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Turkey

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I. Methodology and consultation process

1. The Ministry of Foreign Affairs (MFA) has coordinated the preparation of this report on the basis of the guidelines issued by the Human Rights Council. Relevant governmental institutions, civil society representatives, universities and occupational chambers have been consulted in the preparation process and have significantly contributed to the content of the report.
2. Inter-ministerial contributions were coordinated by the MFA. The relevant ministries and other governmental institutions have contributed through focal points specifically assigned for the UPR preparations.
3. The civil society consultations were held in two stages. The MFA convened a consultation meeting in late December 2009 with participation of civil society stakeholders. In parallel, all stakeholders were invited to contribute to the process via web page of the MFA. Civil society contributions have provided decisive input in establishing priority issues in the national report. Turkish authorities have extensively benefited from the consultation process. They are determined to continue this collaboration with the civil society.

II. Context

4. Since 2001 Turkey is pursuing a comprehensive and active human rights reform process aimed at improving the protection and promotion of human rights. While the first step of the reform process aims to align the domestic legal framework with the international principles and standards in the area of human rights, democracy and the rule of law; the second step endeavors to put this new legal framework into practice.
5. As a part of the first step, a series of remarkable legal reforms have been carried out in a short span of time. The Constitution was amended on three occasions since 2001 and eight reform packages were adopted in less than three years. Following the 2004 amendment of Article 90 of the Constitution, international agreements in the area of fundamental rights and freedoms prevail in case of conflict with the provisions of the national laws on the same matter.
6. These constitutional amendments were consolidated with the adoption of laws that are fundamentally important for the protection and promotion of human rights. The Civil Code, the Penal Code (TPC), the Law on Associations and the Code of Criminal Procedure are among such new laws.
7. The ambitious reform process ensured substantial progress in, *inter alia*, abolishing death penalty, fight against torture, reforming prison system, freedom of expression, freedom of association and assembly, freedom of religion, functioning of judiciary, civil-military relations, economic, social and cultural rights and anti-corruption measures.
8. The ninth reform package announced in April 2006, includes *inter alia* the rapid enactment of the draft laws already submitted to the Parliament, the submission of new draft laws, the acceleration of the ratification processes in respect of the international human rights conventions signed by Turkey, and the establishment of an Ombudsman institution and an independent National Human Rights Institution (NHRI).
9. Lately, a comprehensive Judicial Reform Strategy was adopted in 2009. It was prepared with a view to increasing effectiveness and efficiency of the judiciary while enhancing its independence and impartiality. It entails measures for improving management system of the judicial organization and facilitating access to justice. It also envisages,

among others, introduction of a system of Courts of Appeal in the administrative judiciary. The Strategy involves amendments to some fundamental laws and enactment of new ones, such as a Law on Mediation.

10. As the second step, numerous training programs aimed mostly at the government officials charged with implementing these laws were initiated. Law enforcement forces composed of the police and gendarmerie; members of the judicial branch, notably judges, prosecutors and lawyers from all levels have received training on human rights issues. With these training programs a change of mentality has been achieved. These training programs were expanded to include students of all levels, civil society and the public at large.

11. In addition to the international mechanisms with which Turkey maintains full cooperation, effective national monitoring mechanisms have been set up to ensure full implementation. Representatives of civil society are involved in the reform process through these national monitoring mechanisms. Human rights education at all levels has been strongly promoted. In order to minimize implementation problems and to create an institutional culture respectful to human rights, bilateral programs with several countries and joint projects with the Council of Europe and the EU are being carried out.

A. Legal framework

12. The Republic of Turkey was established in 1923. The present Constitution is in force since 1982. According to Article 2 of the Constitution, Turkey is a democratic, secular and social state governed by the rule of law. Referred to in this article, “respecting human rights” is one of the basic and one of the irreversible tenets of the Republic.

13. The political life in Turkey is run by a system of pluralistic, parliamentary democracy based on the rule of law and respect for human rights. The Turkish electoral system based on universal suffrage is open to all adult citizens. The principle of separation of powers fully takes effects since the second Constitution (1961). All legislative, executive and administrative procedures and activities are subject to judicial control. Judicial power is exercised by independent courts and supreme judiciary organs. Almost all rights referred to in the international human rights instruments to which Turkey is party have already been guaranteed by the Constitution.¹

14. The Turkish nation is composed of citizens, equal before the law irrespective of their origins. In the context of the Turkish nation, common denominator is citizenship. Every citizen has the right and power to lead an honorable life and to enhance his/her material and spiritual well-being by benefiting fundamental rights and freedoms set forth in the Constitution, in line with the principle of equality and social justice.

15. Since 2001, the Constitution was amended on three occasions (2001, 2002 and 2004) with a view to align the human rights framework with international standards, in particular with the European Convention on Human Rights (ECHR) and the jurisprudence of the European Court of Human Rights (ECtHR). Amendments aimed at expanding the scope and the extent of right to security of person, freedom of opinion and expression, privacy of individual life, freedom of association, gender equality, non-discrimination, right to participate in cultural life and right to participate in political life.

16. The death penalty was abolished in all circumstances with a Constitutional amendment in 2004. In addition, the State Security Courts were closed down on 30 June 2004. The offences falling under the jurisdiction of the State Security Courts are put under the jurisdiction of Assize Courts.

17. Article 90 of the amended Constitution stipulates that in the case of a conflict between international agreements in the area of fundamental rights and freedoms duly put

into effect, and the domestic laws due to differences in provisions on the same matter, the provisions of international agreements prevail. As such, the provisions of international human rights treaties ratified by Turkey may be directly invoked before Turkish courts.

18. Every Turkish citizen has the right to lodge a file against the Government before the relevant judicial courts in case (s)he believes that his/her rights or freedoms have been violated. In addition, individuals can apply directly to the Human Rights Inquiry Commission of the Turkish Grand National Assembly (TGNA), the Human Rights Presidency or the Human Rights Boards at the local level. Turkey recognizes the competence of the ECtHR to receive petitions from any person, non-governmental organization or group of individuals since 1987 and compulsory jurisdiction of the Court since 1990.

19. A basic tenet of the Turkish legal system is that the State is directly responsible for excessive deeds or offences committed by public officials. Consequently, requests for compensation for damages incurred from such acts are directed to the State.² The State reserves the right of recourse to the official responsible.

B. Institutional framework

20. Turkey is resolved to establish a National Human Rights Institution in accordance with the UN Paris Principles. The preparatory work on the legal framework for a NHRI is expected to be completed in the short run.

21. Turkish Parliament passed the Ombudsman Law on 28 September 2006. The former President of Turkey and some members of the Parliament had lodged a file at the Constitutional Court for the annulment of some articles of the Law. On 25 December 2008 the Court unanimously decided to abrogate the Law on grounds that it was not in conformity with the Constitution. The work is underway for an overall arrangement of institutionalization in the field of human rights in Turkey.

