

**Universal Periodic Review of Turkey 2015
UNCT SUBMISSION**

I. Introduction

1. The following submission is made by the United Nations Country Team (UNCT)¹ in Turkey. The submission provides information on the promotion and protection of human rights in Turkey taking into account the mandates of the various agencies and programmes comprising the UNCT in the country.²

II. Background and Framework

A. Constitutional Framework

2. The Constitutional Amendment of 2010 brought several advancements such as recognising the right of individual appeal to the Constitutional Court (CC). Under the amendment, impunity for 1980 coup leaders and their associates ended, but in practice concerns over their impunity remain. The amendment recognised positive discrimination for women, the elderly and children, but without explicitly referring to their specific rights. **Legal arrangements need to be adopted on some measures put forward by the amendment, such as those concerning protection of personal data, military justice, and the introduction of affirmative action for gender equality.**

3. Consultations have been taking place since early 2012 on a new constitution, but the process was suspended as no consensus among political parties has been reached. **It is recommended that all political parties continue to work towards reaching an agreement on a new constitution, the development of which should be based on international human rights principles and standards and social consensus and in consultation with civil society and the Venice Commission. The new constitution, as the Convention on the Rights of the Child (CRC) explicitly states, should also reflect children as rights holders, in addition to their current protection in the family environment.**

B. Institutional and Human Rights Infrastructure

4. The Turkey National Human Rights Institution (TIHK) and the Ombudsman Institution (OI) were set up in 2012. These were positive developments. However, there are concerns regarding the lack of clear division of mandates between the two institutions as well as the independence of TIHK in particular.

5. TIHK is mandated to carry out inspections on prisons and an alleged mass grave, and conduct awareness-raising activities to promote a human rights culture and prevent infringements. The TIHK has not been reviewed by the Subcommittee on Accreditation of the International Coordinating Committee of National Human Rights Institutions, nor has it submitted a request for review. Moreover, the law establishing the TIHK is widely regarded – by national and international human rights organizations – as falling short of the Paris Principles, particularly in terms of its independence from the executive. By a January 2014 Council of Minister's decree, the national prevention mechanism for monitoring places of detention was established under the TIHK. **The law establishing the TIHK should be amended with a view to ensuring its independence. The capacity of the TIHK in terms of human resources and budget**

¹ Resident agencies and programmes participating in this initiative are: UNICEF, UNFPA, UNHCR, IOM, ILO, WHO, UNIC, UNDP, OHCHR

² A list of abbreviations is provided in Annex I

needs to be strengthened for the TIHK to fulfil its mandate, including its role as a National Preventive Mechanism.

6. The OI became operational and began receiving complaints in April 2013 with a mandate of “examining, investigating, and submitting recommendations to the Executive with regard to all sorts of acts and actions as well as attitudes and behaviours of the Executive upon complaint.” This was an important step towards safeguarding citizens’ rights, though the trust of civil society in the institution still needs to be built and consolidated. **Structural issues such as the right of own initiative and conducting on-the-spot checks as well as provision for parliamentary follow-up of the OI’s recommendations need to be considered, preferably as part of a review of the overall human rights architecture in Turkey. In order to strengthen the use and impact of children’s complaints addressed domestically, the UNCT recommends that the Third Optional Protocol (OP3) of the CRC on communications procedures be ratified by Parliament.**

7. The Child Rights Monitoring and Assessment Board, presented by the Government as the overarching coordinating entity for child rights implementation, appears not to be functional and did not convene in 2013. **It is strongly encouraged that the Ministry of Family and Social Policies (MoFSP) convene the Board at least twice a year, initiate its structural reform and allocate specific budget and staff to make it operational. The Child Rights Commission of the Parliament also needs to be institutionalised and strengthened to enable it to review all new legislation from a child rights perspective.**

8. Positive steps were initiated for the prevention of inequalities, such as the proposed Equality and Anti-Discrimination Body (suggested in the September 2013 democratisation package) and an Enforcement Monitoring Body as an independent supervisory body for police officers. However, the related draft bills are still pending in Parliament.

9. Since it started receiving applications in September 2012, the CC appears to have handled them quite speedily and in line with European Convention of Human Rights (ECHR) jurisprudence. The CC also receives individual applications from migrants. The CC has the authority to render temporary injunction decisions in case of risk of serious danger against the life or material or immaterial integrity of the applicant.

C. Policy Measures

10. The Action Plan for the Prevention of Violation of the ECHR, as a precondition for the opening of the EU accession process’s Chapter 23 on Judiciary and Fundamental Rights, was adopted by the Council of Ministers in 2014. The Action Plan aims to decrease the number of cases brought against Turkey to the European Court of Human Rights (ECtHR) and to harmonise existing legislation with ECHR standards. While the UNCT welcomes this Action Plan, it regrets that it does not also refer to obligations stemming from the ratification of binding UN and other international human rights instruments, i.e. violations of international human rights standards and the recommendations of international human rights mechanisms. The first concluding observations of the Human Rights Committee (2012), which cover a similar scope as the case law of the ECtHR, would be particularly relevant in this regard.

