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政治权利、经济、社会和文化权利，包括发展权

法外处决、即审即决或任意处决问题特别报告员赫里斯托夫·海恩斯的报

增编

国别建议后续行动：土耳其*

概要

本报告分析了土耳其在落实法外处决、即审即决或任意处决问题特别报告员赫里斯托夫·海恩斯于 2012 年 11 月 26 日至 30 日正式访问土耳其之后提出的建议(A/HRC/23/47/Add.2)的进展情况。特别报告员的访问报告的建议旨在进一步减少土耳其法外处决的发生率、打击有罪不罚和加强问责机制的整体运作。

在报告所述期间，由于安全人员过度使用武力造成的杀害事件和弱势群体成员遭到杀害的事件持续存在。国家采取的一些措施，包括起草一份增加警察使用武力的权力的法律草案，似乎是采取了倒退的步骤。土耳其政府已采取措施，试图减少家庭暴力，但力度还需要进一步加强并妥善加以执行。男女同性恋者、双性恋者和变性者依然特别容易遭受暴力侵害，在法律和实践中未受到保护。打击有罪不罚仍然是一个严峻的挑战，而且调查的有效性和程序冗长问题应得到解决。诉讼时效适用的后果和缺乏完全独立的问责机制进一步加剧有罪不罚现象。

* 本报告概要以所有正式语文印发。报告本身载于概要附件，仅以提交语文印发。

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Annex

[English only]

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns

Follow-up to country recommendations: Turkey

Contents

I. Introduction

1. The present report contains an analysis of the progress made by Turkey in implementing the recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, following his visit to the country from 26 to 30 November 2012. The country visit report (A/HRC/23/47/Add.2) was submitted to the Human Rights Council at its twenty-third session in June 2013.

2. During his visit to Turkey, the Special Rapporteur documented deaths resulting from excessive use of force by security officers; unlawful deaths from counter-terrorism operations; deaths in custody and in the context of the village guard system; and suspicious suicides of military conscripts and law enforcement officials. He noted the challenges to respect of the right to life by non-State actors; measures in the fight against impunity; and the role of human rights mechanisms in upholding the right to life.

3. The Special Rapporteur made recommendations in the following broad areas: protection of the right to life for vulnerable groups; the capacity of accountability mechanisms and the functional and operational independence of such mechanisms; law reform to ensure greater protection of the right to life; and awareness-raising campaigns and education to enhance protection of vulnerable groups, in particular lesbian, gay, bisexual and transgender persons.

4. At the time of the Special Rapporteur's visit, various reforms and measures aimed at increasing the protection of human rights and the right to life in particular were already under way. Since his visit, Turkey has made progress in addressing some of the concerns and recommendations that he had expressed. However, additional measures are still required to properly ensure the protection of the right to life of civilians and public officials alike. In particular, vulnerable groups remain at risk of violation of their rights and the perception and practice of impunity continues.

II. Methodology

5. In its resolution 26/12, the Human Rights Council urged States to, inter alia, cooperate with and assist the Special Rapporteur in the performance of his or her task, supply all necessary information requested by him or her and ensure appropriate follow-up to his or her recommendations and conclusions, including by providing information to the Special Rapporteur on the actions taken on those recommendations (para. 8).

6. In order to follow-up his country visit, the Special Rapporteur requested information from the Government of Turkey, and from other actors, on the steps taken to implement his recommendations. The Government responded on 28 October 2014, and a draft of the present follow-up report was submitted to the Government for comments on 19 March 2015. The Government submitted its comments on 20 April 2015.

7. The Special Rapporteur thanks the Government of Turkey for its response and comments on the present report and for providing information on the measures taken to implement the recommendations contained in his country visit report. He also expresses his gratitude to all stakeholders who contributed to the present report.

III. Violations of the right to life by State actors

A. Deaths resulting from excessive use of force by security officers

8. In his country visit report, the Special Rapporteur found that the Turkish legal framework surrounding possible deprivation of life in the context of use of force was insufficiently precise and could result in an overly broad interpretation of the conditions under which lethal force was permissible.

9. The Special Rapporteur recommended that Turkey amend article 17 of its Constitution to bring the formulation of the right to life into line with international standards, by providing that no one shall be arbitrarily deprived of his or her life (see A/HRC/23/47/Add.2, para. 95). The Special Rapporteur takes note of the information provided by the Government that article 13 of the Constitution provides that fundamental rights and freedoms may be restricted by law and in accordance with the reasons mentioned in the relevant articles of the Constitution.[1] A reading of articles 13 and 17 of the Constitution does not remove the risk that those provisions may be interpreted too broadly and the Special Rapporteur reiterates that the provisions of the Constitution should reflect the international understanding of the right to life, as set out in the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990)[2] and the Code of Conduct for Law Enforcement Officials (1979).[3]

10. The Special Rapporteur also recommended that the laws regulating the use of force by law enforcement officers be brought into line with international standards and that the terms "necessity" and "proportionality" reflect their interpretation under international law, whereby lethal force may only be used as a last resort to protect life (ibid., para. 96).

11. The Special Rapporteur notes with regret that, in its response of 28 October 2014, the Government indicated that it considered its normative regulations on the use of force to be sufficient. The Special Rapporteur expresses concern over reports received that, as part of the Internal Security Reforms Package, law enforcement officers will be granted wider powers to use force. The draft law to amend various articles of the Law on the Duties and Powers of the Police and articles of statutory decrees, which is currently before the General Assembly of the Turkish Parliament, provides for increased police powers without appropriate safeguards. It will allow the police to use firearms against individuals who attack or attempt to attack buildings, residences, workplaces, vehicles and other places where individuals or crowds are present, by using explosives, burning, suffocating, injurious or similar weapons. The draft law provides that firearms should be used with the aim of rendering the attack ineffective and to the degree required to render the attack ineffective; however, it does not contain the safeguards required under international human rights law, whereby lethal force may only be used to protect life. The draft law is in direct contradiction to the Special Rapporteur's recommendation and has been widely criticized.[4]

[1] Response from the Government of Turkey, 28 October 2014 (State response, October 2014), available for consultation in the files of the secretariat.

[2] Adopted at the eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana from 27 August to 7 September 1990.

[3] Adopted by the General Assembly in its resolution 34/169.

