactive. The EC's 2014 Progress Report for Turkey highlighted that despite the legislation being changed again, the High Council suffered from lack of plurality and remains vulnerable to intervention by the executive.<sup>6</sup> In addition, with regards to the independence of the judiciary, a law on the Justice Academy was adopted in February 2014, with little stakeholder consultation, increasing the executive's control over the Justice Academy. There is also some concern regarding the changes that were hailed as positive regarding the abolishment of the specially authorised courts through the 5<sup>th</sup> reform package. These courts had been specially authorised in high profile cases such as Ergenekon, terror related cases, case against members of the Kurdistan Communities' Union (KCK) among others. However, criticism was directed at changes that followed which brought in the picture new courts

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<sup>4</sup> As stated by the 2014 EC Progress report: "the government response to corruption allegations, which amounted to interfering of the executive into the independence, impartiality and efficiency of the judiciary, raised serious concerns. This led to further polarisation of political climate." [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-turkey-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf) (p. 10, accessed on 26 April 2015).

<sup>5</sup> *Ibid.*

<sup>6</sup> Turkey Progress Report, 2014, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-turkey-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf) (accessed on 28 April 2015).

to be in charge of these cases. Some stakeholders such as human rights NGOs characterised the reform process in Turkey as one step forward and one step back, with reforms being overturned in a flash.

There was increasing concern regarding the independence of the judiciary as a number of judges were detained earlier in 2015 as part of what the government claimed to be the struggle against coup d'état plots of which the government accuses the Gülen movement.

In a report published in November 2013, the Council of Europe (CoE) Human Rights Commissioner Nils Muižnieks criticised the Law on the Powers and Duties of the Police<sup>7</sup>, noting that it allows the dispersal of any demonstration that has been deemed unlawful, without taking into account whether or not it is peaceful. The report stated that legislation imposes undue or disproportionate punishment for participation in unlawful demonstrations. A new and controversial “Internal Security Reform Package”<sup>8</sup> was recently adopted in Parliament, which provides for expanding police powers among other arbitrary actions. The CoE Human Rights Commissioner warned that the package would lead to a “widening of the powers of the police to use firearms, to use force during demonstrations, to stop and check, or to apprehend suspects at their own initiative without judicial authorization, [it] would bear the risk of increasing the likelihood of human rights violations, notably with respect to the right to life, the right to freedom of assembly, and the right to respect for private life”. The Commissioner called for harmonisation with international standards.<sup>9</sup> In general, increasing criticism was directed at what was perceived as piecemeal and implicit reformism on key issues<sup>10</sup> and an increasing lack of debate on fundamental legislation passed by parliament.<sup>11</sup>

<sup>7</sup> <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2395759&SecMode=1&DocId=2079692&Usage=2>

<sup>8</sup> Polis Vazife ve Salahiyet Kanunu ile Bazı Kanun ve Kanun Hükümlerinde Kararnamelerde Değişiklik Yapılmasına Dair Kanun Tasarısı, submitted on November 2014.

<sup>9</sup> “Muižnieks warns security package may increase human rights violations in Turkey”, Today's Zaman, 9 February 2015 (accessed on 17 March 2015).

<sup>10</sup> See for instance on the Kurdish opening, D. Kurban, 2013, « Not a Roadmap for Peace », German Institute for International and Security Affairs (accessed on 16 March 2015):

[http://www.swp-berlin.org/fileadmin/contents/products/comments/2013C35\\_kun.pdf](http://www.swp-berlin.org/fileadmin/contents/products/comments/2013C35_kun.pdf)

<sup>11</sup> As noted by the 2014 EU Progress Report Turkey, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-turkey-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf) (accessed on 26 April 2015).

## 3.2 BACKGROUND ON TESEV

TESEV (Turkish Economic Social Studies Foundation) is a non-governmental think tank based in Istanbul since 1994, focusing on producing economic, social and political analysis on major issues of concern in Turkey. It primarily aims to provide research-based input to the policy-making process, including facilitating policy debates between government, civil society organisations and broader academic and professional circles. TESEV operates through the following three main programme areas, which tackle what are deemed the most important policy issues:

- Democratisation Programme
- Foreign Policy Programme
- Good governance Programme

TESEV currently has 11 staff members (eight staff implement the above three programmes, while three people make up the administrative and finance department). The Executive Director manages the organisation and reports to a nine-member Executive Board, chaired by Prof. Dr Aydin Ugur. The Executive Board is ultimately answerable to TESEV's General Assembly, which comprises about 300 members. However in practice the Executive Board is responsible before the Board of Trustees, elected by the General Assembly and meeting once per year. According to the Chair of the Board, TESEV's operational approach is to use a pool of qualified academics and professionals to research and write reports, based on terms of reference developed by TESEV. In that sense, TESEV differs from some other think tanks where reports are written by researchers who are full-time employees. At TESEV, programme staff plan and manage research and other activities, but do not generally write reports themselves (though they may contribute to them). A review mechanism using outside experts and academics helps ensure that published reports respect set standards of quality and methodology. However, there are exceptions to this approach in the sense that some of the reports in the programme supported by Sida were compiled or edited by TESEV staff.

The project under evaluation constituted an action formulated and implemented by the Democratisation Programme (DP hereinafter) of TESEV. The DP focuses on Turkey's democratization and EU accession processes and as part of this focus has concentrated on the following pertinent issues: the Judiciary, security sector reform, the Kurdish question, citizenship, minority rights, the constitution, religion, state and society relations as well as media and democracy. The production of research-based information that is academically sound and reliable has led to TESEV DP's output being used as reference by international and national actors in policy debates and related research.

TESEV has recently undergone changes in its management, including the election of a new Board and Chairperson. There have also been certain changes at staff level, whereby the majority of staff involved in the DP team have terminated their contracts

with TESEV. The previous chairman, together with the majority of the former programme staff have set up a separate think tank, Podem, which intends to focus on similar areas to those covered by TESEV's Democratisation and Foreign Policy Programmes.

The move away from TESEV of most former DP staff and of the former chair is a significant organisational blow to the organisation, in that TESEV has lost a number of talented and experienced personnel – and a measure of institutional memory. Contacts established by former staff within government institutions, among others, are also lost, at least in the short term.

At the time of writing – that is, shortly after the end of the Sida-funded programme and the establishment of Podem, and after the election of a new TESEV board and chair – TESEV is in the process of reviewing its strategy and programme of work. This process is likely to stretch into the third quarter of 2015.

### 3.3 SWEDEN'S ENGAGEMENT STRATEGY

Sweden's Turkey strategy paper in force at the time of the design of the TESEV programme had been prepared in 2009 and published in January 2010, covering the years from 2010 to 2013. The objective of Sweden's development cooperation with Turkey was to strengthen democracy, with a view to improving the prospect of membership in the EU. The focus of cooperation was described as encompassing democratic governance, human rights and gender equality. The budget to implement the strategy amounted to SEK73m per year. At SEK9.8m, or roughly SEK3m/year, the TESEV programme represented about 4% of this funding.

The strategy paper noted that EU membership was “a main priority” of the Government of Turkey under the AKP, though it noted that public support for membership had decreased from a high of 70%, partly as a result of opposition to Turkey's membership in some EU Member States. Though it noted that the “climate” of political debate had become “more open” the paper also remarked that overall reform progress had been “more limited”. The paper also concluded that Sida's focus on democracy, human rights and gender equality would complement the action of other donors.

In the main, the strategy paper suggested that, at the time it was written, political will existed to implement further reforms in relation to the judiciary, human rights and gender, though it acknowledged that progress would be gradual. In this context, support to an independent and reputable think tank such as TESEV was coherent with Sweden's overall cooperation strategy.

### 3.4 IMPLICATIONS OF THE CONTEXT FROM THE EVALUATION

In 2015 – particularly in the run-up to the June elections<sup>12</sup> – it has become clear that the polarisation of political life, already noted in Sweden’s 2010-2013 strategy paper, had increased rather than diminished in Turkey. The Gezi Park incident and the government’s hostility to the Gülen movement have clearly contributed to that polarisation, according to many of the people interviewed by the evaluators. At the same time, the momentum for reform in relation to the justice sector appears to have abated, for a variety of reasons including the dimming prospects of EU membership and Turkey’s prioritisation of its emergence as a regional power in its own right, itself the result of a range of economic and geopolitical factors.

In this context, it is legitimate to ask whether the paradigm of policy priorities that had hitherto guided Sweden’s and TESEV’s Turkey strategy remains valid. That paradigm was based on the notion that reforms, aimed at adoption of the *acquis communautaire* and gradual fulfilment of the Copenhagen democracy criteria, would continue to be a government priority, despite setbacks or ill-will on the part of some institutions. It is possible that post-2013 Turkey switched to a different set of priorities, in essence aiming at consolidating AKP rule and Turkey’s emergence as a regional power, including at the expense of democratic governance and of rapprochement with the EU, a point also considered by the Swedish Embassy in operationalizing its 2014-2020 Turkey strategy.

It is obviously not the role of an evaluation of a single programme (especially one representing a relatively small fraction of Swedish development cooperation spending in Turkey) to question the broad political-economic analysis that led to the Embassy and TESEV agreeing the programme being evaluated. Experts in various fields debate many of the issues raised above (adoption of the *acquis*, EU policy towards Turkey, regional upheavals, AKP governing modalities, etc.). For the purposes of the present evaluation, however, it is important to note that the political context has, in broad terms, become less conducive during the programme period to reforms and even to dialogue between the government and civil society. It is therefore legitimate to review the extent to which TESEV had anticipated the risk of a diminishing level of political will to undertake constitutional and judicial reforms, and the extent to which it was able to mitigate this risk in the course of programme implementation.