22. Since 1990 the Human Rights Inquiry Commission of the TGNA functions basically as a parliamentary monitoring mechanism. The Commission examines the extent to which human rights practices in Turkey comply with the requirements of the Constitution, national legislation and international conventions to which Turkey is party. The Commission possesses powers of investigation and, in the performance of its duties, is empowered to request information from Ministries and other government departments, local authorities, universities and other public institutions as well as private establishments, to conduct inquiries on their premises and to invite the representatives of these bodies to appear before it and provide information. The Commission also conducts on-site inspections in detention centers and prisons.

23. The Commission submits to the Presidency of the TGNA annual and *ad hoc* reports concerning the issues within its mandate and the discharge of its duties. Its findings are also conveyed to competent government offices for action. The Commission has gained public confidence in effectively using its competences in investigating alleged violations.

24. Human rights work within the Government is planned to be spearheaded by the Human Rights High Council, a governmental body, composed of the Minister responsible for human rights and the undersecretaries of the Prime Ministry and other relevant Ministries, and the Human Rights Advisory Council, a consultative body which consists of high-level government officials, representatives of NGOs and professional associations, and human rights experts. However, these bodies have not been functioning as effective as expected initially.

25. At the political level the Reform Monitoring Group (RMG) has assumed the leading role in human rights reforms and their implementation. It was formed in 2003 to overview the progress in the actual implementation of recent reforms, including those which aim at improving the situation of human rights in Turkey. It is an ad hoc working group composed of Minister for EU Affairs and Chief Negotiator, Minister of Justice, Minister of the Interior and the Minister of Foreign Affairs. RMG closely monitors legal reforms and their implementation, discusses the needs and formulates future steps with regard to fulfillment of political criteria in Turkey's European Union (EU) accession negotiations. RMG also ensures contacts with the minority leaders and high-level bureaucrats.

26. There is also the Human Rights Presidency, established in April 2001 as an affiliate of the Prime Ministry. It is mainly responsible for coordinating the work of various government agencies in the field of human rights. It is tasked to monitor the implementation of the legislative provisions related to the protection of human rights. It is to receive and examine applications from individuals relating to alleged violations of human rights. Despite the positive contribution of this body to the human rights protection and promotion system of the country, its affiliation with the Government does not allow it to receive international accreditation.

27. There are also Human Rights Boards, attached to the Human Rights Presidency, in all the 81 provinces and 850 districts in the country. They are entrusted with receiving and investigating complaints and allegations of human rights abuses and thereafter transmitting their findings to competent authorities for administrative and/or legal action. The effectiveness of these boards needs to be improved.

28. In the Ministry of the Interior (MoI) "Bureau for Inquiry on Allegations of Human Rights Violations" was established within the Inspection Board of the MoI in March 2004. The Bureau examines the requests and complaints concerning the human rights violations allegations related to law enforcement officers.

29. The Gendarmerie Human Rights Violations Investigation and Evaluation Center (JİHİDEM) investigates complaints concerning allegations of human rights violations that occur in the gendarmerie's area of responsibility, ensures judicial and administrative investigation in the legal framework should the claims be substantiated, and informs the applicant on the developments and outcome of the proceedings, and announces them publicly.

C. International obligations and level of cooperation

30. Turkey became a founding member of the United Nations in 1945. In 1949 it adopted the Universal Declaration of Human Rights and took part among the founding members of the Council of Europe. Turkey's candidacy for full EU membership was acknowledged in 1999. Accession negotiations for Turkey's membership to the EU officially started on 3 October 2005.

31. Turkey has become party to all core international conventions in force pertaining to rights and freedoms. Turkey is also party to many of the respective optional protocols. Lately Turkey ratified the UN Convention on the Rights of Persons with Disabilities and also signed the Optional Protocol to the said Convention in September 2009.

32. As a party to the First Optional Protocol to the ICCPR and the CEDAW, Turkey recognized the power of the relevant Committees to accept and examine the complaints to be lodged by those under Turkey's jurisdiction, who claim that their rights set forth in the Convention are violated. Turkey also made a declaration in accordance with the Article 22 of CAT, hence the Committee for the Prevention of Torture can examine applications against it.

33. Since 1954, Turkey has been party to the ECHR which has established an advanced regional human rights protection mechanism, namely the ECtHR. Turkey recognizes the competence of the ECtHR to receive individual petitions since 1987. Every real person, NGO, or groups of individuals, who claim to have suffered from a violation of rights guaranteed by ECHR can lodge an application at the ECtHR. Turkey is party to 98 of the 207 Council of Europe conventions.

34. As a participating State of the OSCE, Turkey is also politically bound by the relevant human dimension commitments included in the OSCE documents.

35. Turkey has extended a standing invitation to UN special procedures in March 2001. Special rapporteurs and special representatives of the UN extra-conventional mechanism pay frequent visits to Turkey. Turkey regularly replies all communications received from the UN Special Procedures.

36. Turkey maintains effective cooperation with the human rights mechanisms of the Council of Europe (CoE), in particular the European Committee for the Prevention of Torture (CPT), the Commissioner for Human Rights of the CoE and the European Commission Against Racism and Intolerance (ECRI). The reports by the CPT on its visits to Turkey as well as the responses of the government to these reports are made public upon authorization by the Government. Detention and prison conditions have been improved in line with the recommendations of the CPT.

III. Promotion and protection of human rights

A. Equality and non-discrimination:

37. The constitutional system of Turkey is based on the equality of all individuals without discrimination before the law, irrespective of “language, race, color, gender, political opinion, philosophical belief, religion and sect, or any such consideration” (Art. 10).

38. In Turkey, all individuals, including foreigners, are equal before the law, enjoy the same rights and have the same obligations without discrimination. Acts of discrimination are prohibited and penalized by law. By referring to “or any such considerations”, the Constitution grants the judiciary wide discretion on its judgments of cases of inequality before the law.

39. In line with the fundamental principles of equality and non-discrimination, every Turkish citizen is considered an integral part of the Turkish national identity and culture. The concept of citizenship is defined in Article 66 of the Constitution on the grounds of legal bond without any reference to ethnic, linguistic or religious origin.

40. Basic social rights are also guaranteed in the Constitution without any reference to citizenship. The principle of equality is enshrined in various other laws regulating specific areas of political, social and economic life. Acts of discrimination are prohibited and penalized by law. The Labour Law (Art.5) prohibits discrimination in employment relations including job recruitment.

41. Turkey comes at the top three *vis a vis* the highest number of judgments before the ECtHR, however no violation of Article 14 of the ECHR, which regulates non-discrimination, has been found by the Court on the complaints filed against Turkey on the grounds of racial discrimination.

42. The new TPC contains several provisions penalizing acts of discrimination. It defines “discrimination” as an offence and penalizes it. Article 76 and 77 of the said law

criminalize the act of genocide and the crimes against humanity in accordance with the related international instruments.

43. The first paragraph of the Article 216 of the Turkish Penal Code, regulates the limits of the freedom of expression with a view to preventing incitement to social, racial, religious or regional enmity or hatred. This article aims to strike a balance between high standards for the freedom of expression, while effectively addressing the problem of incitement to hatred on the above mentioned grounds.