[4] Human Rights Watch, "Turkey: Security Bill Undermines Rights" (11 December 2014), available from www.hrw.org/news/2014/12/11/turkey-security-bill-undermines-rights; "Is Turkey Just Copying the EU in Increasing Police Powers?" (16 February 2015), available from www.hrw.org/news/2015/02/16/turkey-just-copying-eu-increasing-police-powers; and News24, "Fight breaks out in Turkish Parliament" (18 February 2015), available from

12. The adoption by the Council of Ministers of the Action Plan for the Prevention of Violations of the European Convention on Human Rights[5] is a commendable and welcome step.[6] The Action Plan aims to harmonize existing laws with the European Convention and to reduce violations of rights and thus the number of cases brought against Turkey before the European Court of Human Rights. Measures provided for under subheading 1.5, Prevention of the use of force and arms without the presence of legal requirements, include revision of the conditions for using force and arms regulated by Law No. 2559 on Duties and Powers of the Police, and other relevant legislation in respect of their compliance with the case law of the European Court and making necessary amendments thereto; ensuring training to law enforcement officers and other personnel on the use of firearms; and preparation of a guide setting out the conditions for the use of force and firearms in accordance with the standards set out in the case law of the European Court.

13. The excessive use of force by law enforcement officers during assemblies and arrest remains a serious concern, as does the use of tear gas and pepper spray.[7] The force used by the police during the Gezi Park protests in 2013 resulted in the death of nine civilians, including a 14-year-old child, and injury to more than 8,000 people, of which 104 people had sustained serious head injuries and 11 people lost an eye. The Special Rapporteur notes that the Action Plan was evoked in the cases of the *Oya Ataman Group*, application No. 74552/01 (lead), which was under the supervision of the Council of Europe Committee of Ministers.[8] The Special Rapporteur also notes the measures taken by Turkey, following the allegations of excessive use of force by the police during the Gezi Park protests.[9] The circumstances in which around 40 people, including children, died during demonstrations across Turkey in October 2014 are still under investigation.[10]

14. Incorrect or excessive use of "less-lethal" weapons has resulted in serious and permanent disability of a number of civilians in Turkey.[11] The Special Rapporteur recommended that security officers receive further training on the principles of necessity and proportionality, including on the appropriate use of methods other than lethal weapons (ibid. para. 98). In that regard, the Action Plan is again a welcome step, in particular the activities listed under subheading 2.1 on the proportionate use of force only when it is definitely necessary during meetings, demonstrations and arrest and police custody proceedings. The Special Rapporteur notes the Government's response that in-service training on "human rights and proportional force" and on the use of "less-lethal" equipment, devices and defence weapons is provided to riot-control officers.[12]

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http://www.news24.com/World/News/Fight-breaks-out-in-Turkish-parliament-20150218.

[5] See www.inhak.adalet.gov.tr/duyuru/ACTION%20PLAN%20ON%20PREVENTION%20OF.pdf.

[6] The Special Rapporteur would have liked to see a national action plan on human rights, with reference to international human rights standards.

[7] See also European Commission, "Turkey Progress Report" (October 2014), available from http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf.

[8] See www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp?CaseTitleOrNumber=Ataman&StateCode=TUR&SectionCode.

[9] See https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2572357&SecMode=1&DocId=2169188&Usage=2.

[10] See "Kurds protest in Turkey over besieged Syrian town", *Aljazeera America* (8 October 2014), available from http://america.aljazeera.com/articles/2014/10/8/kurds-protest-turkeykobaneisil.html.

[11] Amnesty International USA, "Gezi Park protests: brutal denial of the right to peaceful assembly in Turkey" (2 October 2013), available from www.amnestyusa.org/research/reports/gezi-park-protests-brutal-denial-of-the-right-to-peaceful-assembly-in-turkey; see also Human Rights Watch, "Turkey: End incorrect, unlawful use of teargas" (17 July 2013), available from www.hrw.org/news/2013/07/16/turkey-end-incorrect-unlawful-use-teargas.

[12] State response, October 2014.

15. The Government of Turkey stated that tear gas has been used legally by the police to suppress riots and other turbulent incidents and that its use in such events is regulated by the Law on Development, Production, Storage and Prohibition on the Use of Chemical Weapons (2006) (see A/HRC/23/47/Add.6, para. 8). The Special Rapporteur was also informed that advanced training is being provided to personnel responsible for giving orders to use tear gas, in March and April 2015 and he is aware of the Directive on the Operational Principles and Procedures Charged in Social Events that finds application across the State and is aimed at ensuring a proportionate use of force by the police. The Special Rapporteur also notes the call by the European Commission that non-compliance with the June and July 2013 circulars from the Ministry of the Interior on the use of tear gas by riot police and action taken in cases of social unrest should be consistently and immediately penalized.[13] The Special Rapporteur welcomes the proposed revision of and, if necessary, amendments to the Meetings and Demonstration Marches Act (Law No. 2911) to bring it in line with the case law of the European Court of Human Rights, as well as emphasis on the standards set out in the case law of the European Court on training provided to law enforcement officers.[14] Although the Special Rapporteur welcomes those measures, he is seriously concerned about the draft law to amend various articles of the Law on the Duties and Powers of the Police and articles of statutory decrees, as it will not address the concerns raised in relation to restrictions on the right to peaceful assembly, excessive use of force and concerns regarding public-order policing. It is unfortunate that the draft law contains provisions granting greater powers to the police with regard to searches and arrests, without providing for the requisite judicial oversight, and it will substantially widen the use of firearms by police, without the requisite safeguards.

B. Unlawful deaths in counter-terrorism operations

16. In his country visit report, the Special Rapporteur acknowledged that the fight against terrorism in Turkey presented a number of significant challenges, and he called on the Government to, in particular, amend article 2 of the Law on the Fight against Terrorism (No. 3713) to reflect the international interpretation of the principle of proportionality and to stipulate that lethal force shall only be used as a last resort where there is an imminent threat to life (see A/HRC/23/47/Add.2, para. 97). While that should have read as "additional" article 2,[15] he notes with regret that no amendment to reflect international standards has been made to additional article 2 of the law.

17. In its response regarding the implementation of the Special Rapporteur's recommendations, the Government indicated that in-service training on the use of non-lethal equipment, devices and defence weapons was organized for riot-control officers and that all training programmes dedicated at least two hours to human rights and the use of proportionate force. Other information received indicated that training on the principles of proportionality and necessity is conducted for security officers, but does not form part of the in-service training.

[13] European Commission, "Turkey Progress Report" (October 2014), p. 15 (see footnote 7) available from http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf.

[14] Turkey, "Action Plan for the Prevention of Violations of the European Convention on Human Rights", subheading 2.1.

[15] Additional article 2 of Law 3713 on the Fight against Terrorism provides that, during operations carried out against terrorist organizations, in case of disobedience to a call to surrender or an attempt to use firearms, security forces are entitled to the use of firearms towards the target directly and without hesitation, to the degree and proportion as to neutralize the threat.