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<sup>12</sup> During the drafting of the final report, the 7 June parliamentary elections took place and resulted in four parties being elected into the Turkish Grand National Assembly. The pro-Kurdish party HDP exceeded the 10% threshold necessary to be represented in the TGNA. This, among other factors, led to AKP losing its absolute parliamentary majority.

## 4 Findings

In this section, the evaluators review the TESEV programme against the evaluation criteria and questions set out in the TOR. The paragraph headings in ***bold italics*** are references to the evaluation questions set out in the TOR and reproduced in section 2.3 above.

In broad terms, the programme has performed well against the criteria, particularly in relation to relevance and effectiveness, and achieving a degree of sustainability. However, a number of shortcomings are noted, that are related in part to programme design and in part to programme management. Should TESEV develop a follow-on programme proposal, and should the Embassy decide to support it, there would be scope to address these weaknesses while maintaining the significant achievements of the programmes to date, and building on good practices and positive experiences. Programme and organisational management need to be built upon, with a view to further reinforce TESEV's capacity, particularly after the recent loss of key staff. It would therefore be necessary to engage in a degree of consolidation and prioritisation, should there be a subsequent programming period, to ensure sustainable programme development and enhancement of impact.

### 4.1 RELEVANCE

In general terms, the programme was remarkably relevant, in that it identified and addressed key issues in Turkey's democratic governance and human rights, which can be summarised as follows:

- Need for a participative and well-informed constitutional reform process;
- Need for a cooperative climate for designing further judicial sector reforms;
- Need to fight impunity for the perpetrators of human rights violations; and
- Need to make policing more accountable to citizens.

These needs are broadly consensual among civil society organisations and the Government of Turkey has in the past acknowledged some of those needs in its judicial reform strategy. The programme's relevance was enhanced by appropriate project design, in the sense that the intervention logic in each of the four components (link between expected overall impact, outcomes and outputs) was well thought-out in each of the four programme areas, and was, as such, likely to achieve the desired outcomes, given an appropriate degree of political will for reform on the part of the government.

**Programme design.** The relevance of the programme design benefited from TESEV's understanding of government thinking and from the organisation's strong links with civil society organisations. Although no explicit SWOT analysis (analysis of strengths, weaknesses, opportunities and threats) of TESEV as an organisation was present among the documentation provided to the evaluators, it is clear that TESEV staff and managers were aware of the key strengths of the organisation at the time the programme was designed, and of the opportunities these provided. In essence, TESEV's key strengths were a record of impartial and in-depth research and credibility with a broad range of stakeholders, ranging from the media and civil society to the executive and legislative branches of government. Credibility among the academic community was (and remains) a key strength, which arguably underpinned TESEV's credibility with other socio-political actors. In areas such as judicial and constitutional reform, the project's relevance also benefited from TESEV's good understanding of legislative and constitutional reform processes built over subsequent years of working in the thematic areas.

However, there were two elements of programme design that hampered its overall relevance:

- The formulation of outcomes and some bridging outcomes (and to a lesser degrees outputs) in the successive logical frameworks lacked precision and appeared over-ambitious.<sup>13</sup> For example, the desired outcome in relation to judicial reform was that “proposals are developed through cooperation among target groups”: this formulation does not make clear whether the Ministry of Justice was expected to consult other groups, or other groups were to work together to make submissions to the Ministry. This lack of precision was not universal (for example several of the bridging outcomes made clear which entity was expected to do what) but it was sufficient to lend the logical framework (logframe) a degree of abstraction. It also led to over-ambitious (if valid) formulations. For example, the outcome concerning capacity-building for human rights lawyers referred to “institutional mechanism” against impunity for those responsible for human rights violations: however there were few planned activities to support the establishment of such institutional mechanisms (instead, activities were aimed at reinforcing the capacity of human rights lawyers to make use of existing mechanisms for redress on behalf of victims). By contrast, the indicators were usually more modest and targeted, suggesting that TESEV was not necessarily expecting to fully achieve the stated outcomes and bridging outcomes.

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<sup>13</sup> It should be noted that TESEV formulated its outcomes and BOs following an RBM training funded by Sida and through expert support.



In future programme planning, the determination of more specific outcomes and bridging outcomes should make the logframe more consistent, and more relevant to the management of the programme.

- The second concern was that risks – including crucially the risk of lack of political will to maintain the momentum of reform – were considered thoroughly in the risk analysis but not fully integrated in the programme design. Risk evaluations were detailed and realistic – identifying risk and their underlying causes, and quantifying the likelihood and potential impact of each risk. However, this remarkably realistic and sophisticated identification of risks did not lead to a re-assessment or reformulation of the programme outcomes or outputs. With (admittedly) the benefit of hindsight, it is clear that some of the identified risks could have been better mitigated – through specific pieces of research. For example, the existence of “ideological limitations” among policy makers was identified as a risk in relation to judicial reform: it could have been useful – although not indispensable – to carry out research on the policy framework under which the targeted decision-makers (or the ruling party as a whole) were operating. This could have included an analysis of policy objectives and decision-making processes within relevant political parties, as well as an analysis of the government priorities in the fields of concern. This could have provided further insight on identifying entry points of influence. Given that this comment is made with hindsight, it should be considered as lessons learned in programming future actions.

Despite these concerns, design was generally conducive to the overall relevance of the programme. Together with the system audit of 2012, which led to improvement in programme management procedures, the design of the programme was consistent with the commitments made by TESEV in its agreement with Sida.

**Relevance to Swedish Policy.** Swedish policy in Turkey placed itself squarely within the priorities of reforms in the context of Turkey’s pre-accession process as well as the priorities identified as part of EU’s enlargement strategy. The programme was consistent with the published Strategy for Development Cooperation with Turkey 2010-2013.

The primary focus of the strategy for Turkey has been providing support to democratisation, human rights, gender equality, with an emphasis on supporting Turkey to implement reforms for accession to the EU. Within the objective of supporting democratisation the strategy identifies the specific objective to support judicial reforms focusing on legal aid and access to justice. The focus on judicial reforms is complementary to EU’s enlargement strategy of 2012, but also that of 2014, which indicates that there is continuous emphasis on the rule of law and judicial reform in the accession process. In the context of Swedish policy in Turkey, a related and complementary objective of the strategy is to support greater public debate on democracy, human rights and gender equality.



It should be noted that the strategy was drafted in a period where there was a clearer commitment (than in 2015) on the part of the Turkish government to carry out reforms tending towards harmonization of Turkey's institutional arrangements with the Copenhagen democracy criteria. 2012 was the year where the EU aimed to rejuvenate the reform process, which in the post-2008 period had been characterized as relatively more lethargic. In this context a "positive agenda" was launched in May 2012 to revive the accession process. The focus of the positive agenda includes alignment with the *acquis* and a focus on judicial reform and fundamental rights, among others. Given the above strategic priorities for the period in which the project operated, the programme areas have a good level of relevance to both EU accession priorities and Swedish policy objectives.

In Turkey as in all EU candidate countries, a Judicial Reform Strategy (JRS) has been in place since 2009, covering the period 2009-2013. The priorities identified therein included:

- Strengthening independence, impartiality, professionalism, efficiency and effectiveness of the judiciary;
- Improving the management system of judicial organisation;
- Enhancing confidence in the judiciary;
- Facilitating access to justice;
- Enhancing measures to prevent disputes and improving alternative dispute mechanisms;
- Improving the penitentiary system;
- Undertaking further steps for harmonisation with EU *acquis*.

It is clear that the TESEV programme was consistent with the priorities for judicial reform identified by the JRS. Although not all of the priorities were addressed by TESEV. (for instance TESEV touched only incidentally on issues of alternative dispute resolution), the logframe's bridging outcomes and outputs were clearly appropriate to addressing issues such as the independence, efficiency and effectiveness of the judiciary, as well as facilitating access to justice (including through the human rights component of the programme).

However, it might be argued – again, with the benefit of hindsight – that Sweden's (and the EU's) strategy for engagement with Turkey on judicial reform as well as TESEV's approach did not fully recognise the power of the negative factors that could hamper reform. That is to say, the relevance of Sweden's strategy itself was weakened, with regards to engagement on judicial matters, by high expectations – which over time proved excessive – of the possible impact of a dialogue with the

Turkish authorities on reform of the judiciary. As mentioned above, TESEV had clearly identified risk factors in this respect – which were no doubt known also to the drafters of Sweden’s strategy. Their potential impact may have been under-estimated.

It is with respect to the relevance of Sweden’s strategy – and that of the TESEV programme – that the notion of a changing paradigm, raised in section 1.1.4 of this report, is of some importance. As long as the paradigm is that engagement can help the momentum for reform, then the approach taken by Sweden’s strategy is fully relevant, as is the programme designed by TESEV, because it embodies an approach based on informed (research-based) dialogue and cooperation among stakeholders. However, if the paradigm changes (and many observers agree that a change occurred in Turkey, spurred in part by the Gezi Park repression and the fight against alleged supporters of the Gülen movement) then such a strategy of engagement is bound to bring fewer benefits because the government’s priorities may have shifted towards consolidation of power, instead of reform. In such a case, it is key that the strategy to support reform would adapt itself to these setbacks and find alternative ways of encouraging further change.

***Relevance to Judicial Reform Agenda.*** The judicial reform component of the programme has shown some relevance to the JRS in dealing with some aspects of judicial reform such as: access to justice, improving the penitentiary system (especially juvenile justice) and some harmonization aspects with EU *acquis*. Towards the end of the programme the activities focused on juvenile justice, an area where there is common agreement on the need for improvement. The subject areas chosen were relevant to Swedish and EU harmonisation priorities, with important and thorough reports and meetings contributing to establishing relevance.

