Written replies by the Government of Turkey to the list of issues to be taken up by the Committee on the Elimination of Racial Discrimination in its consideration of the third periodic report of Turkey (CERD/C/TUR/3)

Question 1: Please provide detailed data, or recent estimates, regarding the ethnic composition of the population and the socio-economic status of members of different ethnic groups. In the absence of quantitative information, kindly supply a qualitative description of the ethnic composition of the population in line with paragraph 8 of the general guidelines regarding the form and contents of reports to be submitted by State parties under article 9 of the Convention (CERD/C/70/Rev.5).

Question 8: Please provide information on any special measures adopted with regard to the protection of minorities which do not fall within the scope of application of the Treaty of Lausanne of 1923 and thus are not officially recognized (para. 28). (art. 2 (1) (a) and 2 (2)).

Question 1 taken together with Question 8:

Replies 1 and 8: The constitutional system of Turkey is based on the equality of all individuals without discrimination before the law, irrespective of their origins in terms of language, race, colour, ethnicity, religion or any other such particularity. Acts of discrimination are proscribed and penalized by law. In line with the fundamental principles of equality and non-discrimination, every Turkish citizen is an indispensable part of the Turkish national identity and culture. Diversity in origins of citizens is a source of richness in Turkish society. Every Turkish citizen can equally enjoy their fundamental rights and freedoms without discrimination.

Under Turkish constitutional system, the term "minorities" encompasses only groups of persons defined and recognized as such on the basis of multilateral or bilateral instruments to which Turkey is a party. Minority issues in Turkey are regulated in accordance with the Lausanne Peace Treaty of 1923. According to this Treaty, Turkish citizens belonging to non-Muslim minorities fall within the scope of the term "minority". The term "minority" cannot be used for Muslim Turkish citizens.

As stated in the report to the Committee, the Turkish citizens belonging to non-Muslim minorities enjoy and exercise the same rights and freedoms as the rest of the population. Additionally, they benefit from their minority status in accordance with the Lausanne Peace Treaty. In this context, they have places of worship, primary and secondary schools, foundations, hospitals and newspapers.

In this perspective, the Turkish Government does not collect, keep or use data – quantitative or qualitative – on ethnic backgrounds of its citizens. Hence, the Turkish Government does not possess quantitative or qualitative data, or estimates, regarding the ethnic composition of the population and the socio-economic status of members of different ethnic groups.

Question 2: Please provide data or recent estimates on the number of immigrants, asylum seekers and refugees and on their legal status. If possible, please provide this information disaggregated by nationality, country of origin and ethnic origin.

Reply 2: In 2008, a total number of 56,876 illegal immigrants were apprehended. Majority of the illegal immigrants were nationals of Afghanistan, Pakistan, Iraq and Palestine. Information disaggregated by nationality is provided in Annex 1.

As to the number of refugees in 2008, of 9,045 asylum applications registered, 3,555 were granted refugee status. Information regarding the nationality of the refugees is provided in Annex II.

Question 3: Section 90 of the Constitution provides that "International agreements duly put into effect bear the force of law". According to paragraph 111 of the Core Document submitted by Turkey, the provisions of international agreements prevail in the case of a conflict between international agreements in the area of fundamental rights and freedoms and the domestic laws. Please provide examples of cases, if any, in which the Convention has been invoked before the courts and the decision of the court in these matters.

Reply 3: Human rights training for State officials has become one of the main components of the efforts undertaken to ensure the implementation of human rights reforms. The Ministry of Justice is well aware of the importance of human rights training. One of the projects carried out to this end is the training of judges and prosecutors on the European Convention on Human Rights (ECHR) and the case-law of the European Court of Human Rights (ECtHR). The benefits of the training are clearly demonstrated in the judgments delivered by these judges and prosecutors. As such, they reported to have cited the ECHR and/or the case-law of the ECtHR in some 750 judgments. Thus, as training in international human rights law broadens the level of awareness and the number of references to international conventions on human rights increases accordingly. The Ministry of Justice has yet to collect data on the overall number of cases in which international human rights instruments including CERD were invoked.

Question 4: Please indicate whether Turkey intends to maintain its declarations and reservation to the Convention and, if so, explain the motivation for upholding them.

Reply 4: The justifications of the declarations and reservations made during the signing of international treaties or at the time of the delivery of ratification instruments may be re-examined by the authorities as circumstances require (As an example to such re-examination, the Turkish Government withdrew its earlier reservations to paragraphs 2 and 4 of Article 15 and paragraph 1 of Article 16 to the Convention on the Elimination of All Forms of Discrimination against Women). As of today, the Government has not announced any decision to withdraw any of its existing declarations or reservation to the Convention.

The Turkish Government is of the view that its declarations and reservation are permissible under international law and compatible with the object and purpose of the Convention.

According to international law, diplomatic relations could be established by mutual consent of the States (Article 2 of the Vienna Convention on Diplomatic Relations). Every sovereign State has the power and the discretion as to the recognition of a new State and establishing diplomatic relations with other States. As a consequence of this legal and political order, a State Party to an international legal instrument may deem it necessary and/or useful to inform other States Parties by means of a declaration on the scope of implementation of such instrument. Hence, Turkey's declaration regarding the implementation of the Convention only to the States Parties with which it has diplomatic relations does not amount to a reservation and should be considered in this context.

Taking into consideration some political allegations and their serious consequences in relation to the legitimate existence of Turkish Republic of Northern Cyprus, the Turkish Government deemed it necessary to make the following declaration with a view not to give rise to further political and legal problems:

> "*The Republic of Turkey declares that this Convention is ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied*."

According to Article 36/2 of the Statute of the International Court of Justice, the States Parties to the Statute may "at any time declare that they recognize as compulsory ***ipso facto*** and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court". The Turkish Government has not made such a declaration recognizing as compulsory the jurisdiction of the Court. Therefore, the Turkish Government does not consider itself bound by Article 22 of this Convention under which any dispute between two or more States Parties with respect to the interpretation or application of the Convention is, at the request of any of the parties to the dispute, to be referred to the Court for decision, and it states that its explicit consent is necessary in each individual case before any dispute to which it is party concerning the interpretation or application of this Convention may be referred to the Court.

Question 5: According to the report submitted to the Committee, Turkey has undertaken significant law reform programs aimed at eliminating discrimination. Please provide further information on strategies which have been developed or are envisaged to ensure that the new and/or amended legislation is interpreted and applied in a consistent and systematic manner by the courts and other competent authorities in order to ensure the equal enjoyment of rights throughout the country in practice.

Question 7: Please provide information on the implementation of any campaigns to promote knowledge of the Convention and the meaning of racial discrimination among the general public, non-governmental organizations, administrative authorities and the legal profession.

Question 5 taken together with Question 7:

Replies 5 and 7: Several informative and awareness-raising projects have been carried out throughout the country with a view to contributing to full implementation of the reforms undertaken in the field of human rights.

One of the main undertakings to this end is the execution of the project titled as the "Support for the Implementation of Human Rights Reforms in Turkey" project**.** It was financed by the European Union and implemented by the Human Rights Presidency of the Office of the Prime Ministry in cooperation with the Council of Europe. Within the framework of the project, the members of the Human Rights Boards and the Application and Counselling Desk Officials of the Boards attended 12 different seminars on human rights training. A total of 12,000 education sets including various education materials for the Boards were distributed. Four round table meetings on human rights issues were held with the participation of NGOs and the members of the Boards. Training seminars and working visits abroad to various national and regional human rights institutions were carried out for public authorities, judges and prosecutors within the activities of the Ministry of Justice and the Ministry of Interior. Besides general human rights issues the training activities focused on the principle of equality and the prohibition of torture.

Furthermore, an information file containing general information on the activities of the Human Rights Presidency and the Provincial and sub-Provincial Human Rights Boards as well as posters, brochures, books, TV spots and documentaries on human rights were prepared and distributed throughout the country. "International Symposium on the Implementation of Human Rights" was held in Ankara. Several panel discussions were organized throughout the Human Rights Day and Human Rights Week celebrations. Finally, 493 police officers from the Anti-Terror and Operations Divisions received human rights training and carried out working visits to various EU countries.

