

ADVANCE QUESTIONS TO TURKEY – ADD.2

CYPRUS

- When is the Government of Turkey planning to accede to the Rome Statute of the International Criminal Court?
- When is the Government of Turkey planning to proceed with the ratification of Additional Protocol I and Additional Protocol II to the Geneva Conventions of 12 August 1949, relating to the Protection of Victims of International Armed Conflicts and Non-International Armed Conflicts, respectively.
- What legislative measures will the Government of Turkey take to ensure prompt independent impartial and thorough investigations of all allegations of human rights violations carried out by members of its armed and security forces, both within its territory and abroad in areas under its effective control? And what measures is it contemplating in order to ensure that perpetrators are brought to justice and held accountable for their acts?
- Whether the Government of Turkey is contemplating to abolish articles 301 and 318 of the penal code which limit the freedom of expression.
- How will the government work to intensify awareness raising for society at large and provide special training for police including border officials and asylum officers, to combat hostile attitudes towards LGBT asylum seekers and refugee vulnerable groups? What steps will it take to provide for a safe environment of LGBT asylum seekers and refugees?
- What effective measures is the government taking in order to combat persisting hostile attitudes, including attacks and threats towards the Roma, Kurds and persons belonging to non Muslim minorities? Is the government planning to take targeted measures to eliminate discrimination based on national or ethnic origin?
- How does the government intent to promote adequate representation of the various ethnic groups in the parliament and other elected bodies as well as their participation in public bodies?
- What measures has the government taken so far in order to ensure effective implementation of relevant laws in order to allow the teaching of languages traditionally used in Turkey in the general public education system, and to further amend legislation in order to allow children belonging to ethnic minorities to be taught in their mother tongue?
- What measures is the government taking in order to promote implementation and abidance by all relevant United Nations resolutions pertaining to human rights violations that concern Turkey implicitly or explicitly?

- Which further legislative steps and implementation policies does the government intend to adopt in order to ensure actual respect of freedom of expression?
- Which steps is the government considering to take in order to effectively implement the legal framework on freedom of religion?
- Given the fact that non Muslim religious minorities in Turkey, including the Greek orthodox minority, continue to face serious problems with regards to, among others, the enforcement of their property rights, training of clergy and deprivation of legal personality, can the government of Turkey give a time frame within which these restrictions will be lifted so that members of these minorities can fully enjoy their human rights?
- How does the government plan to effect the repatriation of IDPs within the territory of Turkey, as the Council of Europe's Commissioner for Human Rights recommends, and what measures will it take to allow for the exercise of the right of voluntary return in other areas where the Government of Turkey exercises effective control?
- According to statistical data included in the annual Report of the European Court of Human Rights for 2009, 18.81% of the judgments regarding violations of Human Rights by country for the period 1959-2009, concern Turkey. Turkey is also quite high on the list in terms of violations of articles of the European Convention on Human Rights while in terms of pending applications up until the end of 2009, the report mentions that Turkey has the second highest number of complaints lodged against it with 11% of a total of 119,300 applications.
- What measures is the Government of Turkey taking towards fully complying with the judgments of the Court and bringing about the reforms necessary in order to confront these important issues?
- The ECHR has ruled repeatedly that Turkey is liable for numerous violations of basic articles of the European Convention of Human Rights in Cyprus. The Court underlined that Turkey, which has "effective overall control over northern Cyprus", is accountable, due to its continuing military presence on the island, for violations of such rights by her own soldiers, or officials, or by its subordinate local administration and is responsible, under the Convention and Protocols she has ratified, for securing all human rights in that area.
- When does the government of Turkey plan to comply with the pertinent judgments of the ECHR and in particular those concerning: Effective investigations with the aim to clarify the whereabouts and fate of missing persons; Ending of the inhuman treatment of the relatives of the missing persons; allowing displaced Greek Cypriots physical access to and peaceful enjoyment of their property; Ending the degrading treatment of enclaved Greek Cypriots and Maronites on grounds of ethnic origin, race and religion.

GREECE

- Non – Muslim religious communities have repeatedly identified the **lack of legal personality as the basic problem** they are faced with. The fact that non–Muslim religious communities in Turkey operate indirectly, through foundations, is no alternative to their request for registering and obtaining legal personality. In fact, as the ECtHR has held (in the light of Articles 9 & 11 of the European Convention on Human Rights), the legal status of a religious community affects both the members of that community as individuals as well as the community as a whole, i.e. as a collective religious body.