Nevertheless, some stakeholders have questioned to what extent TESEV’s choices of areas of focus were proactive rather than reactive. For instance, TESEV responded to several judicial reform packages such as the report “Judicial Reform Packages: Evaluating their Effect on Rights and Freedoms, September 2013” as well as changes to the judicial system through reports such as “The High Council of Judges and Prosecutors in Turkey: Roundtable discussion on its new structure and operations”, “Assessment on Changes regarding the Specially Empowered Judicial System in Turkey (May 2014)”. These reports produced relevant responses to major changes taking place in the justice sector. On the other hand while it responded to these changes TESEV did not systematically report on further changes, related for example to the High Council of Judges and Prosecutors and the court system that followed the abolishment of the Specially Empowered Courts. This was regrettable, because some of

the changes introduced later in 2014 were questionable and effectively reversed some of the progress made in previous reforms.<sup>14</sup>

Other negative developments such as the MIT law, Internet regulations and a number of changes that increased the power of the executive and the police over the judiciary, were negative trends that were not systematically dealt with by this component.<sup>15</sup>

For the other components of the programme, namely constitutional reform, police reform and human rights litigation there are no separate national strategies that were in place at the time. It should be noted that under the leadership of the Ministry for EU Affairs, Turkey has prepared reports entitled “Turkey’s New European Union Strategy”, which includes emphasis in political reform and “Turkey’s National Action Plan for EU Accession”, covering the period 2014-2019. However, at the time when the programme was prepared and during most of its implementation, there was no overall strategy for fundamental rights. The MoJ Action Plan on the prevention of ECHR violations voted in by the Council of Ministers in 2014 shows emphasis on both justice related reforms but also strong emphasis on improving legislation, capacities of security forces and alignment with ECtHR case law in this respect.

Hence, both given the national priorities and the increasingly problematic country context in terms of human rights violations by security forces, the choice of the programme to identify a component on “rule of law and perspectives for police reform” should be judged as highly relevant and continued to carry its relevance throughout the programme. However, compared to the other components, the police reform-related activities were limited<sup>16</sup>: this undermined their relevance to a degree.<sup>17</sup> While trust surveys in police are an important aspect of planning for police reform and changes in approach to policing, this particular research was effectively, an introductory exercise, not prepared as part of an explicit, holistic approach to police reform.

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<sup>14</sup> On the High Council: legislative amendments were made after the Constitutional Court decided that some of the provisions of the law passed in February were unconstitutional. See also EC Progress Report of 2014, pp. 43-44. On the Specially Empowered Courts, a decision of the High Council in 2015 provides for the transfer of cases related to terrorism and constitutionality to “special courts” to be identified by the Council (specific heavy penal courts to be identified as such).

<sup>15</sup> Note that a programme component on its own cannot be expected to cover all aspects of judicial reform. However, a more strategic approach and effective use of resources (e.g. smaller reports, follow-up reports etc.) could have allowed more flexibility in dealing with a number of negative trends in the sector.

<sup>16</sup> The evaluators are aware that this component was designed solely as a research intervention but also that the focus of the research changed during the course of implementation due to difficulties in accessing the TNP for interviews.

<sup>17</sup> The Police Reform component has produced two reports, the second of which was only partially funded with Sida funds: the Police Trust Survey and also the report on “The Spirit of the Police Laws in Turkey: Legislative Discourses, Instruments and Mentality”, October 2013. The latter report was not originally planned to be prepared with support from Sida funds.

TESEV (and former TESEV staff now with Podem) justified this approach by saying that they had originally planned to conduct research on policing that would have involved interviewing police officers, but that permission to carry out such interviews was denied to them. The trust survey was therefore a fall-back approach. It was also in effect a pilot project, since TESEV had not previously engaged in research on police reform and since there was no previous engagement by TESEV with police institutions. The trust survey could be conducted without interviewing police officers – the report resulting from that survey was discussed with senior police officers and trainers (including the Police Academy), thus opening the door, in principle, to further interaction.

It is understandable that the programme needed a substitute plan when TESEV could not get access to the police force to conduct its originally planned survey with police officers, and hence shifted the focus of its research to perceptions of the police among the public. However, it is not clear whether other proxy methods were considered to carry out the originally planned research (e.g. survey with ex-police officers among other means). Some civil society stakeholders suggested also that a review of the impact of previous police reforms could have been conducted by studying legal cases brought against the police in the previous decade – which would likely have resulted in critical findings.

Due to the lack of a holistic approach to police reform, the programme was not able to respond to highly problematic developments in this field such as the Gezi Park events of 2013 and ensuing police violence and use of arbitrary force and legal changes related to the latter (similar to the research TESEV conducted in 2013 on the legislative framework concerning the security forces). This is an issue of design – with hindsight it could've therefore been better to have elaborated a more comprehensive intervention<sup>18</sup> on the issue rather than a single research action.<sup>19</sup> These events were followed by the adoption of a controversial Internal Security Reform package, which provided increased powers to the police with limited judicial oversight. The programme, having worked on the legislative framework governing security forces in 2013, could have continued this thread to respond to these developments, which would have increased the internal coherence and relevance of the component as a whole.<sup>20</sup>

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<sup>18</sup> Evaluators recognize that TESEV did not have unlimited resources and this may have led to such limitations.

<sup>19</sup> Note that further action and research on police reform was at planning stage to be considered after the end of the Sida funded programme.

<sup>20</sup> Note that this comment is made with knowledge that Sida and TESEV had agreed that the main output of this component would be solely research. The comment relates also to the relevance of the

The choice of designing a component on “monitoring the constitutional process” was, in this period when this area of reform was high in the agenda, appropriate and relevant. The actors chosen to participate in the process, representing the broad range of parties and factions, has also been relevant. The fact that one of the main risk factors has materialized – namely the freezing of the reform process due to political reasons – doesn’t undermine the relevance of the choice of focus. The actors who participated in the various activities also satisfied relevance requirements in terms of contributing to the objectives of the component. It should be noted that despite the setback to the reform process itself, constitutional reform remains on the agenda of both the government and the main opposition parties.

The component on “capacity building for human rights lawyers” showed a high degree of relevance given that it brought together and supported human rights organisations, activists and lawyers in a joint effort to combat impunity, a subject area that continues to be high in the agenda of human rights organisations as well as victim families. The participation of key organisations and lawyers showed a good level of relevance to the objectives identified for the component. In general, in what concerns analyses and reports, activities carried relevance but a more holistic and proactive response mechanisms to quickly changing realities would have increased the relevance.

***Relevance of Activities and Choice of Actors.*** The activities implemented and outputs produced by the four components of the programme were all relevant to the topic and the needs in terms of basic research, information dissemination, advocacy and awareness raising. The activities were particularly well suited to contribute to dialogue amongst a wide range of actors. For example, interviewees noted that the constitutional reform monitoring reports were widely used by, included by stakeholders holding opposing views on the way in which the Turkish Constitution should be reformed. Similarly, representatives of opposing political parties and civil society groups attended seminars and other debates organised by TESEV, thus indicating that TESEV had achieved a reputation for impartiality and independence, in addition to producing well-researched reports with relevant information.

The targeting of stakeholders was also very relevant to the programme’s aims and conducive to the achievement of impact, in that the range of government institutions addressed by each programme component was comprehensive. In relation to judicial reform, for example, representatives of all the relevant institutions (ministry of justice, judicial academy, lawyers, etc.) were consistently targeted (military courts and other representatives of the military justice sector were not targeted, but this was jus-

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choice of limiting outputs and results based on a single research activity.

tified by the broad thrust of the programme, which sought to widen the scope of civilian justice and limit that of military justice institutions). The activities concerning human rights were also designed to address a wide range of experts, professionals and civil society representatives. Activities concerning the police involved a narrower group of stakeholders, but that was justified because engagement with police institution was new for TESEV – as it was, in many ways, for the police. In this context, it made sense for TESEV not to attempt, for example, to bring civil society organisation in a dialogue with police before conditions for a fruitful dialogue were met (in the event, such conditions could not be met in the lifetime of the programme).

The four programmes presented a diversity of approaches. Taken together, they addressed a diverse and comprehensive set of actors, ranging from government ministries (Justice and Interior, including the Police Academy) to the National Assembly, judges, prosecutors, lawyers and civil society representatives. TESEV's status as a think tank underpinned its capacity to interact with government institutions as well as with human rights organisations. Indeed, this capacity to engage with “both sides”, at a time when government institutions and human rights organisations have little direct interaction, reinforced TESEV's credibility with both sets of actors. TESEV also capitalised on its ability to engage EU counterparts in the reform-related dialogue, by organising several meetings in EU countries on a range of issues. Engaging EU counterparts was a positive strategy, which had the additional advantage that in some of the meetings (e.g. on the penitentiary system) it helped establish a forum for dialogue and learning between EU officials and their Turkish counterparts, as reported by an official from the MoJ. This doubtless also contributed to the relevance of the programme, by ensuring participation of all necessary actors.

