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REPUBLIC OF TURKEY

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UPR Stakeholders Report

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Introduction

This report has been prepared by the UPR Civil Society Coalition, an ad hoc coalition established for the purpose of enhancing the participation of civil society organisations (CSOs) in the UPR process. The Coalition was co-ordinated by the Human Rights Joint Platform, a network of Turkish human rights organisations active since 2005. The Secretariat of the Human Rights Joint Platform in collaboration with Koç University Law Faculty and Ankara University Human Rights Centre organized two information seminars on the UPR process with the aim of reviewing the implementation of recommendations made in 2010 to Turkey. Some representatives of the Coalition also participated a training programme conducted by the UN in May 2014. This report focuses on the implementation of accepted recommendations and the emerging systematic and widespread human rights violations. The report concludes with recommendations.

Progress since 2010 and new issues

1. Turkey accepted the implementation of 120 recommendations in her first UPR. One of the accepted recommendations (A-100.11-12) was to continue its close cooperation with civil society in its follow-up and implementation of UPR recommendations. Turkey has neither translated the recommendations into Turkish, nor established any comprehensive, effective or transparent follow-up system. The Human Rights Directorate of the Ministry of Foreign Affairs, the coordination body for the Turkish UPR, invited a number of CSOs to a half-day meeting only on 27 February 2014, almost four years after accepting recommendations. Following this meeting the Ministry of Foreign Affairs launched a web site to enable CSOs to contribute to the reporting process. The Ministry has not given any clear indication as to how they will incorporate the input provided by the civil society organisations and whether they will discuss the State Report with wider civil society when it is drafted.
2. Since 2010, there have been a number of positive developments in the institutional framework for human rights protection. The Constitutional Court now has a right to individual petition. The OPCAT has been ratified. A National Human Rights Institute (NHRI) and Ombudsman Office were established. A number of rights protecting laws have been passed and there is a National Human Rights Action Plan.
3. As we outline in detail below, however, none of these developments are comprehensive. CSO input in all human rights policy and legislative processes have either lacked or have been ignored. The Constitutional Court can only adjudicate a limited category of civil and political rights listed in the ECHR. The OPCAT independent commission has not been established. The NHRI is not Paris Principles compliant. The National Human Rights Action plan takes no account of recommendations accepted by Turkey in the first UPR.
4. On 30 June 2012, the Human Rights Institution of Turkey was set up. The institution is not in line with Paris Principles. Promises made to states in the first UPR to establish a Paris Principle compliant NHRI have not been met.
5. The Law on the National Human Rights Institution was drafted without observing international criteria and with no regard to the principles of participation, comprehensiveness and transparency. Members are mostly appointed by the

- government and there is no financial or administrative safeguard with respect to the independence and impartiality of members. Members do not get appointed through a pluralistic and participatory process.
6. The Ombudsman office was established on 29 June 2012 and individual application procedure has commenced in March 2013. Although it has a constitutional mandate, implementation of the recommendations of the Ombudsman by the public authorities is very low.
 7. In 2011, Turkey ratified the Optional Protocol (OPCAT) to the Convention on the Prevention of Torture. The national preventive mechanism (NPM), which should have been founded within a year after the adoption of the Protocol, was not established. In the beginning of 2014, the National Human Rights Institution of Turkey was given the mandate to perform the functions of the NPM. Yet, there are concerns as to the performance of these functions by the National Human Rights Institution. Among these are concerns related to the inadequacy of the institution in independently and impartially performing this function. The NHRI lacks capacity in terms of sufficient and trained staff alongside its other deficiencies.