18. In his report, the Special Rapporteur recommended that operations to counter terrorism must be in compliance with international principles; the use of force should be resorted to only when necessary and proportionate; civilian harm should be minimized; civilians should never be targeted; and injury or killing of civilians should be promptly and thoroughly investigated and, where appropriate, accountability should be sought (ibid., para. 99).

19. In its response to that recommendation, the Government of Turkey indicated that personnel rendering service in anti-terrorism units received basic anti-terrorism training and training in police defence tactics and methods of arrest and detention, and that a course on human rights was also included in the curriculum.[16] The Special Rapporteur was also informed that the personnel in charge of counter-terrorism units regularly participated in in-service courses to ensure that they protect rights and freedoms and respect human rights in the performance of their duties to prevent terrorist-related crimes.

20. With regard to the Uludere/Roboski incident, in which 34 civilians were killed in an aerial bombardment carried out by the Turkish Air Force in 2011, the Special Rapporteur called on the State to undertake, as a priority, an effective, prompt, impartial and transparent criminal investigation into the incident (ibid., para. 100). The Special Rapporteur notes with regret and expresses concern that no gendarmerie personnel have been prosecuted for that incident and that a verdict of non-prosecution was issued in January 2014 on the grounds that the armed forces had committed an unavoidable error while fulfilling their duties.

21. The Special Rapporteur also recommended that the Uludere Subcommission of the Turkish Grand National Assembly release its overdue final report without delay and ensure full transparency in its work by publishing the content of all the evidence used for its findings. In its response, the Government of Turkey indicated that the Subcommission had published its report on 27 March 2013, in which it explained that the findings of the Subcommission were based on aerial reconnaissance and interviews and that all evidence justifying the findings of the Subcommission were presented in the report.[17] The Special Rapporteur was informed that the report had been criticized for failing to pinpoint responsibility for the incident and that no administrative action had been taken against any individual for the incident.

22. The Special Rapporteur was also informed that human rights violations continued to occur in the context of counter-terrorism operations and that exercise of the right to freedom of assembly was often viewed by the Government as attempts to weaken the democratic order. In a positive step, Parliament recently adopted the Law on Ending Terrorism and Strengthening Social Integration, which provides for stronger legal grounds for the Kurdish settlement process and legal protection for members of the Kurdistan Workers' Party (PKK) who surrender arms.

C. Village guard system

23. The Special Rapporteur raised serious concerns about the village guard system operating throughout Turkey. Village guards have reportedly been involved in human rights violations, including violations of the right to life, and the lack of sufficient safeguards against potential abuses committed by village guards as well as their functioning outside of the standard training and disciplinary procedures applicable to law enforcement officers is of concern (ibid., para. 29). In its comments on the country visit report, the Government of

[17] State response, October 2014.

Turkey indicated that Law No. 442 on the Villages and the by-law of 2008 governed the village guard system and provided an efficient oversight mechanism (see A/HRC/23/47/Add.6, para. 11).

24. Nonetheless, the Special Rapporteur recommended that the Government abolish the village guard system (see A/HRC/23/47/Add.2, para. 102). In 2012, the Council of Europe Commissioner for Human Rights made a similar recommendation,[18] which was echoed during the universal periodic review of Turkey, in 2015 (see A/HRC/WG.6/21/TUR/3, para. 68). The Special Rapporteur notes with regret that no attempt has been made to abolish the village guard system and that village guards remain on active duty.

D. Deaths in custody

25. During his visit, the Special Rapporteur noted the positive measures taken to improve prison conditions and surveillance, which had contributed to a significant decrease in deaths in custody. Nonetheless, deaths in custody continue to occur, the majority after instances of torture or ill-treatment.

26. The Special Rapporteur recommended the establishment of a national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, without delay (see A/HRC/23/47/Add.2, para. 104). The Government stated that the Turkish Human Rights Institution was the designated national preventive mechanism pursuant to Decree no. 2013/5711 which was published in the Official Gazette on 28 January 2014.[19] While this may be seen as a positive measure, concerns have been raised about the independence of the Institution and its capacity, in terms of sufficient and trained staff and the budget to fulfil its mandate.

27. The Special Rapporteur called for prompt reporting of deaths in custody and independent and public investigations into such deaths. He urged Turkey to ensure that surveillance cameras in security and detention facilities were fully operational and that footage from the cameras was available immediately and in its entirety (ibid., paras. 103 and 105). In its response, the Government of Turkey stated that surveillance cameras had been installed in 97 per cent of detention facilities, in all the common areas, including interview rooms.[20] It also indicated that juvenile detention centres were being equipped with individual self-locking cells and centrally monitored camera systems.

28. The Special Rapporteur notes with concern reports that installed surveillance cameras are not always fully operational.

E. Suspicious suicides of military conscripts and law enforcement officials

29. The Special Rapporteur noted the large number of suicidal deaths of law enforcement officers and soldiers and was informed that, in some instances, the suicides may have been falsified or forced. In 2013, the Turkish Defence Minister revealed that between 2002 and 2012, more soldiers had committed suicide than those killed in the performance of their duties. It was reported that 601 soldiers of the Turkish Army were killed in conflict, while 965 soldiers were pronounced dead by suicide.

[18] See Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Turkey from 10 to 14 October 2011 (CommDH(2012)2), para. 147.

[19] See State response, October 2014.

[20] Ibid.

30. Concern was expressed that formal investigations were never brought, and when conducted, they were inadequate and did not result in the identification of perpetrators nor prosecution. The Special Rapporteur recommended that all cases of suicide in the military or security services be reported promptly, that they be independently and publicly investigated and that families and lawyers be provided with full access to information and sources of evidence (ibid., para. 103). In its response, the Government indicated that the relevant prosecutor was promptly informed of all cases of suicide within the general command of the gendarmerie in order to ensure that a judicial investigation is initiated, and that administrative investigations carried out in the relevant military units were examined by their legal advisers and the necessary steps are taken. All suicides are recorded and first-degree relatives are able to intervene at any stage of the investigations or prosecution.[21]

31. The Special Rapporteur noted failures in transparency in cases of suicide. He called for the establishment of an independent mechanism to receive complaints from the military and to ensure investigations are carried out (ibid., para. 106). The Special Rapporteur welcomes the report that the parliamentary Human Rights Inquiry Committee has started monitoring complaints from military conscripts of ill-treatment within the military service. The Government has also indicated that all military personnel are screened and interviewed by guidance and counselling centres and that a 24-hour hotline had been established for conscripts wishing to remain anonymous. Conscripts are referred to medical institutions for treatment as necessary and relevant follow-up procedures are carried out.[22]

32. The Special Rapporteur considers the activities for the prevention and effective investigation of suicides in the military as a welcome step in the protection of the right to life,[23] in particular, the determination of negligent executives in incidents of suicide in the military and measures to prosecute them.

