



**International Covenant on
Civil and Political Rights**

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**Consideration of reports submitted by States parties
under article 40 of the Covenant**

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

Addendum

Replies from Turkey to the list of issues (CCPR/C/TUR/Q/1)*

[11 August 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

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

Reply to the issues raised in paragraph 1 of the list of issues (CCPR/C/TUR/Q/1)

1. According to Article 90 of the Turkish Constitution, international agreements duly put into effect bear the force of law as part of the domestic legislation and become applicable in national law. The last paragraph of the same article further stipulates that duly adopted international instruments on fundamental rights and freedoms shall prevail in case of conflict with the provisions of the national laws. Consequently, especially on matters concerning fundamental rights and freedoms, essential international instruments on fundamental rights and freedoms that Turkey is party to can be invoked before domestic courts by virtue of Article 90 of the Constitution.

2. The Constitutional Court, the Supreme Administrative Court and the Court of Cassation have made references to the Covenant in some of their verdicts. Articles 8, 12, 14 and 23 of the Covenant have been referred to in different verdicts of the Constitutional Court. The Supreme Administrative Court has referred to Article 14 in its verdicts. The Court of Cassation also referred to Articles 14, 20 and 21 in its verdicts.

Reply to the issues raised in paragraph 2 of the list of issues

3. While respectfully acknowledging the Committee's Views adopted on the communications Nos. 1853/2008 and 1854/2008, Turkey maintains its position that Article 18 of the Covenant is not applicable to the said cases. In fact, had the drafters of the Covenant intended to create a distinct and absolute "right to conscientious objection" under article 18 and based on this understanding also aimed to regard the compulsory military service as "a violation of this right", the Covenant would not have included a contradictory reference in another article (namely Article 8) that clearly accepts the practice of those countries "where conscientious objection is not recognized".

Reply to the issues raised in paragraph 3 of the list of issues

4. The law on the creation of the office of the ombudsman as well as the law on the creation of the National Human Rights Institution were adopted by the Turkish Parliament in June 2012.

5. These draft laws have been extensively considered by all relevant actors, including civil society, before the final adoption by the Parliament.

6. The Human Rights Inquiry Commission of the Parliament established in April 2012 a special sub-commission for the consideration of the law on the National Human Rights Institution. The sub-commission studied the views expressed by all interested stakeholders including national and international NGOs.

7. These laws have been drafted in order to ensure full independence of the institutions, including for human and financial resources.

8. English translation of the new laws will be provided to the Committee at the consideration of Turkey's report at the 106th Session.

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

Reply to the issues raised in paragraph 4 of the list of issues

9. The basic principle of non-discrimination in Turkish law is regulated by Article 10 of the Turkish Constitution. According to Article 10, “All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations. Men and women have equal rights. The State shall have the obligation to ensure that this equality exists in practice. Measures taken for this purpose shall not be interpreted as contrary to the principle of equality. Measures taken for the protection of children, the elderly, disabled people, widows and orphans of those killed in action as well as for the invalid and veterans would not be considered a violation of the principle of equality. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.”

10. Article 5 of the Labour Act is one of the most extensive provisions on the prohibition of discrimination in Turkish legislation. This article regulates the principle of equal treatment, prohibiting discrimination on the basis of race, sex, language, religion and sect, political opinion, philosophical belief, or any such considerations. The article does not prohibit discrimination only on the basis of fundamental rights but also on the basis of part-time or fixed-term nature of work. “Any such considerations” implies that the listing is non-exhaustive. For example, gender reassignment and sexual orientation have not been specified in the article but upon a possible validation of a claim of discrimination on such a basis, the judiciary will consider the case as falling under “sex discrimination,” “any such considerations,” or the “right to equal treatment”. The principle of “equal pay for equal work or work of equal value” is also openly expressed in Article 5 of the Labour Act. A worker, be it one with regular or increased job security, who considers himself discriminatorily treated during the course of employment or dismissed may pursue his claims and demand a pay amounting to his four months’ basic wages. This is the so-called “discrimination pay.”

11. Article 122 of the Turkish Criminal Code makes it a criminal offence, punishable by imprisonment for a term of six months to one year or a judicial fine, to discriminate against a person on the grounds of language, race, colour, gender, disability, political opinion, philosophical belief, religion, sect or similar reasons where the offender, on these grounds, prevents the sale or transfer of movable or immovable property or the execution of a service or prevents others from benefiting from a service, or employs or does not employ a person; does not provide food or refuses to provide a service meant to be provided for the public; or prevents a person from undertaking a regular economic activity.

12. There are other criminal law and civil law provisions related to the prohibition of discrimination in Turkish legislation.

13. Further to these provisions, “Draft Law on Anti-discrimination and Equality” as a comprehensive anti-discrimination legislation was prepared under the coordination of the Ministry of the Interior with a view to ensure the right of persons to be treated equally and to provide effective protection against discrimination. On 12 September 2011, the draft law was submitted to the Prime Ministry. The Anti-Discrimination and Equality Board to be established by this law will undertake the fight against all kinds of discrimination and carry out activities necessary for the prevention of discrimination. There will be a Consultative Commission to assist the work of the Board, consisted of the academics, trade union members, representatives of various associations and foundations, and the public institutions working in the field of anti-discrimination.

14. The Draft Law on Anti-discrimination and Equality includes the definitions of the main concepts related to the principle of non-discrimination such as direct and indirect discrimination, multiple forms of discrimination, harassment etc. According to the draft law, if a violation of prohibition of discrimination is found, the relevant public authorities shall end the violation, remedy the continuing results, prevent its reoccurrence, and ensure that the necessary judicial and administrative investigations are initiated.

15. It is also to be noted that the case-law of the high courts in Turkey (the Constitutional Court, Council of State, Court of Cassation) clearly indicates that the principles of equal treatment and prohibition of discrimination have always been taken into consideration by Turkish courts in their judicial practice.

16. In this respect, the Council of State's decisions:

(a) Annuling the various restrictions based on the criterion of sex when announcing entry to a competition for public employment;

(b) Annuling the appointments of public officials, who were appointed to different cities as a result of their trade union activities due to the discriminatory treatment of the public administration;

(c) Annuling the circular prohibiting trade union activities for public officials, are among others, the samples of jurisprudence of the Council of State relating to the principle of non-discrimination.

17. Likewise, the below-listed samples of Constitutional Court's jurisprudence indicate that the prohibition of discrimination has always been one of the most important criteria in the practice of the high court:

(a) Annulment of the second paragraph of Article 430 of the former Criminal Code, which set different conditions for punishment for women and men;

(b) Annulment of Article 159 of the former Civil Code, according to which a wife could work only if her husband permitted her;

(c) Annulment of Article 441 of the former Criminal Code, which set different conditions for men and women in terms of culpability.

Reply to the issues raised in paragraph 5 of the list of issues

18. Up-to-date information on court decisions related to discrimination will be provided to the Committee before the consideration of Turkey's report at the 106th Session.

Reply to the issues raised in paragraph 6 of the list of issues

(a) As regards women

19. In Turkey, there are several temporary special measures policies such as efforts for schooling of girls, and facilities provided by state in the fields of health and employment for women.

(b) Education of Female Students

20. There have been several campaigns and projects with a view to schooling of girls in Turkey implemented by public entities and institutions, NGOs and the private sector. The "conditional education assistance" (conditional cash transfer) under the "Social Risk Mitigation Project" may be mentioned among these efforts. This project involves paying families in need a sum of money for each child attending primary school and that the amount given to families for girls is higher than that given to boys, and that this amount is handed to the mothers. Thus, schooling of girls and empowerment of women within the family structure are addressed simultaneously. In 2011, 397.48 million Turkish Liras was

transferred to the “conditional education assistance” and, 1.446.437 children benefitted from education support.

21. The number of dormitories provided for girls by the General Directorate of Higher Education Credit and Dormitories is twice the number that was provided for boys.

22. There are certain legislative provisions in order to promote the appointment of female teachers to higher positions in the schools.

23. The impact of these efforts can be observed in the statistics. In 2001-2002 academic year, the schooling rates of female students were 88.4% in primary schools, 42.9% in secondary schools. In 2011-2012 these rates increased up to 98.56% and 66.14% respectively. In higher education the schooling rates for female students was 12.1% in 2001-2002 academic year, whereas this rate increased to 32.65% in 2011-2012 academic year.

(c) Employment of Women

24. The Constitution and relevant legislation was amended to eliminate social gender inequalities in the workforce. Articles 10, 41, 66 and 90 of the Constitution have been changed. In addition, a new Civil Code, Labour Law and Criminal Code and relevant subsidiary legal texts were adopted. Family courts were established. Relevant provisions of the Law on the Protection of Family, Labour Law and the Law on Civil Servants were revised. Basically, gender equality is guaranteed by Article 10 of the Constitution, titled “Equality before the law”. Following the Constitutional Referendum of 2010, in Article 10, after the second sentence of the Article, reading “the State shall have the obligation to ensure that this equality exists in practice” the following sentence was added: “measures taken for this purpose shall not be interpreted as contrary to the principle of equality”. Thus, the Government’s policy “positive discrimination for women” gained a Constitutional ground.

25. The Commission for Equal Opportunities for Women and Men has been established at the Turkish Grand National Assembly (TGNA) on 25 February 2009. It aims to provide promote and protect women’s rights, monitor developments in the domestic and international level concerning gender equality and inform the TGNA of relevant developments. The Commission may also submit its opinion, upon request, to specialist commissions regarding draft laws and decrees.

26. In 2009, Disadvantaged Groups Department and Gender Mainstreaming Branch Office were founded within the body of Directorate General of Labour under the Ministry of Labour and Social Security. Prime Ministry Circular No. 2010/14 on “Enhancement of Women Employment and Maintenance of Equality of Opportunity” was prepared with the coordination of Disadvantaged Groups Department and published in the Official Gazette on 25 May 2010. Furthermore, Prime Ministry Circular No. 2010/2 with the theme “Prevention of Mobbing in Working Places” was published in the Official Gazette on 19 March 2011.