Against this positive background, however, the following limitations should be noted with regard to the choice of actors:

- As a consequence of the hardening of the government's stance against alleged members of the Gülen movement, several of the senior MoJ officials, judges and prosecutors, with whom TESEV has worked with in the early years of the programme, were demoted or reassigned to different positions, often outside Ankara, to be replaced by personnel who were not, or less, familiar with TESEV's work.<sup>21</sup> This may have undermined the programme's eventual ability to influence judicial reform. Stakeholders interviewed by the evaluators did not necessarily

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<sup>21</sup> This perspective relies on the fact that a number of individuals who participated in TESEV activities were no longer in place and the evaluators' inquiries with some of the officials (some newly or recently appointed) who are working on the JRS and the HRAP showed that there was little familiarity with the programme.

take the view that the government, at senior level, had deliberately sent a message of defiance by displacing the officials concerned, but this and other steps taken by the government in effect led to an effective freeze of judicial reforms. TESEV had anticipated the risk of such a development, but could do little to mitigate its impact.<sup>22</sup>

- Some of the research topics may have been influenced by the wish to initiate or maintain dialogue. In particular, as mentioned above, the decision to conduct a public trust survey of the police may have been made to the detriment of a more critical study – for example one that would have focused on the impact of previous police reforms or finding proxy methods for carrying out a similar research.
- The evaluators also noted that TESEV did not systematically engage in following-up the use of reports by their intended audiences. Information on the way reports have been received and used (if at all) by ministries and other intended target audiences was not systematically recorded in TESEV's reports to Sida. There was clear follow-through on the issue of human rights litigation, partly because TESEV's audience on this issue was the legal profession and major human rights organisations, which were in on-going contact with TESEV. By contrast, it was more difficult to identify how reports on judicial reform were being followed up by TESEV – the demotion of civil servants who had participated in TESEV activities clearly hampering this task.

***Flexibility in Responding to Emerging Issues.*** TESEV has proven its ability to address emerging issues, for example in its systematic treatment of constitutional development<sup>23</sup> and in its development of a well thought-out blog addressing impunity (see box below). Its reports analysing the successive judicial reform packages were widely praised for their clarity and impartiality, and for the depth of background research they drew on. TESEV therefore demonstrated a genuine capacity to respond to unfolding issues with quality research and reporting.

However TESEV's expectation of a substantive dialogue with relevant authorities on the range of issues addressed by the programme proved over-ambitious, largely as a result of the increasing lack of political will on the part of government to engage in

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<sup>22</sup> It should be noted that TESEV made some efforts to mitigate the negative impact by adapting some of its activities. One example of this kind is the shift of focus to the penitentiary system and the engagement of public officials at the MoJ within that framework also mentioned elsewhere in this report.

<sup>23</sup> In addition to the monitoring reports TESEV organised panels in universities and aimed to engage media interest in the process in order to reach wider audiences.



dialogue on sensitive issues with independent civil society organisations. TESEV was not the only organisation experiencing difficulties with dialogue – representatives of other institutions interviewed by the evaluators also described such problems. The limitation in dialogue also hampered TESEV’s ability to develop effective follow-up plans of action for its research reports – the difficulty to follow up on the police public trust report being a case in point.

Some aspects of project design may have hampered TESEV’s capacity to address the changing political paradigm after 2013. As political polarisation grew, leading inter alia to the freezing of the constitutional reform process, TESEV had limitations in radically revising the structure of its programme or its overall strategy, although as mentioned elsewhere, flexibility was shown on the activity level to try to adapt to such changes (see focus on penitentiary system and juvenile justice).. TESEV refrained from making such a shift in research focus, partly because it was still able to deliver the planned programme of research and dialogue.

***Gender Mainstreaming.*** The original programme document contained a broad provision on gender mainstreaming, but no specific action was outlined. In general terms, gender issues were not a significant focus of the programme’s design, though some activities reflected concern for gender equality, for example in relation to gender equality in access to justice. Some officials interviewed indicated that they had used TESEV reports on gender equality, among other reports by civil society organisation, in the process of drafting regulations or court decisions on gender discrimination. Participants in seminars and training sessions also recalled gender equality being discussed.



### **The *Failibelli* blog and human rights litigation activities**

The component on human right litigation can be highlighted as providing important good practice examples for the programme overall. Stakeholders who have participated in the programme have shown strong interest and high appreciation for TESEV's activities which they deemed as complementary to existing efforts as well as filling in important gaps such as knowledge sharing, networking, coordination. As reflected by participating lawyers and HR organisations, the process has been mutually beneficial: while TESEV enriched the collaboration and knowledge base and advocacy channels, lawyers and HR organisations on the ground opened channels of communication for TESEV and Hafiza Merkezi.

As part of this component the *failibelli.org* website was established which has brought together a rich number of material regarding select human rights cases which would assist human rights lawyers' litigation capacity. The blog coupled with the activities undertaken under this component (e.g. work on pro bono legal service) has provided a relatively holistic approach to work towards combating impunity. Stakeholders have shown strong appreciation of legal analyses as well as meetings that brought together lawyers involved in the cases as well as human rights organisations and activists. An important assistance TESEV has provided through this component has also been to assist families of victims to attend court cases.

An additional positive aspect of the blog has been its high sustainability. TESEV has transferred the blog to *Hafiza Merkezi* (Center for Truth, Justice, Memory), which is a highly relevant organisation to take over such a blog and will be running the blog through its own resources.

Beyond these elements indicating a general concern for gender equality issues in the implementation of the programme, it should be recognised that neither the design of the programme nor the implementation of the individual components reflected a prioritisation of gender mainstreaming. It should be noted, nevertheless, that there was gender balance among report authors and within the programme team and TESEV staff made efforts to strike a gender balance in participants to activities and in the choice of researchers.

## **4.2 EFFECTIVENESS**

The programme was broadly effective, in the sense that many of the planned activities were achieved and that a number of significant outputs were delivered, and inroads were made towards achieving bridging outcomes and outcomes. The level of achievement was satisfactory in that reports produced were of high standard in terms of evidence base, impartiality and methodology. Activities other than research (meetings, seminars, web-based publications, etc.) were also widely praised by interviewees. The quality of the outputs could generally be ascribed to the expertise and experience of the TESEV staff and management, who were clearly highly motivated and effective.

They also had access to skilled outside researchers and consultants, and were able to ensure that any weaknesses in the production of reports were corrected prior to publication. The programme represented good value for money – the use of funds being reviewed in the section on efficiency below – and benefited from good management oversight (also reviewed below). The programme benefited from a sound understanding of Turkey’s institutions and formal policymaking processes relevant to the various components, and achieved specific results in some areas.

***Reporting to the Embassy.*** The reports were generally well informed, detailed and timely. The narrative reports contained rich details about the implementation of the various activities in the period under consideration, highlighting successes and challenges in much detail. Indeed, some of the reports were excessively detailed – including for example accounts of meetings with officials – at the expense of clarity. The financial reports also appeared to be appropriately detailed (though the evaluators did not attempt, and were not mandated, to audit their accuracy). However, some of the reports lacked an explicit strategic overview of the political context. This was particularly a concern in view of the challenges posed by the context in Turkey. For example, the Annual Progress Report for 2013 listed the events of Gezi Park in May/June, and the corruption scandals in December, as “critical development” affecting the programme during the reporting period. However the report did not explain how these events had impacted the programme and did not offer a review of how they might affect it in future. There is no doubt that TESEV staff and managers who wrote and approved the reports, and Swedish Embassy officials reading them, knew full well that these events (and others identified in reports) could have far-reaching consequences on TESEV’s programme of work, and more generally on the political direction taken by Turkey. However these consequences were left implicit, and crucially the reports did not indicate how TESEV was proposing to address their adverse effects.

A less significant weakness was that the reports did not contain a preview of activities planned for the subsequent reporting period. Such a tentative plan is often useful to donors, and may give useful confirmation of the strategic options selected for the delivery of outcomes.

The evaluators suggest that reports should have included a short summary section, highlighting the main political issues that impacted on the programme during the reporting period, and explaining how these issues had been addressed, or would be addressed in the following reporting period. The reports should also include a brief timeline of the key planned events or activities during the following reporting period. The reports should also review systematically the state of play in relation to the achievement of expected outcomes, bridging outcomes and outputs. Evaluators understand that this has not been possible due to lack of resources. Nevertheless, this comment should then be considered as a lesson learned for future programming.

***Achievement of Objectives – Cooperation – Attribution.*** Interviews with stakeholders confirm the progress reports’ conclusion that, for the most part, outputs and bridging outcomes have been achieved. Achievement was less clear at outcome level:

- The expected outcome of the judicial reform component was that reform proposals be developed through cooperation among target groups. The indicator for that, according to the logframe, was that a number of government reform proposals should “overlap with” (i.e. be similar to) those proposed by TESEV and other civil society organisations. TESEV reasonably argues that this was the case in a number of instances, for example in relation to the penal and prison system. However, this “overlap” did not compensate the currently dimming interest in reform on the part of the government.
- The expected outcome of the capacity building for human rights lawyers component was that mechanisms to prevent impunity be developed through cooperation among target groups. Although some technical progress has been made on specific aspects of the fight against impunity, including debates on statutes of limitation and the initiation of individual legal cases, it is not possible to argue that these elements of progress amount to the achievement of the outcome. Nevertheless, a number of outputs and bridging outcomes have been achieved, and this component is likely to have a continuing impact (see sustainability section below).
- The expected outcome of the constitutional monitoring component was to achieve a democratic constitutional revision process. Since the process was interrupted during the programme period, the outcome could not be achieved. Nevertheless, a number of interviewees took the view that the component will be influential in future, when the constitutional revision process starts again (which some expect to occur shortly after the June 2015 elections). In that sense it is possible that the achievement of at least part of the expected outcome be only delayed.
- The expected outcome of the police reform component was a comprehensive police reform agenda. This was plainly not achieved, neither have most of the outputs planned for this element. The fact that the Ministry of Interior declined to engage substantially with TESEV, and in particular to allow access to police officers for research purposes, was partly responsible for this situation. However, it is clear also that TESEV had underestimated the resources implications of engaging in such research and agenda-setting, and the challenge of finding researchers with the appropriate set of skills and credibility with the police institutions.

