

**Submission by the United Nations High Commissioner for Refugees**

**For the Office of the High Commissioner for Human Rights' Compilation Report –  
Universal Periodic Review**

**THE REPUBLIC OF TURKEY**

**I - BACKGROUND INFORMATION**

Turkey is a State party to the 1951 Convention relating to the Status of Refugees (1951 Convention) and its 1967 Protocol. Turkey, through the declaration made under Article 1(B) of the 1951 Convention and the declaration made upon accession to the 1967 Protocol, has ratified the Convention with the geographical limitation and still maintains the limitation. In line with Article 90 of the Turkish Constitution, the 1951 Convention bears the force of law.

The two draft bills on accession to the 1961 Convention on Reduction of Statelessness and the 1954 Convention relating to the Status of Stateless Persons were sent to the Parliament in September 2011 by the Prime Minister's Office which was followed by the pledge by the Turkish Minister of Interior to accede the Stateless Conventions in the 2011 Ministerial Meeting in Geneva. As of May 2014 both draft bills are still pending on the Parliament's agenda.

Turkey was the first country to sign the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and ratified the Convention in March 2012. With the entry into force of the Convention in August 2014, more solid steps will be introduced in order to enhance protection of asylum seeking women in Turkey.

Turkey's first asylum law, Law no.6458 on Foreigners and International Protection (LoFIP), was adopted by the Parliament in April 2013 and came into effect in full in April 2014. The adoption of the Law is a significant development for Turkey in compliance with its obligations under the international human rights and refugee law. The infringement of Article 3 of the European Convention of Human Rights (ECHR) is forbidden.

The LoFIP regulates provision of subsidiary protection status and provides legal basis for the temporary protection regime. The Law terminated the residence permit fees required previously from the asylum applicants which created challenges in access to services when the applicants do not have the means to afford the fees.

As to the secondary legislation, the Directorate General of Migration Management (DGMM) issued two circulars in April 2014 - on the procedures to be followed for foreigners and procedures for asylum applicants - in interim until the time of issuance of the Implementing Regulation of the LoFIP in order to guide the implementation in the field. The circular on procedures for foreigners include guidance on the measures to be taken for identification of stateless persons pursuant to the relevant articles of the Law. These measures contain issuance of a Stateless Person Identification Document, which substitutes the residence permit, and bears a Foreigners ID number enabling access to rights by stateless persons upon declaration of their status.

In October 2011, Turkey had declared Temporary Protection for the Syrian nationals and stateless persons, whose habitual residence was in Syria, seeking protection in Turkey. In June 2014, almost 900,000 Syrian refugees were provided protection under the temporary protection regime in the country. Under the temporary protection regime, Syrians are admitted to the territory, protected against forcible returns, and have access to services and assistance. In the absence of a legislation regulating the status and rights of Syrians under temporary protection, access to health services, education and social assistance are provided through secondary legislation. The Council of Ministers Regulation, as envisioned in the Law, is expected to be issued in the upcoming months to codify the principles and procedure of the Temporary Protection regime.

The unprecedented increase in the number of non-Syrian new arrivals continues in the first quarter of 2014, thus making Turkey the fifth largest recipient of individual asylum claims amongst all industrialized nations. As of end of April 2014, there are 86,927 persons of concern in Turkey – not including Syrian refugees- registered with UNHCR. In this group, Iraqi nationals constitute the largest population followed by Afghans and Iranians. All international protection applicants, upon their approach to the State authorities, are registered and interviewed for assessment of eligibility of their claims under the Geneva Convention.

After a two-year preparation period, the constitutional amendments have come into force enabling individual applications to the Constitutional Court in September 2012. The right to individual application to the Constitutional Court provides a legal remedy for individuals, after exhausting other remedies, against (direct or indirect) violations of rights and freedoms guaranteed under the Constitution and ECHR, by the public authorities. All foreigners in the country, in particular asylum applicants, can bring their claims to the Constitution Court if there is a risk that the act of Administration jeopardises their rights and freedoms.

In December 2013, Turkey and EU signed the readmission agreement covering in its scope ‘persons who do not or who no longer, fulfil the conditions for entry to, presence in, or residence on the territories of Turkey or one of the Member States of the European Union.’ Under the Readmission Agreement, which will have a three-year transition period after the date of each Party’s ratification before entry into force, it is projected that a considerable number of third country nationals will be returned to Turkey from EU. While the Agreement is pending ratification in the Turkish Parliament, the Council of Ministers issued a decree in

April 2014 on the steps required to be taken by the national institutions to ensure effective implementation of the Agreement.

## II - ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Turkey adopted its first ever **asylum law**, the Law on Foreigners and International Protection, in April 2013. The Law was drafted as a result of an inclusive and transparent process with the active involvement of international organisations, civil society and scholars specialised in asylum and migration law. The Law ensures important safeguards and addresses critical shortcomings of the national asylum system of Turkey which were raised by UNHCR, human rights NGOs and the committee reports. Under the law, *non-refoulement* is introduced as the overarching principle while access to territory and asylum procedures by asylum applicants lodged at borders and removal centres. The *non-refoulement* article introduced a broader interpretation of the State's obligations and included the circumstances provided for under Article 3 of ECHR.