11. The First Turkey Strategy Document on the Rights of the Child was adopted in December 2013, which constitutes a useful baseline and policy reference. Civil society was consulted on the situation of children through national mechanisms or heard, for instance, in parliamentary hearings. However, it is neither a full partner in policy development, nor in policy implementation. The limited access of civil

society to State-controlled data and places of juvenile detention, substitute care, and other related concerns makes its independent monitoring role very restricted. **It is recommended that MoFSP publishes an annual report on the implementation of the National Child Rights Strategy and that civil society is given a formal permanent role in monitoring the implementation of child rights.**

12. The National Action Plan (NAP) on Gender Equality-1 (2008-2013) has been in place since 2008 and the new one is currently being drafted. The NAP on Combating Domestic Violence against Women in Turkey-2 (2012-2015) was drafted in 2012. However, monitoring and evaluation, adequate planning, budgeting and reporting are seen as the main constraints of the NAPs on both subjects. **More efforts are needed in order to establish a monitoring system with benchmarks and timelines for the implementation of these NAPs. A strong commitment should also be made towards adequate funding the plan. The NAPs need to be drafted in a participatory manner and adopted by Parliament.**

III. Turkey's Record on Human Rights

A. Equality and Non-Discrimination

13. The bill for Amending Several Laws to Develop Basic Rights and Freedoms, known as the 'democratisation package', inserted hate crime under the Turkish Penal Code for the first time. The bill focuses on the use of Kurdish in education in private schools, protection of religious practices and democratising political parties and election campaigns. The bill regulates discrimination and hate crimes on the basis of ethnic affiliation but not on the basis of sexual orientation and gender identity.

14. Despite supportive legislative changes, discrimination against women still continues. The representation of women in politics, women's employment rate, literacy levels and overall enrolment in the education system are all still low. The MoFSP was established in 2011 with a mission to make, implement and monitor integrated social policies that target individuals, family and the community. **Legislation frameworks with respect to gender equality and non-discrimination need to be implemented consistently across the country. Moreover, efforts are required to strengthen dialogue and cooperation between women's NGOs and relevant public institutions. There is a need for gender equality units within Government institutions to mainstream gender into policies and plans, while further training is needed for both central and local level Government officials and service providers on gender equality, gender-sensitive planning, budgeting, data collection and service provision. Gender equality should be systematically promoted in education. Programmes on gender equality in which men and youth are involved need to be developed.**

15. The UNCT regrets that discrimination against lesbian, gay, bisexual, and transgender (LGBT) people still continues, as evidenced by instances of intolerance and discrimination against LGBT people. **The UN recommends that in the scope of the non-discrimination legislation, sexual orientation and gender identity are included in the definition of discrimination.**

16. The 2014 amendment of the Law on Disability No. 5378 aims for the elimination of all kinds of discrimination against people living with disabilities (direct and indirect), and calls on the State to adopt affirmative measures to ensure equality. Disability has also been included among the enumerated grounds of non-discrimination, under the Law on National Education and the Labour Law.

17. The geographical limitation maintained under the new Law No. 6458 on Foreigners and International Protection (LFAIP) causes discriminatory treatment of non-European refugees and asylum seekers.

B. Right to Life, Security of Persons and Excessive Use of Force

18. Right to Life: The UNCT remains concerned about reports of excessive use of force by police during the Gezi Park protests when eight civilians, including a ten-year-old child, were killed and thousands of citizens were seriously injured. Though some investigations against the police are under way, they are widely regarded as insufficient. **Independent, impartial and effective investigations should be carried out into incidents of excessive use of force by the police and necessary measures should be taken to prevent inappropriate use of tear gas and pepper spray.**

19. An attack by the military on the village of Uludere in December 2011 caused the death of 34 civilians. A verdict of non-prosecution was given by the military prosecutor in January 2014. Although the Parliamentary Human Rights Inquiry Committee published an investigative report, it fell short of identifying responsibility and no administrative action was taken to punish any individual for the attack. The peace process initiated by the Government at the end of 2012, welcomed by the UN, is a turning point and resulted in a decrease in tension, violence and hunger strikes in eastern and south-eastern Anatolia. The related 2013 democratisation package aimed to raise democratic standards in Turkey. **The UNCT highlights the importance of addressing human rights issues linked to the conflict.**

20. Violence against Women: While Turkey is trying to establish infrastructure to minimise violence against women and honour killings, the rate remains high. The Law to Protect Family and Prevent Violence against Women (No. 6284) entered into force in 2012, aiming to make legal arrangements in accordance with the Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention)³. However, its effective implementation, particularly within the police and the judiciary system, remains a challenge. Though the number of shelters has doubled since 2010⁴, it still remains too low to cover all victims. The UN regrets that the Municipal Law No. 5393 was changed in December 2012 and the population threshold for the establishment of shelters for women and children in metropolitan municipalities and municipalities was increased⁵. **Specialised shelters, special needs groups, a dedicated hotline and women’s counselling and monitoring centres need to be established. More efforts are needed for the effective access of victims to appropriate legal information, legal aid and judicial proceedings.**