44. With a view to secure unity in the application of new Turkish Penal Code approximately 8,500 judges and public prosecutors were trained in several seminars during the last several years. “The offences against public peace” in the Turkish Penal Code, which *inter alia* covers “the offence of inciting the population to breed enmity or hatred or denigration”, was subject of a separate course in seminars.

45. The establishment of associations advocating supremacy of a certain race is prohibited by the new Law on Associations (2004). In cases where political parties, associations, organizations are established or function on the basis of ideas or doctrines of superiority of one race or ethnic group, or attempt to justify or promote racial hatred or discrimination, legal action is taken by the authorities in line with the provisions of the relevant legislation.

46. The Government is currently working on the drafting of a comprehensive anti-discrimination legislation as a part of its ongoing legislative reforms.

B. Freedom of expression

47. Freedom of expression and freedom of press are safeguarded by the Constitution and other relevant legislation. The Article 25 of the Constitution states that everyone has the right to freedom of thought and opinion.

48. Everyone has the right to express and disseminate his thoughts and opinion by speech, in writing or in pictures or through other media, individually or collectively. This right includes the freedom to receive and impart information and ideas without interference from official authorities. This provision shall not preclude subjecting transmission by radio, television, cinema, and similar means to a system of licensing.

49. Article 28 of the Constitution states that the press is free, and shall not be censored. The establishment of a printing house shall not be subject to prior permission or the deposit of a financial guarantee. Publication of periodicals or non-periodicals shall not be subject to prior authorization or the deposit of a financial guarantee. Protection of printing houses is also guaranteed by the Constitution.

50. The new Press Law (2004) diminishes substantially the penalties for offences committed through press. Within the new system, penalties such as imprisonment, temporary shutdown, seizure of press devices, etc. are completely abolished. Only limited fines can be imposed for the committers.

51. The Ministry of Justice (MoJ) issued a Circular on “implementations regarding mass media” in 2006. In this Circular, public prosecutors are requested to “...give due care while assessing whether an expression of thought is within the limits of criticism as under the framework of the case-law of the ECtHR.”

52. The new TPC, which included a more liberal approach to the freedom of expression was enacted, in 2005. However certain difficulties arose in the implementation of Article 301 of the new TPC. To overcome them the said article which regulates issues concerning

degrading speeches against the Turkish nation, the State, the Government, the judiciary, the Parliament, the military or security organizations was amended in May 2008.

53. The recent amendment to Article 301 of the Penal Code has introduced the system of twofold guarantee with regard to its implementation. Accordingly, a criminal investigation can only be launched upon the permission of the Minister of Justice. Even if such permission is granted, the prosecutor still has discretionary power to decide not to prosecute.³

54. On freedom of expression, a number of seminars have been held since 2004 for judges and prosecutors and in cooperation with the EU and the Council of Europe in-depth training courses are organized concerning the implementation of the TPC in the context of the ECHR.

55. The amended “Law on Foreign Language Education and Teaching, and the Learning of Different Languages and Dialects by Turkish Citizens” permits the establishment of private courses to teach different languages and dialects traditionally used by Turkish citizens since 2002. Private courses for teaching languages and dialects traditionally used by the Turkish citizens in their daily lives were opened in seven provinces.⁴ Yet, they all have later been closed by their founders and owners due to the lack of interest.

56. The amended “Law on the Establishment of and Broadcasting by Radio and Television Corporations” allows broadcasting in different languages and dialects traditionally used by Turkish citizens. Turkish Radio and Television (TRT) and private TV and radio channels broadcast in languages and dialects used traditionally by Turkish citizens in their daily lives.

57. In 2006 the High Council for Radio and Television (RTÜK) has granted permission for several private radio and TV stations upon their applications to broadcast in Kirmanchi and Zaza. The radio and TV stations had started their broadcast in these with certain time limitations. By a new Bylaw (2009), time limits for private television channels to broadcast in different languages and dialects traditionally used by Turkish citizens in their daily lives were lifted. By the beginning of January 2010 more than ten private companies have already applied for acquiring regional and local broadcasting licenses in Kirmanchi, Zaza and Arabic. As of January 2009, a new multilingual state-run TV channel, TRT-6, has started to broadcast in Kurdish.

58. “Law on Regulation of Information Dissemination via Internet and Prevention of Crimes Committed through such Dissemination” was issued in 2007. To monitor the implementation of this legislation an “Internet Department” is set up within the Information Technologies and Communication Institution in Turkey. The law regulates on eight categories of crimes⁵, seven of which are catalogue crimes.

59. The basic purpose of the Law is “to fight against certain and limited categories of crimes. “Notice and takedown” principle applies in the removal procedure of the harmful content from the Internet. Concerning breaches of personal rights in the Internet, individuals can apply in accordance with the Article 9 of the said Law. The applicants can ask for the removal of the undesirable content and seek a right of reply.

60. The law regulating the enjoyment of the “right to information” entered into force in April 2004. Article 5 regulates the obligation of the public institutions to provide information to the applicants within 15 business days.

61. Turkey is determined to expand the scope of the freedom of expression. It is firmly believed that guaranteeing fundamental freedoms is a must to further strengthen democracy.

C. Right to life

62. One of the most important achievements of the reform process in Turkey has been abolition of death penalty in all circumstances in May 2004. Previously, there was a moratorium on death penalty since 1984. Turkey became party to Protocol No.6 and No.13 of ECHR, concerning the abolition of the death penalty in 2003 and 2006 respectively. In March 2006 Turkey ratified the Second Optional Protocol to the ICCPR aiming at the abolition of death penalty.

63. The right to liberty and security of persons is safeguarded by the Constitution. The Law on Powers and Duties of the Police was amended in 2007 with a view to enhance preventive security services. It re-regulates the powers of the police in using force and firearms. The UN Basic Principles of the Use of Force and Firearms as well as good practices in some other countries (i.e EU members) were used in producing the amendments.

D. Freedom from torture, cruel, inhuman and degrading treatment

64. Turkey is committed to prevent and eradicate torture and other inhuman or degrading treatment or punishment, while viewing them as acts which can never be justified under any circumstances. The Government has adopted a “zero tolerance policy” and in line with this policy, has introduced various legislative amendments.

65. The new TPC (2004) stipulates that perpetrators of torture shall be sentenced to imprisonment. It has introduced higher penalties for aggravated forms of torture and explicitly bans reductions of sentences, should the offence be committed by negligence.⁶

66. The new Criminal Procedure Code No. 5271 is enhanced with the provisions regulating the rights of detainees to prevent torture and ill treatment. It stipulates that all criminal suspects have, from the outset of detention, the right to access to lawyer, including free legal assistance, private detainee-lawyer consultations and the possibility of lawyers to be present when statements are taken.⁷ Any apprehended person is taken to a doctor for the determination of his/her medical condition when (s)he is under custody or (s)he has been apprehended by the use of force or person’s location is changed for any reason or the detention period is extended.⁸ Whenever a suspect or accused person is apprehended, detained, or the detention period is extended, one of his/her relative or a person of his/her choice is informed of the situation.⁹

67. According to the new legislation, those who committed the offense of torture are not covered by amnesty. The compensation, paid due to the public officials who engaged in the acts of torture and ill-treatment, would be incurred to those officials. The new Criminal Procedure Code stipulates that statements extracted through prohibited methods such as torture or ill-treatment shall not be taken as a basis for any judgment.