With a view to informing the public on issues such as principle of equality, prohibition of discrimination, prohibition of torture and raising human rights awareness in general among public officials and the members of the Boards, following projects were carried out: **"***Awareness-Raising on Human Rights and Democratic Principles", "Strengthening the Capacity of Provincial and Sub-Provincial Human Rights Boards: Training of Application and Counselling Desk Officials Project", "Strengthening the Capacity of Provincial and Sub-Provincial Human Rights Boards: Training of Application and Counselling Desk Officials Project".*

Within the framework of these projects, regional meetings and round tables with the participation of the civil society and numerous NGOs and the members of the Boards were held. Thousands of brochures, posters and books on human rights were distributed throughout the country.

In addition to the coordination of the above-mentioned projects, the Human Rights Presidency and the Provincial and sub-Provincial Human Rights Boards regularly carry out seminars, symposia, meetings, television programs and related activities on the principle of equality and the prohibition of discrimination, as well as comprehensive awareness-raising and training activities for public officials, NGOs, students, individuals. CDs, brochures, posters, books and booklets are distributed to the Turkish public with a view to contributing to the practical implementation of the reforms.

As stated in the Report, Turkey considers that the training of state officials, in particular the law enforcement officials and the members of the judiciary on human rights, is of vital importance for the promotion and the implementation of the reforms. Such training is also instrumental for expanding the awareness on and the application of international human rights instruments. Following are recent examples of efforts carried out to this end:

Military judges, prosecutors, legal consultants and the members of the military high courts were trained on human rights law, and in particular on the ECHR and the case-law of the ECtHR. As part of a protocol between the Ministry of Justice and the Ministry National Defence, the personnel of military prisons receive in-service training on human rights at the training centre in Ankara.

As for the staff of the Ministry of Justice, within the framework of the Joint Initiative of the European Union and the Council of Europe, 8,500 judges and prosecutors were trained on the ECHR and the case-law of the ECtHR. In cooperation with the Embassy of the United Kingdom in Ankara, another 4,500 judges and prosecutors attended human rights training. As a demonstration of the increased awareness in the realm of human rights, the ECHR and the case-law of the ECtHR were cited in about 750 judgments delivered by the judges and public prosecutors who attended human rights training. The figures are only indicative as these cases were sent to the Ministry of Justice by the judges and prosecutors themselves. The Ministry is yet to collect data on the overall number of cases in which ECHR and ECtHR were referred to.

Additionally, the Ministry of Justice continues to organize seminars and various training activities to increase human rights awareness and understanding among the judges and public prosecutors. (See table below)

TRAINING PROGRAMS FOR JUDGES AND PUBLIC PROSECUTORS ON HUMAN RIGHTS CARRIED OUT BY THE MINISTRY OF JUSTICE (OCTOBER 2007- MAY 2008)

Date	Topic	Venue	National/ International	Number of Participants
9-10 Nov. 2007	**Advanced Training on Human Rights under the project entitled "New approaches in the fight against crime in criminal justice"**	Ankara	National	75 Judges and Public Prosecutors
23-26 Sep. 2007	**Seminars on Strengthening Respect for Women's Human Rights Project with the support of Istanbul Bilgi University**	Istanbul	National	15 Judges of Family Courts and 15 public prosecutors.
13-14 Dec. 2007	**Freedom of Expression under the project entitle "New approaches in the fight against crime in criminal justice"**	Istanbul	National	100 Judges And Public Prosecutors
14-15 April 2008	**Implementation of Human Rights in prisons/Training of Execution Judges on Human Rights**	Bursa	National	110 Judges And Public Prosecutors
17-21 March 2008; 24-28 March 2008	**Seminar on European Human Rights Law, the Right to Fair Trial And the Right to Property**	Justice Academy	International	114 Candidate Judges

In the field justice and human rights, the following EU-funded projects are undertaken in Turkey:

- Judicial Modernization and Penal Reform
- Developing Probation Service in Turkey
- Better Access to Justice in Turkey
- Implementation of Human Rights Reforms in Turkey
- Towards good governance, protection and justice for children in Turkey

Overall, all public institutions are obliged to provide human rights training to all candidate civil servants. In this framework, candidate civil servants are informed on the principle of equality and the prohibition of discrimination.

As a final note about the work done on the elimination of discrimination throughout the country, the Ministry of Culture is planning to organize an exhibition that reflects Turkish people's experience of coexistence with different religions and cultures and their understanding of tolerance in the past and today within the framework of the project titled "The Culture of Coexistence From the Ottoman Era to the Republic".

Question 6: Please provide more information on the work of the Minority Issues Assessment Board established to address and resolve difficulties encountered by Turkish citizens belonging to non-Muslim minorities. In particular, please elaborate on its activities, methods of work and findings as well as any measures undertaken on the basis of those findings (para. 32).

Reply 6: The "Committee for the Assessment of Minority Problems" was established with the letter of the Office of the Prime Minister dated 05.01.2004 no. 3530. The Committee is responsible for the protection of the rights provided for non-Muslim Turkish citizens by multilateral or bilateral instruments to which Turkey is party as well as addressing their needs and/or requests and accordingly taking appropriate measures.

The first meeting of the Committee for the Assessment of Minority Problems was held on 12.03.2004; the second meeting on 28.04.2004; the third meeting on 10.05.2005 and the fourth meeting on 06.03.2007**.**

Question 9: The State report, in paragraph 49, refers to an implementation plan that will be drawn up by the Secretariat of the Alliance of Civilizations Initiative on the basis of recommendations made in the report of the High Level Group. Please elaborate on the measures which the State party proposes to undertake at the national level to implement the above-mentioned plan and their expected impact.

Reply 9: With its deep-rooted legacy of mutual understanding, multi-faith tolerance, dialogue and respect for other cultures and religions, Turkey acts as the co-sponsor of the Alliance of Civilization (AoC) Initiative. In an effort to curb the propensity for the deepening of the divide in the world, Spain and Turkey have, since 2005, been working on the AoC initiative. The Initiative aims at facilitating harmony and dialogue by highlighting the common denominator of different cultures and religions.

Turkey has drawn up an extensive National Plan for the promotion of cross-cultural dialogue. It is made up of 75 specific projects to be implemented by a wide range of state departments and civil society organizations in order both to implement the immediate objectives of the Alliance and to inform the Turkish public on the Alliance's objectives and principles. In other words, it is intended for emphasizing the merits of cross-cultural dialogue, tolerance and respect for diversity.

A copy of the Turkish National Plan is provided in Annex III. The Plan is also posted on the Alliance's official website (www.unaoc.org) to serve as a source of inspiration for other countries intending to prepare a similar plan.

The Turkish Plan will be reviewed at intervals, with a view to refining its objectives and the target audience.

Question 10: The report, in paragraph 71, states that Turkish citizens of Roma origin often face difficulties stemming from general problems of poverty and unemployment, which are related to inadequate living conditions, a low level of education, early marriages and irregular temporary employment. Please provide information on what research on the situation of Roma in Turkey has been carried out and whether special measures have been taken to ensure their full and equal enjoyment of human rights, in particular economic, social and cultural rights, and to discourage stereotyping of Roma. (art. 2 (1) (d), 2(2) 5 (e) and 7.

Reply 10: The constitutional system of Turkey is based on the equality of all individuals without discrimination before the law. The reform process has been carried out on the basis of the principle of equality and as all segments of the society; the situation of the Roma has also ameliorated.

With a view to enhancing economic growth, social development and increase employment, State Planning Organization is entrusted with the task of drawing up the framework of development plans. As such, development plans in Turkey are devised on regional and sectorial basis. Thus the strategy of development plans is to address the related needs on regional and sectoral basis, not by targeting any specific segment or group of the society.

With regard to discouraging stereotyping of Roma, connotations which might have been perceived as discriminatory in the definition of the term "Gypsy" in dictionaries and in the Law of Settlement were removed.