21. Violence against Children: The UN welcomes the fact that child victims are benefiting from enhanced attention from the justice system, notably through the development of specialised units in hospitals and specially-designed equipment for child-friendly hearings but the causes and consequences of child abuse, as well as its prevention, remain largely unaddressed. Victims remain ostracised and their reintegration into society needs to be further supported. **The draft National Strategy and Action Plan on Violence against Children 2014-2018 prepared under the leadership of MoFSP should be adopted, implemented and monitored, and all forms of violence against children should be explicitly prohibited in all settings.**

22. Torture and Ill-Treatment: Several measures have recently led to a downward trend in incidents of torture and ill-treatment by law enforcement officials in Turkey. Audio-visual recording systems started to be installed in detention and interview rooms. The statute of limitations for the offence of torture

³Turkey was one of the first countries to sign and ratify the Council of Europe’s Convention on Preventing and Combating Violence Against Women and Domestic Violence

⁴ Increasing from 65 in 2010 to 129 in 2014

⁵ From a population of 50,000 to 100,000

was lifted by the 4th Judicial Reform Package in 2013, though retroactive application of the law is not foreseen. **Despite these positive developments, an independent and effective investigation system for allegations of torture by law enforcement officials is not in place and is urgently required.**

23. The lack of such a system is also a concern for investigations into use of force during the 2013 demonstrations. Secondary legislation was adopted by the Ministry of Interior (MoI) in June 2013 to prevent the excessive use of tear gas and pepper spray and ill-treatment by the police; however, the Gezi Park protests were accompanied by excessive and inappropriate use of force, tear gas and pepper spray. **In line with the recommendations of the Special Rapporteur on extrajudicial executions, there should also be effective and fair investigation into execution-type killings and forced disappearances by State perpetrators.**

24. Conditions of Detention, Including Prisons and Migration Centres: Improved detention conditions and efforts to prevent overcrowding by enhancing the prison capacity as well as the adoption of a probation system are positive developments with regard to the reform of the prison system in Turkey. However, the condition of prisoners with serious health problems and disabilities has been a concern, as also noted by ECtHR in its March 2013 decision on Turkey failing to accord proper access to health services for a prisoner who died in 2001. **Further efforts are needed to strengthen standards of prison monitoring, reflecting the international standards promoted by the UN as well as ensuring that the capacity of prison monitoring boards and probation officers are improved.**

25. The LFAIP represents noteworthy progress with regard to the administrative detention of foreigners. The number of removal centres for foreigners under administrative detention for deportation is expected to increase⁶. Conditions in some removal centres were reported to be poor due to limited access to services and overcrowding; however, since 2010, some improvements in conditions have already been observed. The Law also regulates administrative detention of asylum applications and indicates that the detention of persons seeking protection should be an exceptional measure and stipulates a maximum length of one month, and is subject to regular review on necessity. **Measures to ensure monthly review of administrative detention are needed as well as that the duration of administrative detention in removal centers does not exceed six months in normal circumstances and that the administrative detention is not extended arbitrarily. Alternatives to administrative detention pending expulsion such as regular reporting should be considered.**

26. The number of children in detention in Turkey remained stable (around 2,000) and even slightly decreased, with a high proportion of those awaiting trial or appeal. After the sexual abuse in detention 'Pozanti case' of 2012 (addressed by the CRC Committee), in May 2013 renewed allegations of systematic ill-treatment and discrimination against children in the İzmir Şakran and Antalya prisons were voiced by civil society and members of Parliament. Inquiries, staff changes and children's transfers to other detention centres took place. No compensation or remedies to victims were reported. **The Ministry of Justice is urged to further prevent cases of abuse against children in detention, whether by staff or other inmates, ensuring that independent monitoring is guaranteed. Alternatives such as probation and conditional release in line with the 'detention as a last resort' principle should be developed.**

⁶ Enhancing detention capacity from 1,740 to 2,950

C. Freedom of Expression, Media, Association and Assembly

27. Turkey has improved the framework on freedom of expression by amending the Turkish Penal Code and Anti-Terror Law. The definition of terror crimes was narrowed, particularly by the 4th Judicial Reform Package, which makes a distinction between the imparting of ideas through publications, statements, speeches and the use of threat or violence. However, the track record of implementation is mixed at best. Article 314 of the Turkish Criminal Code on membership of an armed organization still merits revision to further prevent restrictions on freedom of expression and prosecution of human rights activists, journalists, students and lawyers. **Legislative measures should be strengthened in order to enhance freedom of the press and make unnecessary the self-censorship that has recently been growing within the Turkish press.**

28. The new Internet Law (No. 6518) was adopted in February 2014, allowing Turkey's Telecommunications Authority (TİB) to block websites without first seeking a court order. It also requires internet service providers to store data on web users' activities for two years and make it available to the TİB upon request without a judicial order. The UN reported that the Law may lead to breaches of human rights, in particular the right to freedom of expression and opinion, and the right to privacy. The Law is considered to be incompatible with Turkey's international human rights obligations. On the eve of the 2014 local elections, Twitter and YouTube were banned on grounds that they were acting against national security interests. The bans were later lifted by CC rulings. **Bans on websites, which are considered to be disproportionate in terms of scope and duration, should be prevented in order to ensure freedom of expression. Therefore, it is recommended that the recently adopted Internet Law, which limits freedom of expression and access to information by citizens, should be revised in line with international standards.**

