



## International Covenant on Civil and Political Rights

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### Human Rights Committee

104th session

New York, 12-30 March 2012

### List of issues to be taken up in connection with the consideration of the initial report of Turkey (CCPR/C/TUR/1)

#### Constitutional and legal framework within which the Covenant is implemented (art.2)

1. Please state whether the provisions of the Covenant are directly applicable by domestic courts and to what extent they are invoked and applied. Where this has happened, please provide information. Please also provide information on the availability of remedies for individuals claiming a violation of the rights contained in the Covenant.
2. Please indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol. Please indicate what concrete action has been taken further to the Committee's Views adopted in respect of the State party.
3. Please provide information on the establishment of the Turkish National Human Rights Institution/Ombudsman Office, indicating how the institution would comply with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). Please outline the consultation process with civil society and other relevant actors in the institutions. Please indicate the human and financial resources to be provided to the institution

#### Non-discrimination, equality between men and women (arts. 2, para. (1), 3 and 26)

4. Please provide information on definitions in legislation or in jurisprudence relating to the principle of non-discrimination, including protection from direct and indirect discrimination, de facto and de jure discrimination, multiple forms of discrimination, discrimination by association, harassment and any other relevant concepts. Please identify the steps, if any, being undertaken to introduce comprehensive anti-discrimination legislation which would protect against discrimination on any basis and in relation to any right. Please indicate if such legislation would include definitions of the main concepts related to the principle of non-discrimination referred to above.
5. Please provide information on the number of complaints and decisions of courts or administrative tribunals including any punishments imposed or remedies provided relating

to discrimination on any basis since 2007. Please indicate the steps taken to implement those decisions.

6. Please provide information on situations where temporary special measures ('positive discrimination', article 10 of the Constitution) have been introduced as a means of addressing disadvantage or underrepresentation of women, persons with disabilities, persons belonging to minorities or others as well as the impact of these measures in relation to their access and participation in the political arena, education, employment, the justice system, health-care services and other areas of public life. Please indicate the resources allocated to implement such measures. Please also provide information on any training or information dissemination aimed at familiarizing public officials with the concept of temporary special measures.

7. Please provide information on steps undertaken to protect persons from violent crimes and hate crimes related to their sexual orientation or gender identity. Please respond to the allegation that human rights defenders working to protect individuals from discrimination on the basis of sexual orientation and gender identity are harassed by law enforcement officers. Please respond to the allegation that in November 2011, three transgender women who were members of the group Pembe Hayat (Pink Life) were convicted of 'insulting police officers' and 'resisting the police' after alleging that they had been arbitrarily arrested and ill-treated by the police. Please provide information on any investigation or prosecution of police officers accused of harassing individuals based on their sexual orientation or gender identity. Please provide information on any other measures undertaken to eradicate discrimination and social prejudices against persons on the basis of their sexual orientation and gender identity.

8. Please provide information, including any available studies, that evaluates the impact of the ban on the use of headscarves, including in the areas of access to education, employment, health care and political and public life, including the number of women excluded from schools and universities.

### **Counter-terrorism measures and respect of Covenant guarantees**

9. Please provide information on the definition of terrorism under national law and all derogations from ordinary law that exist in counter-terrorism legislation. Please indicate how anti-terrorism legislation, including articles 6 and 7 of the Anti-Terrorism Law, is compatible with the rights guaranteed in the Covenant, particularly with article 4. In particular, please identify the procedural guarantees available for individuals charged under anti-terrorism legislation and the compatibility of these provisions with the Covenant. In this regard, please identify if an effective mechanism to challenge the lawfulness of detention exists, and provide information on the alleged practice of blocking the disclosure of evidence to the accused and defence lawyers (called "secrecy decisions"). In addition, please indicate whether prosecutions against children have been carried out after amending the Counter-terrorism Law, and if so, please state the charges and penalties that have been meted out.

### **Right to life, prohibition of torture and other cruel, inhuman or degrading treatment, and combating impunity (arts. 6 and 7)**

10. Please provide disaggregated statistical data and information since 2007 in relation to (a) complaints, investigations, prosecutions and convictions relating to allegations of torture and ill-treatment, expulsions, trafficking and sexual violence, alleged disappearance, and extrajudicial killings; (b) the length of trials of alleged perpetrators related to these offences; and, (c) the provision of rehabilitation services and compensation, including financial indemnification, to victims of these offences. Specifically, please set out the steps

that have been taken to ensure prompt, effective, transparent and independent investigations in relation to (a) allegations of State collusion in the murder of human rights defender Hrant Dink (including measures to implement the decision of the European Court of Human Rights, *Dink v. Turkey*); (b) the killing of a family of seven in the Kurdistan region of Northern Iraq allegedly as a result of bombing by a Turkish plane; and (c) allegations that mortar fire from the Turkish military led to the death of Ceylan Önkel close to her home in the Lice district of south-eastern Turkey; and (d) the death in custody of Resul Dîçin in October 2009.