Equality, Non Discrimination and Inclusive Society

8. A comprehensive anti-discrimination legislation in line with the UN and the CoE norms and standards has not yet been put into legislative process, although it was promised in the democratization package of the Government in 2009.
9. Turkey did initiate processes targeting two vulnerable segments of the society: first was named ‘Alewi Opening’ in 2009 and the second “Roma Opening” in 2010. In 2012, the Ministry of Family & Social Policies was given the task of developing a national strategy for the inclusion of the Roma population in Turkey.¹ However, a structured, transparent, well-functioning mechanism of communication and consultation have not yet been put in place.
10. Legal status of cemevis as places of worship, the status and content of the compulsory religious courses in public schools and restructuring the legal status and services of the Diyanet were not covered in any democratisation package endorsed during the reporting period. Turkey did not fully execute the judgment of ECtHR on the compulsory religious courses in public schools (*Zengin vs Turkey*).²
11. A legal amendment was made to the Turkish Penal Code No. 5265 concerning Article 122 on March 2014. This led to the heading of the provision to be changed to “Hatred and Discrimination”. During the revision process, many human rights organisations called for a comprehensive hate speech legislation covering all vulnerable groups. Civil society opinion was disregarded. The new article covers very limited grounds of discrimination and excludes major offences that may be motivated by discrimination and/or hate. The article does not adequately protect the most vulnerable groups (Roma populations, LGBTIs, women, religious minorities, ethnic minorities, people with disabilities, asylum seekers, etc.) from discrimination and hate crimes. In fact these legal regulations operate against individuals who criticise the religion of the majority.

¹ European Roma Rights Centre, “Turkey: Country Profile 2011-2012”, available at: <http://www.errc.org/cms/upload/file/turkey-country-profile-2011-2012.pdf> [accessed 11 June 2014]

² http://www.aihmiz.org.tr/files/01_Hasan_ve_Eylem_Zengin_Report_EN.pdf

12. Considerable amendments were made to the Disability Act in 2013 and 2014. “Reasonable accommodation”, contrary to the Convention of the Rights of People with Disabilities was not regarded as a ground of discrimination.

Freedom of Expression

13. There have been judicial reform packages endorsed between 2010 and 2014. They included amendments to several laws in the context of freedom of expression. Despite this, many laws and codes still contain very specific regulations that restrict freedom of expression. The Turkish Criminal Code, Anti-terror Law, Law on Misdemeanors, Law on Meetings and Demonstrations, Law on Political Parties, Law on Trade Unions, Law on Associations and Law on Protection of Atatürk, and Internet Law are amongst these. According to the 2013 Human Rights Report of the Human Rights Foundation of Turkey, in 2013 alone, 829 people have been tried based on various articles of the Turkish Criminal Code and laws such as the Anti-Terror Law and Political Parties Law that restrict freedom of expression. So far, the cases that have been concluded resulted in 138 acquittals and 336 convictions.³ Serious regress has been witnessed in terms of the freedom of the press. The number of journalists imprisoned based on various articles of the Turkish Penal Code and the Anti-Terror Law, solely for their journalism activities have increased. The Freedom of the Press Report released by Freedom House ranks Turkey among countries that are partly free in Internet media and not free in terms of general media.⁴
14. The Internet Law and the recent amendments to the law of the Communication Directorate, which provides a wider authority for restrictions without any court order, are designed to censor and silence political speech. Its impacts are wide, affecting not only freedom of speech but also the right to privacy and fair trial. In 2013 access to 6,661 web sites was restricted. In 2014 both access to Youtube and Twitter were banned. Thanks to the Constitutional Court Judgments based on individual applications the ban to twitter and You Tube were lifted.⁵

Freedom of Peaceful Assembly and Demonstration

15. Although the ‘Law for the Amendment of Legislation for the Purpose of Developing Fundamental Rights and Freedoms’ was adopted in early 2014 and allowed for broadening the extent of freedom of peaceful assembly and demonstration, one of the most crucial problems experienced in practice is the continual and arbitrary violations in exercising these rights. Together with the amendments brought to this law, the authorities and responsibilities of the organizing committees were widened and the hours for holding peaceful assemblies and demonstrations were extended.

³ Human Rights Foundation of Turkey, “2013 İnsan Hakları Raporu”, [“2013 Human Rights Report”], April 2013, available at: <http://issuu.com/hakkiunlu/docs/rapor/141?e=2764817/7532728> [accessed 11 June 2014]

⁴ Freedom House, “Turkey”, available at: <http://freedomhouse.org/country/turkey-.U5iub5SSXuA> [accessed 11 June 2014] and

<http://freedomhouse.org/blog/why-turkey-media-environment-ranked-not-free-.U5ivZpSSXuA> [accessed 11 June 2014]

⁵ <http://www.tihv.org.tr/index.php?2012-yl-nsan-haklar-hlalleri-raporu-uezerine-deerlendirmeler> ; <http://privacy.cyber-rights.org.tr/>