29. There has been observable improvement in the freedom of assembly for Kurdish celebrations, including *Newroz*. The September 2013 democratization package led to changes in Law No. 2911 on Demonstrations and Public Meetings, according to which the venue for demonstrations are to be determined by governors in consultation with political parties, civil society organizations and related bodies. Demonstrations are to be held within a stipulated time frame, and security officers can record the images and voices of participants for the sake of determining a crime or criminal suspects. **The recent restrictions on May Day assembly in Istanbul's Taksim Square show the serious limitations that still exist and have highlighted the improvements needed. Law No. 2911 is vague and thus should be reviewed to clarify situations in which can be applied, for full enjoyment of freedom of assembly.**

30. Although the legal framework on civil society (Law on Associations and Foundations) has been improved, its implementation suffers from overly-bureaucratic procedures and lack of clarity in definitions. Changes to the Law on the Collection of Aid were drafted in 2012 in a participatory manner, and call for the establishment of a Civil Society General Directorate under the MoI (to regulate the activities of civil society, as a single authority and higher legal status). However, the Law is still pending adoption. **Regulations for the establishment of associations need to be revisited, including regulations on children's right to association (see CRC concluding observations of July 2012).**

D. Administration of Justice and Rule of Law

31. Independence of Judges and Lawyers: The 2010 Constitutional Amendment made the High Council of Judges and Prosecutors (HCJP) – the body that regulates and oversees judges and prosecutors – more representative and inclusive as its members can be elected from a wider and more diversified base. It

also increased its membership to 22, and reduced the authority of the Minister of Justice over the HCJP and affiliated the Board of Inspectors to the HCJP. The 2014 changes to the HCJP legislation, however, have raised serious concerns, as the power of the Minister of Justice was significantly increased, making the Minister the sole authority that supervises the judiciary and HCJP members. This has been strongly criticised by the Venice Commission as being against international principles, particularly in terms of the independence of the judiciary. This amendment to the Law on the HCJP was partially annulled by the CC in April 2014, specifically in respect to provisions detailing the Minister's control over the appointment of prosecutors and judges and the Minister's authority to investigate HCJP prosecutors. **It is recommended that recent legislative arrangements in the field of the judiciary should be reviewed in order to make them consistent with universally accepted principles guaranteeing independence and impartiality of the judiciary.**

32. *Structure and Organisation of the Justice System:* The UNCT welcomed the 2014 abolition of Special Heavy Penal Courts, previously authorised to try cases involving organised crime, organised drug trafficking and cases brought by the Anti-Terrorism Law. Such cases are now handled by regular courts. Furthermore, Law No. 6110, adopted in 2011 in an effort to address the main problem of the backlog in the judiciary in Turkey, increased the number of chambers and members of the Court of Cassation and the Council of State. The creation of district and regional courts of appeal as an intermediate tier in the structure of courts, foreseen even in 2005, was supposed to address this problem as well. However, there is still no progress in their establishment given the deficiencies in physical infrastructure and human resource capacities. **Regional appellate courts and effective legal aid services should be established for easier access to justice.**

33. *Access to Justice, Right to a Fair Trial and Effective Remedy:* Pre-trial detention has been an issue of concern. In July 2013, the provision which foresees a maximum of a ten-year pre-trial period for suspects of organised crime and terrorism-related offences was annulled by the CC. Through the judicial reform packages, a number of amendments were made to improve pre-trial detention practices, such as reducing the maximum period of detention from ten to five years and requiring the courts to justify the decision of detention with concrete evidence. **Despite these positive developments, stronger measures should be implemented to ensure fair trial and easier access to justice for all in line with international principles.**

34. The 4th Judicial Reform Package introduced measures to improve the coverage and functioning of the legal aid system across the country, making the conditions easier and more attractive to citizens and legal actors. Bar associations and civil society organizations are working to raise public awareness on legal aid possibilities, particularly amongst women and the rural population.

35. The LFAIP makes explicit reference to the legal aid mechanism on contesting migration detention but not expulsion and decisions within the international protection application and evaluation process. Challenge of decisions for asylum seekers/refugees and irregular migrants is limited to legal representation before judicial authorities and does not ensure general legal assistance. **The capacity of the judicial community to provide legal aid to migrants and barristers in line with the LFAIP should be strengthened.**

36. *Juvenile Justice:* The number of juvenile courts increased to 117 and the number of juvenile court judges to 113. However, only 90 juvenile courts are active and more than 50 per cent of children coming before a court or being detained are still addressed under adult systems. Although all child victims and offenders are entitled to mandatory free legal aid, such aid is neither specialised nor granted to child witnesses. Training programmes for magistrates and other professionals have been expanded and

included in the curriculum of the Justice Academy, which is a positive development. **Further resources must be invested in the specialisation of the justice system for children, including quality legal aid to all. It is recommended that the Ministry of Justice should regularly report on indicators such as length of detention and the use of alternative measures. It should also create a cross-sectorial juvenile justice entity in order to ensure the sustainability of progress and service provision by civil society.**

F. Human Rights and Counter-Terrorism

37. With respect to counter-terrorism, there is continued concern about the long-standing, sweeping use of anti-terrorist clauses for the politically motivated prosecution of large numbers of persons including politicians, human rights defenders and journalists, in particular for alleged “membership of a terrorist organization”.

