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Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant

Concluding observations of the Committee on Economic, Social and Cultural Rights

Turkey

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Turkey on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/TUR/1) at its 3rd to 5th meetings, held on 3 and 4 May 2011 (E/C.12/2011/SR.3-5), and adopted, at its 29th meeting, held on 20 May 2011, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission, although delayed, of the initial report of Turkey, which generally conforms to its reporting guidelines, as well as the written replies to its list of issues (E/C.12/TUR/Q/1/Add.1). The Committee also welcomes the detailed statistical data included in both documents, which have enabled an assessment of the progressive realization and the enjoyment of economic, social and cultural rights in the State party.

3. The Committee welcomes the initiation of the dialogue with the State party on the implementation of the Covenant and appreciates the attendance of a delegation of representatives from various ministries at the examination of its initial report. The Committee however regrets that the delegation has not provided responses to some of its important oral questions.

B. Positive aspects

4. The Committee welcomes the ratification of several core international instruments undertaken over the past decade, including eight core human rights treaties.

5. The Committee notes a number of measures taken by the State party aimed at improving the enjoyment of economic, social and cultural rights, in particular:

(a) The establishment of the Parliamentary Commission on Equal Opportunities for Women and Men;

(b) The expansion of vaccination coverage, which has markedly reduced infant and child mortality;

(c) The implementation of the Health Transformation Programme, which has brought about a more sustainable and accountable health system;

(d) The amendments to the Penal Code and other enactments to combat violence against women;

(e) The amendments to the Penal Code on trafficking which bring its provisions in line with the relevant international convention and its protocols.

C. Principal subjects of concern and recommendations

6. The Committee is concerned about the State party's reservation to the effect that it will interpret and apply the provisions of article 13, paragraphs 3 and 4, of the Covenant in accordance with its Constitution.

The Committee recommends that the State party withdraw its reservations to the Covenant, in particular the reservation to article 13, paragraphs 3 and 4, with a view to applying their provisions and interpreting them in the light of the jurisprudence of the Committee.

7. Though the Committee notes with appreciation the Constitutional guarantee of supremacy of the Covenant over domestic laws, it however regrets the absence of court cases on the applicability of the provisions of the Covenant.

Recalling the obligation of the State party to render the articles of the Covenant justiciable in its domestic court system, the Committee requests the State party to include in its next periodic report information on court decisions applying the provisions of the Covenant. The Committee also calls on the State party to ensure that legal training programmes for judges and lawyers include courses on the justiciability of the rights contained in the Covenant. In this regard, the Committee draws the attention of the State party to its general comments No. 3 (1990) on the nature of States parties' obligations and No. 9 (1998) on the domestic application of the Covenant.

8. The Committee notes with regret that the State party has not yet established a national human rights institution in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). The Committee also notes that the office of the ombudsman has not yet been created.

The Committee urges the State party to establish a national human rights institution in accordance with the Paris Principles and with a mandate that includes the rights under the Covenant. The Committee also calls on the State party to seek the accreditation of such institution by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights in due course. In this regard, the Committee refers the State party to its general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights.

9. While noting the legislative reforms undertaken by the State party, the Committee is concerned about the absence of a basic and general legislation against discrimination (art. 2, para. 2).

The Committee calls on the State party to adopt a general law on non-discrimination in line with the Covenant and the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights. In this regard, the Committee also requests the State party to include in its next periodic report information on the mandate and the activities of the Anti-discrimination and Equality Board.

10. In view of the fact that the State party recognizes only Greeks, Jews and Armenians as minorities, the Committee expresses concern about the absence of a broad legislative framework for the recognition of all minorities in the State party, including Kurds, Roma and Arameans, and the protection of their rights. The Committee is further concerned about the denial of minority rights of these communities (art. 2, para. 2).

The Committee urges the State party to recognize all the minorities in its territory, to provide them with the full opportunities to enjoy their economic, social and cultural rights and to adopt the necessary plans of action for this purpose.