16. In practice, however, peaceful assemblies and demonstrations are prevented unlawfully under international human rights law. Such severe violations were particularly common during the Gezi Park protests in the summer of 2013. According to the Gezi Report released by the Human Rights Association in July 2013, 5 people lost their lives (the figure later rose to ten), 8160 people were injured, more than ten people lost an eye.⁶ According to the Agenda Child Association's 2013 Report on the Right to Life of Children in Turkey, in the last seven years, eight children have lost their lives due to tear gas.⁷
17. Furthermore, the security forces, on numerous occasions, resorted to excessive use of force against people taking part in peaceful assemblies, amounting to torture, inhuman and degrading treatment as well as freedom of assembly. While law enforcement officials were not prosecuted for their actions, cases were filed against demonstrators participating in these demonstrations. According to the data published by the Documentation Centre of the Human Rights Foundation of Turkey, 95 cases were filed against people who took part in the Gezi protests and 5596 people are being tried.⁸
18. At the end of June 2013, the Ministry of Interior issued a circular with instructions on the use of tear gas during demonstrations.⁹ In addition, in its judgments in the case of Oya Ataman v. Turkey (2007)¹⁰ and the case of Yaşa and Others v. Turkey (2013)¹¹ the ECtHR ruled that Turkey had been in violation of the Convention with regard to the use of tear gas. However, even after the issuing of the circular, the police have continued to use tear gas against protestors in an unnecessary and excessive manner. The right of children, the elderly, women, the disabled and those with chronic illnesses to take part in peaceful assembly and demonstrations have particularly been prevented with the excessive use of tear gas. The Ombudsman has issued a decision regarding the protests in Istanbul finding a number of violations and has made recommendations to this end. These have not been implemented.¹²

⁶ Human Rights Association, "Gezi Parkı Direnişi ve Sonrasında Yaşananlara İlişkin Değerlendirme Raporu", ["Report on the Gezi Park Resistance and its Aftermath"], available at: <http://www.ihd.org.tr/index.php/raporlar-mainmenu-86/el-raporlar-mainmenu-90/2681-gezi-park-direnii-ve-sonrasnda-yaananlara-likin-deerlendirme-raporu.html> [accessed 11 June 2014]

⁷ Gündem Çocuk Derneği, "2013 Yılında En Az 633 Çocuk Önlenebilir Sebeplerden Dolayı Yaşamını Kaybetti," ["In 2013, at least 633 Children Lost Their Lives due to Preventable Reasons"], available at: <http://www.gundemcocuk.org/haberler/duyurular/turkiye-de-2013-yilinda-en-az-633-cocuk-onlebilir-sebeplerden-dolayi-yasamini-yitirdi/> [accessed 11 June 2014]

⁸ Human Rights Foundation of Turkey, unpublicised report

⁹ Anadolu Ajansı, "Polise "biber gazı" genelgesi", ["Circular for Police on "tear gas""], 27 June 2013, available at: <http://www.aa.com.tr/tag/197994--icisleri-bakanligindan-quot-gaz-quot-genelgesi> [accessed 11 June 2014]

¹⁰ European Court of Human Rights, "Case of Oya Ataman v. Turkey", 5 December 2006, available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-78330> [accessed 11 June 2014]

¹¹ European Court of Human Rights, "Case of Abdullah Yaşa and Others v. Turkey", 16 July 2013, available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-122874> [accessed 11 June 2014]

¹² T.C. Kamu Denetçiliği Kurumu (Ombudsmanlık), "Tavsiye Kararı: 2013/90", ["Recommendation: 2013/90"], 3 December 2013, available at: <http://www.ombudsman.gov.tr/contents/files/2013-90.pdf> [accessed 11 June 2014]

Independency of Judiciary

19. Following the Constitutional amendments that altered the structure of the High Council of Judges and Prosecutors, the attempts by the government in 2014 to broaden the powers of the Minister of Justice, hence the government, within the High Council, significantly contradicts the principles of the independence of the judiciary and the separation of powers. Although these decisions have been reversed by the Constitutional Court, they nevertheless give rise to serious concerns.

Anti-Terror Legislation

20. Although the legal arrangements introduced in 2014 have abolished the special heavy penal courts, unfair trials continue to pose a problem especially in criminal proceedings under counter-terrorism legislation. The defendants in these cases, including children, are subject to prolonged detention periods prior to court proceedings. Furthermore, there are plans to establish special chambers for constitutional offences.

