

**PRESENTATION OF THE FOURTH TO SIXTH PERIODIC REPORTS OF THE
REPUBLIC OF TURKEY
BEFORE THE COMMITTEE ON THE ELIMINATION OF RACIAL
DISCRIMINATION
(GENEVA, 3 DECEMBER 2015)**

Honourable Chairperson, Distinguished Members of the Committee,

It is a privilege for us to be here to present the fourth, fifth and sixth combined periodic reports of the Republic of Turkey before this eminent Committee (on the Elimination of Racial Discrimination - CERD). This meeting happily coincides with the 50th anniversary of the Convention. I greet you all on this meaningful occasion. Over the past half century, despite the progress achieved in the fight against all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance, challenges and threats have multiplied along with the needs and aspirations of individuals. But one thing remains intact : our collective resolve to eliminate racism and all forms of discrimination wherever they exist around the globe. In full recognition of these alarming global trends, Turkey reiterates its full commitment to the fight against racism and racial discrimination as defined in the Convention.

I believe that the dialogue between the Committee and the members of our Delegation today and tomorrow will constitute a constructive occasion for the continuation of our common efforts to this end.

Following the consideration of our previous reports before the Committee in 2009, concluding observations and the recommendations of the Committee were diligently assessed by our relevant authorities, also within the general context of the ongoing human rights reform process in Turkey, which includes the issues pertaining to non-discrimination and tolerance. The outcomes of our current dialogue will be given due consideration as well.

Let me begin with a brief overview on the institutional framework and the human rights policy priorities of Turkey with special emphasis on non-discrimination measures and the recent reform steps taken in this field.

[The institutional and policy framework for the implementation of the Convention]

Turkey firmly upholds the principle that all human beings are born equal in dignity and rights. Any doctrine or practice of racial superiority is legally and morally unacceptable and cannot be justified on any ground. The main philosophy of Turkey's human rights policy can be summarized as "**Human rights for all with no discrimination.**"

Respect for human rights is an inviolable and permanent principle of the Constitution. The constitutional system in Turkey is based on the equality of all individuals without discrimination before the law, irrespective of "language, race, colour, gender, political opinion, philosophical belief, religion and sect, or any such consideration" (**Art. 10, Constitution**).

It should be noted that by referring to “any such consideration”, the Constitution grants the judiciary wide discretion and flexibility on its judgments regarding the cases of inequality before the Law.

The state system is based on the principle of constitutional nationalism. The concept of citizenship is defined, in Article 66 of the Constitution, on the ground of legal bond with the state, without any reference to origin of citizens.

The Turkish nation is not a juxtaposition of communities or groups. It is rather an amalgamation of individuals from various backgrounds, who have found their home in this land throughout centuries. Thus, it is composed of those citizens, who are equal before the law irrespective of their origins in terms of language, race, colour, ethnicity, religion or any other such particularity, and their fundamental rights and freedoms are enjoyed and exercised individually in accordance with the relevant law.

[Human rights policy priorities of Turkey with special emphasis on non-discrimination measures]

Honourable Chairperson, Distinguished Members of the Committee,

It is the primary responsibility of the Turkish state to respond and live up to the democratic needs and aspirations of its citizens in the field of human rights.

With the advent of the new millennium, the reform process conducted in transparency and resolve has become more systematized and regularized with several reform packages including comprehensive sets of constitutional amendments. In this process, the Government of Turkey continuously reviews its laws and regulations with a view to bringing them further in line with Turkey’s international human rights obligations and commitments. Relevant governmental institutions closely monitor the legislation and its implementation and accordingly propose amendments where necessary. Representatives of civil society are also involved in the reform process as appropriate.

These reforms aim at the furtherance of strengthening democracy, promoting respect for human rights and fundamental freedoms, and consolidating the rule of law and the independence of the judiciary, with special emphasis on the issues related to non-discrimination as appropriate.