68. Penitentiary institutions are inspected, both on a periodical and *ad hoc* basis whenever the need arises, by administrative, judicial, NGO, parliamentary and international inspection mechanisms.

69. Administrative and judicial inspections of prisons are conducted by inspectors and other relevant officials of the MoJ and public prosecutors. Regular as well as unannounced visits conducted by public prosecutors serve as a deterrent factor, thus provide an additional safeguard for all convicts against any misconduct by prison personnel. The Government aims to establish a NHRI which can function as the National Prevention Mechanism of Turkey which is required by the OPCAT.

70. Substantial progress has been achieved in the implementation of the measures taken in this direction. The MoJ and MoI have issued circulars in order to prevent torture and ill treatment during investigations and prosecution. As regards the measures to avoid disproportionate use of force by the police in Turkey, circulars and written orders have been issued by the relevant authorities and sent to all Police Departments in provinces since 2001.

71. During the period 2005-2006, a total of 56,000 law enforcement officials both at the headquarters and at the regional level received training on the provisions of the new Turkish Penal Code and Criminal Procedure Code concerning investigations, with particular focus on the rights of suspects.

72. Turkey maintains transparent and close cooperation with leading international mechanisms on the prevention of torture. Turkey has extensively benefited from its cooperation with the UN Committee Against Torture (CAT) and the CPT.¹⁰ In September 2005, Turkey signed the Optional Protocol to the OPCAT, ratification process of which is under way. Once it is ratified, the implementation of this Protocol, will also contribute to Turkey's policy of zero tolerance against torture.

73. The success of zero tolerance policy in particular and the reforms achieved in relation to the relevant legislation were acknowledged by the CPT itself as early as in 2004.¹¹ The CPT also underlined that the legislative and regulatory framework necessary to combat effectively torture and other forms of ill-treatment by law enforcement officials is in place.¹²

74. Besides the legal framework Turkey's zero tolerance policy against torture is producing the desired impact on the ground. The progress of Turkey in the prevention of torture and ill-treatment is being cited as an example by the CPT to third countries.¹³ Turkey's respective achievements are also acknowledged by NGOs.¹⁴

75. Turkish Government remains committed to investigating all allegations of torture and ill-treatment reported to governmental bodies. Requisite inquiries are given effect without delay in order to prevent impunity.

E. Freedom of conscience and religion

76. Turkey adheres with great dedication to the legacy of multi-faith tolerance and cultural pluralism. Based on this legacy and the secular system of the Republic, freedom of religious belief, conscience and conviction in Turkey is firmly guaranteed by the Constitution and relevant legislation.

77. In addition to the regulations with regard to the Turkish citizens belonging to non-Muslim minorities as stipulated in the Lausanne Peace Treaty (1923), legislative and administrative revision has been carried out as to the freedom of religion of all citizens and foreigners residing in Turkey.

78. Non-Muslim places of worship are administered by their own associations or foundations. The property rights on places of worship rest with the real or legal persons that have founded them. There are more than 300 places of worship belonging to non-Muslim communities, including 53 churches run by foreigners residing in Turkey.

79. Issues related to the training of clergy in Turkey are dealt in line with the provisions of the Constitution and the relevant legislation. Article 24 of the Constitution on the freedom of religion and conscience stipulates *inter alia* that education and instruction in religion and ethics shall be conducted under state supervision and control.

80. Foreign clergymen can serve in places of worship in Turkey. More than 100 foreign clergymen have been registered in Turkey to serve in places of worship with the relevant working permit.

81. As regards the criminal legislative framework, obstructing the exercise of the freedom of religion, belief and conviction constitutes an offence according to Article 115 of the Turkish Penal Code.

82. Furthermore, incitements to religious hatred, public denigration of any group on the basis of their religion or sect as well as defamation of religious values are penalized under Article 216 of the Turkish Penal Code.

83. Dissemination of religious beliefs or convictions is not prohibited under the Turkish law.

84. No violation of Article 14 of the European Convention of Human Rights, which regulates non-discrimination, has been found on the basis of religious discrimination by the ECtHR related to the complaints lodged against Turkey.

85. Turkey strongly denounces all hate crimes regardless of the grounds they are committed. Despite the legal framework and the inherited tradition of tolerance, Turkey, like other multi-faith societies, is not totally immune to isolated incidents against some members of the Turkish society.

86. Although racist motive is not considered as an aggravating factor, it was regarded as an act of intentional killing with premeditation, which is punishable by aggravated life imprisonment under Article 82 of the Turkish Penal Code. Such incidents receive prompt and diligent response from relevant authorities and all possible measures are taken to bring those responsible to justice. In this vein, the MoI, in its Circular issued in June 2007, instructed all relevant authorities to pay utmost attention in order to prevent the reoccurrence of similar incidents.

F. Right to education

87. Turkish education system is based on Article 42 of the Constitution stating that “no one shall be deprived of the right of learning and education” and “primary education is compulsory for all citizens of both sexes and is free of charge in state schools”.

88. The basis of Turkey’s education policies is to ensure that all citizens, regardless of language, race, color, gender, political thought, philosophical belief, religion or sect, enjoy their right to education in accordance with modern science and education, endowed with equal rights and opportunities.

89. Since 1998, compulsory primary education is increased to 8 years. Thus schooling rates in primary education is raised to 90 per cent. There are more than 14 million school children in Turkey.

90. Legally every parent is obliged to ensure his/her child’s regular attendance to primary education institutions. As to secure equal access to education in an uninterrupted manner student-centred local, regional and national programs are put in place.

91. Enrolment and attendance statistics are followed through e-school database so that non-schooling and drop-out cases can be easily detected. School drop-outs are monitored and supported with complementary projects such as “Come on girls, let’s go to school!” and “Recovery Education”. School drop-out rate is reduced below 1 per cent in the primary education.

92. There are social subsidies to increase schooling rate. The Conditional Cash Transfer System is monthly payments to families in need conditional to regular attendance of their children. The Directorate General for Social Assistance and Solidarity manages extra schooling aids such as free distribution of education material and lunch aids.

93. The Ninth Development Plan Strategy (2007-2013) prioritizes schooling of girls particularly in rural areas. Eight year compulsory education and the introduction of pre-school education more systematically have contributed positively schooling of girls. Girls schooling rate in primary education is increased to 96 per cent in 2008-2009 from 86,9 per cent in 2003-2004.

94. A number of projects such as “My Family”, “7 is Too Late” Campaigns, “Mother-Father-Child Education Project” “Complementary Education to Fathers Program” and “Mobile Kindergarden” are implemented with the cooperation of public agencies and NGO’s as to increase attendance rates in particular preschool education. Another project (“As Daughters and Mothers, We are at School Together!”) launched in 2008 in order to reduce the female illiteracy rate to a minimum level in four years.