33. Nonetheless, despite those positive measures, there is still no independent mechanism to handle complaints from military conscripts; ill-treatment continues; and lesbian, gay, bisexual and transgender persons remain particularly vulnerable.

IV. Challenges to respect of the right to life by non-State actors

A. Deaths resulting from attacks by armed groups

34. Attacks by various armed groups and acts of terror pose serious threats to the right to life in Turkey, for both law enforcement officials and innocent civilians. The State has a duty to protect civilians from such attacks; bring perpetrators to justice; and ensure that victims of such attacks and their families receive compensation.

35. The ceasefire agreement between the Government of Turkey and the Kurdish Workers Party (PKK) is an important step towards ending the three-decade conflict. The Special Rapporteur has, however, received information of continuing violence, including kidnappings and armed attacks that have resulted in the death of civilians and military personnel.

[21] Ibid.

[22] Ibid.

[23] Turkey, "Action Plan for the Prevention of Violations of the European Convention on Human Rights", subheading 1.1 (see footnote 14).

B. Deaths resulting from violence against women

36. Violations of the right to life of women in Turkey are a serious challenge and were extensively reported to the Special Rapporteur during his visit, especially in the context of domestic violence and "honour" killings.

37. The Special Rapporteur commended Turkey for ratifying the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention); enacting legislation on the prevention of violence against women; and making efforts to establish a national action plan to fight domestic violence. However, despite those efforts, bold steps are required to ensure the effective and swift implementation of the legal framework. The Special Rapporteur recommended that priority be given to improving the functioning of the protection orders system and establishing a mechanism to regularly monitor the functioning of the system (ibid., para. 112). The Special Rapporteur learned that a process was under way to update the activities in the National Action Plan for the period 2016 to 2019 and was aware that a cooperation protocol had been signed by relevant ministries for a pilot project to utilize technical surveillance with a view to combatting violence against women. In that regard, Turkey is also conducting an impact analysis study of Law No. 6284 on Protection of Family and Prevention of Violence against Women.

38. The Special Rapporteur recommended that security officers and members of the judiciary be investigated and held accountable for failure to act with regard to registering complaints and issuing and enforcing protection orders (ibid., para.113).

39. Although the 2005 Penal Code abolished de facto reduction of sentences for perpetrators of honour killings, uneven legal interpretation of article 82 of the Penal Code has resulting in perpetrators of honour killings receiving lighter sentences. Article 82 of the Code regulates crimes punishable by aggravated life imprisonment and refers to "custom killing" rather than "honour killing"; some courts have determined that honour killings do not fall within the scope of article 82. The Special Rapporteur recommended that article 82 be understood as including honour killings under "custom" and that there should be a uniform legal interpretation of that article in order to ensure that the highest penalty is always applied in cases of honour killings (ibid., para. 108). In its response, the Government indicated that Turkey was bound by the Istanbul Convention, which became effective on 1 August 2014 and provides for measures to be adopted to ensure that motives, such as honour, are not considered as an excuse for acts of violence.[24]

40. While the efforts to establish infrastructure necessary to minimizing violence against women are commendable, the rate of violence against women in Turkey remains very high. The violent murder of university student Özgecan Aslan, in February 2015, triggered demonstrations across Turkey protesting violence against women, and the State's failure to provide adequate protection to women and ensure prosecutions was brought to the attention of the Special Rapporteur. The Government undertook to adopt an action plan to address violence against women. It was also reported that 118,014 women had filed complaints with the police alleging violence in 2014 — a significant increase from the 82,205 complaints registered in 2013.[25] The Special Rapporteur called for continued awareness-raising campaigns and training of security officials and professionals of the judiciary on the rights of women (ibid., para. 114). In its response, the Government provided comprehensive information on the various measures currently being implemented in that regard. Public awareness-raising meetings were being organized at all levels throughout the State on Law

[24] State response, October 2014.

[25] See *Anatolian Agency*, www.aa.com.tr/tr/haberler/467680--siddet-goren-125-kadin-kimlik-degistirdi.

No. 6284 and its implementation, and other positive measures, including awareness-raising and training for State officials, have been undertaken.[26]

41. The Women's Shelter Project for Combating Domestic Violence (2014–2016) is aimed at strengthening and reinforcing activities to combat violence against women in 26 provinces, through the improvement of support services to women victims of violence. It is a capacity-building, training and cooperation project that addresses coordination and quality of shelter service provision, among others. Enhanced collaboration by central and local government bodies and local NGOs and strengthening capacity to combat violence against women are some of the expected results. The United Nations in Turkey has also supported training for judges, prosecutors, the police, armed forces and gendarmerie on gender equality, gender-based violence, international conventions and implementation of preventive and protective legislation.

C. Killings of lesbian, gay, bisexual and transgender individuals

42. The Special Rapporteur highlighted the vulnerability of lesbian, gay, bisexual and transgender persons in Turkey. The Special Rapporteur recommended that Turkey enact comprehensive and specific legislation on hate crimes in accordance with international standards and review legislation to include language sensitive to gender identity and sexual orientation (ibid., paras. 109 and 110).

43. Turkey indicated, in its response, that an amendment to article 122 of the Criminal Code, introduced in 2014, provides for hate crimes.[27] However, the Special Rapporteur notes with regret that sexual orientation has not been included as a ground.

44. The Special Rapporteur was also informed that a draft law on the establishment of an anti-discrimination equality board was still pending before the Office of the Prime Minister. It is unfortunate that references to gender identity and sexual orientation were removed from the bill in the early stages of drafting.[28] Turkey has yet to enact hate crime-specific legislation that is inclusive of gender identity and sexual orientation.

45. The Law to Protect Family and Prevent Violence Against Women is silent on gender identity and sexual orientation.

46. The challenges relating to the protection of lesbian, gay, bisexual and transgender persons are exacerbated by the attitude of some family members of such individuals, as well as the trend observed by the Special Rapporteur during his visit, whereby law enforcement officials and the judiciary seem to take a lenient attitude towards crimes committed against such individuals. In order to address those challenges, the Special Rapporteur recommended that awareness-raising campaigns and training should be launched on the rights of those individuals (ibid., para. 114). The Government of Turkey informed the Special Rapporteur that members of the judiciary were under an obligation to investigate and adjudicate crimes against lesbian, gay, bisexual and transgender persons.[29] Despite this, it appears that discrimination and lenient attitudes continue, in practice.[30] The Special Rapporteur notes with regret that no explicit training or awareness-raising

[26] State response, October 2014.
[27] Ibid.
[28] See European Commission, "Turkey Progress Report" (October 2014), p. 59 (see footnote 7).
[29] State response, October 2014.
[30] See, "Human Rights Violations of LGBT Individuals in Turkey", available from www.kaosgldernegi.org/resim/yayin/dl/upr_submission_on_lgbt_ppl_in_turkey.pdf.

campaigns in relation to the rights and protection of lesbian, gay, bisexual and transgender persons are taking place in the country.