In terms of cultural activities, the Ministry of Culture and Tourism carries out various events such as exhibitions and festivals with a view to preserving and promoting the music, art and folklore of the Roma.

Please also refer to reply 17.

Question 11: Article 216 paragraph 1 of the new Criminal Code (No. 5237) prohibits incitement of enmity or hatred on the grounds of social class, race, religion, sect or regional difference in a manner which might constitute a clear and imminent danger to the public order. Please indicate whether this provision has been applied by the courts and to what effect, and provide information on the interpretation of this article by the prosecuting authorities and the courts.

Question 22: Please indicate whether there have been any court decisions concerning cases of racial discrimination and what has been their outcome. Please also provide information on remedies, including just and adequate reparation or compensation, available to victims of racial discrimination in the State party, and on their application in practice.

Question 11 taken together with Question 22:

Replies 11 and 22: Article 216 of the Turkish Penal Code (No.5237) states that:

> *"(1) A person who openly incites groups of the population to breed enmity or hatred towards one another based on social class, race, religion, sect or regional difference in a manner which might constitute a clear and imminent danger to public order shall be sentenced to imprisonment for a term of one to three years.*
> *(2) A person who openly denigrates a part of the population on grounds of social class, race, religion, sect, gender or regional differences shall be sentenced to imprisonment for a term of six months to one year.*
> *(3) A person who openly denigrates the religious values of a part of the population shall be sentenced to imprisonment for a term of six months to one year in case the act is likely to distort public peace."*

Following statements are taken from the explanatory memorandum of Article 216 to provide the basis for the interpretation of the article:

> "*The offence of "inciting the population to breed enmity or hatred" defined in the first paragraph (of the said article) exists in criminal codes of states governed by the high standards of the rule of law. No state should allow a group of population to shelter hatred and hostility against another, which might lead to violent hatred involving reprisal.*
>
> *In contemporary world, the freedom of expressing and imparting thoughts is regarded as the key element to advancement. In this connection, the ability to express thoughts in a free environment is a* sine qua non *for a democratic society. The definition of the above-mentioned offence is made in the light of this approach.*
>
> *Beyond abstract notions such as disrespect and rejection, the act of "incitement" which is the subject of the offence, should lead to development of hostile attitude towards a group of people or reinforcing such attitude in an objective manner. The perpetrator should also deliberately seek to incite a part of the society to breed enmity and hatred. In this context acts such as 'a mere standing away', 'acting in a way which displays an abstract disrespect or rejection' or 'speaking in such a manner' is not sufficient to constitute an offence. In order for the act to be of criminal nature, there should be a grave and intense incitement to hatred and enmity. The act of the offender should have an impact on a part of the society for developing the emotions of hatred and grudge or make these emotions stiffen.*
>
> *Hatred can be defined as "a psychological situation constituting the basis for hostile acts which entail taking revenge". Enmity can be defined as "a sense of hatred oriented to deliberately harming and defeating the subject to whom enmity is felt." Thus, hatred and enmity can be explained as "a psychological situation*

forming the basis for the acts which entail taking revenge and deliberately harming the subject towards which enmity is felt.

In order for an act to be considered within the scope of the Art 216 (1) it must be done in a manner that it endangers public security in concrete terms not in an abstract manner. This approach has been assumed in order to bring in the trend in the contemporary law aiming at downgrading the notion 'abstract endangerment' so that the scope of fundamental rights and freedoms are expanded. Against this backdrop, in addition to considering the meaning of the "hatred and hostility", only "the incitements including violence or suggesting violence" are to be covered within the scope of this article.

In order for this offence to occur, the danger of disruption of public safety should be based on concrete elements. The danger must be real. The realness of a danger can only be judged through the fulfilment of its possible results. In rendering his/her verdict the judge should explicitly cite the concrete elements which constitute the grounds of his/her judgement for an imminent danger. It is required to establish that the perpetrator's allegations and behaviours constitute an imminent danger to the public safety. The effect of perpetrator's speech and behaviours should form such an effect which shall justify the concerns that the actions which are the subject of incitement are to be executed by the public. A "clear and imminent danger" criterion must be used in judging the limits between the offence in question and the freedom of expression. Speeches delivered and thoughts expressed can be prohibited so long as they constitute a "clear and present danger" to the society. Unless the existence of such a danger is established on concrete and explicit basis, no punishment can be applied.

As the 2nd paragraph of Article 216 states, denigrating part of the society in respect to social class, race, religion, sect, gender and region constitutes an offence. In order for this offence to occur, an undefined number of people which constitutes a group of the population with differences on the above-mentioned grounds should be subjected to denigration. In this paragraph, in order to keep the public peace denigrating a part of the population is defined as an offence.

According to the 3rd paragraph of the Article, openly denigrating the religious values of a part of the population constitutes an offence. In order for the act to be punished it has to be "likely to distort public peace".

The Ministry of Justice, with a view to introducing new Turkish Penal Code (Law No.5237) which came into force on 1 July 2005 held seminars on "the Introduction of New Penal Justice System" with the participation of approximately 8500 judges and public prosecutors. "Assessment Meeting Regarding the Application of the Laws of New Penal Justice System" was held in 2006 with the participation of approximately 6000 judges and public prosecutors. The aim was to introduce the reforms and to establish a unity of implementation. Within the framework of these activities, "the offences against public peace" in the Turkish Penal Code which *inter alia* covers "the offence of inciting the population to breed enmity or hatred or denigration" was taken up separately.

The table below indicates the number of cases in which Article 216 has been applied by courts.

THE JUDGMENTS RENDERED IN RELATION TO ARTICLE 216/1 OF TPC

YEAR	JUDGMENTS RENDERED	Type of Judgment				Type of sanctions							The number of persons subjected to security measures
		The number of persons convicted	The number of persons acquitted	The number of persons in other judgments	Total number of persons accused	Imprisonment	Fine	Mixed	Sentence commuted to fine	Imprisonment commuted to security measures	Sentence suspended	Total	
2008	67	33	40	64	137	25	4	0	1	3	0	33	0

Question 12: Article 5 of the new Law on Associations (No. 5253), which entered into force in 2004, prohibits associations whose purpose is to "create forms of discrimination on the grounds of race, religion, sect or region or create minorities on these grounds, and destroy the unitary structure of the Republic of Turkey." Please indicate whether any associations have been prohibited on the grounds of this new provision and what sanctions have been imposed on the members of such associations. Please also elaborate on how the State party ensures that this provision will not be interpreted in a manner that would hinder efforts to address the concerns of groups protected by the Convention.

The above-mentioned provision appeared in the previous Law on Associations (no. 2908). The provision was abrogated with the current Law on Associations (no. 5253) that took effect on 23 November 2004.

As stated in paragraph 97 of the Report, current Law prohibits the establishment of associations advocating supremacy of a certain race. According to Article 30 (b) of the Law, associations shall not be established to realize objectives expressly prohibited by the Constitution and the laws or to commit criminal offences.

Persons who establish associations prohibited under article 30 (b) or executives of associations who act in contradiction to the said article, shall be sentenced at minimum to imprisonment for a term of one year to three years and a judicial fine. In such cases, the association in question shall be closed down.

Question 13: Please provide information on legal remedies currently available to foreigners awaiting expulsion, in particular asylum-seekers whose applications have been rejected, to challenge their detention, as well as on measures taken to avoid the arbitrary detention of foreigners, as recommended in the report of the Working Group on Arbitrary Detention (A/HRC/4/40/Add.5, 7 February 2007, para. 103). Please also provide information on the measures taken to ensure that allegations of ill-treatment of foreigners awaiting expulsion held in detention are effectively investigated and perpetrators prosecuted and punished. (art. 5 (b))

Reply 13: The procedures related to foreigners awaiting expulsion cannot always be conducted within the prescribed time. The procedures related to expulsion of an illegal

immigrant from a neighbouring country can be conducted without delay whereas such procedure may take longer for the citizens of some other countries.