21. Pending judgments under the supervision of the Committee of Ministers of the CoE reveal that many judges and prosecutors attach priority to protecting the state rather than implementing the rights of citizens protected by the Constitution. There is a particular reluctance on the part of the judiciary to implement Article 90 of the Constitution, which states that international conventions on fundamental human rights and freedoms shall supersede domestic laws in case of conflict between the two.

22. In the same way, prosecutions launched under counter-terrorism legislation and convictions under this law are based on incomplete evidence such as secret witnesses. Decisions of confidentiality prevent lawyers from accessing evidence against their clients until indictments are made available, usually months after arrest.

Right to Life and Impunity

23. It is very welcome that Turkey has recently lifted the time limitation for the investigations of torture crimes in order to combat impunity in torture crimes. However, this amendment did not cover the human rights violations committed after the the September 1980 military coup and against the Kurdish civilian population in the 1990s, during the conflict between the state and the Kurdistan Workers' Party (PKK). Although there have been over a hundred cases at the European Court of Human Rights indicating the lack of effective investigation which granted impunity for the criminals, Turkey did not show enough effort and willingness to deal with past atrocities.

24. Although abuse of powers by the police has been documented to a great extent, police officers do not face justice. Police officers in Turkey have, in particular, benefited from impunity in prosecutions involving demonstrations, and this still remains to be the case. The lack of effective investigations and prosecutions as well as an actual independent complaint mechanisms for violations caused by the law enforcement continue to be serious problems. According to the human rights activity report released in 2012 by the Directorate General of Security, all cases regarding excessive use of force filed against the police in 2011 and 2012 have resulted in either in acquittal of the accused or the dismissal of the case. In many other cases, a decision of non-prosecution was issued by the prosecutor. Very few disciplinary investigations launched on the

same grounds, led to short- or long-term suspension of promotions. For instance, with regard to disciplinary investigations launched in 2012, 81 resulted in a decision of no-penalty, 21 resulted in a decision of no-action, 4 resulted in short term suspension of promotion and 2 resulted in long-term suspension of promotion.¹³

25. With the amendments made to the Law on Police Duties and Responsibilities in June 2007, the police have been given a broad mandate to stop and search. Their authority to use lethal weapons has also been increased. This law gives permission to police officers to shoot suspects who have not complied with police orders to stop. According to the law, resort to lethal weapons should be proportionate to the conditions encountered. However, instead of being defined by clear rules, proportionality is described in general terms in the law and therefore arbitrary practices are common place. According to the data compiled by the Human Rights Foundation of Turkey and the Human Rights Association, in 2013 alone, 25 people have lost their lives and 26 have been wounded due to extrajudicial executions by law enforcement and random use of fire arms for failure to take heed of police orders to stop. Nine people have lost their lives, either directly or indirectly, due to intervention by law enforcement in peaceful assemblies and demonstrations.¹⁴ In cases where law enforcement has used lethal force, the courts have not taken into consideration principles such as necessity and proportionality.

International Conventions

26. There has been no progress in the last four years to lift the reservations to the UN human rights treaties. These reservations are mostly related to the minority rights. Although there has been some improvements in the context of minority rights (recognised by the Lausanne Treaty), civil, political, economic, social and cultural rights of recognised minorities are not fully protected and promoted. Therefore it is essential for Turkey to lift all reservations to all the UN Human Rights Conventions.
27. Although the recommendations are accepted by Turkey to consider becoming a party to the Rome Statute, of ICC, the Optional Protocol to the Convention on the Rights of Persons with Disabilities, CED, Turkey did not show any progress.
28. The geographical restriction on the 1951 Refugee Convention is still in force. As of date, Turkey remains the only country that imposes a geographical restriction on refugees.

Refugee Rights

29. In April 2013, Turkey has adopted the first comprehensive piece of legislation regulating asylum seekers and refugees. Although organisations working in the area of migration and refugees have expressed reservations about certain provisions in the legislation, such as including sexual orientation and sexual identity as ground of non-discrimination, the Law on Foreigners and International Protection has met the

¹³ Turkish National Police, “Human Rights Annual Report: 2012”, October 2013, available at: http://www.egm.gov.tr/Documents/insab_haklari_f_raporu_28_10_2013.pdf [accessed 11 June 2014]

¹⁴ Human Rights Foundation of Turkey and Human Rights Association, “10-17 Aralık İnsan Hakları Haftası”, [“10-17 December Human Rights Week”], available at: <http://www.tihv.org.tr/10-17-aralik-insan-haklari-haftasi/> [accessed 11 June 2014]

existing needs in many respects. It is therefore necessary to provide an enabling environment for civil society organisations to monitor independently the implementation of this law.