27. In 2007, the Law on Income Taxation, as well as other legislation was amended, whereby enabling women who market their home-made products at fairs, festivals, bazaars or other temporary places by public agencies were granted an exemption from income tax.

28. In 2011, Unemployment Insurance Law was amended and some positive measures were provided. As a result of these amendments, the employers’ share of social security premiums shall be covered by the Unemployment Insurance Fund for periods of time varying from 24 – 48 months according to the circumstances described here-below:

(a) For a period of forty-eight months for women with a vocational qualification degree, and if they are registered to İŞKUR (Turkish Employment Agency) fifty-four months;

(b) For a period of thirty-six months for women having completed a vocational or technical high school, or vocational training programmes provided by Turkish Employment Agency;

(c) For a period of twenty-four months for women qualifying none of these requirements, and if they are registered to İŞKUR thirty months.

29. It should be noted that the number of women benefitted from these campaigns stood at 73.424 as of December 2011.

30. With Law No. 5763 amending various laws, incentives were introduced to raise the employment rate and the labour force participation rate of women and young persons aged 18-29. According to the arrangements, insurance premiums paid by the employer for employing an additional number of women were reimbursed gradually by the Unemployment Insurance Fund during the first five years. As of 2010, 43.367 women employees have benefited from this incentive. As of October 2011, of the 35.248 employees benefiting from the incentive, 19.155 were women.

31. A project on "Operation of Supporting Women Employment" was carried out. This project was arranged within the body of IPA and carried out within a budget of 29.505.962 Million Euros.

32. "Project on the Improvement of Social Gender Equality at Work", implemented during September 2010 - March 2012, aimed to align Turkish legislation with the EU *acquis*, improve the capacities of the institutions in charge of implementing the *acquis* and raise awareness and sensitivity concerning the issue. Legislative amendments were adopted within the course of the project. Article 19 of the Law on Labour Unions of Civil Servants (titled "The Powers and Activities of Labour Unions and Confederations") was amended on 11 April 2012. Accordingly, labour unions and confederations shall, pursuant to their establishment purposes, secure social gender equality in their activities.

33. An amendment to Article 74 of Labour Act No. 4857, stipulates that the periods maternity leave which workwomen could not use before the birth will be added to the maternity leave taken after giving birth. They will be able to receive support payment for temporary failure to work during this period. As a result of the amendments to the Civil Servants Law, female civil servants will not be assigned night watch and night shift before the 24th week of the pregnancy in the event of a medical condition substantiated with a medical report and in any event, starting from the 24th week of the pregnancy and for one-year period after birth. Unpaid maternity leave period was raised to 24 months.

34. KOSGEB (Small and Medium Enterprises Development Organization) arranged the credit programs to reinforce women enterprises, they are positively discriminated by applying more guarantee for women entrepreneurs.

35. Within the framework of the Special Provincial Administration Law a micro-credit program, launched in some provinces, will be encompass all of the 81 provinces.

36. It is observed that as a result of these efforts and the temporary special measures implemented for women, the employment rate and labour force participation rate of women have increased.

37. With a view to solving the structural problems of Turkey's workforce system and to provide a lasting solution to the problem of unemployment by increasing the contribution of middle and long term growth to employment, the Ministry of Labour and Social Security has prepared a draft National Employment Strategy. The Strategy has been built on four axes of policies. One axis is increasing employment of the groups which require special policies, and many measures have been worked on to improve female employment in this respect. In the draft Strategy, the objective is to increase the labour force participation rate of women to 35 percent by 2023.

(d) Women Health

38. There are health support services provided by the General Directorate of Social Assistance. In addition to this, in order to provide basic health services to the poorest portion of the population, Conditional Health Aid (Conditional Cash Transfer) is implemented, which includes pregnancy allowances to poor families, as well as allowances given to poor families on the condition of regular health controls for pre- school aged children.

39. Turkey's maternal and infant mortality rates have decreased in the recent years.

(e) Training of Public Officials as regards the Concept of Temporary Special Measures

40. The General Directorate of Status of Women has run "Training Programmes for Gender Equality" for the policy makers and practitioners in public sector since 2009, in order to provide information to the participants on the gender equality, violence against women, legal developments, and temporary special measures in this respect. Moreover, during the training activities, panels, seminars, and conferences organized by the General Directorate, information on gender equality issues is provided with a view to raising awareness of the participants.

(f) As regards disabled persons

41. Although freedom is important for every individual, the disabled will suffer from some inequalities if they are treated with the others. Hence, in order to maintain an actual equality, some extra cautions need to be taken. In this regard, in order to reinforce the legal framework of equality for the disabled, the 10th article of the constitution was amended in 2010 so that extra cautions to maintain equality between disabled and others should not be regarded as contrary to the equality principle. All of the programs and activities regarding the disabilities should be evaluated in this frame.

42. Against this constitutional framework, some important legislation was made. The law which made some changes to the "restructuring of some public debt", Social Security and General Health Insurance Law was drafted.

43. The disabled public workers cannot be assigned night shifts, or night duties against their will. The daily working conditions need to be identified according to their handicaps. Moreover, the disabled are entitled to take a separate exam to get public employment. A special regulation concerning the public recruitment of the disabled has been legislated. To this end, an exam has been held in April 2012 for the disabled.

44. Furthermore, a system of quota and fine has been implemented in Turkey as an affirmative action to maintain equality for the disabled. According to the article 30th of the Labour Law, private employers having more than 50 workers need to recruit at least 3 percent, and the public sector need to recruit 4 percent. As of November 2011, through the quota system 12,211 disabled works in Public Sector and 70,550 works in private sector were recruited.

45. Amid these improvements, a great deal of inconvenience still exists in the employment of the disabled. In order to encourage the disabled to participate in labour "the Law of the Disabled" entered into force in 2005, "sheltered workplaces" were constructed and a regulation was drafted. In 2012 this system is going to come to the existence fully.

46. Another field of sustaining equality is special education. It is important to provide accession to the education and to maintain the continuity. From 2004-2005, the Ministry of Education and the Ministry of Family and Social Policies have developed a project in which the disabled in need are transported to the special education classrooms. The number of disabled benefitted from this opportunity has risen from 6900 to 40.907 from 2005 to March 2012.

47. According to the data provided by the Ministry of Education, Directorate General for Special Education and Counselling, the number of students carried, and the resources spent are as follows:

<i>Years</i>	<i>Number of Students</i>	<i>Amount Spent (TL)</i>
2004 - 2005	6.901	1.929.000
2005 – 2006	16.171	9.680.000
2006 – 2007	21.813	18.900.000
2007 – 2008	24.314	27.375.000
2008 – 2009	27.145	34.856.000
2009 – 2010	31.982	43.641.000
2010 – 2011	36.245	56.262.000
2011 – 2012	41.000	70.000.000
Total	205.571	262.643.000
2012 – 2013 (Planned)	45.000	85.500.000

48. Also, the expenses of the private special education institutions are paid provided that the needy get 8 hours of individual education per month (2 hours per week), 4 hours of group education (1 month per week). These funds are allocated by the Ministry of Finance through Ministry of Education. As of January 2012, the number of students receiving the special education support is 245.00.

49. According to the data provided by Directorate General for Special Education Institutions, the number of students taking service in these rehabilitation institutions, and the resources spent are as follows:

<i>Years</i>	<i>Number of students</i>	<i>Amount spent (TL)</i>	<i>No. of special education/institution</i>
2006 (June-December)	82,952	263.,187,188	104
2007	181,878	684,710,016	410
2008	205,831	830,961,428	1,486
2009	216,106	862,663,787	1,755
2010	223,920	906,720,974	1,860
2011 (November	233,249	1,025,720,100 (11 months)	1,641

50. In the health sector, affirmative actions are available too. One of the measures is that the disabled are exempted from the fee for the disability reports. Moreover, through the circular numbered 2010/79, the disabled have the priority to get the service in polyclinics; all the shared places and elevators are oriented with audio and visual signs; shared facilities like elevators, toilets, lavabos and application desks are arranged according to the needs of the disabled; all these services are broadcasted on the convenient boards for the disabled; hospitals are build with convenient roads for wheelchairs; escorts are provided for needy disabled in hospitals to ease procedures; sign language experts are employed for the hearing- impaired; carrying service is provided for the needy disabled; a park space for the disabled in the hospital is reserved.

51. Besides, through the circular numbered 2010/80, the disabled and people with special needs are provided with the full and continuous treatment and priority in the hospitals.

52. Furthermore, efforts towards increasing the awareness of public and municipality officers are made. In 15 cities 1700 municipality managers and 1750 municipality employees were provided technical trip and local meetings. Also 280 public managers and 457 technical staff were provided with applied training in these briefings. Informative actions about the body law concerning the disabled towards the public are made through seminars, conferences as well as the web pages of the Ministry of Family and Social Programs, the General Directorate for the Disabled and other media. In the project “Turkey without Barriers”, conferences regarding measures of affirmative action and the related body law were held in 62 cities from June 2007 to April 2011.

(g) As regards children

53. The last paragraph of Article 90 of the Turkish Constitution reads as follows: “International agreements duly put into effect shall bear the force of law. No appeal to the Constitution Court shall be made with regard to these agreements, on the grounds that they are unconstitutional. (Additional sentence: 7.5.2004-5170/Article 7) 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 shall prevail.”

54. Article 10 of Turkish Constitution is entitled “Equality before the Law”. According to this Article, State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings. Provision of “Measures taken for the protection of children, the elderly, disabled people, widows and orphans of martyrs as well as for invalid and veterans would not be considered a violation of the principle of equality” was added to Article 10. Positive discrimination in favour of children was also emphasized with the law after the addition of this provision.

55. On 20 November 1999, provincial committees of children rights were established by Social Services and Child Protection Institute with the aim of promotion and adoption of children’s rights. Committees have been continued their works since 2000. Furthermore, on 4 April 2012, Board of Monitoring and Measuring Children's Rights was established with a Circular issued by the Prime Ministry to provide cooperation and coordination permanently between administrative authorities.