38. The UNCT expresses concern about the amendment to the Law on the National Intelligence Organization (MIT), which was enacted in April 2014 and extends the powers of MIT. Accordingly, MIT can collect and request all sorts of information and data from all individuals and organizations without a court order have connections with legal and illegal organizations and the Council of Ministers would be able to assign operational duties to MIT on issues related to external security, counter-terrorism and national security. **It is recommended that Turkey acts in accordance with internationally accepted human rights norms in its counter-terrorism policies and their implementation.**

G. Good Governance/Corruption

39. Good governance is adopted and/or referred to in many governmental documents. However, there are challenges in terms of implementation of laws. The amendment to the Law on the Court of Accounts (CoA) No. 6085 in 2012 constituted an obstacle to the transparency and monitoring of accounts in accordance with international standards, particularly due to the provision for non-disclosure of the reports produced by the CoA.

40. The implementation of the 2010-2014 National Anti-Corruption Strategy and Action Plan continued. Working groups on corruption-related issues have completed their work and reported to the Ministerial Committee overseeing implementation, with limited engagement of civil society. Some issues remain untouched, such as the financing of political parties and the immunities of parliamentarians. A new debate about the need for strong anti-corruption efforts has started as a result of the 17 December 2013 graft probe process. **An independent anti-corruption body needs to be established for investigation of the corruption allegations.**

H. Social and Economic Rights

41. Right to Work: In 2012, new laws and regulations as well as amendments to existing laws⁷ were introduced into the world of work, fundamentally affecting decent working conditions.

42. While the new Law No. 6289 lifted the exclusion on the right to form and join trade unions for public employees on probation and introduced the right to collective bargaining, it still has certain provisions that are not in full conformity with International Labour Organization (ILO) Conventions No.

⁷ The Law on Trade Unions and Collective Labour Agreement No. 6356, the new Law on Public Servants' Trade Unions and Collective Agreement No. 6289 and the new Law on Occupational Health and Safety No. 6331.

87 and 98, such as the clauses on the prohibition of public employees' right to strike; the prohibition of several categories of workers (such as civilian personnel in military institutions, magistrates etc.) from establishing and joining trade unions; and procedures for the settlement of disputes by the Public Employees' Arbitration Board, the removal of union executive bodies and the composition of collective bargaining parties. **The current legislation and practices regarding unionisation and collective labour agreements should be in full conformity with international labour standards and conventions, and any conflicting statement in the legislation should be revised accordingly.**

43. The new Law No. 6356 introduced new clauses that restrict the authority of a significant number of trade unions to engage in collective bargaining and announces the e-State Gate for trade union registration, which poses a serious risk of exposure of trade union membership. The Law limits compensation for anti-union practices for enterprises covered by the Labour Law. A group of workers including domestic workers and students are prohibited from establishing and joining trade unions.

44. In May 2014, a mine accident took place in Soma and, reportedly, 301 miners died. This accident has shown that occupational safety and health (OSH) remains an important issue in the provision of decent working conditions in Turkey. **Further to the adaptation of a new law on OSH, the implementation of effective supervisory and monitoring mechanisms for OSH and all related fields is required, as well as making necessary investment with respect to capacity development of all relevant parties, including social parties, the private sector as well as Government authorities.**

45. In the area of combating child labour, the National Time-Bound Policy and Programme Framework (TBPPF) adopted in 2005 is in progress and sets the strategic direction for the elimination of the worst forms of child labour by 2015. However, interventions are still fragmented and a satisfactory coordination and monitoring mechanism is still missing. The results of the latest child labour force survey (2012) show that the decreasing trend in child labour has stalled. The employment rate for children aged 6-17 remains at 5.9 per cent. In addition, bye-laws on the protection of children from heavy and hazardous work were lifted in 2013 and regulations on youth work (ages 16-18) revised so as to allow employment in factories producing celluloses, bricks and plastics. With the new Law on compulsory education (known as '4+4+4'), open or home-based education is allowed from the age of 13, which reduces protection against child labour, while the legal minimum age for work remains 15 (labour Law No. 4857). Vocational high schools from the age of 13 also include mandatory apprenticeships. **Further measures are needed to eliminate the worst forms of child labour by allocating additional resources for inspection, strengthening and enforcing existing legislation, cooperating with the MoFSP and the Ministry of National Education (MoNE) on social assistance and ensuring retention at school. With respect to child and women's labour in migratory agricultural work, the Ministry of Labour and Social Security (MoLSS) and Ministry of Agriculture, Food and Livestock (MAFL) need to enhance social protection and security, as well as provide free day care, preschool and recreational opportunities for children.**

46. Rural women's access to resources and services such as education and employment are below the access rates for urban women. Also, there is a feminisation of rural employment. Some 17.8 per cent of all working men are employed in the agricultural sector while 37 per cent of all working women are employed in agriculture and 96.1 per cent of them work without any social security⁸. **It is recommended that the MoLSS and the MAFL jointly address the high level of women working in agriculture who lack any social security either through policy or in practice.**

⁸ http://www.tuik.gov.tr/Kitap.do?metod=KitapDetay&KT_ID=11&KITAP_ID=294

47. Right to Adequate Housing: Legislation which penalises obstruction of developers' projects is seen as another area of concern, as is the recent practice of displacements of vulnerable groups (the poor, Roma) from both urban and rural areas.