The first pillar of this process is directed at the **revision of the relevant legislation**. The second priority area is the **advancement of national remedies** through the **establishment of new national human rights mechanisms**, to contribute to the protection and promotion of fundamental rights and freedoms. Finally, training of civil servants, awareness raising programs as well as high-level dialogue with relevant stakeholders constitute indispensable elements in order to **put the new legal and institutional framework into practice**.

First, I would like to touch upon the progress we have achieved in the legislative field in respect to non-discrimination in general;

- With the **Constitutional amendments approved by the referendum of 12 September 2010**, positive discrimination in respect of women, children, the disabled and the

elderly is now recognized as a Constitutional right; the introduction of a “special measures” clause for the first time in the Constitution is a significant improvement to strengthen the protection of constitutional rights of these people. In this context, the protection of personal data is safeguarded by the Constitution; rights of children are guaranteed in the Constitution; the right to information defined as a Constitutional right for the first time; the right to vote and to be elected have been further strengthened; disciplinary provisions for civil servants and other public officers have been included in the scope of judicial review. All these Constitutional amendments have contributed to strengthening the principle of equality and to ensuring equal access of all individuals without discrimination to fundamental rights and freedoms.

- **“Judicial reform packages”** were adopted over the last five years, with the aim of further strengthening the independence and impartiality of the judiciary, further enhancing its efficacy, further facilitating access to justice, further expanding the scope of freedoms and ensuring further improvements in the freedom of expression. These packages include substantial legislative amendments to the Turkish Penal Code, Code of Criminal Procedure, Anti-Terror Law, and Press Law, having positive effects on anti-discrimination measures.

- The new **Law on Foreigners and International Protection** was enacted on 11 April 2013. The law has greatly contributed to filling the gap left by the absence of an asylum law in Turkey and harmonizing the legislation with the EU Acquis on the basis of the UN 1951 Refugee Convention.

- With the **Democratization Package** announced on 30 September 2013, the scope of fundamental rights and freedoms has been further expanded via numerous administrative and legal arrangements. In this context, significant amendments were made with regard to the provisions of the Turkish Criminal Code penalizing acts of discrimination. **Hate crime is included in the Turkish Criminal Code for the first time** and the penalty for the offence of discrimination and hatred is increased.

- Also in line with the Democratization Package, and paying due attention to the Concluding Observations of the Committee (paragraphs 11 and 17) a comprehensive **Anti-Discrimination and Equality Law** has been drafted and submitted to the Prime Ministry. According to the Draft Law, the prohibition of discrimination is laid down to include discrimination based on sex, race, colour, language, belief, ethnic origin, philosophical or political opinion, social status, marital status, state of health, disability or age. The prohibition shall be binding on the legislative, executive and judicial authorities as well as all natural and legal persons.

- **The Action Plan on Prevention of ECHR Violations** entered into force on 1 March 2014. The said Action Plan is aimed at addressing the main reasons in relevant areas of legislation, which caused judgments of violation by the European Court of Human Rights.

Secondly, significant progress has also been made as to the **advancement of the national remedies** through the creation of several bodies.

- By a Constitutional amendment in 2010, the right of **individual application to the Constitutional Court** was introduced and the Court started receiving applications as of 23 September 2012. Anyone who thinks his/her constitutional rights have been infringed by a public authority, has a right to apply to the Constitutional Court after exhausting other

domestic remedies. The Constitutional Court established a noteworthy case-law on many fundamental rights and freedoms, including discrimination.

- **The Human Rights Institution of Turkey** was established on 21 June 2012 by the entry into force of the relevant Law. The institution fulfils the criteria set out by the UN Paris Principles, such as establishment by law, broad mandate, independence and pluralism. Efforts are underway to enable the Institution to apply for accreditation. As a follow-up to our report it is to be noted that the Institution has also been designated as the “National Preventive Mechanism” on 28 January 2014, in order to perform tasks under the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). At present, the founding law of the Institution is under revision, with a view to strengthening institutional capacity and establishing new structures at the provincial level.