11. The Committee notes with deep concern that persons with disabilities in the State party continue to face great difficulties in exercising their rights under the Covenant, including with regard to access to employment, housing, education and health care. The Committee also notes with regret that persons with disabilities have continued to lack proper access to buildings, parks, hospitals, transportation systems and other public places and services. The Committee is further concerned that a significant number of persons with disabilities do not receive social security benefits (art. 2, para. 2).

The Committee urges the State party:

(a) **To provide persons with disabilities with their full rights under the Covenant and without discrimination and ensure that they have physical access to buildings, parks, hospitals, school, transportation systems and other public places and services;**

(b) **To allocate resources for making the necessary accommodations to public and private infrastructure and services in the State party, as required by the provisions of articles 2 and 3 of the Disability Act;**

(c) **To raise public awareness, including through mass campaigns, about the rights of persons with disabilities, so as to combat negative stereotypes and prejudices;**

(d) **To strictly monitor the enforcement, both in the public and private sectors, of the quota system established by article 30 of the Labour Act, which prescribes the recruitment of at least 1 person with disabilities in every establishment which employs more than 50 people;**

(e) **To combat the marginalization of persons with disabilities by taking account of their special needs in the income-maintenance schemes of the social security system;**

(f) **To put into place a mechanism for collecting data on the enjoyment of economic, social and cultural rights of persons with disabilities so as to ascertain the nature of their difficulties, and to assess the impacts of the Disability Act.**

Bearing in mind the Committee's general comment No. 5 (1994) on persons with disabilities, the Committee requests the State party to include detailed information on the implementation of the above-mentioned recommendations in its next periodic report.

12. The Committee is concerned that migrant workers, asylum-seekers and refugees still face serious difficulties in accessing health services, education and employment despite the legal provisions promoting their access to these services (art. 2, para. 2).

The Committee urges the State party to raise public and official awareness about migrant workers, asylum-seekers and refugees with a view to according them their full rights under the Covenant.

13. The Committee notes with concern the significant discrepancies between regions, as well as between urban and rural areas, in the enjoyment of economic, social and cultural rights. It also notes the concentration of the incidence of high poverty, particularly in the eastern regions where the opportunity to enjoy the full rights under the Covenant is lacking (art. 3).

The Committee urges the State party to address the disparities in the enjoyment of economic, social and cultural rights between regions, as well as between urban and rural areas, by adopting the measures necessary to improve conditions in the most disadvantaged areas.

14. The Committee is concerned that, despite the legislative and institutional reform undertaken and implemented by the State party with regard to gender equality, women continue to be treated unequally. It is moreover concerned that women's working conditions have worsened in recent times, with many women forced to seek employment in the informal economy. The Committee notes the lack of information on the impact of, and the results achieved by, the Gender Equality National Action Plan (art. 3).

The Committee recalls article 3 of the Covenant and its general comment No. 16 (2005) on the equal rights of men and women to the enjoyment of all economic, social and cultural rights, and calls on the State party:

(a) **To raise public awareness about gender equality and adopt the necessary measures, legislative or otherwise, with a view to changing prejudices and perception about gender roles;**

(b) **To expand the supply of day-care services;**

(c) **To adopt a quota system in various areas to accelerate women's representation in political life and in the labour market;**

(d) **To monitor, in collaboration with civil society organizations, the impact on the enjoyment of economic, social and cultural rights of women of all measures taken by collecting specific data on the results of all its programmes and measures to promote gender equality.**

The Committee also requests the State party to include in its next periodic report information on the impact of measures taken to enhance women's representation in the formal economy and on the outcomes of the monitoring and evaluation of the Gender Equality National Action Plan.

15. The Committee notes with concern that the incidence of sexual harassment in the workplace is reportedly widespread and regrets the lack of information and statistical data on complaints and court cases relating to sexual harassment (arts. 3 and 7).