The main reasons for potential delays are as follows:

- Almost all illegal immigrants lack a valid passport or a document which can substitute a passport,
- Certain source countries have no diplomatic representation in Turkey,
- Even if there exists a diplomatic representation, the verification of identity documents or obtaining information about the foreigners themselves or their documents either take a long time for various reasons or is not possible at all.

Under these circumstances since the releasing of the foreigners may have adverse consequences for the public order and well-being along with some other additional risks, it is essential that they are kept under custody until the proceedings conclude. Therefore, illegal immigrants awaiting expulsion are provided with shelter in restitution centres similar to the other European countries' practices.

The Article 23 of the Law on Foreigners Travelling and Residing in Turkey (No. 5683) regulates the issue of providing shelter for illegal immigrants. It states that "*Those who are ordered to leave Turkey but cannot do so due to a failure to acquire a passport or any other reasons should reside at a place designated by the Ministry of Interior*". Accordingly, foreigners awaiting expulsion stay at the designated places until the proceedings related to their deportation are completed. Hence the accommodation of the rejected asylum seekers and the illegal immigrants awaiting expulsion in the restitution centres *is not an act detention* in accordance with the above-mentioned article of the law. This is merely an administrative procedure for foreigners whose deportation proceedings are underway.

The prolongation of their stay in the restitution centres due to the problems related to delays in the preparation or verification of the documents can cause some cases of disobedience/misbehaviour on the part of these foreigners. However, this problem cannot be attributed to the Turkish authorities, since these delays are caused by the identity clearance procedures of the source countries of which they are citizens. Furthermore, there are no claims of ill-treatment or related investigation of the foreigners staying in these restitution centres.

Question 14: Please provide information on the representation of ethnic minorities in the parliament, judiciary and governmental institutions. (art. 5 (c))

Reply 14: As explained in the Government's response to question no. 1, the constitutional system of Turkey is based on the equality of all individuals without discrimination before the law, irrespective of their origins in terms of language, race, colour, ethnicity, religion or any other such particularity. Acts of discrimination is proscribed and penalized by law. In line with the fundamental principles of equality and non-discrimination, every Turkish citizen is an indispensable part of the Turkish national identity and culture. Diversity in origins of our citizens is a source of richness in Turkish society. Every Turkish citizen can equally enjoy their fundamental rights and freedoms without discrimination.

In line with the above view, the Turkish Government does not collect, keep or use data, quantitative or qualitative, on the representation of ethnic minorities in the parliament, judiciary and governmental institutions.

Question 15: Please provide information on any measures undertaken or envisaged to facilitate the return of refugees, in particular Kurds from South-East and East Turkey, currently residing in refugee camps in Iraq. (art. 5 (d) (ii))

Reply 15: The question relates to the Makhmour Camp which has been under the control of the PKK/KONGRA-GEL terrorist organization for many years. The terrorist group recruits its militants from the inhabitants of the camp, uses its facilities and at times, even stores its ammunition and weaponry at this spot. Shutting down Makhmour Camp and thus depriving the terrorist organization from a safe haven in northern Iraq has been a primary objective for Turkey. The UNHCR declared in 2005 that, under the pressure and control of the terrorist organization, the Makhmour Camp had lost its humanitarian character. Accordingly, Turkey welcomed and participated in the process launched by the UNHCR, together with the USA, of closing the camp down. In this context, a Voluntary Repatriation Agreement along with a Security Requirements Plan was negotiated between Turkey, UNHCR and the US officials. Full implementation of both arrangements is of key importance.

Question 16: Please provide more detailed information on measures taken to encourage the voluntary, safe and sustainable return of internally displaced persons of non-Turkish minorities to their former places of residence, in particular to South-East and East Turkey, and to address difficulties faced by them, such as in access to employment, housing and restitution of property, health care and social protection. (arts. 5 (d) (i) and 5 (e) (i), (iii), (iv))

Reply 16: The root cause of internal displacement in Turkey has been the scourge of terrorism. The Turkish Government attaches great importance to the successful return of the displaced citizens on a voluntary basis. In this regard, the **"Return to Village and Rehabilitation Project" (RVRP)** was launched in 1994.

The RVRP was launched for the families who had to leave their villages in Eastern and South-Eastern regions mainly for security and various other reasons. The project aims at settling the families wishing to return on a voluntary basis to their former places of residence or to other places suitable for settlement. In order to ensure a smooth and effective return, the project takes a holistic approach and aims to establish the necessary social and economic infrastructure and provide sustainable living standards. As for the families who do not wish to return, the project seeks to improve their economic and social conditions at their current places of residence and ease their adjustment to urban life.

The RVRP has been implemented in 14 Eastern and Southeastern provinces, namely Adıyaman, Ağrı, Batman, Bingöl, Bitlis, Diyarbakır, Elazığ, Hakkari, Mardin, Muş, Siirt, Şırnak, Tunceli, Van.

As of October 2008, offices of the Governors in the above-mentioned 14 provinces reported that 151,469 citizens from 25,001 households returned to their former places of residence. So far, equivalent of approximately 47,019,528- € has been spent on the project. (Disbursements from the budgets of ministries such as Education and Health are

not included in this figure). The amount was allocated to infrastructure investments on roads, water, electricity and sewer system; repairing and rebuilding facilities such as schools and health clinics; construction materials for building homes; implementation of social projects and organizing workshops for work and labour.

RVRP is implemented in tandem with another project that emanates from the **2004 Law on the Compensation of Losses Resulting from Terrorist Acts and the Measures Taken against Terrorism (Law no. 5233)**. In a June 2004 judgment (*Doğan v. Turkey*), the European Court on Human Rights (ECtHR) had decided that villagers should be able to return to their villages evacuated for security reasons during the anti-terror effort of early 1990s. The 2004 Law on Compensation is a direct result of the Turkish Government's effort to find a general and efficient remedy to the problem indicated in the ECtHR judgment. Once the Law was enacted and the Damage Assessment Commissions were in place, the effective domestic mechanism started working in line with the guidelines provided by the ECtHR.

Upon observing this development, the ECtHR evaluated the domestic mechanism as an efficient remedy and in its *İçyer* judgement of January 2006, the ECtHR formally issued this evaluation and asked the applicant to apply to the domestic mechanism created by the Turkish Government. As such, the Court clearly confirmed the efficiency of the Turkish domestic remedy introduced within the context of the implementation of the 2004 Law on the Compensation of Losses Resulting from Terrorist Acts and the Measures Taken against Terrorism.

It should be noted that the *İçyer* inadmissibility decision is the first of many such that helped clear a waiting list of at least 1,500 similar applications pending before the Court.

The domestic remedy introduced by the Turkish authorities in cooperation with the Court on return-to-village applications is a clear demonstration of how the Court and States can operate in synergy to prevent human rights violations and lighten the workload of the Court.

The Committee of Ministers of the Council of Europe during its meeting on 17-18 September 2008, adopted a final resolution stating that Turkey has taken all necessary measures in relation to the implementation of the *Doğan* case and decided to close the examination of this issue. It is important to note that the *Doğan* is a milestone judgment that led to the *İçyer* decision.

Until now, 360,000 applications have been submitted to the compensation commissions. Of those, 150 thousand were reviewed, 97 thousand of which were awarded compensation. As of November 2008, a total of 770 million TL (approx. 335 million €) have been paid out to the applicants as just satisfaction.

Finally, **"Support for the Development of an IDP Program in Turkey project"** has been implemented in cooperation with the UNDP. The project has four components, namely providing technical support and advice to the government-funded qualitative and quantitative survey undertaken by Hacettepe University's Institute of Population Studies; providing capacity building, awareness-raising and training for civil society partners to enable them to provide more effective support to IDPs and advocate for their rights based on the UN Guiding Principles; responding to Government and UN Country Team needs

for technical and other expertise on a demand basis; and initiating and developing a provincial level pilot for a "service delivery" model to ensure that responses by government, NGOs and other relevant stakeholders address the social service needs of IDPs who choose to return to their former places of residence as well as those who choose to integrate into a new city.