30. With the Readmission Agreement signed between the EU and Turkey, Turkey has accepted to readmit those refugees and migrants who have entered EU countries via Turkey. The agreement will be enforced at the end of three years. Main concern is the potential abuse of human rights of asylum seekers.

Conscientious objection

31. The right to conscientious objection against compulsory military service is still not recognized and no alternative civil service is offered in its place. Laws that allow for the repeated sentencing of conscientious objectors for refusing to perform military service are still in force. Article 318 of the Turkish Penal Code regulating the subject of “discouraging people from performing military service” lacks the criteria introduced by international human rights law, which is necessary for the restriction of freedom of expression, i.e. protection of the rights or reputation of others, national security, public order or public health or morals. This article brings an illegitimate restriction to freedom of expression and is used to penalise conscientious objectors who legitimately oppose compulsory military service as well as those who support them.

LGBTI Rights

32. Although Turkey has accepted the recommendations made by Norway, Canada and Netherlands for the elimination of discrimination based on sexual orientation and gender identity while refusing a recommendation by the Czech Republic, there has been no progress in this field.
33. LGBTI individuals face discrimination and rights violations on many fronts mostly based on arguments with regard to morals. At times, this approach is also reflected in the statements of public authorities. The most prevalent problems faced by LGBTI individuals relate to the right to life, personal security, negligence of security forces, impunity in crimes committed against LGBTI individuals, hate crimes, freedom of expression, freedom of association, freedom of peaceful assembly and demonstration, the right to work, the right to education, the right to housing and prison conditions.
34. Between 2010 and June 2014, there are 41 individuals believed to have been killed due to their real or imputed sexual orientation or gender identity. In addition, many instances of violence, assault and lynch attempts were recorded in this period. Unfortunately, since crimes related to sexual orientation and gender identity are not listed among hate crimes, it is not possible to obtain sufficient data on the matter. Furthermore, the attitude of the police in the investigation of violations against LGBTI individuals leads to failure to carry out effective investigations.

Children Rights

35. For the last four years, there has been limited progress in the field of the rights of the child.
36. Although there are legal advances in transposing the CRC into the Turkish legal system, there are still many concerns that require legal harmonisation of Turkish laws

with the CRC. Recent legal analysis done by UNICEF and the Turkish government has revealed more than 12 clauses in the Constitution need to be changed. In addition to these, 95 laws require major amendments to be in line with the CRC. There is an immediate need to run child rights impact evaluations about how existing laws violate the rights of the child in Turkey. Turkey does not have a holistic framework, law or policy on child rights.¹⁵

37. Although Turkey accepted to act on banning corporal punishment of children in all settings in the first UPR, no progress has been made on this issue. Corporal punishment is still not explicitly banned in the home, alternative care settings, day care, schools, and penal institutions.
38. Although government budget allocated to public institutions providing services to children has risen, budget items going to children cannot be identified and monitored to increase accountability. The central government expenditures on social protection, health, social assistance and services account to only 13% of the GDP, which is at least 13 points lower than European Union averages. Among this amount, only 1.3 % of the GDP is spent for social assistance and services provided to the population under the poverty line. According to a new study, two in three children live in severe material deprivation in Turkey.¹⁶
39. Turkey received 22 recommendations on the rights of the child in the first cycle. Turkey rejected 4. These asked the government to take specific action to counter discrimination based on ethnicity. Two of the rejected recommendations asked the government to withdraw its reservations to the CRC. Turkey withdrew its reservations from CEDAW, which were comparable to its reservations to the CRC. The newly introduced laws in use of mother tongue and use of cultural rights have rendered reservations to the CRC unnecessary.
40. The child is not defined in the Constitution as a legal person with evolving capacities to exercise his/her own rights. Lack of constitutional acknowledgement creates discrepancies in the exercise of rights in a number of laws and execution of laws into practices.
41. Key information from recent research findings and statistics of the Turkish Office of Statistics draws a bleak picture of children in Turkey in terms of their rights. Some of them are outlined below:

- Although the minimum legal age for work is set to 15, the number of 6-14 year-old children to be working is around 300,000 according to official statistics.¹⁷
- Child marriages account for around 23% of all marriages, 91% of them girls.¹⁸