The failure to register and obtain legal personality for non – Muslim religious communities has been attributed to constitutional provisions. However, as the competent European bodies, independent structures and observers have underlined in relevant reports and opinions (the latest being that of the European Commission for Democracy Through Law, i.e. the Venice Commission, in the framework of the Council of Europe, reference document 535/2009), Turkish constitutional provisions neither exclude nor prohibit a legislative reform allowing for the recognition (through registration and thereby attribution) of legal personality to non – Muslim religious communities.

Furthermore, the European Union and the European Parliament have repeatedly called upon Turkey to allow for the functioning of non – Muslim religious communities without undue constraints in line with ECHR and the case–law of the ECtHR, making particular reference to the legal status issue.

In light of the above, what are Turkey’s intentions in terms of addressing the issue of legal personality for non – Muslim religious communities, thus alleviating existing problems?

- Non – Muslim religious communities also face other relative problems such as difficulties in training clergy and difficulties in enjoying their property rights. During the E.U. – Turkey Political Directors meeting, in Ankara, on February 10, the Turkish delegation indicated that Turkey would work closely with all non – Muslim (community) Foundations **to find a solution to all problems**, including as regards **properties outside the scope of the 2008 Foundations Law and properties sold to third parties**.

Could you elaborate more on this consultation process, its schedule and its preliminary results? Will Turkey, through this consultation process, while tackling the question of the seized non – Muslim Foundations (“mazbut”), take into account a decision by the Turkish Supreme Court (early in 2009) in favour of one of them?

- With regard to the **right of non – Muslim minorities to education** in accordance with the relevant legislation:

What are the possibilities provided for members of the Greek minority on the islands of Gokceada (Imvros) and Bozcaada (Tenedos) to have access to

mother – tongue education? How is such a prospect being pursued and in what timeframe?

- In a similar context, **children of Greek citizens working in Istanbul** other than in the Greek Consulate General **are not allowed to attend the Greek minority schools.**

Is the government envisaging the possibility of allowing the children of Greeks working in Istanbul such as bank executives and employees, businessmen or other entrepreneurs, to attend the Greek minority schools that are still functioning in Istanbul pursuant to the Lausanne Peace Treaty? In what timeframe?

- In its Progress Report on Turkey (2008), the European Commission noted that the implementation of the Ministry of Interior’s circular (June 2007) on freedom of religion of non – Muslim Turkish citizens has not had the desired effects.

Have there been any developments (i.e. list of incidents, suspects arrested) ever since and, if not, what further measures do Turkish authorities consider adopting with a view to preventing actions / attacks against members of non – Muslim minorities?

- **How many lawsuits have so far been filed – by force of office – under Article 216 of the Turkish Penal Code, namely as regards incitement to religious hatred, public denigration or defamation of religious values of persons belonging to non – Muslim minorities? Could you present some examples?**

- In accordance with article 231 of the criminal code¹, a new regulation was issued by the Turkish Ministry of Health. The said legislation, published, on March 6 2010, in the Official Gazette and amending the existing law on assisted – reproductive techniques and centers, bans pregnancy resulting from egg or sperm donations (except from a woman’s husband) either in Turkey or abroad. It, also, states that any clinics, doctors or patients that use, or encourage the use of, overseas sperm banks will be reported to state prosecutors and face possible criminal charges, thus, making it an offence for a woman to go abroad and get pregnant via artificial insemination.

Taking into consideration paternity concerns and the protection of the inheritance rights of children, the following questions arise:

- 1) **How does the Turkish Government plan to enforce a law that allows for pregnant women to be put on trial for the way they conceived?**
- 2) **On what grounds is this regulation compatible with the efforts to improve Turkish law (see namely the Turkish Penal Code), especially in terms of properly protecting women’s autonomy over their bodies and sexuality?**

¹ Article 231 of TPC makes it a crime to conceal the paternity of a child.

3) What are the measures Turkey intends to take in order to ameliorate the status of women and will these measures take into account, besides the protection of family values and ancestry, the new choices technology offers for women?

- Taking into consideration that:

a. Turkey is a State Party to the Ottawa Mine Ban Treaty (Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti – Personnel Mines and on their Destruction) which prohibits the use of landmines in any circumstances. Under this Treaty, Turkey has undertaken to destroy all anti – personnel mines in mined areas as soon as possible, but not later than 2014.

b. According to E.U. Turkey Progress Report on 2009 and the human rights associations’ reports, landmines remain a security concern for both military and civilians (hundreds of civilians and soldiers have lost their lives or have been severely injured in explosions caused by land mines, especially by those buried near villages in the Southeast).

c. The Turkish Parliament adopted, on June 2009, a law on the de – mining of the turkish – syrian border whereby anti – personnel and anti – tank mines will be cleared in the next 5 years under the supervision of the Ministry of Defence. Later on, on July 2009, the Constitutional Court decided to suspend part of the law provisionally. Although E.U. Turkey Progress Report 2009 suggests that this decision should not affect de – mining operations, there is no sufficient information on Turkey’s clearance operations along its border with Syria and on its plans for de-mining clearance of all affected areas under its jurisdiction or control to meet the requirements of the Mine Ban Treaty.

d. Concerns are raised by recent reports of anti – personnel landmine use by members of the Turkish Army and of six Turkish soldiers killed, last May, by a mine explosion in Turkey’s southeastern province of Sirnak²,

1) What are the intentions of the Turkish Government in terms of taking the appropriate measures to investigate the above mentioned allegations of anti – personnel mine use?