D. Right to life of journalists

47. The Special Rapporteur highlighted the vulnerability of journalists based on information received about the risks faced by journalists in the performance of their activities. He recommended that all complaints of violence and death threats be promptly registered and effectively investigated, that a system to monitor the registration and investigation of such complaints be developed and, where there is sufficient evidence of violation, criminal investigations and prosecutions should be initiated (ibid., para. 111).

48. Commenting on the recommendation, the Government of Turkey highlighted the system of reporting and of investigating death threats under article 158 of the Turkish Criminal Procedure Code and Circular 10 from the High Council of Judges and Prosecutors. Those provisions require prosecutors to criminally investigate all allegations regarding death threats, regardless of the victim's willingness to file a formal complaint. The complaint is referred to the relevant administrative authority, which will provide protection to the individual. Disciplinary investigations are initiated if it is found that the administrative authority failed to provide such protection (see A/HRC/23/47/Add.6, paras. 33–36).

49. The Special Rapporteur welcomes the joint project by Turkey and the European Union to train approximately 400 new judges and prosecutors in "effective investigations".

V. Fight against impunity

A. Killings in the 1990s and mass graves

50. In his report, the Special Rapporteur noted that only a handful of trials have been conducted in relation to the thousands of unresolved execution-type killings, deaths in custody and enforced disappearances suspected to have been committed by State officials and members of the PKK during the 1990s The Special Rapporteur was informed, and other international bodies have also noted, the lack of a comprehensive approach to the right to remedy and reparation for victims of human rights abuses during that period.[31] The Special Rapporteur urged the State authorities to ensure that the killings that occurred in the 1990s are investigated in a transparent manner and that the perpetrators are brought to justice. He expressed concern at the discovery of mass graves, which are believed to contain the remains of victims of enforced disappearances and members of illegal militant organizations, dating back to the 1980s. The Special Rapporteur emphasized the importance of ensuring investigations into the graves, in conformity with the United Nations Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions (Minnesota Protocol).

51. The Special Rapporteur recommended the establishment of an independent body to investigate political killings that remain unaccounted for and to make recommendations regarding prosecutions and other transitional justice and accountability measures (see

[31] A/HRC/WG.6/21/TUR/3, para. 38; and CCPR/TUR/CO/1, para. 11.

A/HRC/23/47/Add.2, para. 115). The Human Rights Committee made a similar recommendation in 2012.[32]

52. The Special Rapporteur welcomed the Government of Turkey's comment that special prosecution offices tasked with investigating political and mass killings existed in 11 regions of the country (see A/HRC/23/47/Add.6, para. 37). However, he notes with regret that an independent investigatory body has not been established.

53. The Special Rapporteur also called for an urgent forensic investigation into the mass graves, in compliance with the Minnesota Protocol, and for the involvement of the families of the victims in said investigation (see A/HRC/23/47/Add.2, para. 116). In its response, Turkey indicated that on the application of the Şanliurfa office of the Human Rights Association, a delegation from the Turkish Human Rights Institution undertook on-site investigations in Şanliurfa and Siverek into allegations that human bones had been found during an excavation. A report of the investigation was published on the website of the Institution and sent to the relevant authorities.[33]

B. Effectiveness of investigations and length of proceedings

54. The Special Rapporteur stated that impunity for killings manifested itself in slow or inadequate investigations and prosecutions and was widely believed to be due to lack of political will, exacerbated by a deferential approach to the executive by prosecutors, as well as shortcomings in the independent and effective functioning of the judiciary, inadequate forensic services and lack of an independent complaints mechanism regarding law enforcement officials. He recommended that crime scene investigation procedures be improved and monitored so that violations by State actors are investigated independently and that the Forensic Medicine Institute be endowed with independence, and its capacity increased to conduct forensic and autopsy procedures in a swift, effective, impartial and transparent manner (see A/HRC/23/47/Add.2, paras. 58, 118 and 119).

55. The Government indicated that the Forensic Medicine Institute was subordinate to the Ministry of Justice, and that it carried out its work impartially. The participation of impartial experts assigned by parties was permitted and the Institute is a member of the European Network of Forensic Science Institutes (ENFSI). The Government explained that prosecutors tasked the Gendarmerie to conduct preliminary investigations where the crime is alleged to have been perpetrated by the Police, and vice versa. It stated that, in instances where both the Police and Gendarmerie are jointly implicated, the prosecutor would carry out the investigation and collect all the evidence (see A/HRC/23/47/Add.6, paras. 18 and 19). However, the Special Rapporteur was informed that, in practice, the same police or gendarmerie units alleged to have committed the violation often undertake the collection and recording of forensic evidence.

56. The Special Rapporteur notes that no reform has been undertaken in relation to the functioning of the Forensic Medicine Institute.

57. The Special Rapporteur expressed concern that the application of the statute of limitations for unlawful killings further aggravated the climate of impunity. He recommended that the statute of limitations be removed for all violations of the right to life (see A/HRC/23/47/Add.2, paras. 62 and 117). The Special Rapporteur welcomes the fact that the statute of limitations, due to a recent amendment, no longer applies to the crime of torture.

[32] CCPR/TUR/CO/1, para. 11.

[33] State response, October 2014.

58. The Special Rapporteur was concerned that the provision removing the statute of limitations for prosecution of torture would not be applied retrospectively, thereby limiting access to justice for thousands of killings and enforced disappearances that occurred in the 1990s. In its comment, Turkey indicated that prosecutors and judges, in accordance with the principles established in the jurisprudence of the European Court of Human Rights, were required to interpret the provision in a broad manner, which would ensure that the interpretation precludes the application of the provisions on statutory limitations for all acts considered as crimes against humanity, genocide and torture (see A/HRC/23/47/Add.6, para. 22). In the light of that information, the Special Rapporteur was concerned to learn that a military prosecutor had handed down the decision to close a case concerning the aerial bombardment by the Turkish Air Force in 1994 of two villages in the southeast, in which dozens of villagers were killed, on the grounds that the statute of limitations had been exceeded, despite the ruling by the European Court, which found violations of the right to life, and lack of an effective investigation. [34]

C. De facto immunity of public officials

59. The Special Rapporteur was concerned about the lack of clarity as to whether administrative permission was required from the relevant Governor in order to initiate legal proceedings against public officials in instances of unlawful killings. He recommended that, if no such administrative authorization was required, the Government should make that fact more widely known and that prosecutors should immediately cease the practice of waiting for such authorization before initiating proceedings (see A/HRC/23/47/Add.2, paras. 64, 65 and 123).