- **The Ombudsman’s Institution**, has started functioning as an independent and impartial institution as of 12 December 2012. It contributes to the protection and promotion of human rights in the sphere of public administration. As a follow up to our report, it is to be noted that the Ombudsman Institution has prepared a draft amending its founding law with a view to ensuring that more recommendations will be implemented in the future and that complaints will be resolved in a more effective manner.

- Legislative work is in progress for the establishment of a “Law Enforcement Oversight Commission” which shall be in charge of examining and investigating allegations of ill-treatment made in respect of law enforcement officials. This Commission shall function independently from law enforcement bodies. The draft law, which aims to render a more efficient complaint system in this regard, is before the Parliament.

- Similarly, establishment of an **Anti-Discrimination and Equality Board** is envisaged within the framework of the draft law on Anti-Discrimination and Equality. The Board shall have a legal personality as well as administrative and financial autonomy for the purpose of carrying out its functions independently.

Thirdly, I would like to mention **steps taken to put the new legal and institutional framework into practice**:

Our report enlists numerous **training programs** aimed mostly at the civil servants who are primarily in charge of effective implementation of the laws. Security forces composed of the police and the gendarmerie, members of the judicial branch, notably judges, prosecutors and lawyers from all levels have been receiving training on human rights issues.

Moreover, **awareness raising activities** have been expanded to include students of all levels, civil society and the public at large. Raising the level of awareness throughout the whole society is vital for the establishment of a sound human rights regime in the country. Therefore, human rights education at all levels has been strongly promoted. In order to minimize difficulties before the implementation 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 carried out.

Turkey considers that the training of state officials, in particular the law enforcement officials and the members of the judiciary dealing with human rights, is of vital importance. Such training is also instrumental for expanding the awareness on and the application of international human rights instruments.

In response to item 1 (g) of the list of themes, I can confidently assert that these training programs form an indispensable part of the human rights promotion and protection agenda including *inter alia* elimination of racism, racial discrimination, xenophobia and related intolerance. These programs have a vital role on nurturing the mindset within the state structures. While it is difficult to assess the outcomes on concrete terms in a short-span of time, their undeniable impact will be much more evident in the coming years.

Establishment of a sound human rights regime also involves active participation of the civil society. While the methods of consultation vary, from high level contacts to organization of workshops, the civil society inputs are highly cherished and carefully considered throughout the reform process in Turkey.

Honourable Members, Esteemed Ambassadors and Distinguished Participants,

Turkish citizens are not subject to discrimination due to their origin. As all forms of discrimination are prohibited and heavily penalized by law in accordance with the Constitution, acts of discrimination against them are also dealt with under the provisions of non-discrimination in relevant laws.

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. Diversity in their origins is the source of richness in Turkish society. Their fundamental rights and freedoms can be enjoyed through the exercise of individual liberties. Duly taking into account the needs and aspirations of our citizens from all backgrounds, important achievements have been made for the further protection and promotion of human rights, including additional measures to promote economic, social and cultural rights. In this respect, for example, considerable advancements have been realized *vis-a-vis* the Turkish citizens of Kurdish origin in several walks of life, such as political campaigns, judiciary, education and media.

With regard to the situation of minorities in Turkey, let me recall that minority rights in Turkey are regulated in accordance with the Lausanne Peace Treaty of 1923, under which Turkish citizens belonging to non-Muslim minorities fall within the scope of the term “minority”. Articles 37-45 of the Treaty regulate the rights and obligations of individuals belonging to non-Muslim minorities in Turkey. These provisions are recognized as fundamental laws of Turkey. 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.

Non-Muslim minorities have their own schools, places of worship, foundations, hospitals and media organizations. Non-Muslim places of worship are administered by their own associations or foundations. Property rights regarding places of worship rest with the real or legal persons that have founded them.

As regards promoting respect for and protection of such groups, the Prime Ministry Circular of 13 May 2010 emphasizes that citizens of different faith groups are an inseparable part of Turkey and all public institutions are reminded that they should eliminate difficulties

concerning the exercise of such persons' rights during their acts and transactions at the public institutions, as required by the Law. The Circular has been implemented meticulously.