2) What are the steps that will be taken by the Turkish Government in compliance with the Treaty–mandated deadline to complete clearance of the country’s mined areas by 1 March 2014?

² In June 2009, the Turkish newspaper Zaman published an apparent transcript of a conversation between two members of the Turkish Armed Forces that seemed to indicate the mine-laying was the personal initiative of an individual commander. In April 2010, the Turkish newspaper Taraf published documents reportedly belonging to the 23rd Gendarmerie Command that appear to indicate that members of the Turkish armed forces planted M2A4 antipersonnel mines in Turkey's southeastern province of Sirnak on 9 April 2009. In May 2009, six Turkish soldiers, members of the very army that may have laid the mines, were killed by a mine explosion in the same area.

- CERD has requested Turkey, to provide within one year, information on the follow-up to the recommendations regarding the withdrawal of reservations and declarations, hostility towards ethnic minorities, the situation of the Greek minority and the possibilities for children belonging to ethnic minorities to be taught in their mother tongue.

Has the government of Turkey supplied such a follow-up report? Can you provide a brief account of your answer regarding the developments on these topics?

NETHERLANDS

- **Judiciary**

In her national report, Turkey indicates that the Ombudsman Law is not yet in conformity with the constitution but that Government is in the process of changing parts of its constitution. Will the changes enable the Ombudsman Law to be passed? To what extent can this law contribute to the correct implementation and interpretation of national laws, regulations and *circulaires* by the judiciary and the enforcement of laws and verdicts by police, *jandarma* and other law enforcement institutions?

What timeframe does the Government foresee for the establishment of a Human Rights Centre? How will it ensure that both the Ombudsman and the Human Rights Centre can operate independently?

What timeframe does the Government foresee for the ratification of OPCAT?

- **Rights of women and girls**

Could the Government of Turkey elaborate on the protection of girls against early marriages and of girls and women against domestic violence?

- **Children's rights**

What is the Government's position on the suggestion that an independent commission investigate the living conditions of children in prisons?

- **Minorities**

What is the Government's definition of ethnic, religious or cultural minority? Would it be possible to list the minorities currently present in Turkey? What measures have been taken to ensure that members of such minorities are not discriminated against?

- **LGBT**

Could the Government of Turkey provide further information on the closure of the LGBT Association Black Pink Triangle by the Governor of Izmir?

- **Freedom of expression**

There have been reports that a number of laws, including the anti-terrorism law, limit the right to freedom of expression beyond what is permitted by the dispositions of the ICCPR. Would the Government of Turkey be willing to amend such laws?

In this context, could the Government of Turkey provide information on Internet sites currently blocked by official order, including the reasons for blocking such sites?

NORWAY

- The Republic of Turkey writes in its national report that civil society contributed significantly in the elaboration of the report, and that Turkish authorities are determined to continue this collaboration. How will civil society be involved in the follow up and implementation of the UPR recommendations of the Human Rights Council?
- The good cooperation between the Republic of Turkey and the human rights mechanisms is highly appreciated. However, it appears that some recommendations and observations from UN treaty bodies and special procedures are not known to the relevant authorities. How could the dissemination of this information be improved?
- In its national report the Republic of Turkey expresses its determination to expand the scope of freedom of expression. What concrete steps can be expected in this regard?
- In its national report, the Republic of Turkey states that the preparatory work for the establishment of a National Human Rights Institution is expected to be completed soon. How will the independence of this institution be secured?
- What steps will the Republic of Turkey take to protect the right to association and the personal security of LGBT persons?
- The Republic of Turkey has taken important steps to further enhance the rights of women, not least on the legislative side. However, the national report points to remaining challenges. What steps will the Republic of Turkey take to increase women's participation in political life and decision-making processes?
- Norway joins the Republic of Turkey in condemning violence against women and honour crimes. It is also appreciated that the Republic of Turkey recognizes that further measures are required to combat such human rights violations. What concrete steps can the Republic of Turkey take in this respect?