60. The Special Rapporteur was informed that initiation of investigations and prosecutions of law enforcement officials is still subject, in practice, to the requirement of administrative authorization.

61. The Special Rapporteur expressed concern about the unnecessarily slow pace of investigations and prosecutions of law enforcement officials, which seems to continue despite the concerns that have been raised.

62. The Special Rapporteur was informed that, in some cases, public officials suspected of having committed human rights violations have been promoted. He urged the Government to ensure that officials under investigation for a violation of the right to life are not allowed to remain on active duty nor receive a promotion (ibid., paras. 67 and 124). In its response, Turkey indicated that, under article 65 of the Personnel Law of the Turkish Armed Forces, military personnel suspended from duty or detained on remand may not be promoted, and further action is taken based on the outcome of the legal proceedings.[35] The Special Rapporteur is of the opinion that suspension of promotion and benefits should apply to all public officials suspected of having committed a violation of the right to life and should not be limited to those individuals who have been suspended from duty or detained on remand.

63. In his report, the Special Rapporteur highlighted the importance of creating an independent complaints mechanism to combat impunity among public officials. He acknowledged the Government's efforts to create such a mechanism, including the draft law on Law Enforcement Monitoring Mechanism 2012, but expressed concern about the

[34] European Court of Human Rights, *Benzer & Others* v. *Turkey* (Application no. 23502/06), judgement of 12 November 2013.

[35] State response, October 2014.

organizational independence of the commission to be created pursuant to the draft law. He urged Turkey to ensure the organizational independence and the impartiality of the oversight commission to be created, and recommended that a similar monitoring mechanism be established to examine complaints regarding all acts of the Turkish Armed Forces and the military duties of the Gendarmerie (ibid., paras. 62 and 125).

64. The Government of Turkey stated that the Boards of Inspection and Internal Monitoring Units attached to the General Command of the Gendarmerie examined complaints relating to the military duties of the Gendarmerie.[36] The Special Rapporteur welcomes the internal oversight procedures within the Gendarmerie, but again urges the Government of Turkey to establish a complaint mechanism that is both functionally and operationally independent to ensure accountability for the violations of the right to life. He notes that the Ministry of the Interior has taken some positive steps towards the establishment of an Independent Law Enforcement Complaints Commission in the context of the European Union pre-accession programme. However, concern remains regarding the independence of the Commission as it will be composed primarily of members from the Ministry of the Interior, as such close ties with the executive branch risks hampering the Commission's ability to execute effective oversight.[37]

D. Reprisals

65. In his report, the Special Rapporteur noted that the climate of impunity was reinforced by the practice of reprisals against witnesses, families of the victims and human rights organizations, by the filing of countercharges. Often the countercharge cases proceed more swiftly than the investigation into the original case. The Special Rapporteur recommended that Turkey take steps to reverse and stop the trend of reprisals against complainants and ensure investigation into and accountability for all cases of threats and coercion (ibid., paras. 70, 71 and 126). The Special Rapporteur continues to receive reports of reprisal action being taken against complainants of torture or ill-treatment.

66. The Special Rapporteur was informed of threats and intimidation against victims, their families, witnesses and human rights advocates, resulting in unwillingness on their part to participate in legal proceedings due to fear of harm. The Special Rapporteur urged Turkey to strengthen witness and victim protection as a priority (ibid., paras. 73 and 127).

67. The Special Rapporteur welcomes the implementation of the European Union Twinning Project on strengthening witness protection capacities in Turkey, through which witness hearing rooms are to be built for each court located in the main cities of 81 provinces. The rooms will allow for two-way simultaneous audio and visual transmission, which will allow the identity of the witnesses to remain anonymous and protect them from risk of harm.[38]

E. Prosecutorial and judicial discretion

68. Problems with accountability in Turkey are sometimes exacerbated by the inappropriate exercise of prosecutorial and judicial discretion. The Special Rapporteur

[36] State response, October 2014.

[37] See Biriz Berksoy, *Military, Police and Intelligence in Turkey: Recent transformations and needs for reform*, TESEV Democratization Programme, Policy Report Series (June 2013), p. 24, available from http://www.tesev.org.tr/assets/publications/file/01082013160934.pdf.

[38] State response, October 2014.

made recommendations aimed at overcoming some of those challenges and strengthening accountability measures, including that, in cases of unlawful killing, the prosecutor should always bring charges for killing and never for a lesser crime and should not misuse certain arguments to reduce sentences (ibid., paras. 75, 120 and 121).

69. The Special Rapporteur welcomes the clarification by the Government that prosecutors are required to act in accordance with the duties and powers entrusted by the Code of Criminal Procedure, and that it is not possible to bring charges for a lesser crime in instances of killing.[39] However, he is still concerned about reports received that public officials often receive lighter sentences when found guilty of torture, ill-treatment or even fatal shootings.[40]

70. The Special Rapporteur was informed that the practice of misusing arguments of mitigating factors continues, especially in relation to lesbian, gay, bisexual and transgender victims. The broad framing of article 29 of the Criminal Code without a definition or guidelines on the meaning of "unjust act" could allow for a subjective interpretation and abuse of the provisions of the article. With regard to lesbian, gay, bisexual and transgender persons, the courts sometimes reduce the sentence of the perpetrator by deciding that the victim's sexual orientation or gender identity itself constitutes an "unjust act".

71. The Special Rapporteur was also informed that accountability for violations to the right to life is further hindered by the workload and backlog of cases in the judicial system, which creates additional barriers to accessing remedies for violations. The Government of Turkey has taken various positive steps in that regard, including increasing the number of chambers and members of the Court of Cassation and the Council of State; creating district and regional courts of appeal (which are not yet operational); and improving the legal aid system.

VI. Role of human rights mechanisms in upholding the right to life

A. Creation of the Turkish Human Rights Institution

72. In his country visit report, the Special Rapporteur considered the creation of the Turkish Human Rights Institution as potentially an important step in strengthening the protection of human rights, including the right to life. However, there was concern about the independence of the institution. The Special Rapporteur underlined the importance of ensuring the independence of the Institution, in law and in practice, and recommended that the legal framework be reviewed to assess the level of conformity with the principles relating to the status of national institutions (Paris Principles) (see General Assembly resolution 48/134, annex) (ibid., paras. 82, 83 and 128).