The **administrative detention of asylum-seekers** is restricted to certain categories and regulated as an exceptional measure to be implemented only after consideration of alternatives to detention. The procedural safeguards including notification of the individual and his lawyer of the reasons and the appeal procedures in the deportation order are regulated under the Law. The duration of administrative detention is prescribed under the Law as one month subject to the regular assessment by the local authorities. Access of UNHCR, lawyers, legal representatives and notaries to irregular migrants and asylum applicants kept at removal centres is regulated in the Law. The Law also introduced procedures affecting suspensive effect of deportation procedures.

Through **termination of the residence permit**, the Law overcame procedural and administrative challenges imposed by residence permit requirement. As of its entry into force, each asylum applicant is issued an ID document bearing a Foreigner's ID number that enables access to services such as access to health services, enrolment at school and vocational courses, application to social assistance. In its progressive spirit, the Law introduced a rights-based approach overcoming previous gaps in relation to rights and services, particularly with regard to access to health and social services for all asylum-seekers, refugees and stateless persons.

Individuals recognised as refugee and holders of subsidiary protection status attain the **right to be employed or to work independently** upon the recognition of their statuses. They would not require obtaining a separate work permit and their ID replaces the work permit. Asylum applicants and non-European refugees can apply for a work-permit 6 months after the date of their international protection application. The relevant articles were drafted in line with the articles 17 and 18 of the Convention.

In line with the State's commitment under Article 35 of the 1951 Convention, the Law contains a specific provision on **cooperation with UNHCR**, with respect to its supervisory

duty, and ensures access to persons of concern by UNHCR during their asylum procedures, including access to removal centres and access to/from border gates.

The Law also includes specific provisions on **unaccompanied and separated children and other groups with special needs**. Pursuant to respective articles, persons with special needs are given priority for proceedings and access to rehabilitation services.

The Law aims to establish a **protection framework for stateless persons**. Under the national legal framework, stateless persons are issued a Stateless Person Identification Document, which entitles such persons the right to legally reside in Turkey. The ID document substitutes the residence permit and is to be renewed by the governorates at the provinces every two years free of charge. The access to rights and services by stateless persons is not subject to any limitations and with the foreigner identification number issued on their ID documents they can have access to rights including health care, education and social assistance. They can also apply for a work permit under the general provisions of the Law on Foreigners' Work Permit. The competent department of the DGMM can also issue travel documents for stateless persons if requested by the individual.

Turkey is the only country in the region to declare **temporary protection status** for Syrian nationals and stateless persons, whose habitual residence was in Syria. Syrian refugees are provided with protection against forcible return and access to services and assistance.

### **III- KEY PROTECTION CHALLENGES AND RECOMMENDATIONS**

#### **Issue 1: Geographical Limitation**

While Turkey provides shelter to millions of refugees, it still maintains the geographical limitation to the 1951 Convention. Asylum applicants from non-European countries are provided with documentation enabling access to various services under the LoFIP. Subsidiary protection status holders, on the other hand, enjoy the right to work without the need to obtain a work permit. Under the limitation, the Law on Foreigners and International Protection, promulgated in April 2014, mentions resettlement to a third country as the only durable solution available for non-European refugees compelled to flee their countries. While the general protection environment for persons of concern in Turkey continues to improve since the promulgation of the Law, lifting of the geographical limitation is strongly advocated for simplification of the asylum procedures and for promoting a stable status for those who do not have opportunity to return to their country of origin in safety and in dignity.

#### **Recommendations:**

- Consider lifting of the geographical limitation and harmonising rights for all persons of concern in Turkey.

## **Issue 2: Implementation of the Law in a favourable manner for fair and efficient asylum procedures**

The numbers of asylum applications has significantly increased since 2011. Coupled with the influx from Syria, it has created significant pressure on the national RSD procedures. Since the entry into force of the Law, the newly created DGMM has taken over the management of the RSD procedures. In parallel, DGMM, as a new entity, is undergoing fundamental institution building. The processing of the applications has been slower than the expected. However, access to services is made available at the registration stage, and the principle of non-refoulement is observed, so basic protection remains available. Nevertheless, the practitioners in the field are expected to meet the deadlines set up in the Law in processing the increasing applications. This process has potential risks that may affect fairness of RSD procedures and may create risks in access to procedures. In an effort to cope with the numbers, the administrative instructions were issued in interim and they are observed to introduce more discretion in implementation. The procedures set out in the Law to deal with the abusive claims, such as accelerated procedures, are being implemented for the cases which do not fit under the categories in the Law. To remain consistent with the spirit of the Law, the secondary legislation needs to reflect the firm commitment to the principles already incorporated in the Law. The international and regional jurisprudence should continue to guide the legislative work in order to avoid the risk of violation of the relevant provisions of the ECHR applicable to the rights of foreigners.