G. Children

95. Turkey is party to the Convention on the Rights of the Child (1995) as well as the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2002) and the Optional Protocol on the Involvement of Children in Armed Conflicts (2004).

96. The Agency for Social Services and Children Protection, (SHÇEK), is responsible for the implementation of the Convention. A Parliamentary Commission, “TGNA Rights of the Child Monitoring Committee” is set up in November 2009 to oversee the implementation of the UN Convention.

97. The Law on Child Protection came into force in 2005. Article 3 defines a child those below the age of eighteen years, even if (s)he attains maturity earlier. Thus the concept of the child is expounded so as to entail a broader concept than that adopted in the Convention.

98. The principle of the best interests of the child (Art.4) is brought in the law. With the adoption of the European Convention on the Exercise of Children’s Rights, court decisions which do not take into account the best interests of the child are annulled by the Court of Cassation.

99. Relevant parts of the Turkish Civil Code, Labor Code, Criminal Code, Criminal Protection Code and the Law on Persons with Disabilities were amended in line with the provisions of the Convention on the Rights of the Child.

100. The Turkish Civil Code (2001) stipulates that regarding the matters of guardianship and adoption, the opinion of related child be respected. Minimum age for marriage is increased to 17 for both sexes. The new Labor Code (2003) establishes the minimum working age as 15. The Law on Disabled Persons (2005) contains supplementary added provisions for education, rehabilitation, care and social security of disabled children and coordination of services related to their re-integration into society.

101. The new Penal Code (2004) increased criminal liability age from 11 to 12. Juvenile delinquency protective measures are enhanced with the Law on Child Protection and new Law of Criminal Procedures. In cases where the child is suspect or defendant assignment of an attorney is made obligatory. Decision of arrest is rendered as a last resort.

102. Special units of the law enforcement agencies for minors in all towns were transformed into “Child Sections”. Children under custody are kept in children’s unit of the

police station. In stations where there is not special place, children are kept separate from the adults under custody.

103. Imprisoned juveniles are put in “Child Prisons”. In places where no child prisons exist children are kept in “Child Sections” of adult prisons. For convicted children there are also three Houses of Education for Children which operate on the basis of the principle of “education instead of punishment”.

104. The Child Protection Law also stipulates that juvenile courts to be established in all 81 provinces of the country. The number of such courts increased to 77 in total, thirteen of which are Juvenile Assize Courts.

105. A new law has been drafted, *inter alia*, to amend provisions of the Law on Combating Terrorism (No: 3713) related to children who commit terrorism offences. The Law is before the Parliament.

106. Children without parental care are put under protection and care of children’s homes and nurseries. Economic and social destitution is the main cause leading children to be put under protection.

107. Turkey, in cooperation with ILO, undertook IPEC Projects to combat child labor during 1992-2006. Through IPEC projects approximately 50,000 children have been reached and 60 per cent of whom were withdrawn from work and placed in schools. The remaining 40 per cent have benefited improved working conditions, health services, nutrition and vocational training.

108. Since 1997, a remarkable decline is witnessed in child labor with the introduction of eight-year compulsory education system. In 2006 Turkey was chosen one of three countries which combat most effectively with child labor, at the special session of the ILO’s General Assembly.

109. Turkey aims at preventing the worst forms of child labor in a 10-year time period (2005-2015) by making use of comprehensive measures such as eliminating poverty, increasing the quality of and access to education and launching awareness raising campaigns. The projects have played an instrumental role in directing them to education.

110. Several initiatives are underway with many international organizations, including the European Union, the UNICEF, the UNDP and the ILO, on matters relating to child welfare.

111. Turkey endeavors do its utmost to continue promoting the rights of children and to improve their living conditions. Juvenile justice system and child labor are prioritized for further improvement.

H. Women

112. Equality between women and men before the law is a Constitutional principle. The State is responsible for ensuring the equality in practice.

113. Turkey withdrew its reservations and declaration regarding CEDAW (1999 and 2008). The Civil Code and the Penal Code were revamped to accord women’s rights with international standards. Non-governmental organizations were actively involved in the reform process.

114. New Civil Code (2002), *inter alia*, establishes full equality of men and women within a family, sets the equal division of property acquired during marriage as a default property regime, gives equal inheritance rights to children born out of wedlock, allows

single parents to adopt children and contains various clauses to prevent violence against women.

115. The TGNA Commission for Equal Opportunity between Women and Men was established on 24 March 2009. The Commission is to contribute to women's rights by monitoring and following national and international developments.

116. Law on Civil Servants and the Labor Law will be amended to increase the period of maternity-leave up to 12 months in total for woman and man. The draft law is before the Parliament.

117. The new TPC has brought several clauses to enhance the protection of women. It classified sexual offences under the section "crimes against individuals" instead of "crimes against society". Sexual assault against a spouse is criminalized. The Law includes provisions to combat sexual harassment in the workplace. Family Protection Law (1998, amended in 2007) and the Regulation on its Implementation (2008) have widened and diversified the protective measures for women.

118. Turkey perceives honor crimes as an abhorrent violation of human rights, which cannot be justified on any social, cultural or religious grounds whatsoever. It intends to do its utmost to prevent them at all levels.

119. New TPC penalizes killings motivated by custom/honor with aggravated life imprisonment. The Directorate General for the Status of Women launched extensive training and awareness raising programs and campaigns, some of which designed for the police and the judiciary on matters concerning gender equality and violence against women, including honor crimes.

120. Two National Action Plans are prepared and implemented on "Combating Domestic Violence against Women (2007-2010)" and "Gender Equality (2007-2013)" with the participation of all relevant stakeholders.

121. The shelters/guesthouses and 183 Call Line are among the services provided to women subjected to violence. Women's shelters can be opened and run by SHÇEK, municipalities, special provincial administrations, and NGOs. Municipality Law (2005) obliges municipalities that have a population of over 50,000 to build guesthouses/shelters for women and children. There are 54 shelters in Turkey, of which 29 are run by SHÇEK. Projects are underway to increase the number of shelters which is currently insufficient.

122. Extensive legislative and practical protective work has been carried out to prevent violence against women. Turkey recognizes that there are still challenges ahead to eradicate the problem. It is resolved to maintain its efforts.

123. Women in Turkey have been granted right to vote and to stand for election since 1930, 1934 respectively. Turkish women's participation in political life and decision making mechanisms is improving but not at a desired rate. The percentage of women parliamentarians has risen to 9.1 per cent from 1.8 per cent in 1994. This figure needs to be improved with a comprehensive approach.

I. Disabled Persons

124. Turkey is committed to supporting the full and effective participation of persons with disabilities in social life; advancing their rights; protecting their dignity; and promoting their access to employment, education, goods and services.

125. To achieve these objectives an Agency for Disabled Persons under the Prime Ministry is established in 1997. The High Council of Disabled Persons and Board of Persons with Disabilities are two mechanisms which facilitate their participation in the

political decision making process. The High Council and the Board involve civil society representatives.