In the view of the evaluators, the above run-down of the programme’s achievements at outcome level tends to under-estimate its actual achievements, which are discussed throughout this report, in particular because the formulation of the outcomes does not register the credibility gained by TESEV’s reports or its ability to bring a range of stakeholders to the table and mobilise them for action (these elements are considered to some extent in the sustainability section below). It is impossible to compare the four components of the programme because they are highly heterogeneous, but the following two methodological lessons may be learned:

- The programme's approach (based on research, report-writing and dissemination to targeted groups) was well suited to the constitutional reform process, partly because it drew on a key TESEV strength (research) and because TESEV was able as a result to support agenda-setting by the stakeholders in the constitutional debate, without necessarily itself setting the agenda. This research-based approach was also suited to some extent to the judicial reform component. On the other hand, the approach was not fully suitable to the police reform because – quite apart from political will on the part of the authorities to engage in a dialogue with TESEV on this issue – the engagement may require close, highly technical debates on policing techniques, policies and training. The resource implications of maintaining this level of dialogue are significant. Should future work on policing be considered by TESEV, the resource element should be taken into consideration.
- The human rights component of the programme was in a category of its own, since its stakeholders were essentially human rights defenders (NGOs and lawyers acting on behalf of victims of human rights violations). As a result, TESEV's engagement was much more flexible, and devoid of the need to balance dialogue with critique, since all stakeholders were essentially in agreement as to the institutional obstacles to victims obtaining justice. The component was very effective in helping a wide range of human rights defenders accessing information that may otherwise be difficult for them to obtain, for example judgments of the ECtHR that had not previously been translated into Turkish.

It is often difficult to attribute achievements (or failures) to one organisation's programme in particular, in a context in which other think tanks, civil society organisations and foreign governments were working with Turkish institutions to achieve goals similar to those of the programme. However, there were a number of areas where TESEV was the only actor, or where other actors explicitly cooperated with TESEV, making it easier to attribute influence to the programme. This was the case in relation to police reform: while TESEV was not able to develop a full reform agenda, its study of public trust in police was unique, and its capacity to engage in dialogue with the Ministry of Interior and the Police Academy was not matched by that of other Turkish organisations (other institutions such as the Raul Wallenberg Institute and UNDP also addressed the MoI, but not on the same topics). Similarly, the work done in cooperation with human rights lawyers and NGOs towards the fight against impunity clearly originated with TESEV – see the Failibelli example above – and its influence can therefore be clearly attributed to TESEV. Some HR NGOs have stated that TESEV's activities allowed to bring together what was to date dispersed activities and therefore strengthened prospects of the impact of these activities.

The constitutional monitoring programme was also of a similar nature: according to interviewees, TESEV's monitoring and analysis reports were the only ones of this nature during the entire lifetime of the reform debate process. It is clear that TESEV

enhanced its reputation for impartiality and credible research as a result of this research. This report will argue (in the section on sustainability) that the work method developed by TESEV in this process is likely to be needed again if and when the constitutional reform process starts again.

**Adequacy of Funds.** The programme's total budget was about SEK9.8m (the exact figure will depend on the final financial report provided by TESEV), which works out at an average of about SEK3.5m/year. The financial reports presented spending figures arranged by activity, which made it difficult for the evaluators to assess precisely the division of the budget into staff costs, travel, other research, publications, etc. However, an analysis of budgets suggested that about 60% of the budget went to personnel costs (including researchers, TESEV programme and administrative staff and managers, as well as translators, IT consultants, etc.). The other major fields of expenses concerned travel, meetings and publications.

This breakdown of costs, where staff costs form the lion's share of budgets, is to be expected in a research-based organisation such as TESEV. The evaluators were not able to assess whether fees paid to consultants were all in conformity with common practice in Turkey, but salaries paid to TESEV staff (to the extent they could be worked out from the report) appeared consistent with their academic qualifications.

#### Quality of reports

The evaluators reviews a broad sample of reports, in English and Turkish, produced as part of the programme. They found the reports to be generally of excellent quality, clear and well argued. Sources were appropriately quoted and their selection reflected an impartial, balanced approach. Findings were based on sound methodologies, which (where relevant) were described in sufficient detail to convince the reader of their credibility.

In a limited number of cases, the reports failed to present policy recommendations, or recommendations were of a general nature, insufficiently detailed for policy-makers to be able to use them without further processing. For example, the report on public trust in the police presents findings in much detail, but contains no conclusion synthesising the findings. Policy recommendations to address concerns reflected in the findings are of a general nature. Although TESEV argues that this was deliberate (presenting raw findings being, in the view of TESEV, a way to initiate discussion with the police), the report was incomplete as a result. The evaluators take the view that all reports should include a recommendations section, setting out a clear, prioritised set of recommendations addressed to specific stakeholders and authorities.

Did the cost of the programme represent good value for money? There is no objective way of measuring this, but the budget seems reasonable in view of the quantity and quality of the outputs produced and of the breadth of stakeholders consulted. Some costs may be questioned (such as the need to produce publication in relatively glossy formats, and the production of a large number of reports in English as well as Turkish) but there are justifications for these as well, and in any case they only represented a small proportion of the overall budget.

It was noted that TESEV requested many adjustments to be made from the original budget. These adjustments were mostly related to agreed

changes in programming or resulted from staff changed. However it was not possible to trace all of the adjustments to specific programme or staffing changes, and it is suggested that spot checks be conducted by TESEV's auditors to ensure that the agreed changes were indeed necessary, and implemented as agreed by the Swedish Embassy.

***Results, Knowledge, Shifts in Discourse and Attitudes.*** The programme can point to a number of specific results, especially at output level, and to a lesser extent at bridging outcome level. These include the production of reports that were the first of their kinds in Turkey, or otherwise unparalleled – such as the constitutional reform monitoring reports, and the report on public attitudes toward the police. The research concerning the fight against impunity also falls in that category. As a consequence, it can be said that the programme has contributed to enhance the knowledge base available to decision-makers and other stakeholders in the policy areas covered.

Shifts in discourse and attitudes are more difficult to identify and to attribute to this particular programme. However, officials clearly stated that reports by TESEV are among those that have been used in the process of legal reforms – one judge also mentioning having used TESEV's work when drafting a judgement on discrimination. Nevertheless, against these positive signs of change must be placed the fact that many of the officials that had been involved in TESEV activities since 2012 have been demoted or moved to other posts since 2013 – the benefit of any attitude change on their part is therefore difficult to assess.<sup>24</sup>

### 4.3 SUSTAINABILITY

The human rights capacity building element of the programme achieved a degree of sustainability by establishing a mechanism for civil society information sharing on human rights that has become autonomous from TESEV and has received separate funding (from the EU). There are other elements of sustainability in the programme, mainly as a result of the fact that research reports theoretically have a long shelf life: for example the constitutional reform monitoring report contain analyses of issues that will be relevant whenever the reform process starts again. The same can be said to a large extent about the reports prepared as part of the judicial reform component. The police component can also be said, in a more limited way, to have a degree of

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<sup>24</sup> In addition to its activities in Turkey, TESEV held meetings with a range of EU actors in Brussels and elsewhere, to explain the judicial and constitutional reform processes, as well as the peace process. The evaluators did not review the influence of these meetings, which are referred to in progress reports.



sustainability, in the sense that it has spurred interest for dialogue with (selected) think tanks on the part of the Ministry of Interior and the Police Academy.

Methodologically, the approaches taken by TESEV, spurring cooperation or debate amongst stakeholders that do not necessarily communicate with each other, is sound and sustainable because it is not overly resource-intensive (except for travel costs, in the case of target groups not located in Istanbul or Ankara).

Nevertheless, the programme's sustainability has been hampered by the worsening political polarisation, which has meant, among other things, that few of the MoJ officials familiar with TESEV's work have remained in decision-making positions. For the same reason, there are now fewer opportunities for dialogue between government and civil society – but this situation is, in principle, reversible – and some stakeholders believe it is likely to be reversed after the June 2015 elections. The programme's sustainability was also weakened by the fact that it did not have an appropriate “exit strategy”, which could have included the handing over of specific tasks to individual stakeholders (on the model of the transfer to the Memory Foundation of the Faillibelli website). It was not possible in view of the context to institutionalise a dialogue process between civil society and the MoJ on judicial reform.

***Continued Capacity.*** Unfortunately, the split that led to the departure from TESEV of virtually the entire programme team (and the senior manager) means that the think tank is now almost bereft of people with direct experience of implementing the programme. In addition to those who have joined Podem, other staff have left, or plan to leave, for unrelated reasons such as the pursuit of academic careers. As a result, TESEV is now in a situation where it needs to reinvent itself and is undergoing an incubation period, which is arguably both a challenge and an opportunity. Despite the loss of key staff, however, the programme has left TESEV stronger in at least three respects:

- The system-based audit has made a number of recommendations that are still relevant and that the new TESEV leadership is committed to implementing (or maintaining) as it seeks a new path for development.
- The reputation of TESEV with human rights and other civil society organisations appears unharmed, and its institutional expertise on research and publication management remains strong.
- The credibility of TESEV as a research institution, and many of its international contacts, are preserved and may arguably be reinforced if TESEV can make clear that it is reinforcing its independence and impartiality as a result of this process.

It remains the case, nevertheless, that TESEV is facing an arduous future to regain the institutional expertise that has been lost and the capacity to design and implement programmes of work in the democratisation field.