### **Recommendations:**

- Refrain from applying any restrictive practices at the borders (including airport/sea ports transit zones);
- Implement accelerated procedures for the categories not regulated under the Law in justification of increased numbers of applications; and
- Ensure the procedural safeguards in the Law are implemented regardless of the numbers at hand.

## **Issue 3: Development of protection policies and harmonised implementation for Syrian refugees**

The number of Syrian refugees granted Temporary Protection continues to increase while the ratio of non-camp Syrians approaches 75% of the entire Syrian population of concern. At present, the only legal framework regulating the rights and obligations of Syrian refugees in Turkey is the Directive issued in April 2012, which is not a publicly available document. The issues not regulated in the Directive are being addressed by internal circulars. In the absence of programmes and activities for mass information by the State, a gap in access to information by Syrian refugees exists. At present, Syrian refugees with residence permits may apply for work permits and work legally. During the three years since the outset of the crisis, the national institutions have initiated some vocational courses for Syrian refugees, but these have been limited to the camp population. Given the presence of various professionals

among the Syrian population, promotion of activities to support self-reliance would lessen the pressure over the local resources. This will also contribute to the co-existence mechanisms and support the relations with the host community. The lack of central policies on methodologies for ensuring access to education by non-camp Syrians has created hardship for many Syrian children who are willing to continue their education.

**Recommendations:**

- Develop a comprehensive policy in addressing the needs of non-camp Syrian refugees. Design programmes that may sustain long-term stay of Syrian refugees in view of the protracted nature of the conflict in Syria; and
- Develop communication strategies to inform the population of concern on their rights and obligations in Turkey.

**Issue 4: Child Protection and Protection Responses**

While Turkey has a solid legal framework on protection of children and women at risk, there is still the need to increase the physical and human resources capacity of the State institutions to extend protection to persons of concern, including the considerable number of Syrians seeking protection in Turkey. Asylum-seeking and refugee children are covered by the child protection law in Turkey as well as under the national action plan for children. Primary and secondary education is provided to all after the procedural steps are completed. They have access to health services free of charge. Unaccompanied and separated children (UASC) are hosted in the State institutions, provided with assistance on par with local vulnerable children. However, disparities have been observed in treatment of the Syrian UASC as the State institution in charge of child protection does not assume its responsibilities towards this caseload. Identification of UASC Syrian children is also a challenge and in absence of an accurate database on the numbers and vulnerabilities, protection responses are not developed in a systematic way. Access to education by non-camp Syrian children has been limited due to lack of central policies in this regard. There is a need for establishment of a best interest determination procedure under the national child protection mechanisms in order to ensure protection safeguards without any delay.

**Recommendations:**

- Ensure the State institutions in charge of child protection provide the same services to Syrian UASC.
- Establish best interest determination procedures to ensure appropriate protection steps.
- Develop policies and programmes that will allow access to education by Syrian children.
- Ensure care arrangements of unaccompanied and separated children in order to avoid exploitation and negative coping mechanisms.

## **Issue 5: Protection against SGBV and Prevention and Response Mechanisms**

The scope of the Law on Protection of Family and Prevention of Violence against Women covers all individuals within the jurisdiction of the Turkish State. The legal protection mechanisms are available to all while the restricted capacity of shelters acts as a limiting factor for referral of women at risk among the refugee population. Male victims of SGBV have insufficient support and this has been a noticeable gap in particular for LGBTI refugees. Turkish law prohibits marriage under 18 years of age, as well as religious marriages; however, prevention mechanisms are weak and the relevant articles of the Turkish Penal code are not enforced against individuals who do not comply with the law. The risk of early marriage has been difficult to tackle given strong traditions amongst some Syrians. Some cases of early marriages and domestic violence have been addressed through the existing legal framework but more needs to be done to prevent this practice. Psychosocial support needs of the entire refugee population requires further attention and planning by the responsible institutions which then can be supplemented by support from the civil society. Lack of information on the legal framework, rights and protection mechanisms by persons of concern act as a deterrence for many to report the SGBV cases.

### **Recommendations:**

- Develop communication tools on national protection mechanisms against SGBV for persons of concern to be informed on their rights;
- Enforce the provisions of the law to avoid impunity of those who do not comply with the legislative framework on protection against SGBV;
- Develop more comprehensive policies to prevent and address early marriages;
- Expand the psychosocial support programmes and activities in order to cover all Syrian caseload in the urban areas; and
- Ensure that all institutions take steps for enforcement of the relevant legislation without any discrimination on statuses of persons of concern.

## **Issue 6: Accession to the Statelessness Conventions**

Turkey is not a party to the 1954 Convention or to the 1961 Convention. There is no comprehensive data on stateless persons in Turkey made available by the State institutions or other sources. There have been several reasons behind this gap, including the absence of a formal definition of 'statelessness' in the national legislation. The definition of 'stateless person' has now been incorporated in the Law on Foreigners and International Protection, but the definition differs from the one of the 1954 Convention. The Law also envisages establishment of a national statelessness determination procedures, it is expected that the data on statelessness will be compiled by the national institution carrying out the procedure. The Foreigners Department under DGMM is foreseen to be in charge of compiling statistical data, functioning of the status determination procedures and documentation of identified stateless persons.