The Committee requests the State party to include in its next periodic report information on the incidence of sexual harassment in the workplace as well as

statistical data on cases of sexual harassment brought to the criminal and the labour courts, including information on indictments and sentences in this regard.

16. The Committee is concerned that unemployment in the State party has not decreased despite the economic growth and the implementation, since 2003, of the National Employment Strategy. Moreover, the Committee is concerned that unemployment is particularly affecting young persons (art. 6).

The Committee urges the State party to ensure that any new labour market policies to be adopted by the State party are aimed at providing everyone with opportunities to secure an employment, particularly by:

(a) Implementing the conclusions from a comprehensive review of the past National Employment Strategy;

(b) Allocating more resources for job creation;

(c) Creating more favourable conditions for young people in the labour market through measures such as increases in vocational education opportunities.

In this regard, the Committee refers the State party to its general comment No. 18 on the right to work (2005) and its recommendations on technical and vocational training as contained in general comment No. 13 (1999) on the right to education.

17. The Committee expresses concern at the low level of the minimum wage in the State party, which does not allow for a decent standard of living for the workers and their families (art. 7).

The Committee urges the State party to review its system for determining the minimum wage, with a view to ensuring that it will enable workers and their families to enjoy a decent standard of living. The Committee also urges the State party to ensure, through its labour inspection system, that the minimum-wage standard is effectively enforced.

18. The Committee is concerned that there is a wide wage gap between men and women in the State party and that labour inspections have neither identified nor reported cases of violation of the principle of equal remuneration for work of equal value (art. 7).

The Committee calls on the State party:

(a) To raise awareness of the illegality of the application of different rates for men and women for work of equal value and of the obligation of employers in this regard;

(b) To provide accessible and effective remedies in case of discrimination in remuneration;

(c) To train labour inspectors in the application of the principle of equal remuneration for work of equal value and take other measures to ensure an effective enforcement of applicable legislation.

19. While noting that draft bills amending the acts of the State party on trade unions, collective labour agreements, strikes and lockouts are being considered, the Committee notes with concern that the legislation currently in force in the State party imposes severe restrictions on the right to form unions and on the right to strike. The Committee is also concerned that foreign workers cannot join trade unions (art. 8).

The Committee calls on the State party to adopt the necessary legislative measures to allow foreign workers the right to join trade unions of their choice

and to amend the existing act on trade union in order to lift existing restrictions.

20. The Committee expresses concern at the precarious situation of those employed in the informal economy, which accounted in 2006 for 48.5 per cent of the total working population and 66 per cent of working women (arts. 9 and 7).

The Committee calls on the State party to review its social security schemes so as to ensure that workers, in particular women, in the informal economy are also covered. In this regard, the Committee refers the State party to its general comment No. 19 (2007) on the right to social security.

21. The Committee is concerned that about 20 per cent of the population in the State party does not benefit from any social security coverage. The Committee also regrets that the information provided to it has not enabled the Committee to ascertain to what extent the social security system provides protection against the social risks and contingencies required by the Covenant and as to whether the measures taken have been effective at improving the situation (art. 9).

The Committee requests that the State party include in its next periodic report:

(a) Detailed information on the coverage of the social security system of the State party, referring to the branches enumerated in paragraphs 12 to 21 of the Committee's general comment No. 19 (2007) on the right to social security;

(b) Detailed information on the coverage of the social security system of the State party, including for disadvantaged and marginalized groups, and on the number of holders of health green cards.

22. The Committee expresses concern at the small percentage of older persons who receive pension benefits and at the level of the pension, which does not provide for a decent standard of living for pensioners (arts. 9, 11 and 2, para. 2).

The Committee urges the State party to extend assistance to older persons who do not receive any income and to review the level of the pension benefit so as to ensure that it enables them to enjoy an adequate standard of living. In this regard, the Committee refers the State party to its general comment No. 6 (1995), and requests the State party to include in its next periodic report detailed information on the enjoyment of economic, social and cultural rights by older persons.