56. The Board is composed of top-level delegates of all related ministries and non-governmental organizations which provide service to children. On the other hand, two Turkey coordinators of provincial committees of children rights, one girl and boy, are the members of the Board.

57. In summary, Turkey attaches great importance to the active participation of children and young people in all fields of life.

(h) As regards poverty

58. Considering that the consequences of poverty on women who are parenting their children own selves is worse than men, the Directorate General of Social Assistance of the Ministry of Family and Social Policy has initiated the “Research Project for the Development of a Cash Transfer Social Aid Programme for Women Lost Their Husband”. The project ended in December 2010. Following the project, in 2012, with the decision of the Social Assistance and Solidarity Promotion Fund, a social assistance program for the regular cash transfer to the women lost their husbands was initiated. As of June 2012, 146.138 women have the right to benefit from this assistance program.

59. There are other social assistance projects supported by the Directorate General of Social Assistance of the Ministry of Family and Social Policy. In particular, the projects aiming at the active participation to social life and increase the life quality of the individuals and individual groups under the risk of poverty and social exclusion are

supported. In this respect, the projects concerning the rehabilitation of the street children, disabled people, home-based care services for elderly and patients, social markets are supported by the General Directorate of Social Assistance. Between the period of 2003-2010, 3,019 projects were supported in this respect and 86.05 million Turkish Liras were spent.

(i) Employment of Disabled and other Disadvantageous Groups

60. As regards the practices concerning the disabled and ex-convicts, the quotas applied and the punishments implemented in case of non-compliance with the quota play an important role for supporting the employment of these groups.

61. Under Article 30 of the Labour Law, in workplaces which employ more than 50 persons, a quota of 3 per cent for private sector and 4 per cent for public sector are applied. A fine of 1700 TL per month is charged in case of non-compliance with the quota for disabled persons.

62. Likewise, there is a quota for the employment of convicts, which is 2 per cent for the public sector. In the event of non-compliance with the quota, a fine of 1700 TL is charged.

63. There are certain positive discriminatory measures intended for maintaining advantages in favour of women in the events of maternity and birth, survivor's pension and marriage pay. Some of these rights and privileges which Law No. 5510 on Social Security and General Health Insurance brings for women are as follows:

(a) Under Article 13, nursing women are covered by the rights granted as a result of the occupational accident;

(b) Under Article 16, nursing benefit is given to the insured woman from the maternity insurance or to the insured man as the uninsured woman gave birth to a baby;

(c) Under Article 18, in the event that the insured woman becomes mother, her full pay is given to her for the periods of 8 week both before and after birth;

(d) Under Article 34, regardless of their ages, daughters who are not married or are married first but get divorced or become a widow later in life are granted salaries at the rate of 25% of the salary of the dead insured;

(e) Under Article 37, daughters whose incomes or salaries should be cut as they are married are given the two-year amount of their incomes or salaries for once only as marriage pay; furthermore;

(f) Under the provisional Article 9, 2 years of advantage should be granted to women in comparison with men while the conditions to benefit from retired pay or partial retired pay are stated and lastly;

(g) Under the provisional Article 16, women who work in handicrafts which are excused from income tax could carry insurance optionally with limited premium. This last arrangement allows for the right of 30-day insurance by paying premium for 19 days unconditionally.

Reply to the issues raised in paragraph 7 of the list of issues

64. The constitutional system of 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.

65. Therefore, even without specific reference to the rights of the LGBT in the Turkish legislation, their rights are guaranteed by law. All individuals are equal before the law, enjoy the same rights and have the same obligations without discrimination. Homosexuality is not criminalized in Turkey.

66. Perpetrators of any criminal act including all types of hate crimes are swiftly captured and brought to justice as in any other democratic state governed by the rule of law.

67. LGBT, as all other individuals, are free to lodge complaints against police officers. They can and should do so concerning officers that they accuse of harassing them based on their sexual orientation or gender identity.

Reply to the issues raised in paragraph 8 of the list of issues

68. The Committee on the Elimination of Discrimination against Women had requested Turkey to undertake studies to evaluate the impact of the ban on wearing headscarves in the fields of education, employment, health and political and public life (CEDAW/C/TUR/CO/6). In response, Turkey recently provided follow-up information on studies conducted.

69. The Ministry of Family and Social Policies and the Turkish Statistical Institute (TUIK) have collaborated in order to conduct a study related to the headscarf ban. The study was formulated to include university students and lecturers and public officers, so as to collect the relevant data on the issue.

70. Correspondences have started and official requests have been made to the Ministries and universities in order to collect the relevant data which will form a basis for the identification of the research sample. The final data for the study will be attained by the TUIK using qualitative research methodology. The results of this study will be included in the 7th Periodic Country Report which is planned to be submitted to the Committee on the Elimination of Discrimination against Women in 2014.

Counter-terrorism measures and respect of Covenant guarantees

Reply to the issues raised in paragraph 9 of the list of issues

71. Turkey continues to combat a number of vicious and very active terrorist organisations. This unfortunate fact is recognized both in the judgments of the European Court of Human Rights (ECtHR) and in the reports of the international organisations. The Government is under the obligation to protect persons inhabiting its territories. The Government has opted to establish a separate legal framework in this respect. Turkey, making use of the margin of appreciation recognized by international instruments and the case-law of the European Court of Human Rights has preferred to adopt a special law on terror crimes. Although there are some principles in Anti-Terror Law which differ from the Criminal Code, these principles, too, are in accordance with the international human rights conventions. The principles and standards incorporated to the Anti-Terror Law enables the authorities to provide the public a more efficient protection against acts of terror and a swift judicial process.

72. According to Article 4 of the Covenant, “in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.”

73. Definition of Terror under Anti-Terror Law (Law No. 3713) reads as follows:

“Terror is a criminal act committed by one or more persons belonging to an organization with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State with its territory and nation, endangering the existence of the Turkish State and Republic, weakening or destroying or seizing the authority of the State, eliminating fundamental rights and freedoms, or damaging the internal and external security of the State, public order or general health by means of pressure, force and violence, terror, intimidation, oppression or threat.”

74. Articles 6 and 7 of Law No. 3713 reads as follows:

“Disclosure and publication:

Article 6. (1) Those who announce that the crimes of a terrorist organization are aimed at certain persons, whether or not such persons are named, or who disclose or publish the identity of officials on anti-terrorist duties, or who identify such persons as targets shall be sentenced to imprisonment from 1 year to 3 years’.

(2) Those who print or publish leaflets and declarations of terrorist organizations shall be sentenced to imprisonment from 1 year to 3 years.

(3) Those who, in contravention of Article 14 of this law, disclose or publish the identity of informants shall be sentenced to imprisonment from 1 year to 3 years.

(4) If any of the offences defined in the paragraphs above are committed through the press or the media, the owners and editors-in-chief of the press and media organs concerned who did not participate in the commission of the offence shall also be liable to a judicial fine equivalent to between a thousand and ten thousand days' imprisonment. However, the maximum limit of this punishment shall be the equivalent of five thousand days for editors-in-chief.

[The 5th paragraph of Article 6 of Law No. 3713 was abrogated on 2/7/2012 by Article 105 of Law No. 6352.]

Terrorist Organizations:

Article 7. (1) Those who found organizations by means of pressure, force and violence, terror, intimidation, oppression or threat as specified in Article 1 under any name or who organize and lead activities in such organizations and members of these organizations shall be punished according to Article 314 of the Turkish Criminal Code. Those regulating the activities of the organization shall be punished as the leader of the organization.

(2) Any person who disseminates propaganda in favour of a terrorist organization shall be liable to a term of imprisonment of one to five years. Where this offence is committed through the press or the media, the sentence shall be increased by half. Moreover, the owners and editors-in-chief of the press and media organs concerned who did not participate in the commission of the offence shall also be liable to a judicial fine equivalent to between one thousand and ten thousand days' imprisonment. However, the maximum limit of this punishment shall be the equivalent of five thousand days for editors-in-chief. The below-listed attitudes are punished according to the provisions of this paragraph:

(a) To close the faces in order to hide the identity during the meetings and demonstrations which transformed to the propaganda of the terrorist organization,

(b) To carry the symbols and emblems belonging to terrorist organization, to shout slogans or to broadcast with voice apparatus, or to wear the uniform

carrying the emblem and symbols of the terrorist organization in a manner exposing the fact that the person is a member or a supporter of the terrorist organization.

(3) Where assistance is provided to such organizations in the form of buildings, premises, offices or extensions of associations, foundations, political parties, professional or workers' institutions or their affiliates, or in educational institutions or students' dormitories or their extensions the punishments mentioned in paragraph 2 shall be doubled.”

75. According to the case-law of the ECtHR “duties and responsibilities which accompany the exercise of the right to freedom of expression by media professionals assume special significance in situations of conflict and tension. Particular caution is called for when consideration is being given to the publication of the views of representatives of organisations which resort to violence against the State lest the media become a vehicle for the dissemination of hate speech and the promotion of violence.” (Erdođdu and İnce v. Turkey, judgment of 8/7/1999). It is to be noted in this respect that the above-mentioned provisions of Law No. 3713 were regulated with a view to prevent gaining strength of terrorist organizations by way of propaganda.

76. On the other hand, it should be noted that Article 75 of Law No. 6352 dated 2 July 2012 amended Article 10 of Anti-Terror Law. According to this amendment, specially authorized heavy criminal courts were abolished. The jurisdiction under the provisions of Anti-Terror Law shall belong to the Assize Courts that will be founded in the provinces in accordance with amended provisions Article 10 of Law No. 3713, which prescribes the duty, jurisdiction, investigation and procedures of these courts.

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

Reply to the issues raised in paragraph 10 of the list of issues

77. Statistical information covering the period from January 2007 to July 2012 is as follows:

78. In the cases filed against police officers under Article 256 of the Turkish Criminal Code concerning excessive use of force:

- (a) 200 police officers were acquitted;
- (b) 8 cases were closed;
- (c) 1 police officer was sentenced to prison;
- (d) 8 police officers were sentenced to judicial fine;
- (e) Concerning 26 police officers, announcement of verdicts was deferred by the courts;
- (f) In 801 cases, decisions of non-prosecution were taken by the public prosecutor’s offices;
- (g) Legal proceedings concerning 397 police officers are still pending.