Among such initiatives, the following may be cited:

- Organisation of two workshops and preparation of a “train the trainers” workshop for the civil society to develop capacity within Turkey, which was previously limited to raising awareness and training to NGOs and communities related to human rights and service delivery for IDPs;
- development of a policy paper outlining critical areas for NGO engagement which underlines possible policy lines for the NGOs, public authorities, and international organizations to increase productive cooperation on IDP related issues;
- dissemination of the UN Guiding Principles, its Annotations, and a Summary in Turkish to more than 8,000 individuals or organizations throughout Turkey;
- provision of Technical Support to the Ministry of the Interior to develop a “Valuation Matrix” approach for a more systematic and effective implementation of the Law on Compensation, drawing on concrete international experiences from Bosnia and Germany provided at a UNDP-organized training and benefiting from the technical expertise of the International Organization of Migration and the Brookings Institution-University of Bern Project on Internal Displacement;
- provision of technical support and facilitation of consultative mechanisms for the development of a provincial level “Van Action Plan for Service Delivery” in Van Province, near the border with Iran, to ensure that response by government, NGOs, and other relevant stakeholders address the social service needs of IDPs who choose to return to their former places of residence as well as those who choose to integrate into a new community are among these initiatives.

The second phase of the Project will comprise of providing technical support to the Damage Assessment Commissions on demand basis and replicate Van process in the 13 remaining provinces where Return to the Village and Rehabilitation Project is implemented.

Moreover, as an indication of Turkey’s commitment to international cooperation, Prof. Walter Kälin, Special Representative of the UN Secretary-General on the Human Rights of IDPs, has visited Turkey four times in a period of 19 months, in May 2005, February 2006, September 2006 and December 2006. These visits enabled Prof. Kälin to meet the representatives of the relevant public institutions, observe the issue in the field (in Van) and exchange opinions with a wide range of Turkish NGOs, as well as Governors and Deputy Governors of the East and Southeast regions.

During and after these visits, Prof. Kälin announced that he was pleased with the steps that are being taken and with the overall approach of our government vis-à-vis the IDPs. He further reiterated his satisfaction for the open-minded efforts of the Turkish Government leading to concrete results, and with regard to these steps and overall approach, named Turkey as an example for all the countries bearing IDPs.

Question 17: Please provide information on the urban transformation projects initiated after the entry into force, in 2005, of the Urban Renewal Law No 5366, many of which allegedly resulted in the destruction and dislocation of Roma communities throughout Turkey. In particular, please indicate how the Roma community has been involved in the projects, how their concerns have been taken into account in planning and implementing the project and whether adequate alternative housing has been provided to those concerned and/or whether they have received any compensation for the loss of their property. Please also provide more information on the transformation project initiated in November 2007 that foresees the transfer of Roma population of Sulukule to social housing at the Tasoluk district. (arts. 5 (d) (v)) and 5 (e) (iii))

Reply 17: Sulukule is a small part of Neslişah District. This area corresponds to only % 20 of the whole renewal project area, which is approximately 90.000 m² in total. All the right holders in the project area are treated in a fair, transparent and equal manner.

On 19 October 2005, the Municipality of Fatih declared Neslişah and Hatice Sultan Districts as "renewal area" pursuant to the "Law on the Protection by Renewal and Use through Survival of Historical and Cultural Immoveable Objects which are Eroded" No. 5366. This decision was endorsed by the Metropolitan Municipality of İstanbul on 9 January 2006 (Decision No. 26) and was conveyed to the Council of Ministers for approval. The declaration of project renewal area subsequently came into effect following the approval by the Council of Ministers on 3 April 2006 (Decree No. 2006/10299 and the President, which was promulgated in the Official Gazette of 13 December 2006.

On 13 July 2006 the "Protocol on the Project and Works for the 1st Group No. 2 Renewal Areas of Fatih District in İstanbul" was signed between the Housing Development Administration, the Municipality of Fatih and the Metropolitan Municipality of İstanbul. The purpose of the Protocol is to clear the slump areas formed due to the prevalence of ruined, broken-down and squatter settlements with low urban standards as well as slums within the jurisdiction of the Municipality of Fatih with a view to establishing an urban area with modern standards, while preserving its historical formation. The Protocol also envisages a consensual settlement of possible conflicts which may arise with the right holders in the renewal area.

Mutual consent in the renewal area is the main principle. In the event that an agreement cannot be reached and the regular expropriation process would delay the implementation of the project, authorization may be granted for a "speedy expropriation" according to the domestic legislation. This procedure is not only limited to situations of "national defence" and "cases of emergency" under the Expropriation Act No. 2942. Indeed, Article 27 of the Act No. 2942 allows for speedy expropriation in "extraordinary circumstances foreseen in special laws". Law No. 5366 is a special law which is applicable in the case of the renewal project for Neslişah and Hatice Sultan Districts. Paragraph 4 of Article 24 of the Regulation on the implementation of the Law No. 5366 states that "In cases which the regular expropriation process will delay the implementation of the project (and an agreement cannot be reached with the right holder), speedy expropriation may be authorized under Article 27 of the Act No 2942." In this regard, such an expropriation procedure was authorized by the Council of Ministers on 19 October 2006 (Decree No. 11296), which was promulgated in the Official Gazette dated 13 December 2006 following the approval of the President. However, this decision has not been enforced due to the suits of nullity initiated before the administrative courts.

So far, it has been possible to reach a mutual agreement with 520 owners out of 620 and with all the tenants (340 persons in total) living in the renewal area. Whereas, verbal contracts have also been concluded with the rest of the owners due to the fact that settlements of inheritance and transfer claims are being awaited in order to proceed with the written contracts.

The right holders who sign contracts, submit a petition for demolition after they evacuate the property so that it is not occupied by others. Such properties are checked (in situ) whether it is inhabited or not. If the property is inhabited by people, then their status is determined in order to find out whether they are occupiers or tenants. If they are tenants, who have previously claimed accommodation in the apartments being built in Taşoluk, then they are given opportunity to live in the property until their evacuation. If the tenant has not claimed accommodation as such, then he or she is allowed to stay in the property until the schools are closed.

Unfortunately, illegal occupiers have managed to move into some of the evacuated houses. Legal proceedings have been initiated against such occupiers and in some instances the demolition work has been carried out under article 3 of the Law No. 5366 as a priority. The local people have lodged complaints against such illegal occupiers.

No registered, listed or qualified property has been demolished in the area. On the contrary, one of the purposes of the project is to preserve the registered and qualified historical and cultural properties in the area.

The whole district of Fatih is under the earthquake risk of first degree. The region is particularly vulnerable since almost all the premises are old, ruined and shabby. Prior to the project, an assessment study was undertaken, as a result of which it was established that 439 buildings were heap, 75 reinforced concrete, 56 wooden and 4 other types of construction such as heap and wooden). 410 buildings were in very bad shape, 3 in good shape, 155 medium, 5 ruined and 1 torn down. Most of these constructions have completed their economic and durability life due to lack of proper care, hence, carry a certain degree of risk.

A notice for evacuation was sent to the right holders in the region. However, the evacuation period was extended until the schools were closed and the tenants were transferred to new houses. No complaint has been received during this process. The relationship between the property owners and tenants is beyond the authority of the Municipality of Fatih. If a complaint is lodged with the Municipality concerning disputes arising from the owner-tenant relationship, the authorities can only offer good offices for the resolution of such disputes. All the owners and tenants are entitled to housing within the framework of the project. In this vein, conclusion of agreements with the rights holders has entered into its last phase. Furthermore, the demolition work can only take place once the right holders submit their petitions for demolition to the municipal authorities.

After the region was declared as “renewal area”, consultations with the right holders in the region were organized two times a week for a period of two months. During the process, the expectations, requests, suggestions and claims of the right holders were duly identified and the project was developed accordingly. Consultations with local people

continued during the development phase of the project, thereby, allowing necessary adjustments and revisions to be made in the project.