**Recommendations:**

- Accede to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on Reduction of Statelessness; and
- Seek UNHCR's technical advice in developing the national procedure for determination of statelessness in light of UNHCR's mandate and expertise in the statelessness field.

**Human Rights Liaison Unit**

**Division of International Protection**

**UNHCR, June 2014**

## **Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedures' Reports**

### **- Universal Periodic Review:**

#### **TURKEY**

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations relating to issues of interest and persons of concern to UNHCR with regards to Turkey.

#### **Committee on the Elimination of Discrimination against Women**

CEDAW/C/TUR/CO/6,46<sup>th</sup> Session

16 August 2010

#### **Disadvantaged Groups of Women**

38. The Committee is concerned about the situation of various disadvantaged groups of women, including Kurdish women and women of ethnic and minority communities, migrant women and women asylum-seekers, elderly women, as well as women with disabilities, who may be more vulnerable to poverty and violence and are at risk of multiple forms of discrimination with respect to education, health, employment and social and political participation. The Committee notes the lack of comprehensive data and information on the situation of such women, in particular the lack of information and data provided by the State party on women with disabilities, disaggregated by age and type of disability, in both rural and urban areas. The Committee also notes that Kurdish women continue to be in a vulnerable and marginalized situation with unofficial data indicating high illiteracy and low education rates.

**The Committee calls upon the State party to take effective measures to eliminate discrimination against women of ethnic and minority communities, migrant women and women asylum-seekers, elderly women, as well as women with disabilities, both in society at large and within their communities, particularly in the areas of education, health, employment and political and public life. It also calls upon the State party to be proactive in its measures, including through the development of targeted programmes and strategies, to increase women's awareness of and access to education, health and social services, training and employment, as well as to familiarize them with their rights to gender equality and nondiscrimination. The Committee requests the State party to collect data and conduct regular and comprehensive studies on the situation of various disadvantaged groups of women, and to provide such information and statistical data in its next report. The Committee also requests the State party to include in its next report comprehensive information on the situation of Kurdish women and girls, including data on their educational opportunities and achievements, access to employment and health-care services and participation in public life and decision-making.**

#### **Stereotypes and Cultural Practices**

20. While welcoming the numerous measures taken, including programmes or strategies in place to combat negative stereotypes pertaining to the roles of women and men, the Committee remains concerned about the persistence of patriarchal attitudes and deep-rooted stereotypes concerning women's roles and responsibilities that discriminate against women and perpetuate their subordination within the family and society. It notes that such discriminatory attitudes and stereotypes constitute serious obstacles to the fulfilment of the rights enshrined in the Convention and contribute to women's disadvantaged position in the areas of education, employment, health and participation in political and public life. The Committee also reiterates its concern about the persistence of harmful traditional practices, including early and forced marriage.

**In line with its previous concluding observations of 2005, the Committee urges the State party to continue to accelerate efforts to eliminate discriminatory attitudes and stereotypical attitudes in accordance with articles 2 (f) and 5 (a) of the Convention. It urges the State party to intensify cooperation in this regard with civil society organizations, women's groups and community leaders, traditional and religious leaders, as well as teachers and the media.**

### **Violence against Women**

22. The Committee notes with appreciation the measures taken to combat violence against women, such as the amendments to the Turkish Penal Code, the issuance of a Prime Ministry Circular outlining the measures to be taken and the responsible institutions, the establishment of a Monitoring Committee for Violence against Women, the adoption of the National Action Plan for Combating Domestic Violence against Women, as well as various awareness-raising and training programmes. The Committee notes that the State party is developing a new action plan on violence against women. The Committee is concerned, however, about the continuing prevalence of violence against women, including domestic violence, which affects 39 per cent of women in the territory of the State party. The Committee notes the existence of Law No. 4320 on the Protection of the Family, but also notes the absence of a comprehensive national law on violence against women. The Committee also notes the limited number of shelters (57 available throughout the State party) and is concerned that such shelters may lack proper facilities and resources.

**The Committee urges the State party to continue to accord priority attention to the adoption of comprehensive measures to address violence against women in accordance with its general recommendation No. 19. The Committee calls on the State party to evaluate and strengthen Law No. 4320 in order to enact comprehensive legislation on all forms of violence against women, including domestic violence, and to ensure that in such legislation all forms of violence against women are prohibited, that women and girls who are victims of violence have access to immediate means of redress and protection, including protection orders, and that perpetrators are prosecuted and punished. In line with its previous concluding observations of 2005, the Committee recommends the expansion of training activities and programmes for public officials, the judiciary, law enforcement personnel and health-service providers in order to ensure that they can address and combat all forms of violence against women and can provide adequate support to victims. It also recommends the continuation of public**