23. The Committee is alarmed at the very high incidence of violence against women in the State party, despite the implementation of the 2007-2010 National Action Plan to Combat Violence against Women. The Committee is moreover concerned that domestic violence, including physical and psychological violence, is not criminalized in the State party and that the remedies available to victims of domestic violence are ineffective (arts. 10 and 2, para. 2).

As the proposed activities contained in the National Action Plan to Combat Violence against Women address, in principle, existing challenges to the eradication of violence against women in the State party, the Committee calls on the State party to allocate the necessary resources for the implementation of the Plan and to involve civil society in its monitoring.

The Committee also calls on the State party to criminalize domestic violence, strictly enforce the law combating violence against women, increase the number of shelters and monitor the discharge by relevant public officials of their responsibilities when dealing with victims of domestic violence.

24. The Committee is concerned that corporal punishment is not explicitly prohibited in the home and is practiced in schools (arts. 10 and 13).

The Committee urges the State party to adopt specific legislation prohibiting all forms of corporal punishment in the home. It further calls on the State party to raise public awareness against corporal punishment at home or in schools. In this respect, the Committee draws the attention of the State party to its recommendation on discipline in schools as contained in its general comment No. 13 (1999) on the right to education.

25. The Committee is concerned that the legislation of the State party on minimum age of employment and authorized types of work for children does not conform to international standards. Moreover, the Committee expresses concern that the measures undertaken by the State party to combat child labour, which continues to be used in agriculture and the furniture industry, have not been commensurate with the scale of the problem (art. 10).

The Committee calls on the State party to ensure that children are protected from social and economic exploitation, including by bringing its legislation fully into conformity with International Labour Organization (ILO) standards on minimum age of employment and the regulation of employment of children in hazardous conditions, in compliance with ILO Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. The Committee also urges the State party to increase the length of compulsory education from 8 to 11 years. In this regard, the Committee refers the State party to its general comments No. 18 (2005) on the right to work and No. 13 (1999) on the right to education.

26. The Committee is deeply concerned at the potential impact of the Ilisu dam under construction and other dams on the enjoyment of economic, social and cultural rights in the areas concerned, especially with regard to forced evictions, resettlements, displacement, and compensation of people affected, as well as at the environmental and cultural impact of the construction of these dams (arts. 11, 12 and 15).

The Committee urges the State party to take account of a human-rights based approach in its infrastructure development projects, especially dams, and to undertake a complete review of its legislation and regulations on evictions, resettlement and compensation of the people affected by these construction projects, especially the Ilisu dam, in line with the Committee's general comment No. 7 (1997) on forced evictions.

27. The Committee notes with concern that forced evictions have taken place in Istanbul as part of the urban renewal project, without adequate compensation or alternative accommodation to those affected. It is also concerned that, in the case of the Roma community, evictions and displacement have seriously affected the schooling of children. Moreover, the Committee expresses concern that laws applied in urbanization projects, which neglect participation, the respect of property rights and other human rights dimensions, are not compatible with international standards (art. 11).

The Committee urges the State party to review its legal framework regulating urbanization projects to ensure that persons forcibly evicted are provided with adequate compensation and/or relocation, taking into account the guidelines adopted by the Committee in its general comment No. 7 (1997) on forced evictions. The Committee also draws the State party's attention to the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I) developed by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living.

28. The Committee expresses concern at the acute shortage of housing in the State party, which is currently estimated at three million units. The Committee also regrets the absence of information on homelessness and inadequate housing in the State party (art. 11).

The Committee calls on the State party to step up efforts, including through the adoption of a national housing strategy, to increase the availability of adequate housing, particularly in view of the fact that the number of houses built under the auspices of the Housing Development Administration (TOKI) meets only 5 to 10 per cent of the housing needs. The Committee also calls on the State party to review the 1984 Mass Housing Act to ensure that it provides an adequate framework for realizing the right to adequate housing.