126. The Law on Disabled Persons entered into force in 2005. Article 4 of the said Law prohibits discrimination against disabled persons and states that fight against discrimination on grounds of disability constitutes the basis for all policies targeting persons with disabilities. Article 122 of the new TPC criminalized discrimination on grounds of *inter alia* disability.

127. The Agency, in cooperation with the European Commission, is developing a project, on “Combating Discrimination on Grounds of Disability” to be completed in 2010.

128. The Law on Disabled Persons stipulates that by 2012 all public buildings and facilities and areas, public transportation vehicles will be made accessible for persons with disabilities. Since required conversions are not moving at a desired pace, 2010 is declared as “The Year for Accessibility for Disabled Persons” at national level.

129. Turkey is party to the Convention on the Rights of Persons with Disabilities and signed the Optional Protocol to the said Convention at the margins of the GA in September 2009. Turkey is also an active participant in the works of the Council of Europe’s Coordination Forum, which are conducted in the context of a Disability Action Plan for 2006-2015.

130. Comprehensive and systematic awareness raising projects are needed for the promotion and protection of rights of disabled persons and the proper implementation of the UN Convention.

J. The situation of IDPs

131. Turkey had to fight a separatist terrorist organization starting from early 1980s. Since 1984, the PKK’s (Kurdistan Workers Party) terrorist activities have resulted in the death of tens of thousands of people, many of whom were civilians as well as civil servants, including teachers, medical doctors, nurses, who were deliberately targeted by the terrorists. The PKK terrorism also caused a huge amount of loss of resources that could have been used to improve the living standards of the region. Turkey achieved considerable success in its fight against terrorism while continuing to protect and promote human rights. To Turkey, promotion and protection of human rights is not only an obligation, but is a vital instrument in the process of countering terrorism.

132. The root cause of internal displacement in Turkey has been the scourge of terrorism. The Turkish Government attaches great importance to the successful return of the displaced citizens on a voluntary basis. In this regard, the “Return to Village and Rehabilitation Project” (RVRP) was launched in 1994.

133. The RVRP was launched for the families who had to leave their villages in Eastern and South-Eastern regions mainly for security and various other reasons. The project aims at settling the families wishing to return on a voluntary basis to their former places of residence or to other places suitable for settlement.

134. In order to ensure a smooth and effective return, the project takes a holistic approach and aims to establish the necessary social and economic infrastructure and provide sustainable living standards. As for the families who do not wish to return, the project seeks to improve their economic and social conditions at their current places of residence and ease their adjustment to urban life.

135. The RVRP has been implemented in 14 Eastern and South-eastern provinces. As of December 2009, 151,469 citizens from 25,001 households returned to their former places of residence. Approximately 47 million euro has been spent on the project.

136. RVRP is implemented in tandem with another project that emanates from the 2004 Law on the Compensation of Losses Resulting from Terrorist Acts and the Measures Taken against Terrorism.

137. As of October 2008, 360,933 applications were submitted to the compensation commissions. Of those, 207,765 were reviewed, 127,268 of which were awarded compensation. As of October 2009, a total of 1.266 million Turkish lira (approx. 632.5 million euro) have been paid out to the applicants as just satisfaction. 549 million Turkish lira will be paid in due course.

138. The ECtHR evaluated this domestic mechanism as an efficient remedy and it formally issued an evaluation asking applicants to apply to the domestic mechanism created by the Turkish Government. The domestic remedy introduced by the Turkish authorities in cooperation with the ECtHR on return-to-village applications is a clear demonstration of how the Court and States can operate in synergy to prevent human rights violations.

139. Turkey, in cooperation with the UNDP also implements "Support for the Development of an IDP Program in Turkey project". As an indication of Turkey's commitment to international cooperation, the Special Representative of the UN Secretary-General on the Human Rights of IDPs Prof. Kalin, visited Turkey four times in a period of 19 months, in May 2005, February 2006, September 2006 and December 2006.

140. Special Representative stated his satisfaction for the open-minded efforts of the Turkish Government leading to concrete results, and with regard to these steps and overall approach, named Turkey as an example for all the countries bearing IDPs.

K. Minorities

141. Under the Turkish constitutional system, the word "minorities" encompasses only groups of persons defined and recognized as such on the basis of multilateral or bilateral instruments to which Turkey is party. In this context, "minority rights" in Turkey are regulated in accordance with the Lausanne Peace Treaty (1923).

142. According to this Treaty, Turkish citizens belonging to non-Muslim minorities fall within the scope of the term "minority". Turkish legislation which is based on the Lausanne Peace Treaty contains the term "non-Muslim minority" only. Articles 37-45 of the Treaty regulate the rights and obligations concerning individuals belonging to non-Muslim minorities in Turkey. These provisions are recognized as fundamental laws of Turkey.

143. In line with the state philosophy based on equality of citizens assuring non-discrimination, Turkish citizens belonging to non-Muslim minorities enjoy and exercise the same rights and freedoms as the rest of the population. Additionally, they benefit from their minority status in accordance with the Lausanne Peace Treaty.

144. Turkish citizens belonging to non-Muslim minorities have their own places of worship, schools, foundations, hospitals, as well as printed media. There exists, 185 places of worship, 46 primary and secondary schools, 145 foundations, 5 hospitals and 9 newspapers.

145. There is no restriction for Turkish citizens belonging to non-Muslim minorities as regards the use of their language in private and in public. Turkish, as the official language, is used before administrative authorities and in criminal proceedings. However, if a person does not speak Turkish, interpretation is provided.

146. Turkish citizens belonging to non-Muslim minorities benefit from positive discrimination inter alia as to their education. The education institutions of Turkish citizens belonging to non-Muslim minorities are regulated by the Law on Private Education Institutions (2007).

147. At the minority schools, the mother tongue of the Turkish citizens belonging to non-Muslim minorities are taught as a must course for the same duration devoted to Turkish course. In these schools, the courses except Turkish and Turkish culture are taught in their own languages. Students belonging to non-Muslim minorities can also freely attend any other public or private school that is not run by their respective minorities, without any restriction.

148. According to Article 67 of the Constitution, all Turkish citizens participate in political process on an equal footing. The Law on Political Parties prohibits discrimination on, inter alia, religious and racial grounds and safeguards the principle of equality before the law.

149. The issues related to the training of clergy in Turkey are dealt in line with the provisions of the Constitution and the relevant legislation. Article 24 of the Constitution on the freedom of religion and conscience stipulates inter alia that education and instruction in religion and ethics shall be conducted under state supervision and control.

150. The Law amending the Law on Private Education Institutions underlines that no private education institution identical or similar to the public institutions conducting religious education–instruction can be set up (Article 3). On the other hand, there is no restriction on foreign clergy to work in Turkey.

151. The property rights of non-Muslims have been further strengthened within the framework of the ongoing reform process. Non-Muslim places of worship are administered by their own associations or foundations. The property rights on places of worship rest with the real or legal persons that have founded them.

