

**Consideration of the third and fourth periodic report
of the Republic of Turkey
Forty-Fifth Session of the Committee against Torture
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**Opening Statement
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Mr. Chairperson,
Distinguished Members of the Committee,
Ladies and Gentlemen,

It is a great honour and privilege for my delegation and me to present to the distinguished members of the Committee against Torture the latest developments regarding Turkey's implementation of its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Turkey has made its submission according to the new optional reporting procedure adopted by the Committee in 2007. Turkey's response to the list of issues prepared by the Committee constitutes its report under article 19 of the Convention.

Since its previous report to the Committee, considered in May 2003, Turkey has continued to pursue a comprehensive reform process aimed at the protection and promotion of human rights. A series of legal reforms have been carried out in a short period of time, including a number of constitutional amendments and a complete overhaul of basic laws.

The most important new aspect of the Constitution concerns Article 90 amended in 2004. The amended article states that international conventions

on fundamental rights and freedoms prevail in case of conflict with the provisions of the national laws on the same matter.

A moratorium had been in place on the death penalty starting from 1984. Capital punishment was abolished in 2001. Turkey is now party, not only to Protocol 6 to the European Convention on human Rights on the abolition of the death penalty, but also to Protocol 13 of the European Convention on Human Rights which abolishes the death penalty even at times of war.

Adoption of the new Civil Code, the new Penal Code and the new Criminal Procedure Code with a view to aligning Turkey's legal framework with the European standards and principles has effectively consolidated the constitutional amendments.

Most recently, as a result of the constitutional amendment package adopted by referendum in September 2010, human rights and fundamental freedoms have been further expanded and the constitutional system brought in line with Turkey's international obligations.

The amendments eliminated several shortcomings referred to in the judgments of the European Court of Human Rights, and enabled the implementation of several recommendations made by regional and international monitoring bodies.

Among the improvements brought by the recent Constitutional Reform are:

- the inclusion of positive discrimination as a constitutional right for persons who require social protection, such as children, the elderly and the disabled, as well as for women in order to achieve de facto equality between men and women;

- constitutional guarantees for children's right to access "adequate protection and care", safeguarding the principle of the best interest of the child;

- definition of the right of petition as a constitutional right;

-elimination of the constitutional obstacle that prevented the establishment of an office of ombudsman;

-introduction of the right to individual application to the Constitutional Court with regard to the fundamental rights and freedoms enshrined in the Constitution in accordance with the European Convention on Human Rights;

-constitutional guarantee that prevents civilians from being tried at military courts, except in the time of war.

In addition to the constitutional referendum, the Law against Terrorism has been amended in July 2010 in order to ensure that all children suspects, without distinction as to age, would be tried under the same regime in the relevant juvenile courts.

According to new amendments, minors who attend illegal meetings and demonstrations or distribute propaganda material for outlawed organizations cannot be tried on charges of terrorism in assize courts. Moreover, the law reduces the penalties applied to children accused of terrorism-related offences, such as being member of a terrorist organization or disseminating propaganda material for terrorists.

Mr. Chairperson,

The fight against torture and ill-treatment has been a priority item on the Government's agenda. Turkey is committed to preventing and eradicating 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 policy of "zero tolerance for torture" and in line with this policy, it has introduced various legislative amendments. No effort is spared to implement the reforms and amendments.

Turkey's resolve in this domain also found its manifestation in its transparent and close cooperation with international human rights mechanisms. Turkey has extensively benefited from its cooperation with the United Nations Committee against Torture and the European Committee for the Prevention of Torture. Turkey attaches great importance to its cooperation with the Committee against Torture and the European Committee for the Prevention of Torture and considers their recommendations as useful guidelines.

The success of the "zero tolerance policy" in particular and the reforms achieved in relation to the relevant legislation were acknowledged by the European Committee for the Prevention of Torture itself as early as 2004. The President of the Committee, in her statement at the Meeting of the Committee of Ministers' Deputies in October 2004, praised "*the legislative and regulatory framework that has been put in place in Turkey*" and added that "*it would be difficult to find a Council of Europe member State with a more advanced set of provisions*".