11. Please respond to reports that law enforcement officials use excessive force, including the use of pepper gas, pressurized water and plastic bullets as well as beatings of demonstrators, on a routine basis during demonstrations, and in particular in the context of the June 2011 Parliamentary elections. Please describe the measures being undertaken to ensure against excessive use of force by law enforcement officials, such as general training programmes as well as investigations of complaints and imposition of disciplinary measures against officials. Please provide information on the amendments made in June 2007 to the Law on Powers and Duties of Police concerning the use of lethal weapons by the police.

12. Please illustrate the steps taken to end impunity for State officials for acts of torture and loss of life. Please respond to the allegations that (a) the State uses counter-charges against complainants as a tactic against those alleging human rights abuses against State officials; (b) law enforcement officers found guilty of torture or ill-treatment receive light or suspended sentences; (c) the investigation and trial of a police officer charged in relation to the 2007 fatal shooting of Nigerian asylum seeker Festus Okey was marred by flaws and long delays and that requests by human rights NGOs and individuals to intervene as third parties to the case led to the commencement of proceedings against them on charges of ‘attempting to influence the fairness of the trial’ and ‘insult’. Please provide an update of the Diyarbakir prison case against members of the security forces relating to the death of ten prisoners and injury of six on 24 September 1996.

13. Please provide information on any steps to develop an independent police complaints commission to investigate allegations of violation of rights under the Covenant by law enforcement personnel. Please provide information on the steps being taken to establish a National Preventive Mechanism under the Optional Protocol to the Convention against Torture. Specifically, please indicate what measures are being devised to ensure the mechanism’s independence and mandate to undertake unannounced and unrestricted visits.

14. In relation to violence against women and children, please provide information on (a) steps taken to evaluate and strengthen Law 4320 and to enact comprehensive legislation prohibiting all forms of violence against women and children; (b) examples where perpetrators of violence against women and children have been prosecuted and punished; (c) steps taken to protect women and children - including women and children subject to multiple forms of discrimination, such as disability or minority status - from violence, through the provision of adequate support services and adequately resourced shelters; (d) the results of the Turkey-EU Pre-Accession Financial Programme of 2006, the project entitled “Shelters for Women Subject to Violence”; (e) the number of protection orders issued over the last five years; (f) the expansion over time in the dissemination of information to relevant individuals on shelters, support services and avenues to seek protection and redress; (g) the expansion over time of training programmes for public officials, the judiciary, law enforcement personnel and health service providers to ensure that they address and combat all forms of violence against women and children and provide adequate support for victims; and, (h) the expansion over time of public awareness campaigns combatting violence against women and children.

15. Please indicate the steps taken to implement the recommendation of the Committee on the Elimination of Discrimination against Women that honour killings (a) be explicitly included within the scope of article 82 of the Penal Code and classified as aggravated

homicide; and (b) be treated as seriously as other violent crimes, particularly at the investigation and prosecution stages. Please include information on the incidence of killings in the name of honour, the number of investigations, prosecutions and perpetrators punished including the sentences imposed.

### **Elimination of slavery and servitude (art. 8)**

16. Please provide information on whether the Second National Action Plan on Combatting Trafficking in Human Beings has been approved. Please indicate the human and financial resources to be devoted to the implementation of the Action Plan as well as any indicators developed to monitor the Plan.

### **Liberty and security of person, treatment of persons deprived of their liberty, independence of the judiciary and fair trial (arts. 9, 10 and 14)**

17. Please indicate the steps undertaken to bring an end to excessive pretrial detention and overcrowding in places of detention as well as to improve prison and police station infrastructure against abuses. In particular, please provide information on steps: (a) to encourage members of the judiciary to consider alternative means to deprivation of liberty as a penal sanction; (b) to install video surveillance cameras through police stations and make video recording interrogations of all persons standard procedure; (c) to review articles 15 to 28 of the Law on the Right to Access Information (Law No 4982) - relating to restriction of access to certain information on detention facilities - for their compatibility with human rights standards; (d) to continue efforts to ensure adequate staffing of prisons; (e) to limit restrictions to privileges of prisoners in solitary confinement; and, (f) to address the shortage of medical personnel and access to health care for prisoners.