¹⁵ Turgut Tarhanlı, İdil Işıl Gül, Asuman Aytekin İnceoğlu, Lami Bertan Tokuzlu, Nilgün Başalp, Ulaş Karan, Seda Akço. “Birleşmiş Milletler’in Çocuk Haklarına Dair Sözleşmesi ile Türk Hukuk Mevzuatı Karşılaştırmalı Analizi”, [Comparative Analysis of the United Nations Convention on the Rights of the Child and Turkish Laws], 2011, available at: <http://unicef.org.tr/files/bilgimerkezi/doc/yoneticiozeti.pdf> [accessed 11 June 2014]

¹⁶ Public Expenditures Monitoring Platform, “To the attention of Member of Parliament”, September 2012, available at: http://www.kahip.org/site_media/docs/milletvekili_mektup_2012_en.pdf [accessed 11 June 2014] and Bahcesehir University Economic Research Centre, “Two in Three Children Live in Severe Material Deprivation”, 22 April 2014, available at: <http://betam.bahcesehir.edu.tr/en/wp-content/uploads/2014/04/ResearchBrief1642.pdf> [accessed 11 June 2014]

¹⁷ Turkish Statistical Institute, “Working Child”, 2012, available at: http://www.tuik.gov.tr/IcerikGetir.do?istab_id=133 [accessed 11 June 2014]

- Court cases involving sexual assaults against children rose from 4,500 in 2002 to 17,500 cases in 2012.¹⁹
- The number of children brought/come to security units (police, gendarmerie, etc.) rose from 58.000 in 2007 to 245.000 in 2012.²⁰

Women Rights

42. Ever-increasing conservative policies and modes of behaviour on the part of political authorities and in social discourse threaten women's enjoyment of their rights and freedoms at an increasing rate. Traditional roles of women in the family and society are reinforced. Women are defined not as individuals in their own right, but through normative family values. In the most basic sense, the lack of the expressions 'gender', 'sexual orientation' and 'gender identity' in the Constitution documents the limited approach of state policies in terms of equality.
43. Participation and representation of women in decision-making mechanisms is historically low. (The highest rate of participation by women in parliament to date is 14.02%, at the level of mayorship, this figure is 3.7%). The most prominent causes of this situation are that temporary measures and policies are not directly ingrained in the Constitution, no provisions are set forth in the Law on Political Parties and the Law on Parliamentary Elections, and all measures are left to arbitrary and discriminatory practices.
44. The rate of women's participation in the labour force in Turkey is one of the lowest in the world (March 2014: 30.2%)²¹. When we exclude unpaid women agricultural workers in rural areas, women who receive allowances for home care and women who work part-time or under flexible conditions, the rate of women employed full time in urban areas is even lower. In this context, according to the 2013 Gender Equality Report of the World Economic Forum, Turkey still ranks 123rd in the world with respect to women's employment. The state has no regular national action plan to bring about improvements in this area.²²
45. The frequent changes to the education system by the government, in other words, the lack of an education policy of the state, adversely affects girl children. Because of the 4+4+4 "so-called" Compulsory Education System, the schooling rates of girl children have dropped and a significant rise has been observed in child labour and child marriages. In addition, the number of Imam Hatip Religious Schools have risen disproportionately compared to other vocational schools. As it stands, the Imam Hatip Schools do not function as vocational schools for girls. Girl students are thus concentrated in vocational schools where the traditional roles of women are reinforced.

¹⁸ Turkish Statistical Institute, "Marriage Statistics", available at:
http://www.tuik.gov.tr/VeriTabanlari.do?ust_id=109&vt_id=21 [accessed 11 June 2014]

¹⁹ Ministry of Justice Statistics, available at: http://www.adliscil.adalet.gov.tr/istatistik_2012/ist_tab.htm [accessed 11 June 2014]

²⁰ Turkish Statistical Institute, "Statistics on Child: 2012", 2013, available at:
http://www.tuik.gov.tr/Kitap.do?metod=KitapDetay&KT_ID=11&KITAP_ID=269 [accessed 11 June 2014]

²¹ Women who receive home care allowances are also included in the employment figures.

²² World Economic Forum, "The Global Gender Gap Report: 2013", available at:
http://www3.weforum.org/docs/WEF_GenderGap_Report_2013.pdf [accessed 11 June 2014]

Lastly, education in mother tongues other than Turkish is not delivered. Because of this practice, girl children who have no knowledge of Turkish and who only speak Kurdish face a number of difficulties. Girl students who encounter Turkish for the first time in school complete their primary education under disadvantaged conditions.