The Committee requests the State party to include in its next periodic report information on homelessness and on adequacy of housing. The Committee also refers the State party to its general comment No. 4 (1991) on the right to adequate housing.

29. The Committee is concerned that the maternal mortality remains high despite the progress achieved, in particular that a large number of women living in rural areas do not have adequate access to sexual and reproductive health care. The Committee is also concerned that available statistics on reproductive health relate only to married women. The Committee furthermore regrets the absence of information on the existence of sexual and reproductive health education in the State party (arts. 12 and 10).

The Committee calls on the State party to ensure the enjoyment of reproductive health rights by everyone without discrimination and to consider amending the 2005-2015 Strategic Plan on Fertility Health to include targeted measures and resources to improve access to and provision of sexual and reproductive health services in rural areas. It also calls on the State party to collect data on the reproductive health of all women and girls, irrespective of their age and marital status, and to include in its next periodic report detailed information on sexual and reproductive health education and services. The Committee refers the State party to its general comment No. 14 (2000) on the right to the highest attainable standard of health.

30. While the use of unmodified electroconvulsive treatment (ECT) without anaesthesia and muscle relaxants in mental health facilities has been abandoned and ECT application guidelines have been circulated to medical faculties, the Committee remains concerned that the State party has not taken measures, legislative or otherwise, to abolish these practices (art. 12).

The Committee calls on the State party to regulate, through the adoption of necessary amendments to existing legislation, the use of electroconvulsive treatment on mental health patients.

31. The Committee regrets that the preparation of the initial report of State party (E/C.12/TUR/1) did not have the benefit of consultations with civil society actors.

The Committee recommends that the State party expand its dialogue and cooperation with civil society organizations working in the area of human rights protection, in particular in the promotion and protection of economic, social and cultural rights. The Committee also encourages the State party to involve civil society organizations in the implementation of the Committee's recommendations and the preparation of the next periodic report.

32. The Committee urges the State party to provide education on human rights, including economic, social and cultural rights, to students at all levels of education, and human rights training for members of all professions and sectors that have a

direct role in the promotion and protection of human rights, including civil servants, teachers, medical professionals, law enforcement officers, the police and the military.

33. The Committee requests the State party to include in its next periodic report updated and detailed information on:

(a) The impact of the implementation of occupational health and safety regulations, as listed in paragraph 154 of the initial report of the State party (E/C.12/TUR/1), including data on non-compliance, reported either through compliance or labour inspections;

(b) The physical accessibility and the affordability of water and sanitation, particularly for disadvantaged and marginalized groups, including statistical data disaggregated by region and urban/rural areas;

(c) The impact of measures taken to combat early and forced marriages;

(d) The magnitude of trafficking in women and children into and from the State party's territory and on the number of prosecutions and convictions, as well as information on the sentences;

(e) The availability and accessibility of substitute-substance treatment for addiction, including on the opening of new treatment centres, as mentioned in paragraph 136 of the replies to the list of issues (E/C.12/TUR/Q/1/Add.1), as well as on the type of treatment authorized by the two circulars on treatment standards;

(f) The availability and affordability of mental health services, including the use of ambulatory services for mental health treatment;

(g) The impact of measures taken to prevent suicide among women.

34. As the State party continues its efforts in the area of legislative reforms, the Committee encourages it to always take account, in this regard, of its obligations under the Covenant, and to continuously assess the impact of legislative developments on the enjoyment of economic, social and cultural rights.

35. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the Covenant. The Committee also encourages the State party to consider signing and ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.

36. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, in particular among State officials, the judiciary and civil society organizations, to translate and publicize them as far as possible and to inform the Committee of the steps taken to implement them in its next periodic report. It also encourages the State party to continue engaging national human rights institutions, non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

37. The Committee requests the State party to submit its second periodic report, prepared in accordance with the revised reporting guidelines of the Committee adopted in 2008 (E/C.12/2008/2), by 30 June 2016.