79. In the disciplinary investigations filed against the police officers concerning the crime of excessive use of force under Article 256 of the Turkish Criminal Code:

- (a) For 2886 officers no penalty was assigned;
- (b) 188 cases were closed;
- (c) 3 officers had temporary salary reductions;

- (d) 54 officers had a temporary suspension of promotion;
- (e) 38 officers had a long term suspension of promotion;
- (f) Disciplinary investigations for 274 officers are still pending;
- (g) Investigation files concerning 6 police officers were closed due to the statutory time-limit.

80. In the cases concerning torture and ill-treatment filed under Articles 94 and 95 of the Turkish Criminal Code:

- (a) 11 officers were sentenced to prison;
- (b) 1 police officer was sentenced to ban from public service;
- (c) Concerning 2 officers, announcement of verdicts was deferred;
- (d) Concerning 169 officers, decisions of non-prosecution were taken by the public prosecutor's office;
- (e) 64 persons were acquitted;
- (f) Legal proceedings are still pending for 50 officers.

81. In the disciplinary investigations filed against the police officers concerning the crimes prescribed under Articles 94 and 95 of the Turkish Criminal Code:

- (a) For 172 officers no penalty was assigned;
- (b) 131 cases were closed;
- (c) The investigation files concerning 3 police officers were closed due to the statutory time-limit.

82. Ensuring prompt, effective, transparent and independent investigations in relation to allegations of torture and ill-treatment is a priority for Turkey.

83. Judgments of the European Court of Human Rights as well as other relevant information from various sources are given due consideration in order to ensure prompt, effective, transparent and independent investigations.

84. As regards the death in custody of Resul İlçin, the judicial and administrative investigations reached the conclusion that his death was due to natural causes.

Reply to the issues raised in paragraph 11 of the list of issues

85. The conditions for use of force by the police are defined by Law No. 2559 on "Powers and Duties of Police". The police can resort to the use forceful measures only if the resistance of illegal demonstrators cannot be eradicated. The use of pepper gas, pressurized water is strictly codified, while plastic bullets are not used by the Turkish police.

86. Law enforcement officers are regularly trained for eradicating the use of excessive force. Officers violating the circular on "norms of intervention for public demonstrations" (Circular No. 129/2004) are prosecuted.

87. In order to ensure that security personnel wearing riot gear could be identified and discouraged from any use of excessive force, identity numbers are printed on their helmets since 2009.

Reply to the issues raised in paragraph 12 of the list of issues

88. In order to end impunity for acts of torture and loss of life, allegations of torture and ill-treatment are taken seriously and diligently by the judicial authorities at all stages of the

investigation and trial process. Public prosecutors immediately initiate investigations concerning allegations of torture and ill-treatment ex officio and conduct them personally in accordance with the new Criminal Procedure Code and the circulars issued by the Ministry of Justice. When a claim is supported with concrete evidence (such as witness statements, medical reports, etc.) public prosecutors promptly initiate criminal cases to bring those responsible to justice.

89. Counter-charges can in no case be considered as “used by the State as a tactic”. Possible individual complaints by state officials accused of torture can be considered by relevant courts in order to identify if they are founded or not.

90. Several cases where high level state officials had life sentences show that the allegation concerning “law enforcement officers receiving light or suspended sentences” is unfounded.

91. Concerning the death in custody of Nigerian asylum seeker Festus Okey, administrative action has been taken against the police officer and a criminal case is ongoing. The decisions to be taken by the Court must be respected.

Reply to the issues raised in paragraph 13 of the list of issues

92. The draft law on “Law Enforcement Monitoring Mechanism” was submitted to the Parliament in March 2012. The draft law was considered by the relevant commissions of the Parliament and came before the Plenary.

93. The Monitoring Mechanism, when established, will fulfil its mandate independently. No organ, office, authority or person can give orders and instructions or advice and suggestion to affect its decisions. It has functional independence.

94. The “National Preventive Mechanism” under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is being constituted as a unit of the new National Human Rights Institution established by the law on the National Human Rights Institution adopted by the Turkish Parliament in June 2012.

95. The new National Human Rights Institution and its “National Preventive Mechanism” unit are designed to be fully independent, in accordance with the Paris Principles.

Reply to the issues raised in paragraph 14 of the list of issues

96. The Council of Europe Convention on preventing and combating violence against women and domestic violence ratified in Strasbourg on 7 March 2011 by the Committee of Ministers of the Council of Europe was opened for signature on 11 May 2011 in Istanbul and was signed by 17 countries including Turkey. Turkey is the first country to have ratified the Convention. The Convention was ratified by Turkey on 24 November 2011 and published in the Official Gazette on 8 March 2012.

97. The Law on Protecting Woman and Family Members From Violence, Law No. 6284, was prepared by the Ministry of Family and Social Policy with the contribution and involvement of related parties in order to enhance the scope of the Law on Protecting Family (Law No. 4320) dating back to 1998. This law is the first case in Turkey of domestic violence being defined and tackled. The law entered into force on 20 March 2012.

98. New provisions brought by Law No. 6284 can be summarized as follows.

99. The scope of people who shall be protected by law was extended. New Law intended to address the issue of violence against to all the women irrespective of their marital status.

100. Violence was defined in this Law as “the acts which results or will probably result in person’s having physical, sexual, psychological and financial sufferings or pain and any

physical, sexual, psychological, verbal or economical attitude and behaviour which include the treat, pressure and arbitrary violation of person's freedom as well and conducted in social, public and private space" in accordance the Council of Europe Convention on preventing and combating violence against women and domestic violence.

101. The Provisions on protective and preventive measures about the victim of violence and the perpetrator of violence were regulated in detail.

102. The protective cautionary decisions, such as provision of an appropriate shelter, financial aid, psychological, professional, legal and social guidance and counselling service, and a temporary protection upon a request of the relevant person or ex officio if there is a life threatening danger for the person shall be decided by governors, and in cases where delay is considered to be risky, by the law enforcement chiefs.

103. The protective cautionary decisions to be taken by the judge are as follows:

- (a) To change the work place;
- (b) To decide a house settlement different from the shared one if the person is married;
- (c) To put an annotation to the title deed as a family house if the conditions are applicable as contained within the Turkish Civil Code No. 4721 dated 22/11/2001 and upon the request of the protected person;
- (d) To change the identification and other related information and documents based on the informed consent of the relevant person as per the provisions of the Witness Protection Law No. 5726 dated 27/12/2007 if it is determined that there is a life threatening danger for the protected person and the measures to prevent this danger are inadequate.

104. The preventive cautionary decisions to be taken by the judge are listed as follows:

- (a) Not to exhibit an attitude and behaviours including the threats of violence, insult and humiliation against the victim of violence;
- (b) To move from the shared dwelling or the vicinity immediately and to allocate the shared dwelling to the protected person;
- (c) Not to approach to the protected persons and their residences, schools and workplaces;
- (d) If there is a previous decision to allow having a personal connection, to have a personal connection with the children together with a company and to restrict the personal connection or to revoke it completely;
- (e) Not to approach the friends or relatives and children of the protected person even though they haven't been subject to the violence, without prejudice to the decisions that allows personal connection with children;
- (f) Not to damage the personal belongings and household goods of the protected person;
- (g) Not to cause distress to the protected person by means of communication instruments or alternative channels;
- (h) To hand over the officially permitted and authorized weapons to the law enforcement officials;
- (i) To hand over the weapon to the employing institution, even if the person is in a profession of public service that requires carrying a weapon;
- (j) Not to use alcohol, drugs or stimulants in places where the protected people are present or not to approach the protected people and whereabouts while under the

influence of these substances and to ensure to have a medical examination and treatment including in-patient treatment in case of the addiction;

(k) To apply to the health centre for examination or treatment and to ensure having a treatment.

105. In cases where delay is considered to be risky, some of the measures listed above shall be taken by the relevant law enforcement chiefs. The law enforcement chief shall present the report to the judge for approval no later than the first work day after the decision is taken.

106. The judge is authorized to take a decision on the issues of guardianship, custody, alimony and personal connection. Moreover, if the perpetrator of violence is the person who at the same time is the provider of or contributor to the family's livelihood, the judge may decide on a temporary alimony by taking into consideration of the living standards of the victim.

107. If there has been violence or there is a risk of it, everybody can report this situation to the official authorities and organs. The public officials who receive the report are obliged to fulfil their duties without any delay and inform the authorities for the other measures needed to be taken.

108. The cautionary decision is taken either upon a request of the relevant person or law enforcement officers or public prosecutor, for the six months period at most initially. However, if it is determined that there is a continued risk of violence, the measures shall be extended, modified, abolished or kept ex officio or upon a request of the protected person or the officials of Ministry or law enforcement agencies.

109. No evidence or report proving the violence is required in order to take cautionary decision. The preventive cautionary decision is taken without delay. This implementation of decision cannot be delayed as to endanger the realization of the aim of this Law. The cautionary decision is pronounced or notified to the protected person and perpetrator of violence. Regarding to the refusal of the request for a cautionary decision, only the protected person is notified. In cases where the delay is considered to be risky, the perpetrator of violence is immediately notified with an official report on the cautionary decision taken by the related law enforcement unit.

110. If deemed necessary, in addition to the cautionary decision, the identification information of the protected person or other family members or the information to reveal their identification, their addresses and the other information important for the efficiency of protection shall be kept confidential within records upon a request or ex officio. A different address is identified for the notifications to be sent. Any person who illegally provides, reveals and discloses information to another person is subject to the related provisions of Turkish Penal Code.

111. The decisions taken as per the provision of this Law may be appealed to the family court by the relevant persons within two weeks after the notification is received.

112. The law enforcement unit is responsible and authorized to implement the protective cautionary decision on providing a temporary protection and the preventive cautionary decision taken for the perpetrator of violence and to protect the residential area of the protected persons or its location or the place where the measures shall apply. The fact that the cautionary decisions haven't been pronounced or notified to those concerned shall not constitute an impediment to implement the decision.