46. Existing legal and policy arrangements and practices that involve women target the protection of the family. The most recent and evident example of this is the Law for the Protection of the Family and the Prevention of Violence Against Women, which entered into force in 2012. Violence against women, which is fostered by gender inequality, results in the loss of the lives of hundreds of women in Turkey each year. According to the information compiled by the Independent Communication Network (BIA) from news stories reflected in the media, the number of women murdered in 2014 is 214, and the number of women raped is 163. There are only 123 women's shelters in a country with a population of 76 million. The number of women benefiting from these is 2,190 (17 women per shelter home) and the shelter home population consists of heterosexual women aged between 18 and 60 without disabilities who have not been subject to state violence. No fundamental policy to eliminate violence against women exists.

Recommendations

1. **Turkey should commit to preparing and submitting a two-year interim follow up report with the active and effective participation of civil society.**
2. Turkey should sign and ratify
 - CED, [OP-CRPD], the Rome Statute, the Council of Europe Framework Convention on the Protection of National Minorities, the UNESCO Convention against Discrimination in Education, the OP to the CRC and the OP to ESCR
2. Turkey should lift reservations to Article 27 of the ICCPR, Article 22 of the ICERD, Article 13(3) and 13(4) of the CESCR, Articles 17, 19 and 30 of the CRC and geographical restriction to the 1967 Protocol to the 1951 Refugees Convention.
3. Turkey should redraft the law on the **national human rights institution** in line with the principles of participation, comprehensiveness and transparency as required by the Paris Principles and must introduce arrangements safeguarding the independence and impartiality of the members of the national human rights institution, and in particular, the financial independence of the institution.
4. Turkey should establish an **independent mechanism** with international support in line with the OPCAT and the relevant guidelines to perform the functions of a national preventive mechanism. Such a mechanism should be equipped with its own staff and budget and be structurally and functionally independent with regard to its defined mandate and functions. Safeguards should also be introduced with regard to the mandate and professional qualifications sought in members, their appointments, term of office and immunity.
5. Turkey should establish mechanisms to effectively monitor and investigate cases of pushback at the Eastern and Western borders.
6. Turkey should define sexual orientation and gender in the Law on Foreigners and International Protection.
7. Turkey should abolish Law 2911 on Meetings and Demonstrations. A new law should be drafted in line with ICCPR, the case law of ECtHR and the OSCE's Guidelines on Freedom of Peaceful Assembly

8. Arrangements should be made to ensure that plastic bullets, tear gas, chemicals that are sprayed or thrown, stun grenades, batons, pressurized water and armoured vehicles, which could potentially cause serious injury or death during peaceful assembly, are only used by law enforcement officers who have undergone rigorous training and who function under a chain of command according to professional standards in line with the principles of international organisations such as the UN and the OSCE on the legitimate use of force. Police must be issued guidelines indicating that these measures should not be used in indiscriminate ways and in ways that affect the elderly, children and the disabled persons in the vicinity of a peaceful protest.
9. Measures should be taken to ensure that no one is detained, charged or tried for acts within the scope of the right to peaceful assembly.
10. The Ministry of Interior must have detailed guidelines on crowd management and protection measures, which are in line with international human rights law standards. The Ministry of Interior must review its policies of crowd management and dispersion regularly as required by the Ataman Group cases pending before the Committee of Ministers of the Council of Europe.
11. Turkey should ensure full freedom of expression by taking following measures:
 - a. The acceptable reasons for restrictions on freedom of expression under Article 26 of the Constitution should be amended in compliance with international human rights standards.
 - b. All articles that inhibit freedom of expression in the Turkish Penal Code, the Anti-Terror Law and other laws should be repealed including the abolition of restrictions on grounds of ‘national security and public order’ and such laws should be harmonized with international standards.
 - c. Article 318 of the Turkish Penal Code should be abolished (discouraging people from performing military service) and the right to conscientious objection should be recognized.
 - d. Legislation should be adopted to prevent the repetitive sentencing of conscientious objectors on grounds that they have refused to perform military service. Laws should be passed recognizing and safeguarding the right to conscientious objection and a real civilian service alternative should be introduced to replace compulsory military service.
 - e. Article 301 of the Turkish Penal Code which directly and unfairly restricts freedom of expression, should completely be abolished;
 - f. Article 125 of the Turkish Penal Code (insult) and Article 215 (praising an offence and offender) should be completely repealed.
 - g. The definition of combating terrorism under Article 1 of the Anti-Terror Law should be amended in compliance with the definition recommended by the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.
 - h. Guidelines should be adopted for prosecutors and judges as to how Article 220(7) of the Turkish Penal Code (on aiding an armed group) is to be implemented.
 - i. Law No. 5651 on the Regulation of Internet Publications and Suppression of Crimes Committed by means of such Publications should be reviewed and articles related to access to information and freedom of expression should be amended.