**awareness-raising campaigns on all forms of violence against women and girls. The Committee further recommends that the State party establish additional counselling and other support services for victims of violence, including additional shelters, and ensure that adequate resources are allocated in order to implement the necessary measures in this regard. The Committee requests the State party to enhance its cooperation with non-governmental organizations working in the area of violence against women.**

24. The Committee notes the measures taken to combat honour killings, such as the issuance of a Prime Ministry Circular and the implementation of training and awareness-raising programmes. The Committee is concerned, however, about the persistence of such killings and the lack of data available on its incidence in rural or remote areas. While taking note of the information provided by the State party that article 82 of the Penal Code is considered to include both custom and honour killings and that article 29 of the Penal Code on “unjust provocation” has been amended to abolish possible sentence reductions for honour killings, the Committee remains concerned that the provisions of the Penal Code may result in less vigorous prosecution of and reduction of sentences for the perpetrators of such crimes.

**The Committee recommends that honour killings be explicitly included within the scope of article 82 of the Penal Code and classified as aggravated homicide, and that such crimes are treated as seriously as other violent crimes with regard to investigation and prosecution. The Committee also recommends the implementation of effective prevention measures, including educational and awareness-raising measures aimed at law enforcement officials, the judiciary, health-service providers, social workers, community leaders and the general public. The Committee requests the State party to include detailed information on the incidence of killings in the name of honour, particularly in rural or remote areas, including the number of investigations, prosecutions and perpetrators punished, as well as the sentences imposed.**

### **Trafficking**

26. The Committee notes that Turkey is both a country of destination and transit for trafficking in women. It welcomes the efforts made by the State party to combat human trafficking and the exploitation of prostitution, including the establishment of a National Task Force on Combating Trafficking in Human Beings, and the legal provisions in place to punish criminal practices associated with trafficking and the exploitation of prostitution. The Committee welcomes the adoption of the Second National Action Plan to Combat Trafficking, but is concerned about the insufficient human and financial resources for its implementation, as well as the needed indicators to monitor its achievements. The Committee is also concerned about the implementation of various training and awareness-raising activities and campaigns aimed at the judiciary, law-enforcement and health personnel, as well as potential victims and the general public, and the provision to victims of trafficking of adequate services such as shelters, which are mostly operated by non-governmental organizations that rely on external assistance. The Committee is concerned by the continuing prevalence and extent of this problem, particularly cross-border trafficking.

**The Committee urges the State party to continue to take all appropriate measures to combat all forms of trafficking in women and children in line with article 6 of the Convention. Given the prevalence and extent of the problem, the Committee also urges the State party to ensure the quality implementation of the Second National Action Plan, and the provision of adequate comprehensive support services, including shelters, to victims. The Committee calls upon the State party to increase its efforts at international, regional and bilateral cooperation with countries of origin, transit and destination in order to prevent trafficking, to bring perpetrators to justice and to improve reintegration programmes to prevent victimization and re-victimization.**

### **Committee on the Rights of the Child**

CRC/C/TUR/CO/2-3, 60<sup>th</sup> Session

20 July 2012

#### **Refugee and Asylum-Seeking Children**

28. The Committee reiterates its concern that the principle of non-discrimination is not fully implemented for children belonging to minorities not recognized under the Treaty of Lausanne of 1923, in particular children of Kurdish origin; children with disabilities; girls; refugee and asylum-seeking children; and children living in the Eastern and Southeastern regions and in rural areas – especially with regard to their access to adequate health and education.

**The Committee reiterates its recommendation that the State party take appropriate measures to prevent and combat discrimination. It also recommends the collection of appropriate disaggregated data to enable monitoring of discrimination against all children, in particular those belonging to the above-mentioned vulnerable groups, with a view to developing comprehensive strategies aimed at ending all forms of discrimination. The Committee further recommends that the State party include in its next periodic report information on measures and programmes relevant to the implementation of the Convention on the Rights of the Child undertaken by the State party in follow-up to the Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa in 2001, as well as the outcome document adopted at the Durban Review Conference, held in Geneva in 2009.**

60. The Committee notes that the Law No. 5510, enacted in 2008, includes stateless persons and asylum seekers within the scope of the Social Insurance and Universal Health Insurance Scheme. However, the Committee reiterates its concern at the geographic limitations to the 1951 Refugee Convention, under which only asylum seekers from European countries are granted refugee status, thus reducing protection to refugee children from non-European States. The Committee is further concerned at reports about numerous challenges experienced by asylum-seeking and refugee children, including with regard to receiving a residence permit – a requirement for accessing basic assistance, such as health and education, detention with adults and the lack of interpreters to communicate their situation of concern.

The Committee reiterates its previous concluding observations (CRC/C/15/Add.152, para. 58) and encourages the State party to consider withdrawing the geographical limitation on the application of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol in order to allow non-European child refugees to be granted refugee status. The Committee recommends that the State party conduct an assessment of the challenges experienced by asylum-seeking and refugee children with regard to accessing health, education and social services, and urgently address such challenges. Also, in accordance with the Guidelines on protection and care of refugee children, issued by the Office of the United Nations High Commissioner for Refugees (UNHCR), the Committee recommends that the State party ensure that every effort is made to identify children who require special support on their arrival in the State party, and consider providing adequate psychological assistance to them. The Committee encourages the State party to seek technical assistance from UNHCR.