113. Persons, for whom a decision for providing a shelter has been taken, shall be settled in places belonging to the Ministry or under the supervision of the Ministry. On the occasions when the shelters are not adequate; the protected persons are sheltered in the social facilities, dormitories or similar lodgings of the state institutions and organizations

upon a request of district authority and, when urgent, upon a request of the law enforcement officials or the Ministry

114. The law enforcement duties, in regard to the services specified within this Law, shall be implemented by an adequate number of personnel who have a training on the human rights for the children and women and the equality of men and women, and who are assigned by the related law enforcement units in central and provincial organization.

115. While implementing the cautionary decisions taken as per the provisions of this Law, the technical means and methods may be used with a judicial decision. However, the audio-visuals of the persons cannot be monitored and recorded in this way.

116. In the case of a perpetrator of violence for whom a cautionary decision is taken as per the provisions of this Law acts contrary to the requirements of this decision, he shall be subject to the preventive imprisonment from 3 to 10 days by the judicial decision depending on the nature and severity of the violated measure. In each recurring action contrary to the requirements of the cautionary decision, the period of the preventive imprisonment shall be from fifteen to thirty days. But the period of the preventive imprisonment cannot be more than six months.

117. The Ministry shall establish the Violence Prevention and Monitoring Centres, where necessary qualified personnel especially the women are employed and perform a duty, and where the support and monitoring services are provided to the persons to prevent the violence and efficiently implement the protective and preventive measures. They operate on a basis of seven days and twenty- four hours and their procedures and principles are identified by regulation. The followings are some of the services to be provided by the violence prevention and monitoring centres:

(a) To build a data bank by collecting data regarding to the protective and preventive cautionary decisions, the sentences of preventive imprisonment and the implementation of these decisions and acts, and to keep record of the cautionary decisions;

(b) When deemed necessary, to file an application for cautionary decisions to be taken and implemented;

(c) To prepare and implement the programs on an individual and collective scale in regard to preventing the violence within the scope of the Law;

(d) To popularize the call centres established within the structure of the Ministry and to ensure the applications monitored in accordance with the aim of this Law;

(e) To cooperate with the non-governmental organizations working to end violence within the scope of this Law;

(f) To guide the persons about their rights, the institutions where they can receive support, the employment and similar issues and to conduct activities to ensure their attendance at vocational courses;

(g) To monitor the results of the implementation of cautionary decisions and their effects on persons;

(h) To assist and counsel on resolving the psycho-social and economical problems;

(i) Upon a request of the Judge; to prepare and present a detailed social research report on the person's background, family, social environment, education, personal, social, economical and psychological status;

(j) To conduct encouraging, enlightening and guiding activities to ensure that the perpetrator of the violence shall attend at the anger management, stress management, training and rehabilitation programs which aim to change attitude and behaviour by raising awareness to prevent the violence; shall have medical examination and receiving treatment

in a health centre in case of addiction to alcohol, volatile substance or stimulants or psychological disorder; shall attending at vocational courses.

118. The Ministry of Family and Social Policy is in charge of interagency coordination in application of the provisions of this Law. Public institutions and organizations and other natural and legal persons are responsible for implementing the cautionary decisions without delay and cooperating and assisting to each other in issues related to their agencies in regard to the implementation of this Law.

119. Along with Turkish Radio and Television Corporation, the private radios and television channels broadcasting national, regional and locally have to broadcast informative materials, at least 90 minutes each month, on the integration of women into the work life, the mechanisms and policies to fight against the violence especially related with children and women which are all prepared by the Ministry or prepared by other agencies with the consent of the ministry.

120. For an effective application of this Law, the public institutions and organizations and professional organizations with public institution status ensure their personnel and members to attend training courses prepared and coordinated by the Ministry on the human rights for women and the equality of women and men. On the other hand, educational courses on the human rights for women and the equality of women and men are integrated into primary and secondary education curriculum.

121. In case of financial aid decision as per the provisions of this Law, daily payment of one thirtieth of minimum wage identified yearly is made for those over sixteen years of age. In cases where there are multiple protected people an additional sum of twenty percent of this amount is paid to every additional individual.

122. In accordance of the provisions of this Law, those for whom the protective cautionary decision is taken but who do not have general health insurance, who cannot benefit from a dependent insurance, who cannot benefit from general health insurance as a result of due payments and those who cannot benefit from treatment assistance for other provisional reasons are regarded as having general health insurance without an income test. If the person under the preventive cautionary is also decided to take rehabilitation or treatment, the rehabilitation expenses which are not covered by general health insurance and the cost of other health expenses required by rehabilitation services are covered from the related budget of the Ministry.

123. No court expenses, fees, mailing expenses and etc. are required for applications and for other processes during the execution and implementation of the decisions within the scope of this Law. The payments made to the protected people are exempt from tax.

124. The Ministry can, if deems necessary, participate in an administrative, criminal and civil lawsuits or ex parte proceedings filed due to the violence or violence threat against women, children and family members.

125. Apart from the measures that have been taken in particular within the framework of Law No. 6284 as explained above, Law No. 2828 on Social Services and Child Protection Agency contains provisions with a view to protect women and children subject to multiple forms of discrimination such as disabilities from violence through the provision of adequate support services and adequately resourced shelters. If a woman is in need of such services, she is settled in a care and rehabilitation centre in accordance with her age, gender, and disability group. If a disabled woman was raped and is pregnant, she is settled in a shelter house. Likewise, if the mother is younger than 18 she is settled in a social service institution until the delivery of baby and provided with care. Following the maternity they are settled in other care centres.

126. The Ministry of Family and Social Policies organized a consultation meeting on 21-22 September 2011 on the reconstruction of women shelters with the participation of

directors of its provincial directorates, and representatives of the municipalities and relevant NGOs running shelters, in order to develop the qualities and capacities of the shelters and a Round-Table in order to assess the outputs of the above-mentioned meeting. Following this meeting, a working group was established and a draft Regulation on Women Shelters” was prepared in cooperation with the Ministry of the Interior. The draft Regulation was submitted to the relevant ministries, public entities and institutions, and NGOs in order to take their opinion.

127. In Turkey the total number of guesthouses/shelters for women victimized under the risk of violence is 88. The capacity of 61 women guesthouses/shelters under the authority of the Directorate General of Status of Women is 1427 in 2012. There are ongoing efforts for increasing the number of the shelters and women’s guesthouses rapidly.

128. There are several consultancy services for women under the risk of violence:

(a) There is a helpline “Alo 183” in order to provide information on the shelters and other relevant institutions and provide psychological, legal and financial consultancy services to the women that are victim of violence or under the risk of violence and in need of support;

(b) There are women consultancy services or women rights commissions under the bar associations, which provide legal consultancy services such as to where and whom to apply to the women in need free of charge;

(c) Women Rights Commission of the Union of Turkish Bars Association consisting of the representatives of the bar associations having women rights commissions also works for resolving the problems deriving from the discrimination and violence against women;

(d) There are legal and psychological consultancy services, and shelters provided by the NGOs;

(e) 44 Multi-Purpose Social Centres (*ÇATOM*) attached to the Southeastern Anatolia Project of the Ministry of Development are serving women in the region on topics such as education, guidance and vocational training;

(f) 103 “Psychosocial Support and Crisis Handling Units” established at the emergency units of hospitals in 51 provinces provide psychosocial support services on domestic violence;

(g) Works have commenced by the Ministry of Family and Social Policies for each family to have a Family Social Support Expert;

(h) Work is underway for spreading First Admission Centres to the national level, which provide fast response and are easily-accessible for women who are victims of violence;

(i) Works are underway for establishing “Violence Prevention and Monitoring Centres”, which are within the framework of the provisions brought by the Law No. 6284 on the “Protection of Family and Prevention of Violence Against Women”.

129. With a view to raising awareness and sensitivity among personnel working in public institutions serving women having faced violence “Training Protocols” have been signed with the relevant Ministries.

(a) “The Protocol on the Role of the Police in Preventing Violence Against Women and the Procedure to be Followed” was co-signed with the Ministry of Interior in December 2006 and around 45,000 police officers have been trained so far;

(b) “The Protocol on Raising the Institutional Capacity of the Services Provided to Victims of Domestic Violence and Victim Children and Improving Cooperation” was signed in October 2009 between the General Directorate on the Status of Women, the

General Directorate of Social Services and Child Protection and the Directorate General of Security. Pursuant to the Protocol, “Domestic Violence Record Forms” have been delivered to every police station in the country. Thanks to this form, a risk assessment concerning the victim will be made by the police, the issue will be brought to the attention of the institutions to which the form will be submitted and thus, it will be possible to avoid incidents which are likely to occur. Moreover, pursuant to the same Protocol, the “Project to Raise Expert Trainers on the Role of the Police in Preventing Domestic Violence against Women and the Education to be Given” has been realized under the coordination of the General Directorate on the Status of Women and by the financial support of the United Nations Population Fund. The objective of the project is to raise a group of expert trainers within the Directorate General of Security who will carry out all education, seminar, symposium and scientific activities related to the prevention of domestic violence and to form a model to be followed by the police when responding events of violence. The project has been completed in February 2011;

(c) The “Training Protocol on the Role of Health Personnel in the Fight Against Domestic Violence Against Women and the Procedure to Be Followed” was co-signed in January 2008 by the Minister of Health and came into force. In 81 provinces, around 65,000 health personnel have completed their training pursuant to the Protocol;

(d) The “Protocol on the Role of members of the Judiciary in the Prevention of Domestic Violence Against Women” was co-signed in April 2009 by the then-Minister of Justice and a total of 326 judges of family courts and public prosecutors have completed their training;

(e) The “Protocol on the Role of Religious Officials in the Prevention of Domestic Violence Against Women and the Procedure to Be Followed” was co-signed in April 2010 by the Minister for Religious Affairs and the Minister for Women and Family. Training programs were launched in Ankara. Following the training of trainers, it has been anticipated that 12,000 religious officials will be reached in the Central Anatolia Region. As a second step, the project will be extended to religious officials posted abroad by the Presidency of Religious Affairs and to the provinces where Family Guidance Offices have been established and to other selected provinces as well. The objective of the training activities which will continue until 2015 is to reach around 100,000 religious officials serving in Turkey;