12. Combating Impunity

- a. The Turkish government should amend the law concerning statutory time limits and other obstacles to the prosecution of members of security forces and public officials for killings, forced disappearances, and torture committed during the State of Emergency period took place between 1987 and 2002.
- b. Measures should be taken to ensure that members of the law enforcement are recognisable at all times while performing their duties.
- c. Human rights violations caused by law enforcement should be combated and effective, independent and impartial investigation mechanisms should be established.
- d. All allegations of ill treatment by state authorities should be subject to effective and impartial investigation and those responsible should be brought before justice.
- e. Officials who are investigated on allegations of human rights violations should be suspended and relieved from their position if convicted.

13. LGBTI Rights should be recognized and protected through:

- a. Defining discrimination based on sexual orientation and gender identity in its Constitution and including sexual orientation and gender identity to clauses on equality, non-discrimination, and hate crimes legislation.
- b. Providing training on the international standards of non-discrimination to government officials, police, military, prison and detention staff and judiciary with the specific inclusion of sexual orientation and gender identity.
- c. Adopting legal arrangements regulating hate crimes and violence against LGBTI individuals.

14. Rights of the Child should be ensured through:

- a. Defining the child as an individual independent from the family in both the relevant legislation and in policy documents.
- b. Making arrangements to allow for the participation of all stakeholders in the activities of the Child Rights Monitoring and Evaluation Committee.
- c. Adopting legal regulations to prevent violence against children in all environments.
- d. Adopting legislative provisions to allow for the freedom of association of children.
- e. Redefining acts that constitute an offence, with consideration to children.
- f. Adopting legal arrangements and preventive measures to prevent child marriages including for children between ages 15-18.
- g. Adopting legal arrangements to prevent child labour and take all measures to ensure that monitoring mechanisms are effective.
- h. Harmonizing relevant provisions in its legislation in line with the Convention on the Rights of the Child, including the 12 articles in the Constitution.
- i. Introducing necessary measures to ensure that children can receive formal education in their mother tongue.
- j. Prohibiting detention of children and establishing a strong restorative child justice system

15. Equal representation and participation of women should be ensured through

- a. Taking special measures to safeguard the rights of women for equal representation in political, social and economic life.
- b. Developing effective policies to eliminate violence against women and introducing effective preventive mechanisms.

- c. Enabling women organisations at local and national level to take actively and effectively part in all consultation processes.

16. Independency of the Judiciary should be ensured by taking following measures:

- a. All necessary legal and administrative measures to ensure the judicial functions be performed without any intervention, threat, pressure, encouragement from the legislative and executive branches of the state or other external influence. Measure to be taken should be in full compliance with the UN's Basic Principles on the Independence of the Judiciary and the UN's Bangalore Principles of Judicial Conduct, also known as the Bangalore Principles, adopted by the UN HRC on 23 April 2003 and by the High Council of Judges and Prosecutors by decision No 315 on 26/06/2006.
- b. Prosecutors and the structure of prosecutorial services should be kept separate from judges and should function in a structure that preserves its independence in its own right. The European Guidelines on Ethics and Conduct for Public Prosecutors 'the Budapest Guidelines' (2) and UN documents should be taken into consideration in this regard.
- c. An integrated approach should be adopted whereby legal education and training after acceptance to the profession are delivered to members of first degree courts and high courts on independence and impartiality as well as the bureaucracy of the Ministry of Justice.

17. Civil society

- a. The views of the civil society should be taken into consideration in creating and maintaining constitutional and legal measures to ensure the independence and impartiality of the judiciary.
- b. Turkey should establish a participatory mechanism to plan and follow-up the implementation of recommendations. The mechanism must allow for effective participation of all relevant civil society organisations and universities.