48. Right to Social Security and Adequate Standard of Living: Laws and regulations have been introduced under the scope of social security reform in Turkey since 2008. According to the laws established, every employee engaged in any kind of working relationship with an employer should be registered and covered by the social security system, which includes premiums for retirement, healthcare, unemployment, minimum wage and the other related areas

49. However, unregistered employment at a rate of 37.5 per cent (2012) still remains one of the important challenges that prevent employees from enjoying their fundamental economic rights which result from being a registered worker⁹. Women are more disadvantaged than men in this respect. Between 2009 and 2012, the rate of men working without social security declined by 2.9 per cent, while there was a rise of 15.5 per cent for women during the same period¹⁰. **To ensure a satisfactory work-life balance for women, social policies and services – such as childcare, sick-leave and care for the elderly – need to be strengthened.**

50. Turkey has recently increased the percentage of social assistance transfers in its general public expenditure, thereby addressing some of the welfare needs of poor households. However, cash transfers to poor households are not considered a 'right' protected by the law but are based on responses to ad-hoc application of households and subject to the decisions of sub-provincial social assistance councils. **Social assistance should be prescribed and distributed through a rights-based approach and based on relevant legislation. It is recommended that the coverage of conditional cash transfers be extended, that the amounts be increased and additional incentives are provided for better outcomes for children and families, including refugees.**

51. Right to Healthcare: The General Health Insurance (GHI) system came fully into effect in January 2012, making health insurance compulsory for all residents and thereby increasing access to health services. There are several issues that inhibit sexual and reproductive health services - the high personnel turnover in the family medicine system and community centres, the large number of patients for whom family physicians are responsible¹¹, problems with commodity security as well as the pro-natalist discourse of the Government promoting multiple-children families deprioritizing family planning. As a result, the sexual and reproductive health services provided by practitioners have been limited mainly to antenatal and postnatal care, with critical gaps in vital services on family planning (including contraceptives), counselling, STI prevention, and youth-friendly health services. Community-based health education programmes are also very limited.

52. There are also disparities between geographical regions, urban and rural areas, and between men and women on access to reproductive health and rights (including access to and the use of sexual and reproductive health services). Especially vulnerable population groups such as seasonal migrant agricultural workers, the Roma population, sex workers and LGBTs have very limited access to reproductive health information and services. **The integration of a human rights based approach in the design and implementation of health policies is therefore required. Integrated sexual and**

⁹ Turkish Statistical Institute

¹⁰ <http://www.keig.org/content/english/keig%20policy%20report%202013.pdf>

¹¹ 4,000 per practitioner

reproductive health services and comprehensive maternal health services to reduce regional disparities in health indicators and reach vulnerable groups [including marginalized girls at risk of child marriage, Syrian population under temporary protection in Turkey (the Syrian population hereinafter), people living with HIV, migrant workers, other key population groups] need to be delivered. The establishment of youth-friendly health services within the primary healthcare system as well as volunteer counselling and test centres is essential.

53. In 2012, strong negative reaction was given to the draft law that aimed to ban the exercise of abortion in local health clinics and by certified practitioners, to grant doctors in hospitals the right to refuse abortion due to conscience, and to enforce mandatory "consideration time" for women requesting a termination. **The implementation of strategies to increase demand for and supply of modern contraceptives and to improve access to family planning services that are free of coercion, discrimination and violence are urgently and critically needed.**

54. With the amendment to Law No. 5510, asylum applicants, status holders and stateless persons were included in the scope of the General Health Insurance system. As for the Syrian population, their access to health services has been provided free of charge at the camps and this is to be maintained for a number of reasons. In April 2013, based on a circular, their health expenses were covered by the Disaster and Emergency Management Presidency (AFAD). 75 % of the Syrian population are women and children under 18 years old. Women and girls of reproductive age displaced due to conflict are especially vulnerable to sexual and gender based violence, sexually transmitted diseases, early and forced marriage, high risk pregnancies, unsafe abortions, lack of family planning services and commodities. **Scaling up of reproductive health services as well as counselling and psychosocial support services for the Syrian population are also needed, however.**