(f) With a view to sharing information and experience with directors holding office in public institutions on the problems faced in the country concerning gender equality, its causes and consequences, and to raise awareness and sensitivity among the participants and to implement social gender perspective in their works, a three-day “Gender Equality and Social Gender Training” is being held. So far the training activities were intended for directors in rural areas who led works related to women. Within this framework, trainings for Directors of Public Education Centers, Agriculture District Directors, District Directors of Education and Social Services District Directors of 81 provinces have been completed from March 2009 to October 2011. Moreover, during October 2011 – December 2011, training programs have been held for directors and experts/assistant experts working in the central and rural units of the Turkish Employment Agency. The said training programs are in progress. By July 2012, a total of 2,524 civil servants have attended;

(g) The topics of violence against children and women and domestic violence are also contained in the in-service training programs organized by the Ministry of Justice for psychologists, pedagogues and social service experts working in Family and Juvenile Courts. Within this framework, the in-service training programs have been organized during March – May 2012 and expert support has been provided by the Ministry of Family and Social Policies;

(h) The “Protocol on the Improvement of Training and Cooperation on Violence Against Women, Domestic Violence, Social Gender Equality, Ways to Approach Victims of Violence and the Application of the Relevant Legal Framework” has been signed on 12 April 2012 between the Ministry of Family and Social Policies and the General Command of the Gendarmerie. Pursuant to the Protocol, the required works will be carried out for including the topics of “social gender equality” and “the prevention of violence against women” to the curricula of schools attached to the Gendarmerie; for providing education for conscripts on violence against women and honour motivated killings; and for preparing informative and guiding leaflets to be given to female victims of violence who have applied to gendarmerie units. With this Protocol, the case of violence against women became, for the first time, a one-period independent course in gendarmerie schools;

(i) Meetings were held with the participation of Deputy Governors, Family and Social Policies Provincial Directors and Deputy Directors, Provincial Health Directors, Provincial Directors of National Education, Provincial Directors of Social Security, Provincial Gendarmerie Commanders, Provincial Police Commissioners in 19 provinces in 7 geographical regions of Turkey; Social Service Experts, Provincial Receiving Unit Persons in Charge, Shelter Directors, District Chiefs of Police, District Gendarme Commanders, District Governors, Prosecutors/Chief Public Prosecutors and representatives of Provincial Justice Commissions carrying out their duties in provinces for the purpose of increasing the knowledge and awareness of implementers regarding the new arrangements brought by “Law on the Protection of Family and Prevention of Violence Against Women” which came into force on 20.03.2012.

130. As part of public awareness campaigns combating violence against women and children, several projects were implemented:

(a) Education of girls, participation of women in employment and decision making mechanisms, violence against women and honour killings, the cases of human rights and gender mainstreaming of women were included in the education program of Citizenship Love given each year to privates and non-commissioned officers who perform their military services; education materials and posters containing all these subjects were prepared and delivered to Turkish General Staff. In this context, the said education is given to 450.000 privates and non-commissioned officers annually;

(b) Within the context of November 25th - The Day of Violence against Women and Solidarity in 2011, the notification of “Count Us In” which emphasizes the significance of men-participation in the fight against violence against women was prepared and opened for signature. The notification was also supported by male members of parliament. The notification was signed by more than 15.000 people between November 2011 and March 2012;

(c) Printed and visual media broadcasts with the aim of underlining that violence against women is a significant social problem, raising awareness as regards the problem and increasing social awareness in the fight against violence; posters, brochures and guidelines are published and spot films are shot regarding the subject. For instance, the distribution of the brochures prepared in the weeks of November 25th and March 8th were made. Furthermore, with the aim of attracting the attention of public to the subject, football players were made to go out for super league games with banners on which it is written “Put an end to violence against women”. For instance, National Lottery draw made on 09.03.2012 was prepared with the theme of 8 March International Women’s Day;

(d) “Gender Mainstreaming and Media Workshop” has been held since 2008 with the aim of raising awareness of the students in various communication faculties in Turkey who are future media professionals on the subjects of gender mainstreaming and violence against women. Within this context, workshops have been made in November and June 2010 with the participation of Akdeniz University and İzmir Economy University. “Gender Mainstreaming and Media Workshop” were held for the last time in Eskişehir in

July 2012. Up till today 289 students attended Gender Mainstreaming Media Workshops in total;

(e) “The roles of local media personnel in the fight against violence against women and article writing workshop” has been held since 2008. The aim of these workshops is to raise awareness in local media personnel as regards gender mainstreaming and violence against women. The local media workshop held in Kars and Antalya in 2010 was held for the last time in Eskişehir in July 2012. Up till today 198 media personnel attended the workshop;

(f) Furthermore, with the aim of increasing the sensibility of gender mainstreaming and mental transformation while preventing violence against women, General Directorate carries out some projects, programs and campaigns; carries out various awareness-raising activities, generates and distributes visual materials. Communication, Documentation and Publication Section of Prime Ministry - Directorate General on the Status of Women distributed 106.760 books and published 54 books between 2007 and 2011. Between 2006 and 2011, 1300 people benefited from DGSW Library of the Section. 7 spot films were shot within the context of the Fighting Domestic Violence against Women Project, these films were run in various meetings and their copies were distributed to relevant units. Within the same project, one brochure, five posters and one leaflet were prepared and the said visual materials were distributed;

(g) The Directorate General on the Status of Women works on the project of introducing Law No. 6284 and a media planning program with the aim of raising awareness as regards violence in society. A series of activities will be carried out during the campaign which will start in September 2012 and go on for a year such as shooting and running various spot films; preparing and introducing billboards, posters and booklets; clothing of buses, street theatres and performance shows;

(h) In addition to these activities, the Directorate General on the Status of Women made a “Study of Domestic Violence against Women in Turkey” with the aim of carrying out a more effective struggle against domestic violence against women, and meeting the need of national data to establish policies and programs. The outcomes of the said study are evaluated as official data within the context of TÜİK “Official Statistics Program”.

Reply to the issues raised in paragraph 15 of the list of issues

131. The new Penal Code adopted in 2005, abolished the de facto reductions of sentences for perpetrators involved in “honour killings” and ensured that they shall be given the highest sentences.

132. The recommendation of the Committee on the Elimination of Discrimination against Women, concerning the explicit inclusion of honour killings within the scope of article 82 of the Penal Code and classified as aggravated homicide is being considered during the legislative works that have not yet been concluded.

Elimination of slavery and servitude (art. 8)

Reply to the issues raised in paragraph 16 of the list of issues

133. Second National Action Plan on Combating Trafficking in Human Beings has been approved.

134. The ratification process of the Council of Europe Convention on Action against Trafficking in Human Beings and the adoption of a new law on the protection of victims of human trafficking will accelerate the implementation of the National Action Plan.

Furthermore, a Joint EU-Turkey Project is also expected to contribute to the implementation of National Action 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)

Reply to the issues raised in paragraph 17 of the list of issues

135. In June 2012, Turkish Parliament adopted new measures intended to improve the effectiveness of the judiciary in order to address the difficulties related to long judicial processes and long pre-trial detention periods.

136. The amendments introduced in criminal legislation will further reinforce the protection and promotion of fundamental rights. The provisions include the following improvements:

- (a) The scope of judicial control as an alternative to detention is enlarged;
- (b) Decisions on arrest will require further and stronger conditions to be supported by tangible evidence;
- (c) The penalty imposed for being a member of an illegal organisation is reduced;
- (d) The scope of “propaganda for terrorist organization” is restricted;
- (e) The exercise of the right to defence before courts with special powers is reinforced;
- (f) Suspension of the announcement of the sentence, alternative sanctions and suspension become applicable for terror offences;
- (g) Provisions authorising the prohibition of publications related with terrorist organizations by a judge decision are repealed;
- (h) Access to minutes of the testimony of the suspect, expert reports and evidence for offences attributed to the suspects in connection with the investigation undertaken by specially authorised prosecutors, is improved.

137. One of the most important elements of the new measures is that judicial fines, investigations, prosecutions and verdicts demanding or ruling up to five years of imprisonment imposed on journalists with regard to the freedom of expression or actions carried out through the press will be postponed. This can be considered as an amnesty for press-related offenses affecting thousands of individuals in Turkey.

138. Furthermore, efforts are pursued to improve detention conditions, to ensure adequate staffing of prisons and to improve access to health care for prisoners. Police stations are equipped with video surveillance cameras ensuring the recording of interrogations of all persons as standard procedure.

Reply to the issues raised in paragraph 18 of the list of issues

139. Turkey ratified the Convention on the Rights of Persons with Disabilities in September 2009. Article 61 of the Turkish Constitution states that “The state shall take measures to protect the disabled and secure their integration into community life”. Legislation on services for children with disabilities was first passed in 1997. This legislation was updated in 2005, through Law No. 5378. The latter law aims to prevent disability, resolve problems related to the health, education, rehabilitation, employment, care and social security of the disabled, provide for their full development, remove obstacles to their participation in society and ensure coordination of public services for

them. It opposes discrimination and sets 2012 as a deadline for making public buildings and local transport accessible to disabled people.

140. According to the provisions of the relevant law, the care services shall be provided by the natural and legal persons and public institutions. Care services can be presented in home care or institution care models. First of all it is essential that the service to be provided without separating the person from his/her home or physical environment.

141. If the child's care is not possible in the family environment, the foster family system is applied. In order to promote foster family system, the amount of fee that is paid to the foster families of disabled children is twice the amount that is paid to the foster families of ordinary ones. If the foster family system is not possible, than in order to promote the family based care and to reduce the number of requests for the institutional care, home based care services are provided.

142. If the disabled person, who is in need of care but does not benefit from the services such as home care fee or institutional care, requests support from the authorities, the personnel appointed by relevant institutions provide the support for the home-based care. There are ongoing efforts for the generalization of the home-based care service model in 2012.