### **Birth Registration**

36. The Committee takes note of the significant progress made in improving birth registration rates in the country. However, it remains concerned that there are still a number of children who are not registered or not immediately registered, in particular in rural and disadvantaged areas of the Eastern regions as well as children of mothers who do not have formal education. **The Committee recommends that the State party strengthen its efforts to ensure complete and immediate birth registration, in particular by improving birth registration systems and providing information and raising awareness in rural areas of the Eastern regions and among mothers who do not have formal education.**

### **Detention**

42. The Committee expresses deep concern about the reports of ill-treatment and torture of children, especially Kurdish children who have been involved in political assemblies and activities, in prisons, police stations, vehicles and on the streets. It is particularly concerned about the number of allegations of children killed in the Southeastern and Eastern regions and the reported instances of suicide committed by children in detention.

**The Committee urges the State party to take immediate measures to ensure that children under its care are not subjected to cruel, inhuman or degrading treatment or punishment by strictly adhering to its legislation on juvenile justice, taking into account the specific vulnerability of minors suspected of an offence in the light of article 37 (a) of the Convention, and in line with the recommendations of the Committee against Torture and of the Working Group on Arbitrary Detention. The Committee recommends that the State party:**(a) Ensure that the detention of children is regularly reviewed so as to make sure that no child is subject to any form of ill-treatment following arrest and during detention; (b) Monitor the situation of children detained and arrested after demonstrations or similar events to ensure that they are immediately placed in age-appropriate facilities and provided with appropriate legal counsel;(c) Ensure that perpetrators of cruel, inhuman or degrading treatment or punishment of children are held to account; (d) Conduct thorough investigations into killings of children and suicides, in general, and in particular, in places of detention.

## **Committee against Torture**

CAT/C/TUR/CO/3, 45<sup>th</sup> Session

20<sup>th</sup> January 2011

### **Non-refoulement and detention of refugees, asylum-seekers and irregular foreigners**

15. The Committee welcomes information provided by the representative of the State party that three draft laws relating to asylum, a specialized unit dealing with asylum matters and foreigners are about to be submitted to the Parliament. It also notes the issuance of Circulars Nos. 18/2010 (illegal migration) and 19/2010 (asylum and migration) by the Ministry of Interior in March 2010. The Committee nevertheless is concerned that the draft asylum law retains the geographical limitation to the Convention relating to the Status of Refugees, which excludes non-European asylum-seekers from protection under the Convention. It is furthermore concerned at the system of administrative detention of foreigners apprehended due to their illegal entry or stay, or attempts to depart from the State party illegally, in “foreigners’ guesthouses” and other removal centres with limited access to the national procedure for temporary asylum. The Committee is furthermore concerned at reported cases of deportations and refoulement despite the risk of torture. In this respect, the Committee is concerned at the reported lack of access by asylum-seekers to legal aid, shortcomings in the asylum appeal system, lack of suspensive effect of deportation proceedings during the consideration of asylum requests, and at curtailed access to the Office of the United Nations High Commissioner for Refugees (UNHCR) and lawyers to visit individual asylum-seekers in detention. The Committee is furthermore seriously concerned at reported ill-treatment and serious overcrowding in “foreigners’ guesthouses” and other removal centres (art. 3).

**The State party should take prompt and effective measures to ensure compliance with its obligation under article 3 of the Convention not to return any person facing a risk of torture and ensure that all individuals in need of international protection have fair and equal access to asylum procedures and are treated with dignity. The Committee calls upon the State party to:** (a) Ensure access by independent monitoring bodies to “foreigners’ guesthouses” and other places of detention and pursue, without delay, with the construction of new shelters that provide safe and healthy living conditions; (b) Consider lifting the geographical limitation to the Convention relating to the Status of Refugees by withdrawing its reservation to the Convention; (c) Ensure that all recognized refugees have access to international protection provided by UNHCR; (d) Ensure effective access to the asylum procedure for apprehended foreigners kept in detention and introduce suspensive effect of deportation proceedings during consideration of asylum requests; (e) Ensure access of UNHCR personnel, in line with Ministry of Interior circular on asylum-seekers and refugees, to persons in detention who wish to apply for asylum, so as to ensure their right to do so; (f) Ensure access of lawyers to asylum-seekers and refugees in detention so as to ensure their right to challenge decisions concerning their asylum application or other aspect of their legal status before appropriate legal tribunals.

## **Detention**

16. While noting information provided by the representative of the State party on the role of the Human Rights Inquiry Commission of the Parliament and welcoming that visits by human rights defenders to places of detention are permitted, the Committee regrets the absence of a formal regulation that allows for independent monitoring and visits by representatives of civil society to such places. The Committee also regrets the lack of information on the implementation of main recommendations and findings by the institutions referred to in paragraphs 58–68 in the State party’s report that are authorized to inspect places of detention (arts. 2, 11 and 16).