73. The Government of Turkey provided a comprehensive outline of the measures that, in its view, are in place to ensure the independence of the Institution,[41] including the establishment of an independent institution vested with legal personality, and the administrative and financial autonomy to use its powers and perform its duties independently of any other body, authority or person. The Government stated that the functions of the Turkish Human Rights Institution included all those specified in the Paris

[39] State response, October 2014.

[40] See Amnesty International "Turkey: Ali Ismail Korkmaz convictions fail to bring justice", public statement (21 January 2015).

[41] State Response, October 2014.

Principles, namely, protection of all human rights, in particular civil, political, economic and social rights. It stated that the law establishing the Institution conferred upon it the powers and duties which enable effective communication with the social forces (of civilian society) involved in the protection and promotion of human rights to ensure the representation of those forces in the Institution in a pluralist manner. The Government emphasized that the Turkish Human Rights Institution is in compliance with the Paris Principles.

74. Nonetheless, there have been indications that the law establishing the Turkish Human Rights Institution is still widely regarded as falling short of the Paris Principles, especially in relation to its independence from the executive branch. United Nations human rights mechanisms have recommended that the law be amended to guarantee the organic and financial independence of the national human rights institution, in full compliance with the Paris Principles.[42] Concerns have also been expressed that the Subcommittee on Accreditation of the International Coordinating Committee of National Human Rights Institutions has not reviewed the Turkish Human Rights Institution, nor has the Institution requested a review.

B. Creation of the Ombudsman Institution

75. The Ombudsman Institution is accountable to Parliament and is tasked with receiving and investigating complaints and making recommendations on the functioning of the public administration. The Special Rapporteur considers the Institution as an important entity and urged the Ombudsman to uphold genuine commitment to protecting human rights and to conduct impartial and independent investigations.

76. The Government of Turkey stated that violations of fundamental human rights, including the rights of women, children and detainees were given priority by the Institution and that the Ombudsman played an important function in ensuring the accountability and transparency of the administration. It highlighted that complaints received by the Institution related mainly to public administration, education and training, labour as well as social security. As of September 2014, the Ombudsman had reportedly examined over 6,097 of 11,580 complaints received in its first two years of operation.

77. The Special Rapporteur recommended that Turkey consider amending the Law on the Ombudsman Institution to enable it to examine violations committed in all instances by the Turkish Armed Forces (ibid., para. 129). The law has not yet been amended to include such violations.

C. Role of other mechanisms

78. The Special Rapporteur recommended that Turkey consider ratifying the International Convention for the Protection of Persons from Enforced Disappearance and the Rome Statute of the International Criminal Court (ibid., paras. 130 and 131). Turkey has not yet ratified either of those international treaties. Turkey has reiterated its determination to ensure continued cooperation with the special procedures of the United Nations.[43]

[42] See CCPR/C/TUR/CO/1, para. 7; and A/HRC/WG.6/21/TUR/3, para. 14.

[43] State response, October 2014.

VII. Conclusion

79. **Turkey continues to face various challenges in relation to the protection of the right to life. Actions by State and non-State actors continue to pose a threat to the lives of innocent civilians and public officials alike. Vulnerable groups remain particularly at risk. The lack of fully independent mechanisms for accountability and the great challenges experienced in the judicial system feed into the practice as well as the perception of impunity in the country.**

80. **Despite the challenges, a number of positive measures have already been put in place. The Action Plan for the Prevention of Violations of the European Convention on Human Rights is a welcome initiative and should be fully implemented. Measures taken to protect women from violence and unlawful killings are a welcome first step, but they need to be fully implemented in order to ensure effective protection, in practice. Protection of other vulnerable groups, such as lesbian, gay, bisexual and transgender persons, is seriously lacking, in law and in practice. Law reform must continue to bring domestic laws into full compliance with international human rights standards. The continued commitment of the Government of Turkey to work with regional and international bodies to strengthen the human rights situation in the country is welcomed.**

Appendix

Summary of follow-up to each recommendation[44]

A. Violations of the right to life by State actors

1. **Turkey should amend article 17 of its Constitution to bring the formulation of the right to life in line with international standards, by providing that no one shall be arbitrarily deprived of his or her life or similar wording to that effect.**

This recommendation has not been implemented.

2. **The laws regulating the use of force by law enforcement officers (Law No. 2559 on the Duties and Powers of the Police; Law No. 2803 on the Organization, duties and Powers of the Gendarmerie, and related regulation) should be brought in line with international standards. Both proportionality and necessity are crucial components of these standards. The terms "necessity" and "proportionality" in these texts should reflect their interpretation under international law: lethal force may be made only as a last resort to protect life. Regulations on the stop warning procedure and on the proportionate use of less lethal weapons should be promulgated and conform to these standards.**

This recommendation has not been implemented.

3. **(Additional) Article 2 of Law No. 3713 to Fight Terrorism should likewise be amended to reflect the international interpretation of the term "proportionality" and should stipulate that lethal force shall only be used as a last resort where there is an imminent threat to life.**

This recommendation has not been implemented.

4. **Security officers should receive further training on the principles of necessity and proportionality, including on the appropriate use of methods other than lethal weapons.**

This recommendation has not been implemented.

5. **There can be no justification for human rights violations in the name of counter-terrorism measures. Operations to counter terrorism may resort to force only when it is necessary and proportionate, as defined under international human rights law. Civilian harm should be minimized and civilians never be targeted. Injury or killing of civilians should be subject to prompt and thorough investigation and, where appropriate, accountability.**

This recommendation has not been implemented.

6. **An effective, prompt, impartial and transparent criminal investigation into the Uludere/Roboski incident should be undertaken as a matter of great priority. The individuals responsible should be held liable and sanctioned accordingly. Responsibility should include those implicated in the chain of command, irrespective of their position.**

This recommendation has not been implemented.

[44] See A/HRC/23/47/Add.2, paras. 95–132.

7. **The Uludere Sub-Commission at the TGNA should release its overdue final reports without delay as well as ensure full transparency in its work and publish the content of all evidence used for its findings.**

This recommendation has been partially implemented.

8. **The Government should abolish the village guard system.**

This recommendation has not been implemented.

9. **All cases of suicide in the military or security services and deaths in custody should be reported promptly, as well as independently and publicly investigated to establish the actual cause of death. Families and lawyers should have full access to this information and to any other sources of evidence as well as the possibility for cross-check examinations.**

This recommendation has been partially implemented.