143. Under the present circumstances, the disabled person's relative or the guardian, who provides home-based care, is paid a fee at the amount of minimum wage. If the care service is provided in a private centre, an amount of two minimum wages is paid. As of July 2012, 6872 disabled persons were provided by the care services of residential institutions, and an amount of 79.081.624 TL was paid for these services. As of December 2011, 352.859 disabled persons were provided with home-based care service, and 21.197.408.410 TL was paid for these services. The targeted number of disabled persons those are provided with home-based care services is 465.000 in 2012. It should be noted that the necessary arrangements concerning "support service for home-based care", which is a new service model for the care of disabled persons, were provided in 2010.

144. In 2011, a legislative regulation entered into force in order to provide free care services to the disabled persons in rehabilitation and care centres up to 30 days per year, in case their families cannot provide home-based service for a short period of time for several reasons.

145. For the cases having any alternative apart from the institutional care, alternative service models such as house-type social service entities having smaller capacities and better physical conditions have been provided for the disabled persons.

146. In order to provide the necessary care services in the social environment and the city that they live, the "Prospect House Project" (Umut Evi Projesi) has been implemented as an alternative care model. The aim of this project is to provide care services in houses or apartments as small groups to the disabled persons for whom the home-based service in family environment is not possible. In the meantime, to provide active social life to the persons with disabilities for whom the necessary care is being provided in the care and rehabilitation centres. These "Prospect Houses" are considered to be an additional unit to the care and rehabilitation centres. The first "Prospect House" opened in İzmir in 2008. As of December 2011, 8 prospect houses have been in service in Turkey. On the other hand, in order to provide better service to the people with disabilities, the Barrier Free Living Centre Model that based on one floor independent houses having gardens has been applied. In addition to the care and rehabilitation centres available, there are ongoing efforts in order to generalize the family consultancy and rehabilitation centres for the daytime care services to the disabled persons.

147. The project "Cost Free Transportation for Children in Need of Special Education to Ensure their Access to Schools", implemented jointly by the Directorates General of Services for the Disabled and Elderly Affairs, and Social Services of the Ministry of Family

and Social Policies and Ministry of National Education, was first implemented during the second term of the academic year 2004-2005 (February-June 2005). During this period transportation services were provided to 6,901 children attending special schools, and 200,000,000 TL have been spent up to date. In 2011-2012 academic year, similar services provided to 41,000 children, approximately, attending special schools or special classes, resulting in the expenditure of 61,000,000 TL. In this regard, the transportation expenses for the disabled children are provided from the Social Assistance and Solidarity Promotion Fund within the framework of the Project.

148. Furthermore, with a view to elimination of the institutionalization of the disabled children and adults, the projects for Home-Based Care of Elderly and Disabled Persons have been supported. Between 2007 and 2012, 36 projects have been supported and 2.096 persons (disabled adults, children and elderly) have benefitted from the home-based care services.

149. On the other hand, there have been two projects run by the Ministry of National Education:

(a) The Strengthening of Preschool Education Project: The purpose of the project is to upgrade and establish quality child day care and pre-school education services for disadvantaged children and their families through the capacity building of Ministry of National Education institutions, public institutions, municipalities, NGOs, and development of community based models and partnership;

(b) The International Inspiration Project: The budget of the project is 1.5 million GBP. The main aim of the project is to make a difference in the lives of all disadvantaged children including those with disabilities, and the children and young people of all abilities. The project plans to achieve this aim by effectively using high quality and inclusive physical education, sport and play in schools and communities through the support of teachers, community leaders and volunteers.

Reply to the issues raised in paragraph 19 of the list of issues

150. The law enforcement officials shall immediately inform the apprehended person of his/her rights (Article 90 of the Code on Criminal Procedure).

151. According to Article 95 of the Code on Criminal Procedure (CCP), when a person is arrested, taken into custody or when his custody period is extended, his relative or a person designated by him shall be notified without delay, by order of the public prosecutor. If the person arrested or taken into custody is a foreigner, the consulate of his country of citizenship shall be notified of his situation unless he does not object to this notification in writing.

152. Article 99 of the CCP states that the material conditions in the detention facilities, the officials responsible for securing and guarding the person, the health examination of the detained person; the records and registers to be kept concerning custody procedures, the records to be drawn up at the beginning and end of custody, the documents to be given to the person taken into custody, and the rules to be complied with by law enforcement officials in carrying out detention procedures shall be laid down in a regulation.

153. Paragraph 4 under Article 6 of the Regulation on Apprehension, Custody and Taking of Statements provides that, in any case, from the very outset of the deprivation of liberty and regardless of the offence charged, the apprehended person shall be informed in writing of the reason of detention, allegations against him/her, the right to remain silent; to access to a lawyer; to appeal against detention and of any other legal rights. If this is not possible, oral information on these rights shall be given immediately.

154. Paragraph 7 of the said Article also stipulates that the apprehended person shall be given a signed copy of the "Form on Suspects' and Accused Persons' Rights" which

provides a testimony that he/she has been informed of his/her rights in writing and he/she has apprehended them.

155. All orders for detention on remand or for the extension of its period shall be notified without delay, by order of the judge, to a relative or to a person designated by the person under arrest. In addition, the arrested person shall be permitted to notify his arrest in person to one of his relatives or to a person designated by him, provided that this does not jeopardize the aim of the pending investigation. In cases where the suspect or accused is a foreigner, his arrest shall be notified to the consulate of his country of citizenship, provided that he does not object to this situation in writing (Article 107 of the CCP).

156. Anyone who claims that:

(a) He/she was unlawfully arrested or detained on remand or his period of detention on remand was unlawfully extended;

(b) He/she was not brought before a judge within the statutory custody period;

(c) He/she was detained on remand without being informed of his statutory rights or his request to exercise these rights was not met;

(d) Notwithstanding that he/she was lawfully arrested, he was not brought before the trial court within a reasonable time and did not receive a judgment within a reasonable time;

(e) After he/she was lawfully arrested or detained on remand a decision of non-prosecution was taken or he was acquitted;

(f) He/she was not informed of the grounds for his arrest or detention on remand and of the charges against him either in writing or, if this was not immediately possible, orally;

(g) His/her relatives were not informed of his arrest or detention on remand, may claim compensation for pecuniary and non-pecuniary damages incurred

If the person arrested or detained on remand is acquitted at the end of the trial, or if a decision of non-prosecution is taken about him, he shall be notified by the authority which rendered these decisions that he has the right to file a claim for compensation (Articles 141 of the CCP).

157. According to Article 147, during statement taking or the questioning of a suspect or accused, the following rules shall apply:

(a) The identity of the suspect or accused shall be established. The suspect or accused shall be obliged to provide correct answers to the questions relating to his identity;

(b) The suspect or accused shall be given an explanation of the charges against him;

(c) He shall also be informed that he has the right to appoint a lawyer and take advantage of the legal assistance provided by this lawyer; he shall also be informed that if he so requests the lawyer will be present during the statement taking or questioning. If he is not in a position to appoint one, the bar association shall appoint a lawyer if he expresses his will to take advantage of a lawyer;

(d) Reserving the provision laid down in Article 95, a relative chosen by the arrested person himself - shall be notified immediately of his arrest;

(e) He shall be told that he has the statutory right to not make any statement concerning the offence charged;

(f) He shall be reminded that he may request the collection of exonerating evidence and shall be given the opportunity to put forward points in his favour and to remove the existing grounds for suspicion against him;

(g) The person giving statement or being questioned shall be asked for information on his personal and economic status;

(h) Technical means shall be used for recording the statement taking or questioning procedure;

(i) The statement taking or questioning shall be recorded in writing. The record shall contain the following points:

(i) The place and date of the statement taking or questioning procedure;

(ii) The names and status of the persons present during the statement taking or questioning, and the clear identity of the person giving his statement or questioned;

(iii) Verification of whether the steps listed above were taken during the statement taking or questioning and, if not, the reasons for this;

(iv) Verification that the contents of the record have been read and signed by the person giving his statement or questioned and by his lawyer who was present;

(v) If they refrain from signing, the grounds for this shall be recorded.

158. Paragraph 4 of Article 148 of the CCP stipulates that the statements taken by the law enforcement officers in the absence of the lawyer shall not be taken as basis for the judgment unless confirmed before the judge or the court by the suspect or the accused.

159. All central and provincial security units throughout Turkey were instructed by a Circular No. 5002 dated 3 March 2010 to ensure that the right of access to a lawyer for persons in police/gendarmerie custody is fully effective in practice as from the very outset of custody.

160. Article 9 of the Regulation on Apprehension, Detention and the Taking of Statements establishes that if the apprehended person is to be taken under custody or if he has been apprehended by use of force, his health at the time of the apprehension shall be examined through a medical control. His state of health will also be examined by medical authorities in cases of location change, extension of the period of custody, handing over to judicial authorities or release. As a rule, the doctor and the person to be medically examined should be alone during the medical examination and the medical examination should be carried out within the framework of doctor and patient confidentiality and privacy. However, medical examination can be conducted under the surveillance of the law enforcement officer, if the doctor has personal security concerns. This request by the doctor should be documented, and, if the person deprived from his liberty so requests, his lawyer may accompany the medical examination. If the person to be medically examined is a woman, her examination should be carried out by a female doctor, whenever possible. If the woman to be medically examined requests to be examined by a female doctor and if there are no female doctors available, then a female health personnel should be present during the medical examination.

Refugees and asylum seekers (art. 13)

Reply to the issues raised in paragraph 20 of the list of issues

161. The “Bureau for the Development of Asylum and Migration Legislation and Strengthening Administrative Capacity” was established under the Ministry of the Interior in October 2008. The task of the Bureau is to carry out all necessary activities towards

preparing the required legislation and capacity building for the institutional structure in the sphere of asylum and migration, as well as to coordinate the EU projects.