## 4.4 EFFICIENCY

As mentioned above, the programme was broadly efficient, in the sense that the total grant amount provided by Sida was reasonable in view of the amount and quality of research outputs produced, and of the other activities implemented, such as publications, meetings, study visits, etc. In the absence of analytical accounting the exact allocation of resources is difficult to assess, but the analysis conducted by the evaluators confirm that personnel costs were the main area of expense, as is to be expected of a research-intensive programme such as this.

***Internal Accountability and Use of Resources.*** The evaluators were not in a position to audit the finances of the project. However, they found the financial reporting to be detailed and apparently exhaustive (though as indicated above they would have appreciated a precise breakdown of the budget by category of expenses: salaries, consulting services, publications, etc.). The evaluators did not review TESEV's financial control systems, but the account given by staff of the expenses authorisation mechanisms suggested that adequate procedures were in place to prevent abuse by programme staff.

It was not possible for the evaluators to assess in detail the rationale for the many budget adjustment requests. These were apparently justified by matters such as staff turnover and shifting responsibilities, and by short-term changes to activities, accommodating needs arising. Nevertheless, resources management does not appear to have been particularly tight: some expenses on glossier publications could possibly have been avoided. However, personnel costs could hardly have been reduced, as workloads were reported by interviewees to have been particularly heavy, especially as a result of the complexity of the constitutional reform process. The judicial reform component was also resource-intensive, as reports commissioned from outside consultants needed to be thoroughly checked, and sometimes partially rewritten, by TESEV staff.

***Value for Money (Ratio of Resources to Outputs).*** Overall, this was satisfactory, in the sense that a wide range of reports was produced, to a consistently high standard of research. This required the hiring of qualified consultants, often at doctoral level – a need that was reflected in the fees paid to those researchers. There were few realistic alternatives to the approach taken by TESEV: the approach taken by other think tanks, to have their own staff write reports, would not have been more economical.

***Programme Management.*** The programme was implemented by the Democratisation Programme team at TESEV, which was accountable to the TESEV Executive Director, and ultimately to TESEV's Board of Trustees. As a result of the System-Based Audit of 2012, a Results-Based Management approach was formally established, under which programme teams were support to report about the achievement of pre-agreed results, as opposed to merely reporting about day-to-day activities. There is little evidence, however, that RBM management was actually used: reports by the



programme team, and feedback by staff, indicate that RBM was not consistently used. The focus was instead on day-to-day delivering of planned activities, not on prioritising the achievement of agreed results.

## 5 Conclusions

In this chapter, the findings set out in the previous chapter are reviewed, and the evaluators formulate their overall judgement about the work of TESEV and the performance of Swedish support, based on documentary and interview evidence.

- The TESEV programme was remarkably relevant, in that it identified and addressed key needs in Turkey's democratic governance and human rights. TESEV drew on its record of independent research and had sufficient credibility with the range of stakeholders targeted to implement the programme as designed.
- Although generally well thought out, the programme design presented some weaknesses: a lack of precision and rigour in the formulation of some outcomes and bridging outcomes; lack of integration of risk analysis into the research programme; and lack of an explicit, comprehensive advocacy strategy.
- The programme (and to some extent Sida's strategy) was based on the overly optimistic assumption that political will to implement reforms would be lasting. TESEV did not review this assumption, even when it became clear that government priorities were moving away from reforms consistent with the EU *acquis*. As a result the programme's theory of change became less appropriate, but was in practice left in place.
- The programme was sound but reactive instead of agenda-setting. The planned comprehensive reform strategy for the police was not developed. The judicial reform component tended to react to proposed legal reforms, not to set a legal reform agenda. The same goes for constitutional reform. The anti-impunity component was more pro-active, thanks to cooperation with civil society organisations.
- The programme was broadly effective, in the sense that many of the planned activities were achieved and that a number of significant outputs were delivered, and inroads were made towards achieving bridging outcomes and outcomes. The level of achievement was satisfactory in that reports produced were of high standard in terms of evidence base, impartiality and methodology.
- The programme addressed a wide and appropriate range of actors in Turkey. But its effectiveness suffered as a result of the violence of the polarization, which led to the demotion of many civil servants who had engaged in TESEV-managed activities. TESEV did not systematically engage in follow-

ing-up the use of reports by their intended audiences. Information on the way reports have been received and used (if at all) by ministries and other intended target audiences were not systematically recorded in TESEV's reports to Sida.

- The original programme document contained a broad provision on gender mainstreaming, but no specific action was outlined. In general terms, gender issues were not a significant focus of the programme's design, though some activities reflected concern for gender equality.
- The progress reports to the Embassy were generally well informed, detailed and timely. They contained rich details about the implementation of the various activities. However they tended to focus on activities and the delivery of outputs rather than on the achievement of bridging outcomes and outcomes. The reports often lacked an explicit strategic overview of the political context.
- As a result of the departure of the team and managers who implemented the programme, TESEV is now in a situation where it needs to reinvent itself. Despite the loss of key staff, however, Sida support has left TESEV stronger in terms of management systems (as a result of the system-based audit); reputation with human rights and other civil society organisations; and expertise on research and publication management.
- TESEV capitalised on its national and international credibility as a think tank to interact with government institutions as well as with human rights organisations. This capacity to engage with "both sides", at a time when government institutions and human rights organisations have little direct interaction, reinforced TESEV's credibility with both sets of actors. This doubtless also contributed to the relevance of the programme, by ensuring participation of all necessary actors.
- The credibility of TESEV as a research institution, and many of its international contacts, are preserved and may arguably be reinforced if TESEV can make clear that it is reinforcing its independence and impartiality as a result of this process.
- There were significant elements of sustainability in the programme, particularly as a result of new mechanisms (such as the Failibelli website) or thanks to the quality of research and reporting, which ensured that reports are likely to have a long shelf life. The key limitation to sustainability was the government's dimming will to engage in reforms in areas covered by the programme.
- The programme constituted adequate value for money, and the body of outputs is coherent with overall spending. Though TESEV committed to results-based management, this was not done in a systematic manner. Management systems at TESEV need to be further improved.

## 6 Recommendations

### 6.1 RECOMMENDATIONS TO THE EMBASSY OF SWEDEN AND SIDA

- *Strategy:* Sweden should review its Turkey engagement strategy to take account of the current political context. In particular it should assess, including by consulting appropriate experts, the extent to which events of recent years may have influenced the outlook of the Government on domestic reform and on Turkey's role in the region.
- *Support to TESEV:* the Embassy of Sweden should consider providing TESEV with a small, short-term grant aimed at helping the organisation reorganise its management systems and prepare a new multi-year action plan.
- Should the previous step have been satisfactorily implemented, the Embassy should consider contributing to further TESEV research activities, provided the following conditions are met:
  - TESEV has management and accountability systems in place that ensure the impartiality and independence of its research and advocacy;
  - TESEV proposes a programme based on a sound social, political and economic analysis and fulfilling the recommendations below;
  - There are reasonable prospects for TESEV to diversify its sources of funding for its proposed programme.

### 6.2 RECOMMENDATIONS TO TESEV

- *Management:* TESEV should review its organisational structure and management systems, including by building on the 2012 system-based audit report, to ensure:
  - That team leaders as well as middle and senior managers exercise effective, accountable and ethical management;
  - That the Executive Director is effectively accountable to the Board of Trustees and exercises his or her duties without undue interference;
  - That Trustees and other members of the General Assembly fully respect management mechanisms and do not interfere with the work of staff, consultants and managers under the authority of the Executive Director;
  - That management is as collegial as is compatible with effective action, and in particular that departmental managers exercise a degree of peer review of their counterparts' work plans.

- *Programming:* TESEV should review its programme design and planning processes, and where necessary devote additional human and financial resources to ensure that:
  - Programmes are based on a sound social, economic and political analysis and theory of change;
  - That the theory of change is appropriately reflected in programmes logical frameworks;
  - That risk analysis is fully integrated into programme planning, including where appropriate by commissioning research into the causes of identified risks;
  - TESEV should design future logframes with a more precise<sup>25</sup> – and perhaps less ambitious – wording of objectives, outcomes and bridging outcomes;
  - Indicators should be more detailed, so that they better reflect the degree to which a particular outcome is met;
  - Programmes should systematically include a follow-up strategy that specifies target audiences and specific policy recommendations tailored to each audience. Appropriate resources should be devoted to that aspect, in keeping with TESEV’s nature as a think tank.<sup>26</sup>
- *Operations:* TESEV should seek advice from comparable think tanks in Turkey and abroad on fundraising, diversification of funding sources, and maximisation of own resources. In particular, TESEV is encouraged to:
  - Consider setting up partnerships with other academic institutions or think tanks with a view to carrying out joint programming and fundraising exercises;
  - Consider joining EU and other research networks in relevant fields to seek EU funding for appropriate research programmes.

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<sup>25</sup> This comment remains true despite the fact that the RBM expert has been key in revising the log-frame for the programme.

<sup>26</sup> Such a strategy as is proposed here could also take more account than TESEV has done of the international agenda related to human rights. For example, Turkey’s human rights record was considered in early 2015 by the United Nations Human Rights Council, as part of the Universal Periodic Review (UPR) process. TESEV did not submit any report to the Council as part of this process, even though some of its research on judicial reform (and its lacunae) would have been very relevant to the review, and could have contributed to reinforcing the international pressure on the Turkish authorities to pursue reforms to enhance judicial independence. It should be noted however that TESEV engaged with EU counterparts in order to present the results of its research which partially satisfied this need although not entirely sufficiently.