Since the last periodic report, many places of worship have been renovated by Directorate General of Foundations of the Prime Ministry and reopened for worship. As the most recent example, the Grand Synagogue in Edirne, which is the largest synagogue in the Balkans, and the third largest in Europe, was opened for worship on 26 March 2015. Surp Vortvots Vorodman Church belonging to Meryem Ana (Virgin Mary) Armenian Church Foundation located in Kumkapı started its services following a ceremony held on 28 December 2011. Furthermore, the request of the Assyrian Orthodox community residing in Istanbul, who have logistical difficulties in performing their religious services, for an area to build a new church in Istanbul, has been accepted by Istanbul Metropolitan Municipality.

Additionally, religious ceremonies continue to be organized at the historical sites. In 2013 at the Aya Yorgi Church in Alanya, the first religious ceremony after 89 years was held. Ceremonies have also been conducted at the Historical Sumela Monastery in Maçka; at the Surp Hac Armenian Church on the Akhdamar Island; at the Pazar Yeri Mosque in Alaçatı, which used to be a church 88 years ago; and at the Surp Giragos Armenian Orthodox Church at Diyarbakır.

Furthermore, many positive steps have been taken in the field of education and culture for non-Muslim citizens. In this context, Ministry of National Education annually reviews course materials published by the Ministry of National Education to remove connotations that might be perceived as discriminatory by different faith groups. A legal amendment realized in 2012 enables guest students of foreign nationality to enrol in minority schools. The Greek primary school in Gökçeada was reopened in March 2013 and education resumed. Furthermore, a secondary school for Gökçeada Greek Minority was opened. Upon the request of Syriac community Mor Efreem Syriac Kindergarten was also opened in September 2014.

Concerning the issues arising from immovable properties of the non-Muslim minority foundations, the Turkish Government has made the necessary amendments in its legislation to remedy the situation. The new "Law on Foundations" was adopted in 2008. A decree further amending the Law on Foundations was published on 27 August 2011. Provisional articles of the said Law and the said decree enabled the Community Foundations to apply for registering immovable property within a period of time on their foundations. As a result, 333 properties have been registered and it was decided to pay compensation for 21 properties. Overall, between 2003- 2014, 1029 immovable properties have been registered in the name of community foundations.

Similarly, the long standing issue concerning the property of Mor Gabriel Monastery has been resolved and the property in question was returned to the Monestry Foundation in September 2013.

[Roma population]

Eminent Committee,

Now moving onto the disadvantaged groups, the situation of those individuals is given due consideration in the reform process, within the general framework of combating discrimination in the field of human rights.

Regarding the Turkish citizens of Roma origin, as early as 2006, the measures against discrimination had already been taken. For example, negative connotations in Turkish dictionaries with regard to the term “gypsies” were eliminated. Similarly, reference to the Roma people was removed from the new Law on Settlement which was adopted in September 2006.

Turkish citizens of Roma origin generally live in big cities and have a sedentary life. Although increasingly integrated within the communities they live in, in certain localities, they face difficulties stemming from general problems like poverty and unemployment.

In 2009, Turkish Government initiated a specific process towards Turkish citizens of Roma origin with a view to identifying problems and seeking solutions. This process comprised increasing dialogue between their representatives and relevant Government authorities; raising awareness among the society on the challenges faced by them; providing these citizens with further opportunities to make their voice heard stronger by public officials at local and national level.

In this process, a **Research Institute of Roma Language and Culture** has been established in order to carry out research on the issues related with the Roma citizens regarding language and culture and to formulate solutions.

Also as a follow up to our report, I shall inform the Committee that a draft “**National Strategy Document for Social Integration of Roma Citizens 2015-2020**” has been prepared and finalized. The Strategy, which is also among the priorities of the newly formed Government, is envisaged for adoption in the near future. It will be implemented by two-year action plans and will encompass strategic targets associated with the main problems observed under 14 headings; including, education, employment, health, housing, social assistances and social support services.