10. **The National Preventive Mechanism should be set up in line with Turkey's obligations under the Optional Protocol to the Convention against Torture.**

This recommendation has been implemented.

11. **It should be ensured that surveillance cameras are fully operational in all security and detention facilities, including at military custody sites, and their footage should be entirely and immediately available when it may provide evidence of abuse.**

Sufficient information has not been provided to enable assessment of progress.

12. **There should be an independent channel through which military conscripts can complain of abuse or ill-treatment and these cases should be investigated.**

This recommendation has been partially implemented.

B. Right to life and non-State actors

13. **There can be no justification under any circumstances for acts of terrorism. All groups engaged in terrorism should cease such activity with immediate effect.**

Sufficient information has not been provided to enable assessment of progress.

14. **Article 82 (k) of the Penal Code should be understood to include honour killings under "custom". Uniform legal interpretation of the provisions of this article should be provided to ensure the highest penalty is always applied in cases of honour killings.**

This recommendation has not been implemented.

15. **Turkey should enact comprehensive and specific legislation on hate crimes in accordance with international standards, in particular, articles 19 and 20 of the International Covenant on Civil and Political Rights.**

This recommendation has partially been implemented.

16. **To reduce the vulnerable situation of LGBT individuals, Turkish legislation should be reviewed to include language sensitive to gender identity and sexual orientation.**

This recommendation has not been implemented.

17. **All complaints of violence and death threats should be promptly registered by the security officers, as well as fully and effectively investigated. Turkey should**

develop a monitoring system on the registration and investigation of such complaints. Where there is sufficient evidence of violations, the professionals of the judiciary should be seized of the matter and should initiate criminal investigations and prosecutions, irrespective of the willingness or ability of the victim to lodge or maintain a complaint.

This recommendation has been partially implemented.

18. **Turkey should prioritize improving the protection orders system. Protection orders should be issued promptly and enforced effectively. There should be a mechanism to regularly monitor their functioning.**

This recommendation has not been implemented.

19. **Security officers and the professionals of the judiciary should be investigated and held accountable systematically in cases of failure of due diligence and inaction with regard to the registration of complaints as well as the issuance and enforcement of protection orders.**

This recommendation has not been implemented.

20. **Awareness-raising campaigns as well as training of security officials and professionals of the judiciary should continue with regards to the rights of women and gender equality, and should be launched on the rights of LGBT individuals.**

This recommendation has not being implemented.

C. Fight against impunity

21. **An independent body which enjoys wide public support and representation should be established to investigate political killings that are unaccounted for and to make recommendations regarding possible prosecution and other measures to promote transitional justice and a culture of accountability. The process of establishing such a body and determining its mandate should be open, transparent and inclusive. Allegations regarding mass graves and violations that occurred in the 1990s should be considered as falling within the remit of the institution.**

This recommendation has not been implemented.

22. **An independent and urgent forensic investigation into identified mass graves in south-east Turkey and other relevant parts of the country should be conducted in accordance with the Minnesota Protocol. Families should be thoroughly involved in this process and have access to victims' remains.**

Sufficient information has not been provided to enable assessment of progress.

23. **The statute of limitations should be removed for at least all violations of the right to life.**

This recommendation has not been implemented.

24. **Crime scene investigation procedure should be improved and monitored so that violations by State actors are investigated independently without the bias of colleagues or delay in official reporting.**

Sufficient information has not been provided to enable an assessment of progress.

25. **The Forensic Medicine Institute should be provided with institutional independence, as well as with an increased capacity to conduct forensic and autopsy procedures in a swift, effective, impartial and transparent manner. Parties to a legal**

proceeding should be able to present alternative evidence reviews. The possibility of presenting forensic reports performed by institutions that are not Government-affiliated should be fully ensured and facilitated.

This recommendation has been partially implemented.

26. **In cases of unlawful killing, the prosecutor should always bring charges for killing and never for a lesser crime.**

This recommendation has been partially implemented.

27. **"Unjust provocation" should not be misused as a mitigating factor in cases which involve alleged morality motives as a cause of killing, in particular in cases of honour killings and killings of LGBT individuals. "Good conduct" during legal proceedings should also not be used to reduce sentences in such cases.**

This recommendation has not been implemented.

28. **Positive developments introduced by the Third Judicial Reform Package should be implemented without delay to address the problem of lengthy judicial proceedings.**

Sufficient information has not been provided to enable assessment of progress.

29. **If it is indeed correct to say that law enforcement officials may be tried without administrative authorization, the Government should make this fact more widely known and prosecutors should immediately cease the practice of continuing to require such authorization.**

This recommendation has not been implemented.

30. **When a public official is the subject of investigation of a violation of the right to life, he or she should not be allowed to remain on active duty and should not receive promotion.**

This recommendation has been partially implemented.

31. **Care should be taken to ensure that the Law Enforcement Oversight Commission envisaged by the current draft law has organizational and not merely functional independence, including independence from the Government. A similar monitoring mechanism should be established to examine complaints regarding all acts of the Turkish Armed Forces, as well as military duties of the Gendarmerie.**

This recommendation has not been implemented.

32. **Steps should be taken to reverse and stop the trend of reprisals against those who lodge complaints. Investigation and accountability should be ensured for all cases of threats and coercion against witnesses, families, lawyers and non-governmental organizations. The practice of counter-charges should be ceased when it is used selectively against those who bring complaints.**

This recommendation has not been implemented.

33. **A stronger and effectively implemented protection programme should be prioritized to provide witnesses, victims and their families, and other parties that feel threatened with safe haven.**

This recommendation is being partially implemented.

D. Role of human rights instruments

34. **The independence of the THRI should be fully ensured in law and in practice. The legal framework for the THRI should be reviewed to assess the level of its conformity with the Paris Principles, and be aligned thereto. Consideration should be given to the inclusion of a reference to the THRI in the Constitution.**

This recommendation has not been implemented.

35. **Turkey should consider amendments to the Law on the Ombudsman Institution to enable to examine violations committed in all instances by the Turkish Armed Forces.**

This recommendation has not been implemented.

36. **Turkey should consider ratifying the International Convention for the Protection of All Persons from Enforce Disappearances and the Rome Statute.**

This recommendation has not been implemented.

37. **Turkey should further engage with the United Nations human rights system. Turkey should envisage engaging with the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.**

Sufficient information was not provided to enable assessment of progress.

38. **Turkey should also prioritize follow-up on the recommendations of the United Nations experts who visited the country, including implementation of the recommendations made by the Special Rapporteur on the independence of judges and lawyers, and earlier recommendations by the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on the promotion and protection of human rights while countering terrorism.**

Sufficient information was not provided to enable assessment of progress.