- *Democratisation Research*: TESEV should develop a programme of research that follows on from the 2012-2015 programme, building on the programme's achievements outlined in the present report, and in particular:
  - Aiming to set and monitor the fulfilment of an agenda of judicial reforms coherent with Turkey's international commitments and the *acquis*;
  - Supporting the constitutional reform process if this is revived, by setting clear recommendations and monitoring their fulfilment, in complementarity with other relevant national and international experts;
  - Reinforcing the links between TESEV and the human rights community on an appropriate and prioritised set of issues, ensuring in particular the complementarity of TESEV's inputs with that of other stakeholders;
  - Addressing other issues on which TESEV has relevant expertise, taking into account the need to develop pro-active, comprehensive policy reform agendas and to monitor their implementation in the course of research programmes.
- Such a future programme, or programmes, in addition to meeting the design requirements outlined above, should integrate an appropriate advocacy strategy. An exit strategy aimed at maximising the sustainability of the programme's outcomes should also be developed at the outset.

# Annex 1: Terms of Reference

<b>Consultancy for:</b>	Independent evaluation of the project “Assessing the Judicial and Constitutional Reform Process in Turkey 2012-2015”, implemented by TESEV
<b>Evaluation team:</b>	Three member team, comprising: 1 X International Evaluation specialist (Team Leader) 1 or 2 X Expert on National Justice Reform and policy-making
<b>Duration:</b>	60 person-days
<b>Evaluation Period:</b>	15 March 2015 – 30 May 2015
<b>Location:</b>	Turkey

## Evaluation Purpose

The objective of the evaluation is to assess the effectiveness, relevance, sustainability and efficiency of the project entitled “Assessing the Judicial and Constitutional Reform Process in Turkey” during its implementation period between the years 2012-2015.

The intended users of the evaluation will be, *inter alia*, the Board of Trustees, Board of Executives and the relevant professional staff of the Turkish Economic and Social Studies Foundation (TESEV), and the “target groups” as delineated in the program proposal and involved in the program, including: policy-makers (politicians and bureaucrats from relevant ministries, specifically the Ministry of Justice and the Ministry of Interior), judicial professionals (judges, prosecutors, lawyers and members of their associations), civil society actors (NGO members and academics), European policy makers, and media actors. Sida departments and officials, along with diplomats in the Swedish Embassy in Ankara are also among the intended users.

## Intervention Background

Judicial reform in Turkey has been on the Government’s agenda due to the fact that it is a fundamental condition attached to aligning Turkey’s legislation and practice with conditions set out under Chapter 23 of the EU Acquis in the accession process, along with the pressing need to reduce decisions of violation of the European Convention on Human Rights by the Court in Strasbourg. As the basic policy document guiding the process of the accession negotiations between Turkey and the European Union for Chapter 23, the Judicial Reform Strategy of 2009 has been a critical instrument in guiding the reform efforts. A new judicial reform strategy has already been drafted as

an update to the 2009 strategy, with a view to reflect the results achieved with regard to the 2009 strategy, to overcome obstacles in the implementation of reforms that proved difficult to achieve, and to better reflect the new developments in Turkey and the world.

The project entitled “Assessing the Judicial and Constitutional Reform Process in Turkey” was initiated following the reelection of the Justice and Development Party (AKP) for a third term in 2011. Known as a think-tank capable of producing reliably high-level academic research, TESEV has over the years built a network of decision makers leading it to obtain significant influence on policy making.<sup>27</sup> For this project, it has employed its expertise in the area of judicial reform, focusing on four principal areas:

1. Assessing the Judicial Reform Process;
2. Capacity-Building for Human Rights Lawyers;
3. Rule of Law and Perspectives for Police Reform;
4. Monitoring the Constitutional Process.

The outcome level objectives of the Programme could be summarized as **bringing together different stakeholders**, including: targeted policy makers (politicians and bureaucrats from Ministry of Justice, High Council of Judges and Prosecutors and Justice Academy), judicial professionals (judges, prosecutors, lawyers and members of their associations), civil society actors (NGO members and academics), European actors (policymakers), human rights defenders (lawyers, activists) and targeted media representatives **around the formulation of the judicial strategy and constitutional reform process, and the identification of obstacles to this strategy and the constitutional reform process**. In addition, TESEV has throughout the project aimed to raise the capacity of human rights lawyers so that they could be better equipped for high profile cases of extrajudicial killings, and conducted a nationwide survey into perceptions about the police by the public. Throughout the project TESEV has worked with HR lawyers and CSOs to strengthen their litigation capacity on high profile cases regarding political killings and the impunity. Towards that end activities such as case monitoring, workshops, research reports and an international visit have been conducted. In 2014, following the changing pace of these cases, TESEV focused more on a broader network building and effective policy making and advocacy by engaging with the Ministry of Justice, instead of specific case monitoring.

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<sup>27</sup> In 2013, TESEV ranked 27<sup>th</sup> among 6826 think tanks from 182 countries in terms of the most significant impact on public policy. Available from: <http://www.tesev.org.tr/tese-v-chosen-among-the-top-100-think-tanks-in-the-world/Content/1610.html>



However, the judicial reform strategy and the constitutional reform process has suffered from the corruption accusations towards the Government in December 2013 and its subsequent effects, and the abolishment of the Parliamentary Commission for Constitutional Reform respectively. Despite these very important setbacks, TESEV was able to adapt the project into the new environment. First and foremost it focused on the prison system as an important and less politicized part of the judicial reform strategy, which allowed it to bring civil society actors and policy makers together around the same table towards the fulfillment of the original goal. As regards the constitutional reform process, TESEV turned this area into a tour of universities in the country where judicial and constitutional reform was debated, and thus an important step was taken in sustaining interest in these reform efforts. The recently published (January 2015) police report looks promising in terms of generating interest in its findings will in the media and thereby the public at large, while democratization talks with European actors continue to inform these actors with regard to the obstacles in front of the judicial reform process, the new omnibus laws, and the peace process.

### **Stakeholder Involvement**

Stakeholder involvement will mainly be through cooperating with the consultants in answering questions posed to them relevant to the Program. Sida officials will share all documents requested by the consultants providing that they are in possession of or have access to the requested documents.

Prior to the drafting of the inception report all requested documents will be handed over to the consultants. Should there arise a need to obtain additional documents after the inception phase, Sida will do its utmost to aid the consultants in this regard as well.

### **Evaluation Questions**

The objective of the evaluation is to assess the relevance, sustainability, effectiveness and efficiency of the project entitled “Assessing the Judicial and Constitutional Reform Process in Turkey” during its implementation period between the years 2012-2015. The category of “impact” has been excluded due to the fact that the nature of the subject matter, coupled with the specific political context in Turkey. The impact level objectives defined by the project are too general and broad to be investigated in a methodologically convincing way. By excluding the category of impact, it is hoped that the evaluation resources is used more efficiently.

The outcomes, bridging outcomes and outputs, however, have been painstakingly identified by TESEV with the help of a Results Based Management (RBM) training received in 2013. First and foremost, the evaluation should seek to understand and form an opinion as to the relevance of the connections from the output, to the bridging outcome, to the outcome level, as well as the validity and relevance of the indicators throughout the project. In other words, an evaluation of the “logic” behind the

logical framework is necessary. Also, it is important to understand whether the logical framework served to structure and guide the project to its main objectives, or whether on the contrary it has been a limiting factor in the sense of narrowing down possibilities of obtaining the results or reporting on these results.

It should be noted that TESEV was forced to steer troubled waters throughout this project in terms of the political climate in Turkey in general and its effects on judicial reform and constitutional reform in particular. TESEV was therefore pushed to finding alternative paths to results, conduct risk management, and posit a flexible attitude towards stakeholders that would aid in the fulfillment of the project goals. The extent to which TESEV succeeded in this flexibility, as well as how it was able to do so or the challenges it faced (in particular, what as an organization made TESEV capable of achieving this or caused it to fail at it) is therefore an important aspect of the evaluation.

The sub-headings to the evaluation may include, *inter alia*, the following dimensions (These should be taken as ***non-exclusive*** suggestions. The consultants will be free to create their own sub-headings and criteria for evaluation):

### 1. Effectiveness

- Quality and timeliness of annual, interim and final narrative and financials reports to Sida,
- A comparative effectiveness of achievement of objectives at the output, bridging outcome and outcome levels;
- An analysis of causal attribution at the output, bridging outcome and outcome levels;
- Adequacy of funds for programme implementation up to the date in which the evaluation is made;
- Evaluation of areas in which cooperation has been most effective, and areas in which it has been least effective in terms of achieving objectively verifiable results;
- The extent to which the Programme is credited with having achieved concrete results as well as increase in knowledge and discourse/mentality shifts by the beneficiaries;
- TESEV's ability to continue working towards project objectives in the face of external risks that have materialized.
- Recommendations towards a more effective intervention.

### 2. Relevance

- The relevance of the four Program areas to Swedish policy;
- The relevance of the four Programme areas to the judicial reform agenda in Turkey both at the beginning of the project and the continued relevance of the areas throughout the project implementation period;
- The relevance of the activities undertaken and actors chosen in each Programme Area to the objectives set out for each Area in the inception of the Programme;

- The extent to which the Programme has shown flexibility and has been responsive to emerging contingencies;
- The extent to which a gender perspective has been taken into consideration.

### **3. Sustainability**

- Sustainability of gains achieved with regard to results;
- Sustainability of participatory mechanisms and instruments used in the programme to bring together state and civil society actors around the same table;
- Sustainability of the capacity development of human rights lawyers and their networks;
- Sustainability of the quality and division of labor of TESEV as an institution, with a focus on organizational challenges for the Democratization Team in particular.