55. Right to Education: Preschool education has not been made compulsory and is still subject to fees, which may discourage the most deprived, despite the Government's goal of 100 per cent enrolment for 4-year-olds in preschool. After expanding rapidly, preschool enrolment seemed to stagnate in 2012-2013 at around 40 per cent, possibly due to a previous over-estimation. The legal basis for community-based preschool services is not yet in place, posing a risk to the expansion of this approach. The MoNE reports almost 100 per cent enrolment for both girls and boys in primary and middle school. In four-year secondary schools, net enrolment rates show improved enrolment and gender parity¹². **Goals for preschool education (encompassing the entire 3-5 year age group) need to be revisited, focusing on the most disadvantaged, including children with disabilities. The Government should continue its efforts to augment resources for education, improve curriculum content including age-appropriate sexual education, and improve the quality of teaching and schools attended by disadvantaged children, including children with disabilities, Roma children, the children of agricultural workers, foreigners including refugees, and Turkish children affected by the Syrian crisis.**

I. The Rights of Children

56. Child survival, health and enrolment in education continue to improve. However, living conditions and access to services remain uneven. Key health and nutrition outcomes, for instance, continue to vary significantly by region. School non-attendance and child labour persist¹³, with limited policies for the inclusion of vulnerable children back into school. Children with disabilities, children in underdeveloped

¹² Boys: 70.8 per cent; girls: 69.3 per cent

¹³ 5.9 per cent of 6-17 year olds in 2012

regions and rural areas, children in poor urban areas, Roma children and migrant, refugee and asylum-seeker children are likely to be the most disadvantaged and may face discriminatory attitudes.. Girls are engaged in domestic chores to a greater extent than boys, and face more restrictions with respect to their participation, contributing to the reproduction of major gender disparities in society. **Children with disabilities and children aged 0-3 years need to be prioritized to benefit from childcare reforms improved monitoring of family-based care and inclusion in mainstream education. Support for vulnerable families and community-based care need to be prioritised over institutional forms of child care. The full adoption of newly-developed disability assessment/reporting systems is essential for ensuring early detection and intervention, access to available support and family medical services .**

57. Despite the Child Protection Law (2005), the violence prevention and justice system response remain weak. Social attitudes to children are not empowering, restricting their access to their rights. Data on severe domestic, police and other kinds of violence against children is neither consolidated nor analysed. A bill increasing penalties for sexual offences against children has been tabled. Yet, girls' specific vulnerabilities, needs and exposure to violence and early forced marriages are poorly targeted. Some 30 per cent of married women are under the age of 18 and every year over 90,000 adolescent girls give birth in Turkey¹⁴. **The draft National Strategy on the Prevention of Violence against Children needs to be adopted and enforced, and effective forms of social mobilisation must be further developed to prevent child and forced marriages and identify cases of trafficking.**

58. Only a small proportion of Syrian children living in host communities have been integrated into the Turkish education system due to challenges regarding language of instruction and administrative barriers which are anticipated to be removed upon the adoption of the Temporary Protection Regulation. The economic pressure on children to assist families by earning income and the direct cost associated with school attendance may also discourage some children from enrolling in school. Some child-friendly spaces, youth activities and parenting education are provided inside and outside of camps. **MoNE, AFAD and their partners are encouraged to continue their efforts to make maximum use of their own and all available resources to ensure that the Syrian population and other refugee children in Turkey participate in quality education and that their educational achievements are certified.**

J. Persons with Disabilities

59. Although Turkey is one of the first countries to have signed and ratified the UN Convention on Rights of Persons with Disabilities, its implementation is limited. Challenges in terms of accessibility, education and health services as well as employment continue. The Law on Disability No. 5378 imposed obligations on municipalities and public institutions to provide full accessibility for persons with disabilities until 2012, but this deadline was extended to 2015. **Full accessibility for persons with disabilities needs to be provided without further extension of the deadline.**

60. The amendments made in February 2014 on several laws regarding disabled persons brought important advancements, such as: workplaces that employ person with disabilities are provided tax incentives and financial support; accommodating the transfer requests of civil servants who have a first-degree relative with disability in their care; state financial assistance introduced both for those receiving home care and at public and private institutions. However, supported employment in the mainstream labour market also needs to be developed. **There have been promising developments in terms of**

¹⁴ Turkish Statistic Institution, 2013

moving away from traditional large care institutions towards small group homes and community-based services for person with disabilities, but more efforts in this direction are clearly necessary.

K. Minority Rights

61. Turkey has a limited definition of its minorities¹⁵ that defines only non-Muslims as minorities in the country, and excludes different cultural and ethnic groups. With the democratization package of 2013, the right to conduct political activity, political propaganda and education in private schools in languages and dialects other than Turkish, the removal of criminal sanctions for the use of the letters Q, X and W used in Kurdish and the changing of village names back to the versions which preceded the 1980 military coup have been recognised. **The UNCT recommends that an independent mechanism for the investigation of hate speech against minorities be established.**

L. Migrants, Refugees, Asylum Seekers, Seasonal Migrants and Stateless Persons

62. Turkey's first law codifying the rights and obligations of foreigners, Law No. 6458 on Foreigners and International Protection (LFAIP), was adopted by Parliament in April 2013 and came into effect in full in April 2014, an important and positive human rights achievement. With its adoption, a central civil institution, the Directorate General for Migration Management (DGMM) has been established.