152. A new Law on Foundations was enacted by the Turkish Parliament and entered into force as of 27 February 2008. As regards the non-Muslim community foundations, the Law further improves their situations in relation to their international activities, including the system of financial and/or material donation and assistance from abroad, registration of their immovable properties, as well as their representation at the Foundation Council, which is the ruling body of the Directorate General for Foundations.

153. Following the adoption of the Law on Foundations 107 non-Muslim minority community foundations have applied for the registry of immovable properties in accordance with the provisional Article 7 of the said Law.

154. Elections for the Foundations Council, the highest decision body of the General Directorate of Foundations, took place on 28 December 2008. The Council has 15 members representing the foundations based on numerical ratios. Accordingly, one member was elected by the representatives of the non-Muslim community foundations. The Foundations Council started to gather in January 2009.

155. Within the ongoing reform process in Turkey, there has also been major progress in improving the legislation concerning citizens belonging to non-Muslim minorities in Turkey. In this context, since 2004 a new governmental body, namely the Minority Issues Assessment Board, is in operation with a view to addressing and finding solutions to difficulties which citizens belonging to non-Muslim minorities may encounter in their daily lives. An ad-hoc group of officials, reporting to the Ministerial Reform Monitoring Group holds periodic consultations with the high ranking representatives of the minorities in Turkey.

L. Refugees, asylum seekers and victims of human trafficking

156. Turkey is party to the 1951 Geneva Convention relating to the Status of Refugees and 1967 Additional Protocol with “geographic limitation”. The provisions of the Convention apply to asylum seekers entering Turkey from “European countries”. Those entering from “non-European countries” and lodging an asylum application are granted “asylum seeker” status which allows them to reside until they are re-settled in a third country by the UNHCR.

157. Asylum-seekers who are not granted the refugee status but are assessed to be under the risk of persecution in their countries of origin, are not deported, and allowed to stay temporarily in Turkey under the “Subsidiary Protection and Protection with Humanitarian Considerations” scheme.¹⁵

158. Asylum seekers and refugees are entitled to social and medical assistance and access to education and labor market. Providing an exemption from residence fees for asylum seekers/refugees is under consideration.

159. The Ministry of Interior¹⁶ is preparing a new “Road Map on Asylum and Migration. The work is underway on drafting an Asylum Law which will accord asylum-migration legislation with the EU *acquis*.

160. Turkey, situated on a major migration route is facing ever-increasing numbers of irregular migrants. The number of irregular migrants apprehended while attempting to cross our territory during 1995-2008 has exceeded 760,000, three hundred thousand of them being in the last 5 years period. Given the magnitude of the problem, the solutions are requiring shared responsibility, international solidarity and burden sharing.

161. Irregular migrants are held at the guest houses in 23 provinces before they are returned to their home country. Their sheltering, food and health requirements are met in these guesthouses. Additional resources are channeled to support irregular migrants by the Social Assistance and Solidarity Fund.

162. Efforts to improve the physical conditions and capacity of the guest houses continue. Building new reception and accommodation centres for asylum seekers and refugees are planned.

163. Fighting against human trafficking is a priority item. Since 2002, Turkey displayed decisive and progressive approach against human trafficking.

164. Turkey became a party to the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention Against Transnational Organized Crime" in 2003.

165. "National Task Force on Fight against Human Trafficking" (NTF) was setup in October 2002 under the chairmanship of the Ministry of Foreign Affairs. NTF aims to develop a comprehensive approach and plays a significant role in policy making for prevention, protection and prosecution.

166. Turkey, first criminalized human trafficking as such under Article 201/b of the previous TPC in August 2002. The new TPC (2005) sets out the definition of human trafficking in line with the Palermo Protocol. In 2006 "forced for prostitution" is added in the description of human trafficking. Attempt, solicitation and assisting to this crime are punishable under Article 80 as well. Article 220 of the TPC foresees additional penalties for those who establish organizations for the purpose of committing this crime.

167. Two national action plans were adopted first in 2003 which listed the immediate objectives and tasked the Ministries accordingly. The Second National Action Plan adopted

in 2009 aims at achieving the international standards to help eradicate human trafficking in Turkey.

168. Turkey signed the "Council of Europe Convention on Action against Trafficking in Human Beings" on 19 March 2009. An interagency working group under the NTF continues its work to review the legislation with a view to fully implementing the Convention.

169. Turkish Government acts hand-in-hand with the civil society to help and protect and assist the victims of this vicious crime. To provide assistance to victims of human trafficking (VoTs) three shelters were set up in Ankara (2004), Istanbul (2005) and most recently in a third station shelter opened in Antalya (2009) all operated by NGOs. A toll free helpline "157" became is in service since May 2005. It has proved to be very useful as tip off and rescue mechanism.

170. Public awareness and information campaigns such as "Have you seen my mother?" (2006) and "React Against Human Trafficking, Don't be Passive" (2008), and a third information campaign titled "Join Turkey's fight against Human Trafficking!" (2009) were launched to develop sustainable solutions for fighting against this crime efficiently.

171. Identification of VoTs and provision of necessary support and coordination between the different institutions is undertaken within the framework of the National Referral Mechanism (NRM) which involves the Turkish National Police or General Command of Gendarmerie, Public Prosecutor's offices, Ministry of Health, 157 Helpline, IOM, NGOs and the victims' Embassies.

172. Victims are provided free legal aid and health services. Psychological counselling is also provided in shelters in Istanbul, Ankara and Antalya. "Humanitarian visa and short term residence permits" are issued to victims to enable them to stay legally in Turkey during their rehabilitation period. Voluntary return of the victims is provided safely with the cooperation of law enforcement officials, IOM, relevant institutions in the source countries and local NGOs.

173. Turkey attaches importance to international cooperation in counter-trafficking, and actively participates in and supports activities of various international and regional organizations and initiatives, such as the United Nations, Council of Europe, IOM, the OSCE and NATO as well as Black Sea Economic Cooperation Organisation and the Stability Pact among other platforms.

M. Human rights education

174. To coordinate efforts and activities in the field of human rights education, the National Committee for the UN Decade for Human Rights Education was established in 1998 to function as an advisory body during the UN Decade for Human Rights Education (1998-2007).

175. The Committee prepared a national program for the period of 1998-2007 by taking into consideration the relevant guidelines and principles set forth in the UN Action Plan on Human Rights Education. The program launched a nation-wide public campaign to raise human rights awareness and introduced intensified human rights training for civil servants, particularly for those employed in the field of law enforcement and for members of the judiciary.

176. In line with the national program, all government institutions directly related to human rights issues have intensified their in-service human rights training programs. In this respect, training courses covering human rights have become mandatory for candidate

judges and public prosecutors during their two-year probationary period at the Training Center for Judges and Public Prosecutors.

177. The MoJ has included human rights in the in-service training provided for judges and public prosecutors who enter the profession after the completion of their probationary period. Judges and public prosecutors have been receiving human rights courses in cooperation with the CoE and other international organisations. Bilateral programs have been initiated with a number of countries for the training of judges and prosecutors in the field of human rights. Prison superintendents, as well as physicians, psychologists, social workers and teachers employed in penal institutions are also given human rights education.