In June and July 2006, consultative meetings with the rights holders were organized in the premises of the Municipality of Fatih. Furthermore, the Directorate of Research Project of the Municipality of Fatih continued to have regular briefings and exchanges with the right holders from September 2006 to September 2007. The owners are provided with new houses within the project area, whereas tenants are entitled to new apartment flats in other parts of İstanbul. Both the owners and tenants receive monthly financial aid until the project is completed.

The project does not reflect the needs and expectations of only one specific group. It was developed on the basis of the general expectations and preferences of the local people. The project houses are two-storey buildings with open internal courtyards paved with stones. This style of construction is based on the preference of the Romani community. The prices of the houses were paid to the owners in advance. As for the remaining debt, in cases which the price of the new houses exceed that of their old properties, the right holders have been provided with flexible payment conditions. They are expected to begin their monthly payment (for a period of 180 month term), once they move to their new houses. On the other hand, if the owner is credited then he or she receives full payment in advance.

The prices of project houses were determined according to the price of the existing immoveable property plus the cost price of the construction. For instance, the price of a 100m2 house is 90,000 TL (approximately 73,530 US Dollars). The price of the new project house, which the owner will be provided in return, would be 125,000 TL (approximately 102,124 US Dollars). The remaining amount, which the owner is expected to begin paying once he or she moves to the new house, would be 35,000 TL (approximately 28,594 US Dollars). Its monthly payment corresponds to 195 TL (approximately 159 US Dollars). The rental income from the old house ranges from 250 to 300 TL per month (204-245 US Dollars), while the project houses will produce a monthly income of 1000 to 1500 TL (approximately 817 to 1225 US Dollars). Therefore, the right holders expect the project to be completed as soon as possible. The right to ownership is safeguarded in the Constitution. There is no obstacle for right holders to transfer their properties and to purchase new ones. So far, transfer of ownership within the framework of the project has not been on a large scale as suggested by some. Indeed, the recent data from the Directorate for Registry of Title Deeds shows that the transfer of ownership in the area is only 30 percent to date. Most of them were indeed hereditary transmissions.

Prior to the project, the Municipality of Fatih instructed the University of İstanbul to conduct a census in order to prepare a comprehensive assessment on the physical, social, cultural, demographic, economic and settlement conditions in the area. According to the findings of the census, the number of families living as tenants in the project area was established as 303. However, it was later found out that some of the tenants were not at home when the survey was conducted. In order not to exclude these people from the project, this process was extended until the end of 2007. The new deadline was repeatedly announced by the local authorities. Therefore, the number of tenants has risen to 340 according to the extended assessment. All of them had the opportunity to participate in the housing lotteries that were conducted in the presence of a notary public. The local families who had the status of tenants and occupiers when the project began in the

renewal area, are entitled to housing attribution within the framework of the project. No family with such a status has been excluded from the project. It has been recently decided that those families who are able to prove that they were tenants when the project began, are now recognized as having entitled to tenancy rights. The housing attribution contracts with the tenants are indeed free of charge. After the lotteries were organized, a total of 8 tenants applied to the banks instead of the Municipality of Fatih in order to sign contracts. They were requested to pay stamp tax by the banks for this transaction. The Municipality of Fatih immediately intervened after this situation was brought to its attention. Therefore, the Municipality once again announced to the local people that the contracts were to be signed with the municipal authorities and not with the banks. So far contracts have been concluded with almost all the tenants for the attribution of apartments in Taşoluk district. These apartment flats have been allocated to tenants without any pre-payment. They are expected to begin their monthly payments (for a term of 180 months, corresponding to 15 years) once they move to their new flats.

This project is designed to meet the expectations of the local people for better living standards and will contribute to their physical, socio-economic and cultural development. The project aims to preserve the historical street silhouette and is consistent with the local living traditions. The Romani community constitutes only a part of the population living as tenants in the renewal area. Most of the tenants come from different parts of the country to work in textile and service sectors with low income. However, the special situation of the Romani community has been given due attention at all stages of the project.

The houses allocated to tenants are not in separate regions. They are in the same area and made up of 3 storey buildings with 6 flats each, constructed side by side with separately organized blocks. The total area is 700,000 m², 250,000 m² of which is allocated to buildings. The remaining part is composed of green area and social, educational, cultural and recreational common parts.

The project was developed on the basis of physical and social needs assessments. Some these assessment reports will be provided to the Special Rapporteur in due course.

The decision of the Council of Ministers for expropriation has never been implemented. As such, no expropriation work has been carried out to date. No family has been forced to evacuate their properties. So far, only the properties of those families, who have submitted petition to the Municipality after their evacuation, have been demolished. The project has been carried out pursuant to the decisions agreed upon during the consultative meetings held in June-July 2006. The public housing in Taşoluk district includes all tenants and occupant families in the renewal area. The attribution of the apartments to 340 families has been completed. The Municipality of Fatih has concluded an agreement with the Housing Development Administration for further the attribution of 100 houses in order to meet a possible accommodation deficit. The contracts signed between the right holders and the Municipality of Fatih are free of charge.

The project is not only designed as a renewal project but also includes social empowerment programmes. For instance, 45 local women are provided with opportunity to attend an occupational certificate programme on clothing and tailoring, with business guarantees. Another certificate programme on wooden works for 20 young locals will begin shortly. All participants are insured and receive daily wages during their courses. A

third initiative is a vocational course organized in cooperation with "İstanbul *Prét-a-Porter* Clothing Business Union". No effort is spared to ensure employment opportunities after the completion of this course. Furthermore, an application for an employment grant programme has been submitted to the European Union and Turkish Employment Organization (İŞKUR).

An education and culture centre has been established in order to contribute to the preservation of the Romani and other local cultures in the renewal area. For this purpose, all necessary technical and academic support will be provided to them.

Question 18: Article 5 of the Labour Law provides that no discrimination based on language, race, gender, political thought, philosophical belief, religion sect or similar grounds is permitted in commercial relations. Please provide information on any plans to extend the principle of non-discrimination to cover also job recruitment and any measures taken to protect members of ethnic minorities from discrimination in recruitment practice (para. 143). (art. 5 (e) (i))

Reply 18: Article 5 of the Labour Law prohibits discrimination in *employment relations*. However, due to an erroneous translation, it was wrongly stated in the report it prohibits discrimination in *commercial relations.*

With regard to extending the principle of non-discrimination to cover also job recruitment, the existing legislation already covers this field. Namely, Article 10 of the Constitution on equality before the law provides that "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. 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".

Moreover, Article 49 of the Constitution states that "everyone has the right and the duty to work."

These two articles provide the legal basis for the principle of non-discrimination in the legislation, including the prohibition of discrimination in the aforementioned Article 5 of the Labour Law. The very articles are general provisions and cover the prohibition of potential discrimination in job recruitment as well.

Even in the absence of the above-mentioned legislation, provisions on non-discrimination in job recruitment provided in the international agreements to which Turkey is party would be invoked as they bear the force of law in accordance with Article 90 of the Constitution.

Question 19: Please provide information on any measures taken or envisaged to ensure the access to education of children belonging to minorities not recognized under the Treaty of Lausanne of 1923, in particular children of Kurdish origin, and children of refugees and asylum seekers (art.5 (e) (v))

Reply 19: The principles of equality and non-discrimination govern the education system in Turkey. Article 42 of the Constitution states that "*no one shall be deprived of the right of learning and education. ... Primary education is compulsory for all citizens of both sexes and is free of charge in State schools.*" Article 4 of the Basic Law on National Education indicates that "*educational institutions are open to all, regardless of language, race, gender, or religion. No privilege shall be granted to any individual, family, group or class*." The Higher Education Law also stipulates that educational institutions are open to all and that necessary measures shall be taken to ensure equal opportunity.

On the basis of the aforementioned legal framework, all children who are Turkish citizens regardless of their gender, religion, ethnic or racial origin or language are entitled to equal right to education in Turkey. There is no discriminatory practice against any segment of Turkish society with regard to access to education. Any limitation which affects the access to education may stem from the socio-economic difficulties of Turkey as a developing country. This of course equally involves all citizens of Turkey.