### **4. Efficiency**

- Has the programme been managed with reasonable regard for efficiency? What measures have been taken during planning and implementation to ensure that resources are efficiently used?
- Have adjustment requests led to a more efficient implementation of the project?
- Could the intervention have been implemented with fewer resources without reducing the quality and quantity of the results?
- Could more of the same results have been produced with the same resources?

## **Methodology**

The evaluators will be responsible for choosing the appropriate research method. The chosen method should be described and justified in relation to possible alternatives in the inception report.

The Consultant is expected to be familiar with Swedish key steering documents for development/reform cooperation and methodological approaches.

The assignment will be carried out during March-April 2015 and will take up to 60 person-days. The team is expected to include two-three persons. The Consultant shall be responsible for all logistics during the assignment.

The evaluation and the reporting must follow DAC's evaluation quality standards. The Consultants shall take care to establish the reliability and consistency of the information by triangulation, i.e. comparing and checking similar information from various sources. Investigation of the potential and actual synergy effects in the portfolio will be highlighted wherever relevant. It is expected that a qualitative methodolo-

gy will be most suited to this evaluation. The evaluation team will outline a well-developed research strategy and propose an appropriate methodology to ensure a transparent and objective assessment of the issues to be analyzed in this evaluation.

The evaluation team will make use of secondary and primary data which will be analyzed using suitably defined qualitative and quantitative performance indicators. Primary data may be collected using empirical methods through interviews. The field-study will be an important part of this assignment. Another field visit may be planned for the presentation of the findings in a briefing meeting.

### **Inception Report**

The Team Leader will present an Inception Report at the beginning of the evaluation mission. The Consultant is asked to begin the assignment by preparing an inception report elaborating on the feasibility of the scope of evaluation, the description of methodological choices, design of causal analysis, data collection methods, instruments for data collection and analysis, the detailed and operational evaluation work plan (including feedback workshops), activities and deliverables along with assigned responsibilities for the team members. The Consultant is asked to make an interpretation of the evaluation questions and how they will be researched.

The Consultant shall propose the methodology, time plan and division of labor in an Inception report (maximum 10 pages) submitted to the Embassy **no later than 15 March 2015**.

### **Start-up meeting**

The Consultant, Sida and the Embassy will have a start-up meeting preferably in the final week of March 2015 via video/telephone conference. During the start-up meeting the methodology, time plan and budget in the inception report will be discussed and agreed.

### **Implementation**

The assessment shall be performed through studies and analysis of existing reports, evaluations, and other relevant documents as well as through interviews, focus groups, etc. with relevant stakeholders which will include implementing partners (such as government institutions and CSOs), beneficiaries and other donors. TESEV should be consulted to designate which specific beneficiaries should be interviewed. The work thus includes a field visit. The Consultant is expected to present a proposal on the division of days between field visit and desk study.

### **Draft Evaluation Report**

The consultants will submit a draft evaluation report of the Programme highlighting achievements, constraints and lessons learned as well as the corrective measures re-

quired, including recommendations regarding possible future cooperation, **by 15 May 2015**, in electronic form. Feedback from stakeholders will be sent to the Consultants by **22 May 2015**. The report shall be written in English and shall not exceed 30 pages, excl. annexes.

### **Final Evaluation Report**

The final evaluation report incorporating feedback to the Draft Evaluation Report from Sida, SNCA and the TESEV Democratization Team involved in the implementation of the project will be submitted by the Team Leader to the Embassy, electronically and in two hardcopies by **30 May 2015**. The report shall be written in English and shall not exceed 30 pages, excl. annexes.

Approval of the Final Report will be based on its adherence to the OECD/DAC Evaluation Quality Standards. Contact person at the Embassy in Ankara will be Annika Palo ([annika.palo@gov.se](mailto:annika.palo@gov.se)) and Onur Ariner ([onur.ariner@gov.se](mailto:onur.ariner@gov.se)).

### **Debriefing Meeting**

The consultants will present a summary of evaluation findings, conclusions and recommendations at a debriefing meeting with the participation of Sida, SNCA and TESEV representatives. The debriefing meeting shall take place at a mutually agreed date.

### **Evaluation Team**

The assignment is expected to be carried out by two-three persons. At least one of the three needs to fulfil the required qualifications for Category I (according to Appendix D in the Framework Agreement). The team leader should be an experienced evaluator and shall have an advanced academic degree, i.e. a minimum of a Master's Degree or equivalent. The team in combination should have the needed experience and knowledge to perform the tasks foreseen in this assignment including:

- Experience in the country and Turkish-speaking;
- Experience of human rights, gender equality, policy-making and justice area analysis in Turkey;
- Experience of efficiency analysis and evaluation of strategies;
- At least one team member shall possess experience of evaluation in a development context, experience of utilisation-focused evaluation, experience from facilitating participatory processes, seminars and workshops.

### **Days and Costs for the Assignment**

The consultants shall in the inception report propose a timeframe that indicates number of days per consultant engaged for the assignment.

The inception report shall include a full budget for the assignment, including reimbursement costs.

## Annex 2: List of Interviews

Name	Position	Institution
Annika Palo	Counsellor	Embassy of Sweden
Aydin Uğur	Chairman	TESEV
Can Paker	Chairman	Podem
Emma Sinclair-Webb	Senior Researcher	HRW
Erkan Koca	Professor	Police Academy
Feray Salman	n.a	IHOP
Gamze Hızlı	n.a	Truth, Justice, Memory Center
Güniz Gürer	Project Assistant	Council of Europe
Halil İbrahim Dizman	Head of Department	General Directorate of Prisons and Detention Centers, MoJ
Hande Özhabaş	Programme Coordinator	TESEV
Hüsnü Öndül	n.a	IHOP
Koray Özdil	Programme Director	TESEV
Mine Yıldırım	Lawyer	n.a
Onur Arıner	Programme Officer	Sida
Tankut Soykan	Senior Project Officer	Council of Europe
Yunus Heper	Rapporteur	<i>Constitutional Court</i>
Yusuf Alataş	President	Human Rights Association
Özge Aktaş Mazman	General Director	TESEV
Özge Genç	n.a	Podem
Özgür Sevgi Göral	Programme Director (Former Member of the Constitutional Commission)	Truth, Justice, Memory Center

# Annex 3: List of Documents

## PROGRAM DOCUMENTS

*NB: several of the documents listed were amended over the programme period, different versions had slightly different titles, sometimes different from electronic file names.*

- Programme logical framework/intervention logic (successive versions)
- Results review 2012
- Risk reviews and matrices (successive versions)
- Grant Agreement 2012
- Annual work plans 2012, 2013
- Results strategy 2014
- Narrative and financial reports 2012, 2013, 2014
- System-based audit
  - TOR
  - Final report
  - Management response
- Sida Turkey Strategy Paper 2010-2013



## REPORTS

Justice	Human Rights	Constitutional Reform	Police reform
<p>The High Council of Judges and Prosecutors in Turkey: Roundtable Discussion on Its New Structure and Operations, September 2012</p> <p>Judicial Reform Packages: Evaluating Their Effect on Rights and Freedoms, September 2013</p> <p>Assessment on Changes regarding the Specially Empowered Judicial System in Turkey, May 2014</p> <p>Juvenile Justice in Turkey, February 2015 [TR]</p> <p>The need for data on Criminality and Enforcement Policies, February 2015</p> <p>Structural Problems and Recommendations for improvement regarding Penal System Policies and Institutions, February 2015</p>	<p>Confronting the Past: Impunity and High Profile Cases, November 2012</p> <p>The Other Side of the Ergenekon: Extrajudicial Killings and Forced Disappearances, November 2013</p> <p>[Bayram Hotel decision of the Constitutional Court] Van Depremi'nin Hukuktaki Artçıları: Anayasa Mahkemesi'nin Bayram Oteli Kararı, Kerem Altıparmak, January 2014</p> <p>A new path for access to justice: Pro Bono, İdil Elveriş, November 2014</p>	<p>Monitoring Report: Making a New Constitution, October 2011-2012</p> <p>Monitoring Report 2 : Making a New Constitution, February-June 2012</p> <p>Monitoring Report 3: What sort of a constitution are we heading towards? Definitions and Expectations Regarding the New Constitution</p> <p>The Basic Principles and the Choice of Government System in the New Constitution</p> <p>The Media in the New Constitution Making process: June 2012-January 2013 [TR]</p> <p>The Media in the New Constitution Making process: January-July 2013</p> <p>The Media in the New Constitution Making process: August 2013 - February 2014</p> <p>Biz, Türkiye'nin Haysiyetli İnsanları: Anayasada Yeni Bir Temel Hak Olarak Haysiyet [Dignity as a fundamental right in the Constitution]</p>	<p>Research on Public Trust in the Police in Turkey January 2015</p>



## Independent Evaluation of the Programme “Assessing the Judicial and Constitutional Reform Process in Turkey 2012-2015” implemented by TESEV

This report shares the findings and recommendations from an evaluation of the project entitled “Assessing the Judicial and Constitutional Reform Process in Turkey”, as implemented by the Turkish Economic and Social Studies Foundation (TESEV).

In essence, the purpose of the evaluation serves a dual objective:

- To inform the thinking of the leadership, management and staff of TESEV in relation to the institutional development and capacity building of the organisation, as well as to support its governance;
- To provide relevant information to target groups defined in TESEV’s programme proposal, including government officials, civil society actors, the media, as well as policy makers in Turkey and in the EU. The ToR also notes that Swedish officials are also intended users of the evaluation.

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