**The State party should provide information on formal regulations allowing independent visits to places where persons are deprived of their liberty by civil society representatives, lawyers, medical personnel, and members of local bar associations. The State party should also provide the Committee with detailed information on follow-up measures and activities pursuant to findings and recommendations by State institutions, including those referred to in paragraphs 58–68 of the State party’s report.**

17. The Committee is seriously concerned at reported overcrowding in places of detention in the State party and notes the frank acknowledgment by the representative of the State party that the situation is “unacceptable”. In view of information provided by the State party on a total occupancy rate of 120,000 prisoners, half of whom are prisoners on remand, the Committee is concerned at the lack of consideration of alternative measures to deprivation of liberty by judicial authorities and at excessively long pretrial detention, especially of those tried in the new heavy penal courts. The Committee furthermore notes with concern information that certain privileges relating to group activities of prisoners can be restricted for persons accused of, or convicted for, terrorist or organized crime offences and held under solitary confinement in F-type prisons. While welcoming that recording of interrogations can be requested by the judge as evidence in criminal proceedings, the Committee is concerned that at present only 30 per cent of police stations are equipped with video surveillance cameras and that such cameras are alleged to fail in many cases. The reported lack of funding to reduce overcrowding by means of the construction of new penitentiary institutions, the high number of vacancies of prison personnel (approximately 8,000) referred to by representative of the State party, the shortage of medical personnel and reported shortcomings in access to health care of ill prisoners in the State party, are also matters of concern to the Committee. The Committee further notes with concern that information on detention facilities can be subject to restrictions under the Law on the Right to Access Information (Law No. 4982) (arts. 2 and 16).

**The State party should take immediate measures to bring an end to the endemic problem of excessive pretrial detention and overcrowding in places of detention. Furthermore, it should continue its efforts to improve the infrastructure of prisons and police stations so as to provide protection against abuses. In particular, the State party should: (a) Encourage members of the judiciary to consider and implement alternative means to deprivation of liberty as a penal sanction, including by introducing necessary legislation to this effect; (b) Install video surveillance cameras throughout police stations and make video recording of interrogations of all persons questioned a**

standard procedure; (c) Undertake a legal review of articles 15-28 of the Law on the Right to Access Information (Law No. 4982) with a view to assessing their compatibility with the legal obligations under the Convention; (d) Continue efforts to fill the vacancies in penitentiary institutions so as to ensure adequate staffing of prisons; (e) Limit restrictions of privileges relating to group activities of prisoners in solitary confinement regimes to exceptional and well-defined situations only; (f) Address the shortage of medical personnel and ensure access to health care of ill prisoners, including by deferring sentences if necessary.

18. The Committee is concerned at reports that suspects are held in police custody without being officially registered and, in this respect, notes with concern the vague provision in law that registration of detainees shall occur “within a reasonable time” upon arrest (art. 2).

**The State party shall ensure prompt registration of persons deprived of their liberty and specify in law the maximum time for when official registration pursuant to apprehension shall take place.**

21. While welcoming the 2010 amendments to the Law on Combating Terrorism which prohibits trial on charges of terrorism of juveniles who attend illegal meetings and demonstrations or distribute propaganda material for outlawed organizations and reduce of penalties applied to those accused of terrorism-related offences, the Committee is concerned at reports that children continue to be detained in unrecorded adult pre-charge facilities following arrest during demonstration, including in the Anti-Terrorism Branch of Security Directorate rather than in the Children’s Branch. Further, the Committee is concerned at reports of ill-treatment of children while held in unofficial places of detention and that interrogations have occurred without legal assistance or the presence of an adult or legal guardian. While noting information from the representative of the State party that most sentences do not exceed two years’ imprisonment, the Committee is concerned at reports that children allegedly continue to be sentenced to long periods of imprisonment (art. 16).

**The State party should develop and implement a comprehensive system of alternative measures to ensure that deprivation of liberty of children is used only as a measure of last resort, for the shortest period possible and in appropriate conditions. The State party should ensure that detention of children is subject to regular review so as to make certain that no child is subject to any form of ill-treatment during detention and that no child is held in unrecorded places of detention. In addition, the State party should strengthen awareness and application of international human rights standards relating to juvenile justice for members of the juvenile courts and increase the number of such courts. Additionally, the Committee urges the State party to consider raising the age of criminal responsibility, currently set at 12 years, to comport with international standards.**

### **Violence against Women**

19. The Committee is concerned at numerous and ongoing reports of rape, sexual violence and other forms of gender-based acts of torture and ill-treatment committed by security agencies, detention officials and law enforcement officers. While noting training and

awareness raising programmes undertaken by the State party to address and prevent such acts, the Committee regrets the lack of information on measures taken to ensure accountability of perpetrators, including investigations, prosecutions and convictions of the perpetrators, as well as information on reparation and compensation, including rehabilitation, for victims as required by article 14 of the Convention.