As it is stated in the paragraph 27 of the National Report, under the Turkish constitutional system, the word "minorities" encompasses only groups of persons defined and recognized as such on the basis of multilateral or bilateral instruments to which Turkey is party. In this context, "minority rights" in Turkey are regulated in accordance with the Lausanne Peace Treaty of 1923. According to this Treaty, 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. The term "minority" is not used for Muslim Turkish citizens. Hence all Turkish citizens, whether from non-Muslim minority or Kurdish origin, benefit from unified national education system in Turkey. Furthermore, Turkish citizens belonging to non-Muslim minorities (Armenian, Greek and Jewish minorities) have their own 46 primary and secondary schools.

Additionally, with a view to securing equal access to education in an uninterrupted manner student-centred local, regional and national programs are put in place. Enrolment and attendance statistics are followed through e-school database so that drop-out cases can be detected. School drop-outs are also supported with complementary projects such as "Come on girls, let's go to school!" or "Recovery Education".

The children of refugees and asylum-seekers are entitled to same rights as children of Turkish citizens with regard to compulsory primary education. The Article 2 of the Law on Primary Education, No: 222, states that "*compulsory primary education covers children between the ages of 6-14. The education of all children between ages 6-14, regardless of their status, is compulsory*." Thus, children, between the ages of 6-14, of refugees, and of asylum seekers who have lodged asylum application in Turkey are obliged to attend public schools like children of Turkish citizens, according to the Regulation No: 94/6169, dated 30 November 1994 and the Implementation Circular No: 57 of 2006 concerning asylum procedures and principles in Turkey.

On the basis of the principles included in the Implementation Circular, Governorships are tasked for overseeing that primary or secondary school aged children whose parents are asylum seeker or refugee applicants or entitled with the identification card or residence permit are actually enrolled to public schools. The police teams dealing with foreigners, in cooperation with the Provincial National Educational Directorates, contact refugee and

asylum seeker parents in order to inform them that they are exempted from the residence permit duty in enrolling their children to public schools. The Ministry of the Interior issues special ID numbers for those children to facilitate their administrative work with education institutions.

The applicants and asylum seekers and refugees are also encouraged to attend Turkish and other language courses as well as occupational training and skill improvement courses managed by public organs, such as municipalities, National Education Boards, and NGOs. There are supplementary courses to assist those students with insufficient Turkish language skills to enable them to attend grades corresponding to their ages. These efforts are supported by universities and NGOs.

Under the coordination of each Governorship, the implementation of Article 2 of the Law on Primary Education, No: 222 is annually reviewed in meetings with the participation of the relevant government branches.

Question 20: Please elaborate on the application of the "Law on Foreign Language Education and Teaching, and the Learning of Different Languages and Dialects by Turkish Citizens" and its "By-law on Education in Different Languages and Dialects traditionally used by Turkish Citizens" of 2003, which allow the different languages and dialects traditionally used by Turkish citizens to be taught in private courses. Please indicate in particular which languages are taught, whether such classes are available throughout the country and what is the estimated number of persons attending such classes (paras. 183-185). Please also provide information on any other measures taken or envisaged to provide opportunities for children whose mother tongue is not the Turkish language to benefit from instruction in and through the medium of their mother tongue (art. 5 (e) (v)).

Reply 20: According to the Constitution of the Republic of Turkey, the language of the Turkish State is Turkish (Article 3). Article 42 of the Constitution states *"No one shall be deprived of the right of learning and education. The scope of the right to education shall be defined and regulated by law."* Article 42 further states that "*No language other than Turkish shall be taught as the mother tongue to Turkish citizens at any institutions of training or education. Foreign languages to be taught in institutions of training and education and the rules to be followed by schools conducting training and education in a foreign language shall be determined by law. The provisions of international treaties are reserved*".

Minority issues in Turkey are regulated in accordance with the Lausanne Peace Treaty of 1923. According to this Treaty, Turkish citizens belonging to non-Muslim minorities fall within the scope of the term "minority". Turkey does not recognize any other group of persons as national minority. Turkish citizens belonging to non-Muslim minorities (Armenian, Greek and Jewish minorities) have their own 46 primary and secondary schools. In these schools instruction languages are the minority languages i.e. Armenian, Greek and Jewish. Only Turkish language and culture courses held in Turkish. In the curricula of these minority schools there are also courses which are designed to teach minority children their respective mother tongue and culture.

On the other hand, the Law on Foreign Language Education and Teaching, and the Learning of Different Languages and Dialects by Turkish Citizens, No: 2923 stipulates

that the Council of Ministers of Turkey decides which foreign languages can be taught in Turkey. According to the resolutions of the Council of Ministers, German, French, English, Spanish, Italian, Japanese, Russian, Chinese and Dutch languages can be taught in formal education. Arabic and Jewish can be taught at mass education facilities.

The Law no. 4771 dated 3 August 2002, also known as the "third harmonization package", amended the "Law on Foreign Language Education and Teaching, and the Learning of Different Languages and Dialects by Turkish Citizens, No: 2923" to allow private courses to enable the learning of the different languages and dialects traditionally used by Turkish citizens.

With a view to regulating the implementation of the aforementioned amendment, the Ministry of Education issued the "Bylaw on Education in Different Languages and Dialects Traditionally Used by Turkish Citizens in Their Daily Lives", which took effect following its publication in the Official Gazette no. 25307, dated 5 December 2003.

In conformity with above mentioned Bylaw, private courses for teaching languages and dialects traditionally used by the Turkish citizens in their daily lives were opened in Şanlıurfa (04.12.2003), Batman (10.12.2003), Van (22.12.2003), Adana (18.05.2004), Diyarbakır (29.07.2004), İstanbul (23.08.2004) and Kızıltepe (Mardin) (15.10.2004). However, they have all been closed by their founders and owners due to the lack of interest and non-attendance.

Furthermore, the Law no. 4771 dated 3 August 2002, also known as the "Third Harmonization Package", amended the "Law on the Establishment of and Broadcasting by Radio and Television Corporations" to allow broadcasting in different languages and dialects traditionally used by Turkish citizens.

With a view to regulating the implementation of the aforementioned amendment, the Radio and Television Supreme Council (RTUK) issued the "Bylaw on Broadcasting in Different Languages and Dialects Traditionally Used by Turkish Citizens in Their Daily Lives by Public and Private Radio and Television Corporations" which took effect following its publication in the Official Gazette no. 25357 dated 25 January 2004.

Broadcasting in different languages and dialects used traditionally by Turkish citizens in their daily lives first began with a radio program on the state-run TRT Radio 1 in Bosnian on 7 June 2004, followed by a broadcasting on the TRT-3 television channel on the same day. Broadcasting in local languages and dialects include news, music and documentaries in Bosnian, Kirmanchi, Zaza, Circassian and Arabic for a maximum of 60 minutes a day and five hours a week on radio and 45 minutes a day and four hours a week on television. Radio-1 and TRT-3 broadcast programs in Bosnian on Mondays, Arabic on Tuesdays, Kirmanchi on Wednesdays, Circassian on Thursdays and Zaza on Fridays.

Since 7 March 2006, the RTUK has granted permission for several private radio and TV stations upon their applications to broadcast in Kirmanchi and Zaza. The radio and TV stations have started their broadcast in these dialects as of 26 March 2006. According to the decision taken by Radio and Television Supreme Council dated 30 May 2006, the broadcasts of music and cinematographic works can be made without any time limits during the whole day.

As of 1 January 2009, a new multilingual television channel, TRT-6 started to broadcast in Turkish and Kurdish. TRT-6 uninterruptedly broadcasts 24 hours a day.