The legislative and regulatory framework necessary to combat torture and other forms of ill-treatment by law enforcement officials has also been recognized by the European Committee for the Prevention of Torture. The Committee pointed out that "*the new Penal and Criminal Procedure Codes, as well as revised version of the Regulation on Apprehension, Detention and Statement Taking which entered into force in June 2005, have consolidated improvements which had been made in recent years on matters related to the CPT's mandate*" and 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*".

Turkey's respective achievements are also acknowledged by the civil society. During a visit in June 2004 to the Minister of Foreign Affairs of Turkey, NGO representatives from Amnesty International, Human Rights Watch, the Human Rights Foundation of Turkey and Mazlum-Der of Turkey expressed their appreciation for Turkey "*being ahead of some European countries in terms of legal measures against torture*".

The legal framework, as well as Turkey's zero tolerance policy against torture, is having the desired impact on the ground. In its recent reports, the European Committee for the Prevention of Torture has noted that *"the message of zero tolerance of torture and ill-treatment has clearly been received, and efforts to comply with that message were evident"* and that *"the facts found on the ground are encouraging"*.

Turkey's progress is now being cited as an example by the European Committee to third countries. Committee officials have welcomed the Government's resolve to combat torture and ill-treatment and cited it as *"an example that other Governments might usefully follow"*.

The Turkish Government is determined to pursue the reform process aimed at attaining the highest standards in the field of human rights. With this understanding, another major step has been recorded with the abolishment of the State Security Courts in June 2004, following the Constitutional amendment in May 2004. The offences falling under the jurisdiction of the State Security Courts are put under the jurisdiction of the new heavy penal courts.

Furthermore, the Turkish Penal Code, dating back to 1926, has been changed in its entirety. During the preparation of the Code, a legislative review was conducted by the Council of Europe, and the views and recommendations of various stakeholders in Turkey, including academicians, NGOs and bar associations, were taken on board. The new Penal Code, which was adopted by the Parliament on 26 September 2004, puts a special emphasis on the protection of the individual's fundamental rights and freedoms. The new Penal Code stipulates that perpetrators of torture shall be sentenced to 3 to 12 years of imprisonment. Should the act of torture be committed in the form of sexual harassment, the perpetrator shall be sentenced to 10 to 15 years of imprisonment. The Penal Code has introduced higher penalties for aggravated forms of torture, giving due account to the gravity of any permanent or other serious consequences of such conduct. Furthermore, the Penal Code explicitly bans reduction of sentences, even if the offence is committed by negligence.

Another important step in the implementation of Turkey's policy against torture and ill-treatment has been the signing of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by Turkey in September 2005 during the 2005 World Summit.

The ratification process of the Optional Protocol is underway and I am pleased to inform you that the ratification process is expected to be finalized very soon as it is among the first items to be considered by the Plenary of the Turkish Grand National Assembly.

The implementation of the Optional Protocol will contribute to Turkey's policy of zero tolerance of torture.

Turkey's determination in that respect has also found its reflection in her close cooperation with the treaty bodies and the United Nations special mechanisms in the field of human rights. Turkey is party to all international human rights treaties and has a standing invitation to the thematic special procedures since 2001.

Visits, recommendations and appeals of the special procedures, including the Special Rapporteur on the question of torture, are given serious consideration. In 2006, the Working Group on Arbitrary Detention as well as the Special Rapporteur on the promotion and protection of human rights while countering terrorism visited Turkey.

In line with the importance we attach to the work done by the UN human rights mechanisms and the treaty bodies, I would like to reiterate our willingness to benefit from our cooperation with the Committee against Torture.

We look forward to an open and constructive dialogue with the Committee and remain at your disposal to answer your questions and consider your recommendations.

Thank you very much for your attention.