178. The MoJ has also organized periodic in-service seminars for members of the judiciary at various levels where participants are informed about Turkey's obligations under the relevant UN conventions, OSCE documents and CoE conventions and the case-law of the ECtHR.

179. The intensification of the training of members of law enforcement agencies is considered particularly important. Courses on human rights have become mandatory in the curricula of the Police Academy and Police Colleges since 1991.

180. Law on the Higher Education of Police, prepared in line with the recommendations of the National Committee, was adopted in 2001. With this law, the 26 police schools all over Turkey, which formerly trained police officers for nine months, have been converted into two-year vocational schools with an expanded emphasis on human rights education.

181. Periodic seminars, conferences and workshops have been held as part of the human rights training work being carried out for the staff of the Ministry of Interior at various levels. These seminars cover topics such as human rights provisions in Turkish domestic law; the duties and responsibilities of senior administrators and law enforcement officers with regard to human rights under the international conventions to which Turkey is party as well as under domestic legislation; the powers, working methods and procedures of the UN Committee against Torture and the European Committee for the Prevention of Torture.

182. Article 2 of the Law on National Education stipulates that one of the goals of the Turkish national education system is to educate all citizens as individuals respectful of human rights. Many measures have been taken to promote respect for human rights and fundamental freedoms through education and training. A course titled "Democracy and Human Rights" was added to the secondary school curricula as an optional course. Several universities have launched masters and PhD programs in human rights. The Regulation on Textbooks of the Ministry of National Education was amended in March 2004 to include the principle that textbooks does not contain any element in contradiction with human rights norms or any discriminatory element.

Notes

¹ Fundamental rights and freedoms which are under constitutional guarantee are laid out in detail under Part Two (Articles 12-74) of the Constitution, titled "Fundamental Rights and Duties". The civil, political, economic and social rights which are guaranteed by the Constitution have been enumerated in separate chapters under Part Two with the titles "Rights and Duties of the Individual", "Social and Economic Rights and Duties" and "Political Rights and Duties".

² Article 40 of the Constitution states that "Everyone whose Constitutional rights and freedoms have been violated has the right to request prompt access to the competent authorities. The State is obliged to indicate in its transactions the legal remedies and authorities the persons concerned should apply and their time limits. Damages incurred by any person through unlawful treatment by holders of public office shall be compensated for by the State. The State reserves the right of recourse to the official responsible". Article 125 of the Constitution, entitled "Recourse to judicial review", stipulates

that recourse to judicial review shall be available against all actions and acts of the administration. This article also states that “The administration shall be liable to compensate for damages resulting from its actions and acts. Article 129 of the Constitution provides that actions for damages arising from faults committed by civil servants and other public employees in the exercise of their duties shall be brought against the administration its actions and acts.

- ³ After the amendment of the Article 301 of the TPC, as of December 2009, out of 588 cases submitted to the Minister of Justice seeking authorization for criminal investigation under Article 301, permission was granted in 8 cases only, without prejudice to their outcome. Over four hundred of these cases the Minister of Justice refused to grant permission; consequently these cases were struck off.
- ⁴ Şanlıurfa (04 December 2003), Batman (10 December 2003), Van (22 December 2003), Adana (18 May 2004), Diyarbakır (29 July 2004), İstanbul (23 August 2004) and Kızıltepe (Mardin) (15 October 2004).
- ⁵ These crimes are “ incitement to committing suicide, sexual abuse of children, facilitating use of drugs hazardous to health, supplying drugs hazardous to health, obscenity, prostitution, providing a facility and an opportunity for gambling and the crimes defined in the “Law on Crimes Against Atatürk (the founder of the Turkish Republic (No: 5816, dated 25 July 1951)”.
- ⁶ Article 94, 95 of the Turkish Penal Code.
- ⁷ Article 101 (3), 148 (4), 149 and 150 of the Criminal Procedure Code (No: 5271); Article 19 of the Regulation on Apprehension, Detention and Statement Taking; Article 59 of Law on Execution of Sentences and Security Measures (No: 5275).
- ⁸ Article 10 of the Regulation on Apprehension, Detention and Statement Taking.
- ⁹ Article 95 of the Criminal Procedure Code (No: 5271).
- ¹⁰ Turkey became party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on 1 February 1989, thereby recognizing the competence of the CPT, the Convention’s monitoring body, which to date represents the most advanced system in the field. According to the provisions of the Convention, CPT delegations have unlimited access to places of detention and the right to enter such places without restriction. In principle, CPT reports are confidential unless the country in question authorizes their publication. Turkey, for the sake of transparency, decided in 2001 to authorize publication of all CPT reports on Turkey, which are available at the Committee’s website (<http://www.cpt.coe.int/en/states/tur.htm>).
- ¹¹ The President of the CPT, in her statement at the Committee of Ministers’ Deputies at the Council of Europe on 13 October 2004, underlined that “... the legislative and regulatory framework necessary to combat effectively torture and other forms of ill-treatment ... has been put in place –to be frank, it would be difficult to find a Council of Europe member state with a more advanced set of provisions in this area...”
- ¹² CPT’s report concerning its visit to Turkey in December 2005, together with Turkey’s response was made public on 6 September 2006 at the request of the Government of the Republic of Turkey. In its report CPT has pointed out that “the new Penal and Criminal Procedure Codes, as well as revised version of the Regulation on Apprehension, Detention and Statement Taking (RADST) which entered into force on 1 June 2005, have consolidated improvements which had been made in recent years on matters related to the CPT’s mandate”. Furthermore, CPT has stated in its report that “it is more than ever the case that detention by law enforcement agencies is currently governed by a legislative and regulatory framework capable of combating effectively torture and other forms of ill-treatment by law enforcement officials.”
- ¹³ In its recent reports CPT has stressed that “the facts found on the ground are encouraging” in this respect and that “the message of zero tolerance of torture and ill-treatment has clearly been received, and efforts to comply with that message were evident”. CPT officials not only “greatly welcoming the numerous formal statements emanating from the highest levels of the Turkish Government, condemning torture and ill-treatment and emphasizing the Government’s resolve to combat such methods”, but also set this as “an example that other Governments might usefully follow”.
- ¹⁴ During a visit on 10 June 2004 to the Minister of Foreign Affairs of Turkey, NGO representatives from Amnesty International, Human Rights Watch, Human Rights Foundation of Turkey and Mazlum-Der of Turkey stated that “Turkey is ahead of some European countries in terms of legal measures against torture”.
- ¹⁵ Turkey’s asylum procedures are based on the 1994 Regulation on Asylum prepared in order to reflect

the provisions of 1951 Geneva Convention and amended in 2006 in line with EU Acquis on asylum and migration.

- ¹⁶ The Bureau of Enhancing the Capacity and Implementation of the Asylum and Migration Legislation” which was set up within the Ministry of Interior on 15 October 2008.
-