63. In the Law, the non-refoulement principle is recognised as overarching, while any forcible return that may lead to infringement of Article 3 of the ECHR is forbidden¹⁶. As a breakthrough development, the Law regulates subsidiary protection status and provides a legal basis for the temporary protection regime in cases of mass influx situations. Under the Law, asylum applicants may appeal the first instance decision issued by the DGMM to administrative courts.

64. While the Law maintains geographical limitation with regard to the implementation of the 1951 Convention and its Protocol, asylum applicants from non-European countries are provided access to the same services. Through termination of residence permits, the Law overcame procedural and administrative challenges imposed on asylum applicants in accessing rights and services. The Law also includes specific provisions on unaccompanied and separated children and other groups with special needs giving them priority for proceedings and access to rehabilitation services. **It is recommended that the provisions of the Child Protection Law and the Law to Protect Family and Prevent Violence Against Women are equally and systematically applied to foreigners in Turkey, including refugees, and that robust prevention and response mechanisms are implemented to negate risks such as forced marriage, trafficking or recruitment by armed groups.**

65. Turkey is the only country in the region that declared temporary protection status for Syrian nationals and stateless persons. Syrian populations are provided with protection against forcible return and access to services and assistance. With the rapidly growing numbers of the Syrian population in Turkey, provision of assistance to persons living outside camps has not been systematic, however. A Temporary Protection Regulation is anticipated to be issued during 2014 with an expectation of

¹⁵ As per the Treaty of Lausanne of 1923

¹⁶ The Law also contains provisions on access to international protection procedures, including at borders and removal centres, individuals' access to UNHCR, legal representatives, public notaries, legal aid and interpretation services throughout the procedures; access to health services, elementary and secondary education, labour market, social services and assistance by the international protection applicants and status holders.

strengthened rights basis. **Once the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence enters into force in August 2014, more solid steps are to be expected to enhance protection of asylum seeking women in Turkey.**

66. The definition of 'stateless person' has been incorporated into the LFAIP for the first time, incorporating safeguards against refoulement. The Draft Laws on ratification of the 1961 Convention on the Reduction of Statelessness and the 1954 Convention relating to the Status of Stateless Persons are pending Parliament's ratification.

67. As regards expulsion of foreigners, the applicable procedures are clearly set out, legal bases prohibiting expulsion based on humanitarian grounds are identified and an appeal mechanism before administrative courts with suspension effect has been established; however the impossibility of further appeal raises concerns. There is a time limit for the period of detention pending expulsion and services including emergency and fundamental healthcare and education are guaranteed. LFAIP also introduces for the first time provisions related to integration to be applied to both foreigners and beneficiaries of international protection. **There is a need for an integrated inter-agency coordination system for migration management. The establishment of special courts for migration and asylum cases should be considered. Overall, the monitoring mechanisms of human rights bodies should be strengthened to consider migrants' human rights. Human rights and international standards should be mainstreamed when implementing obligations falling under the EU-Turkey Readmission Agreement.**

68. Access to labour markets was improved as the Law regulates that refugees and holders of subsidiary protection status are not required to obtain a separate work permit and their ID replaces the work permit.

69. New residence permits on humanitarian grounds and residence permits for victims of trafficking have been designed to address human rights concerns. A new Department of Protection of Trafficked Persons within the DGMM was established. It will work on a framework law combating human trafficking and on the protection of trafficked persons. **The framework law should be adopted. The Council of Europe Convention on Action against Trafficking in Human Beings needs to be ratified. The National Referral Mechanism should be strengthened to consider all forms of trafficking**

70. Seasonal migrant agricultural workers are considered to be a vulnerable group that experiences social exclusion and are exposed to the worst working and living conditions, leading to high rates of early death and disease due to far-from-decent living and accommodation conditions, an insufficient and unbalanced diet, accidents and injuries, reproductive health problems, exposure to pesticides, extremes of hot and cold and failure to access services. **The ability of migrant workers, including seasonal migrant workers and their family members, to access basic services including health and education should be enabled via customised delivery services and outreach programmes. The needs of migrant women and migrant children should be reflected in national action plans and strategies on gender equality, and violence against children.**

Annex I

List of Abbreviations

Constitutional Court	CC
Convention on the Rights of the Child	CRC
Court of Accounts	CoA
Directorate General for Migration Management	DGMM
Disaster and Emergency Management Presidency	AFAD
European Convention of Human Rights	ECHR
European Court of Human Rights	ECtHR
High Council of Judges and Prosecutors	HCJP
International Labour Organization	ILO
Law on Foreigners and International Protection	LFAIP
Lesbian, Gay, Bisexual, and Transgender	LGBT
Ministry of Agriculture, Food and Livestock	MAFL
Ministry of Family and Social Policies	MoFSP
Ministry of Health	MOH
Ministry of Interior	Mol
Ministry of Justice	MoJ
Ministry of National Education	MoNE
Ministry of Labour and Social Security	MoLSS
National Action Plan	NAP
National Time-Bound Policy and Programme Framework	TBPPF
Ombudsman Institution	OI
Turkey's National Human Rights Institution	TIHK
Turkey's Telecommunications Authority	TiB
United Nations Country Team	UNCT