18. What steps are being taken to eliminate the institutionalization of children and adults with disabilities by strengthening community-based services and support (including through increased social assistance and welfare benefits) to children with disabilities and to their families, including foster families?

19. Please provide information on the steps taken to ensure that in law and practice all detainees are guaranteed the right to have prompt access to a lawyer, to notify a family member, and to have an independent medical examination at the outset of detention. Please set out steps being undertaken to ensure patient-doctor confidentiality during medical examinations.

### **Refugees and asylum seekers (art. 13)**

20. Please provide an update on the progress of draft laws to be submitted to Parliament relating to asylum and a specialized unit dealing with asylum matters and foreigners. Please indicate whether there is any intention to revoke the geographical limitation to the 1951 Refugee Convention that excludes non-European asylum seekers from protection under the Convention. Please also respond to allegations that (a) temporary asylum procedures are arbitrarily denied to asylum seekers; (b) foreign guesthouses and other removal centres are seriously overcrowded and that interns are ill-treated; and, (c) deportations and refoulement have occurred despite the risk of torture.

### **Freedom of thought, conscience and religion, equality and non-discrimination (arts. 18 and 26)**

21. Please provide information on the reasons for failure to recognize conscientious objection to military service. Please provide any information on steps being undertaken to bring legislation and practice relating to conscientious objection to military service in line with the Covenant.

22. Please provide information on the names and situation of individuals convicted for refusal to undertake military service. Indicate: (a) the charges against the individuals; (b) the courts in which the convictions were made; (c) the sentences handed down; (d) the names of individuals currently undergoing sentences; (e) whether an individual can be convicted more than once for refusal to perform military service; if so, (f) the names of any individuals convicted more than once for refusal to undertake military service; (g) treatment of individuals while serving their sentences; and, (h) recognition in law and practice of individuals' civil rights once sentences have been served. Please respond to the allegation that Halil Savda faces ongoing risk of imprisonment under article 318 of the Turkish Penal Code for freely expressing his support for conscientious objectors to military service.

23. Please explain any obstacles to the recognition of the legal personality of non-Muslim communities as organized structures of religious groups. Please set out the steps being taken to protect and restore the property rights of non-Muslim religious communities, including the Arameans, Catholics and others.

### **Freedom of expression (art. 19)**

24. Please provide information on the prosecution of individuals - including journalists, writers and political activists - for their criticism of State institutions, particularly the armed forces, as well as for critical comment on issues relating to Armenians, Kurds, conscientious objection to military service or themes related to sexual orientation and gender identity. Please provide the reasons for the arrest and the legislative provision justifying the arrest. In this regard, please indicate how articles 125 (criminalization of defamation) 214, 215, 216 and 220 (protection of public order), 226 (publication or broadcasting of obscene materials), 285 (confidentiality of investigations), 228 (judiciary), 314 (membership of an armed organization), 318 (performance of military service) of the Criminal Code are compatible with the Covenant, in particular in light of General Comment no. 34 on Freedom of expression.

25. Please provide an update of the situation of the 44 people arrested in November 2011, including publisher Ragip Zarakolu and Büşra Ersanlı, on the grounds of their alleged membership of the Kurdistan Communities Union. Please respond to allegations that death threats were made against Baskin Oran and Etyen Mahçupyan, journalists of the bilingual Armenian Turkish *Ağos* newspaper. Please indicate the steps taken to protect these individuals from such threats.

### **Rights of minorities (art.27)**

26. Please explain why the definition of 'minorities' restricts the term minorities to only 'non-Muslim minorities'. Please provide statistical information related to minorities, including non-Muslim as well as other minorities (e.g. Kurds, Roma, Arameans etc), not already included in the State party's report, including data demonstrating the ethnic composition of the country, the use of mother tongues and languages commonly spoken and other indicators of ethnic diversity. Please indicate any legislative provisions protecting the rights of individuals who identify with these minorities. Please provide information on the political participation of minorities and indicate how the legislation on Political Parties and Elections guarantee their inclusion and participation.

### **Dissemination of information relating to the Covenant and the Optional Protocol (art. 2)**

27. Please provide information on the steps taken to disseminate information on the Covenant and the Optional Protocols, the submission of the initial report of the State party,

and its forthcoming examination by the Committee. Please also provide information on the involvement of representatives of ethnic and minority groups, and civil society organizations in the preparatory process for the report.

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