**The State party should take prompt measures to prevent all acts of torture and ill-treatment, including rape and other forms of sexual violence, of women deprived of their liberty and ensure accountability of all perpetrators of such acts by undertaking prompt investigations into complaints, and, as appropriate, prosecutions and convictions with appropriate penalties of perpetrators. The State party should ensure that all victims of gender-based acts of torture and ill-treatment are provided with adequate reparation and compensation, including rehabilitation.**

### **Human Rights Committee**

CCPR/C/TUR/CO/1, 106<sup>th</sup> Session

20 December 2012

### **Refugee and Asylum-Seekers**

20. While welcoming the large support provided by the State party to Syrian refugees through consistent implementation of the Temporary Protection regime and assurances of the delegation to continue to do so, and taking note of the ongoing process of legal reform, the Committee is concerned that present law insufficiently protects refugees, in particular as a consequence of the geographical limitation adopted by Turkey under the 1951 Refugee Convention (arts. 7, 9 and 13).

The State party should ensure that all persons applying for international protection are given **access to a fair and effective refugee determination procedure, regardless of their region of origin, and receive appropriate and fair treatment at all stages in compliance with human right standards. In that perspective, the State party should also promptly enact legislation in line with the Covenant and with the 1951 Convention.**

### **Trafficking**

15. While taking note of the adoption of the “Second National Action Plan on Combatting Trafficking in Human Beings”, the Committee is concerned at the number of cases of trafficking in persons, and at the fact that only a few cases have resulted in investigations, prosecution and sentences. The Committee is also concerned that victims of trafficking are not protected from being prosecuted, detained or punished for the illegality of their entry or residence, or for the activities in which they are involved as a direct consequence of their situation as trafficked persons (arts. 7 and 8).

**The State party should continue its efforts to prevent suppress and punish trafficking in persons, including at the regional level and in cooperation with neighboring countries, and through the organization of training for police officers, border personnel, judges, lawyers and other relevant personnel in order to raise awareness of this phenomenon and the rights of victims. The State party should take measures to protect victims of trafficking from prosecution, detention or punishment for activities they were involved**

**in as a direct consequence of their situation as trafficked persons. The State party should ensure that assistance and protection schemes for victims of trafficking of persons are not applied in a selective manner.**

### **Detention**

17. The Committee is concerned about the widespread use of lengthy pretrial detention of up to ten years for terrorism-related offences and five years for other offences, including three one-year extensions, largely contributing to the problem of overcrowding of prisons. The Committee is also concerned that detainees do not have access to an effective mechanism to challenge the lawfulness of their pretrial detention, and do not always in practice have prompt access to a lawyer (art. 9).

**The State party should reduce the legal period of pretrial detention in compliance with article 9 of the Covenant, and ensure that it is only used as an exceptional measure. The State party should guarantee the access of detainees to a lawyer, and to an effective and independent mechanism to challenge the lawfulness of their pretrial detention. The State party should also enhance the use of alternative measures to pretrial detention, such as electronic monitoring and conditional release.**

### **LGBTI**

10. The Committee is concerned about the discrimination and alleged acts of violence against people on the basis of their gender identity and sexual orientation, and about the social stigmatization and social exclusion of lesbian, gay, bisexual, and transgender (LGBT) persons in terms of their access to health services, education, or to their treatment in the context of the regulations concerning compulsory military service and while serving in the military (arts. 2 and 26).

**While acknowledging the diversity of morality and cultures internationally, the Committee recalls that all cultures are always subject to the principles of universality of human rights and non-discrimination (general comment No. 34, para. 32). The State party should therefore state clearly and officially that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or transsexuality, or harassment of or discrimination or violence against persons because of their sexual orientation or gender identity. It should ensure the investigation, prosecution and punishment of any act of discrimination or violence motivated by the victim's sexual orientation or gender identity.**

### **Committee on the Elimination of Racial Discrimination**

CERD/C/TUR/CO/3, 74<sup>th</sup> Session

24 March 2009

### **Positive Aspects**

6. The Committee notes with satisfaction the initiatives taken by the State party to facilitate the voluntary return of internally displaced persons, consisting mainly of Kurds from south-

eastern Turkey, in particular through the launching of several return and development projects, and the substantial funds allocated to facilitating returns.

### **Refugee and Asylum-Seekers**

15. The Committee expresses concern over the fact that the State party maintains the geographical limitation to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, which, in turn, reduces the protection, offered to refugees from non-European States and may subject them to discrimination. The Committee is also concerned at reports on deportation and *refoulement* of refugees recognized under the mandate of the Office of the High Commissioner for Refugees (UNHCR), as well as of persons registered with UNHCR as asylum seekers (article 5).

**The Committee welcomes the stated intention of the State party to withdraw the above geographical limitation, and encourages it to give high priority to this process. The Committee calls upon the State party to refrain from deporting refugees or persons registered with UNHCR as asylum-seekers.**