Question 21: Please provide information on cases, if any, related to racial discrimination that have been examined by the Human Rights Presidency or the Human Rights Boards since July 2006, as well as by the Human Rights Inquiry Commission of the Parliament, and their outcome. Please also elaborate on the measures taken by the Human Rights Boards to "carry out necessary work to prevent all kinds of discrimination" (Paras. 206 – 212). (Art. 6 and 7)

Reply 21: The Human Rights Presidency of the Office of the Prime Minister (hereinafter Human Rights Presidency), the Provincial and Sub-Provincial Human Rights Boards (hereinafter Human Rights Boards), among other human rights related duties, examine and investigate allegations of human rights violations and related applications, assess the outcome of these examinations and investigations and accordingly coordinate the efforts concerning the measures that can be taken, ensure the implementation of necessary procedures as well the conducting their follow-up.

Numeric data regarding the number of rights alleged to be violated in the applications submitted to Human Rights Presidency and Human Rights Boards is publicly announced. When individuals apply to Human Rights Presidency and Human Rights Boards, they declare the right/s which they believe was/were violated. Thus, when assessing the numeric data, it is important note that the data is based on the statements of the applicants.

In 2006, a total of 1590 people applied to Human Rights Presidency and Human Rights Boards. An applicant can claim the violation of several rights in the same application. On this basis, in 2006 the total number of rights claimed to have been violated was 2056. 136 cases were related to claims of discrimination, which amounts to 6,6 per cent of the total number of claims of violations. Discrimination was number 7 in the list of the rights allegedly violated.

In 2007, a total of 1171 people applied to Human Rights Presidency and Human Rights Boards. The total number of rights claimed to have been violated was 1318. 42 cases were related to claims of discrimination, which amounts to 3,19 per cent of the total number of claims of violations. Discrimination was number 10 in the list of the rights allegedly violated.

In the first half of 2008, a total of 2356 people applied to Human Rights Presidency and Human Rights Boards. The total number of rights claimed to have been violated was 2767. 45 cases were related to claims of discrimination, which amounts to 1,6 per cent of the total number of claims of violations. Discrimination was number 15 in the list of the rights allegedly violated.

As stated above, the data is obtained through the claims in the applicants' statements.

In none of the above mentioned applications, were there any claims of discrimination on the basis of race, colour, language, religion or political opinion as stated in international human rights conventions or national legislation. Applications were claims of fraudulent or preferential treatment in public services and unequal pay in the workplace.

The results of the study on the nature of the applications lodged in 2007 concerning claims of discrimination are provided below:

In 2007, of the applications received, 42 cases were related to claims of discrimination, the table on which is provided below:

Subject of complaint	Number
Allegation of violation of the prohibition of discrimination on the basis of disability	3
Allegation of violation of the prohibition of discrimination due to age limit as reason for ineligibility for employment	1
Complaint regarding the right to short term military service for graduates of 2-year associate degree programs/vocational colleges	1
Allegation of violation of the prohibition of discrimination on the basis of religious belief	4
Allegation of being deprived of the right to education because of attire	1
Complaints regarding the right to work and to conclude contract (employment)	4
Gender discrimination: Allegation that the right to sexual orientation was violated and allegation of subjection to ill-treatment because of being transsexual	1
The right to equality of opportunity in education: Allegation of violation of equality of opportunity in education in the context of the violation of the right to education and instruction	4
Not allowing the convicts in prisons to communicate with their relatives, to call them, and other practices	3
Complaints regarding health and patients' rights	2
Complaints regarding the right to property arising from procedures at municipalities concerning expropriation	5
Discrimination on the basis of profession: the allegation that there is discrimination on the basis of profession in nominations in traffic courses	1
Practice of different classrooms for students at similar levels in a discriminatory manner, asking for donations in schools: Allegation of violation of children's rights	1
The allegation by a martyr family that they were not given priority, although they are a martyr family, in TOKİ (Housing Development Administration of Turkey) housing because they couldn't obtain a document	1
Complaints regarding the operation of administration procedures and fulfillment of services	10
Allegation of violation of the prohibition of discrimination on grounds of language and race:	0
Total of applications in 2007	42

Since July 2006 **Human Rights Inquiry Commission of the Parliament** has carried out three main investigations concerning discrimination.

A sub-committee was established to investigate any act of discrimination on the basis of religious sect, in the case of ZY, a 9th grade student at Ali Kul High School, following a newspaper article published on 27 November 2007, claiming that ZY was discriminated,

bullied, threatened, given low marks by a teacher because he was of Alevi sect. The Committee decided that the question "Are there any Alevis in this class" posed by the teacher constituted a violation of the prohibition of discrimination.

Several applications were submitted to the Committee claiming that the new immigration law of the Federal Republic of Germany, promulgated in the official Gazette on 27 August 2007, could be of discriminatory nature and in violation of fundamental rights. Subsequently a sub-committee was established to undertake investigations in the Federal Republic of Germany concerning the implementation of the aforementioned immigration law. The findings of the investigations were published in the report titled "The Committee Report of the 10-16 February 2008 Visit to Germany".

According to Article 8.2 of the European Convention of Human Rights (ECHR), interference with the right to family life shall only be made in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection health or morals, or for the protection of the rights and freedoms of others. The Committee Report states that the German immigration law under scrutiny constituted interference by public authorities with the right to family life, not in accordance with any of the legitimate aims mentioned above. As well, the Committee found the German immigration law in breach of Article 14 of the ECHR prohibiting discrimination, on the grounds that the law allows for the State to apply different practices concerning persons in similar conditions, without the existence of any objective and legitimate aim.

In the same vein, the Committee undertook an investigation in the Netherlands to asses whether the Dutch Immigration Law was in violation of the prohibition of discrimination. The Committee held that the Law was discriminatory on the basis that it demands additional requirements for the marriage and family reunification of Turkish citizens hence applies different practices to persons in similar conditions without the existence of any objective and legitimate aim.

Question 23: Please provide an update on the process of establishing the institution of Ombudsman referred to in para. 214 of the report, as well as information on its planned status and mandate, in particular whether the office will include staff with expertise in issues of racism and intolerance.

Reply 23: The Turkish Grand National Assembly (TBMM) passed the Ombudsman Law, No: 5548 on 28 September 2006. The Law was promulgated in the Official Gazette on 13 October 2006. The former President of the Republic of Turkey and some members of TBMM have lodged a file at the Constitutional Court for the annulment of some articles of the Law. The Constitutional Court immediately decided for the suspension of execution of the said Law. On 25 December 2008 the Court unanimously decided to abrogate the Law on grounds that it was not in conformity with the Constitution of the Republic of Turkey. The reasoning of the Court's decision has yet to be issued.

Following the decision of the Constitutional Court, a new draft Law on Ombudsman system and/or National Institution on Human Rights shall be prepared at the earliest convenience.

Question 24: Please indicate to what extent children belonging to ethnic minorities are taught their culture and history at school.

Reply 24: According to the Lausanne Peace Treaty of 1923 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. The term "minority" is not used for Muslim Turkish citizens.

Turkish citizens belonging to non-Muslim minorities (Armenian, Greek and Jewish minorities) have their own 46 primary and secondary schools. In these schools instruction languages are the minority languages i.e. Armenian, Greek and Jewish. Only Turkish language and culture courses held in Turkish. In the curricula of these minority schools there are also courses which are designed to teach minority children their respective mother tongue and culture.

On the other hand, since 2003, the primary school curriculum, for the 4^{th}, 5^{th}, 6^{th} and 7^{th} grades, includes "Social Science" courses in which students are taught topics such as "Global Connections", "Individual and Society" and "Cultural Heritage". Under these chapters, children are introduced with values, skills and a way of thinking in order to learn about their families, history and culture as well as neighbouring traditions and cultures. Furthermore, school teachers follow a student-centred programmed education system whereby each student interacting with her/his teacher has an opportunity to learn her/his culture and history.

Question 25: Please indicate whether Turkey is planning to make the declaration under Article 14 of the Convention to accept the competence of the Committee to receive individual complaints.

Reply 25: As of today, Turkey has not yet considered to make the declaration under Article 14 of the Convention. It is worth noting that in terms of international complaints mechanisms in the realm of human rights, Turkey has recognized the right of individual petition before the European Court of Human Rights and thus accepted the compulsory jurisdiction of what is considered to be one of the most effective human rights mechanisms.

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