National Roma Integration Strategy, *inter alia*, aims to increase the effectiveness of social inclusion policies, enhance access to general public services, combat discrimination and prevent hate crimes and ensure social participation with strengthened civil society.

[Migrants, refugees, asylum seekers]

Distinguished participants,

Regarding the integration policies including those on migrants as well as refugees, fundamental rights and freedoms set forth in the Constitution do not lead to any distinction between Turkish citizens and foreigners. These rights and freedoms are in principle recognized for everybody regardless of citizenship in line with Article 10 of the Constitution. Exceptions to this principle are done only in line with the articles of the constitution and in compliance with our international treaty obligations.

Turkey has a strong tradition of responding to affected peoples in need. In fact, Turkey’s land has historically been home to countless peoples, regardless of their religious, ethnic or linguistic backgrounds, who had to flee their original lands in dire need.

Today, facing the biggest humanitarian crisis of a protracted nature in the present era stems from the conflict in Syria, we host millions of affected people fleeing in grand despair from

their homes. This makes Turkey the biggest refugee-hosting nation in the world. In this specific case, in line with our humanitarian responsibilities, we have developed a multi-fold strategy, from the very beginning of the humanitarian crisis, to help them, in the absence of a meaningful international effort and assistance to this end so far.

Currently around 260 thousand Syrians are sheltered under temporary protection in 25 camps. In total, nearly 2,2 million Syrians are hosted in various cities and towns of Turkey, not to mention around 300 thousand Iraqis hosted in Turkey too.

In accordance with her obligations stemming from international humanitarian law, Turkey maintains open border policy for Syrians fleeing violence and places Syrian nationals in temporary protection under international law, and provide free services ranging from food and shelter to health and schooling as well as psychological assistance, vocational training and social activities. In addition, nearly 2 million Syrians who live outside these centers are also under our protection regime and they benefit from free medical services and schooling.

On the other hand, the Law on Foreigners and International Protection, which is the basic legal framework in respect of foreigners, applicants for international protection and regular and irregular immigrants was put in force on 11 April 2013 following a transparent and participatory process together with all national and international stakeholders. The Law sets the basis for the establishment of the Directorate General for Migration Management under the Ministry of Interior. The Directorate is in charge of implementing policies and strategies concerning migration issues, maintaining coordination among various institutions, and carrying out actions and proceedings pertaining to foreigners' entry and residence in Turkey, their exit and deportation, international protection, temporary protection and protection of victims of human trafficking.

As a result of the new Law, **the principle of non-refoulement** which was already respected by Turkey has gained legal basis with respect to those who have the risk of facing torture or similar inhuman treatment. The procedure relating to **humanitarian residence permit** and **subsidiary protection mechanisms** have been defined and "**temporary protection**" to be provided in cases of massive influx has been codified for the first time.

Honourable Members, Esteemed Ambassadors and Distinguished Participants,

All those just mentioned reflect how Turkey strives to maintain an advanced level of comprehensive policies in the field of fight against discrimination and intolerance. Naturally, all remedies are available against violations of fundamental rights and freedoms including acts of discrimination.

Turkey believes that successful fight against all forms and manifestations of discrimination and intolerance requires combined efforts at national and international levels.

With this understanding, Turkey has long become party to all relevant international instruments both at global (UN) and regional (Council of Europe and OSCE) fora, and duly maintains a close and constructive cooperation with the special mechanisms of these organizations tasked with the fight against intolerance and discrimination.

We believe that among these organizations and instruments, CERD assumes a very important mission. With the new challenges facing our societies across the world, today, the need to combat such scourge is essential more than ever.

Despite all the efforts for the promotion and protection of human rights, violations persist in many parts of the world as no country is flawless in this regard. This is indeed the driving philosophy behind the creation of international mechanisms for the promotion and protection of human rights including the non-discrimination and intolerance.

We are determined to maintain and further develop our close and constructive cooperation with CERD.

Thank you for your attention.