162. The Bureau for the Development of Asylum and Migration Legislation and Strengthening Administrative Capacity initiated efforts, based on the 1951 Geneva Convention, to prepare a new law on “Foreigners and International Protection” which will further align Turkish legislation on migration and asylum with European Union *acquis* and international standards. The draft law, which aims to strengthen the institutional capacity of our country regarding immigration and international protection, has been prepared with the participation of relevant public institutions, international institutions such as UNHCR and the Council of Europe, civil society organizations and other relevant parties. The draft law was submitted to the Turkish Grand National Assembly on 16 January 2012. The relevant specialist Commissions completed their examinations on the draft law, and it is now before the General Assembly.

163. The final draft of the Law, in accordance with the international instruments to which Turkey is party, contains specific provisions related to the rights of vulnerable groups. The principles and procedures concerning the entry to, residence in and exit from Turkey, the scope and the implementation of the protection to be provided for foreigners who request protection, as well as the establishment, duties and authorities of the Directorate General of Migration Management at the Ministry of the Interior have been laid down in this draft law.

164. Turkey aims to lift the geographic limitation once EU accession negotiations are finalised, in accordance with the National Action Plan on Asylum and Migration of Turkey.

165. The allegations that (a) temporary asylum procedures are arbitrarily denied to asylum seekers; (b) foreign guesthouses or other removal centres are seriously overcrowded and that interns are ill-treated; and (c) deportations and refoulement have occurred despite the risk of torture, do not reflect the reality.

166. Illegal immigrants who are apprehended and kept in guesthouses are taken through the asylum procedure should they apply for asylum, following a short assessment process. Following this period, they are allowed to enter Turkey pending the procedures regarding their asylum request. In the national asylum procedure, there is no restriction for these persons on meeting their own lawyers or lawyers appointed by Bar Associations or UNCHR officials.

167. Procedures regarding asylum applications are fulfilled in accordance with the provisions of 1951 Geneva Convention relating to the Status of Refugees and its Protocol dated 1967 (Turkey is party to both Convention and its Protocol, albeit with a geographical limitation). However, 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, and therefore, even if only the people coming from European countries are accepted as refugees because of the geographical limitation, there is no difference concerning the asylum procedure between the European and non-European asylum seekers. Article 6 of the Regulation states that demands of those who seek asylum in Turkey or seek residence permit in Turkey in order to seek asylum from another country are assessed according to the 1951 Geneva Convention and its Protocol dated 31 January 1967 and by the Ministry of the Interior in compliance with this Regulation.

168. The expulsion of individuals whose asylum applications have been rejected are guided by Article 7 of the Covenant, Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms which states that “No one shall be subjected to torture or to inhuman or degrading treatment or punishment” and Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which provides that “No State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be

in danger of being subjected to torture”. Turkey applies the principle of non-refoulement as regulated by Article 33 of the 1951 Geneva Convention with diligence.

169. Asylum-seekers who are not granted refugee status, but are assessed to be under the risk of persecution in their countries of origin, are not deported, and are allowed to temporarily stay in Turkey within the concept of “Subsidiary Protection and Protection with Humanitarian Considerations” as regulated by Law No. 5683 on the Residence and Travel of Foreigners. They stay in Turkey until their resettlement in a third country.

170. The foreign guesthouses or accommodation centres (or removal centres as stated in the question) are not overcrowded. In Turkey there are 22 accommodation centres with capacity of 2041 persons. Moreover, accommodation centres are being constructed in Aydın, Edirne, Bitlis/Tatvan, and Van, each with the capacity 400 persons, and reception and accommodation centres in Ankara and Erzurum, each with the capacity of 750 persons, and reception centres in Kırklareli, Kayseri, İzmir, Gaziantep and Van each with the capacity of 750 persons. Irregular immigrants, when apprehended, are settled in these centres with the approval of the Governor. The allegations concerning overcrowd is ill-founded. In Edirne, the number of irregular immigrants who are apprehended is constantly changing but daily figures change between 100-150 persons. When the number of irregular immigrants are above the capacity of the accommodation centre in Edirne, they are transferred to other cities. In this respect, it should be noted that 4,418 persons in 2011, 2,187 persons in 2012 were transferred to accommodation centres in other cities. The allegations of ill-treatment of the irregular migrants is also baseless. On top of other monitoring mechanisms, Committee for the Prevention of Torture closely monitors these institutions.

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

Reply to the issues raised in paragraph 21 of the list of issues

171. Turkey is not among the countries, referred to in article 8 paragraph 3 (a) (ii) of the Covenant, where conscientious objection to military service is recognized. Military service is compulsory in Turkey.

172. There is an ongoing debate in a variety of circles with regard to the possibility of providing a compulsory civil service as an alternative to military service. The result of this vibrant debate will determine the Government’s decision on this issue.

Reply to the issues raised in paragraph 22 of the list of issues

173. Turkey respectfully reiterates its position that Article 18 of the Covenant is not applicable to the cases of individuals refusing to undertake military service.

174. Furthermore, Turkey believes that providing the names of all concerned individuals without their consent, in a document which will be made public by the Committee would not be appropriate.

Reply to the issues raised in paragraph 23 of the list of issues

175. In line with the Constitution and the principle of secularism, religious communities, irrespective of the religion they represent, do not have legal personality. Equal citizenship is the basic concept defined by the Constitution of the Republic. All citizens, including non-Muslims are given the opportunity to set up foundations and/or associations. With regard to property rights, non-Muslim community foundations enjoy same rights with other foundations. Foundations can acquire and dispose of immovable properties.

176. With the objective of better protecting the property rights of non-Muslim community foundations, an amendment was made to the Law on Foundations was published in 2011.

177. The amended law provides that immovable properties of the non-Muslim community foundations that are registered with the 1936 Declaration with the 'owner' section left empty or registered on the Treasury, the General Directorate of Foundations, Municipalities and Special Provincial Administrations for reasons other than sale, barter or expropriation, as well as cemeteries and fountains registered on public institutions, will be entitled to be registered in the name of the non-Muslim community foundations upon application of the interested parties. Furthermore, market value of foundation properties currently registered on third parties will be paid.

178. The Law on Foundations, as adopted on 27 February 2008 had already enabled the registration of 181 properties in the name of the non-Muslim community foundations. The new amendment intends to address the situation of foundation properties which were previously not covered by the law.

Freedom of expression (art. 19)

Reply to the issues raised in paragraph 24 of the list of issues

179. There are no journalists, writers and political activists prosecuted “for their criticism of State institutions, particularly the armed forces or for critical comment on issues relating to Armenians, Kurds, conscientious objection to military service or themes related to sexual orientation and gender identity” in Turkey.

180. Freedom of expression and media are safeguarded by the Constitution and other relevant legislation in Turkey.

181. The great majority of the individuals referred to as “journalists and writers in prison in Turkey” are charged of being a member of, or supporting illegal armed terrorist organizations. In those cases, their imprisonment has no relation with their being journalist or writer.

182. The list of “imprisoned journalists” referred to in a statement (2 April 2012) by the OSCE Media Representative contains allegations which tend to confirm that the great majority of these individuals are detained for offences which cannot be considered as related to their activities as journalist or writer.

183. Turkey remains determined to expand the scope of the freedom of expression and will continue to address possible shortcomings in relation to freedom of expression and media. In line with this objective, the new measures intended to improve the effectiveness of the judiciary adopted by the Parliament in June 2012 include provisions that can be considered as an amnesty for press-related offenses affecting some cases about journalists in Turkey.

184. Concerning the compatibility of the Criminal Code with the Covenant, it must be noted that Turkish legislation is drafted with the objective of being in conformity with international treaties Turkey is party to, and that, according to Article 90 of the Constitution, international treaties on fundamental rights and freedoms shall prevail in case of conflict with the provisions of the national laws.

Reply to the issues raised in paragraph 25 of the list of issues

185. Individuals arrested on the grounds of their alleged membership of the “Kurdistan Communities Union” (KCK) are presumed innocent until their membership of this terrorist organization is proven.

186. Ragıp Zarakolu was released in April 2012 and Büşra Ersanlı was released in July 2012.

187. After the assassination of Hrant Dink, editor of the Armenian-Turkish language weekly Agos newspaper, Etyen Mahçupyan, journalist and writer, was provided with personal protection by the Governorate of Istanbul. However, upon the request of Mahçupyan, personal protection measures were removed.

188. Mahçupyan was informed that he could benefit from preventive law-enforcement measures and that he could apply to the Governorate of his province for such measures. However, Mahçupyan has not applied for this protection service.

189. Furthermore, upon the allegations in the media that he has received death threats, “close protection” measures have been put into practice in respect of another columnist at Agos newspaper, Baskin Oran. The decision to protect in respect of Oran is still in effect with one protection personnel.

Rights of minorities (art. 27)

Reply to the issues raised in paragraph 26 of the list of issues

190. Turkish constitutional system is based on the equality of individuals before the law, whose fundamental rights and freedoms are enjoyed and exercised individually in accordance with the relevant law.

191. “Minority rights” in Turkey are accorded in the framework of the Lausanne Peace Treaty (1923) which stipulates that 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.

192. The Turkish Government does not collect, maintain or use either qualitative or quantitative data on ethnicity. Although acknowledging that disaggregated data on ethnicity may facilitate devising policies for special measures targeting a specific group, as is the case in some other countries, it is believed that this is a sensitive issue, especially for those nations living in diverse multicultural societies for a long period of time. Diversity has deep roots in Turkey. Hence, Turkey has rather focused on commonalities and common aspirations in the legislative and policy framework, rather than measuring differences and making policies thereon.

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

Reply to the issues raised in paragraph 27 of the list of issues

193. Turkey is constantly improving the level of participation of different stakeholders including civil society representatives to its reporting process to UN human rights treaty bodies and other mechanisms.

194. Civil society representatives and other stakeholders have been extensively consulted in the preparation process of Turkey’s recent national reports for the human rights treaty bodies as well as for the Universal Periodic Review of the Human Rights Council.

195. All interested parties have contributed to the elaboration of Turkey’s initial report to the Human Rights Committee. Turkey’s examination by the Committee at its 106th Session is expected to be closely followed by interested civil society organizations.

196. Turkey believes that the growing interest by the civil society will help improving public awareness on the provisions of the Covenant as well as on the efforts to be made by Turkey to meet its obligations in accordance with these provisions.