



# General Assembly

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## Human Rights Council

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Agenda item 6

Universal Periodic Review

### Report of the Working Group on the Universal Periodic Review\*

#### Turkey

Addendum

**Views on conclusions and/or recommendations, voluntary commitments  
and replies presented by the State under review**

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\* The present document was not edited before being sent to the United Nations translation services.

**Recommendation 1**

1. Turkey signed OPCAT on 14 September 2005 and OP-CRPD on 28 September 2009.
2. OPCAT was sent to Parliament for ratification in September 2009. The process is expected to be completed soon.
3. The ratification of CED is being assessed.
4. The recommendation on additional protocols is approved subject to the decision of the authorities competent to ratify international agreements.
5. The recommendation regarding the approval of CED isn't accepted.

**Recommendation 2**

6. National authorities are assessing the ratification of the CED. The recommendation isn't accepted at this stage.

**Recommendation 3**

7. National authorities are assessing the ratification of the Additional Optional Protocol to the ICESCR. The recommendation isn't accepted at this stage.

**Recommendation 4**

8. National authorities are assessing becoming a party to the UN Additional Optional Protocol to the ICESCR. The UN Additional Optional Protocol to the Convention on the Rights of Persons with Disabilities was signed by Turkey on 28 September 2009.
9. At this stage the first part of the recommendation isn't accepted. On the other hand, as Turkey has signed the Additional Protocol, the second part of the recommendation is accepted subject to the decision of the authorities who are competent to ratify international agreements.

**Recommendation 5**

10. According to the Vienna Convention on the Law of Treaties, reservations submitted by governments while ratifying international agreements - which aren't forbidden by or go against the purpose and spirit of the related agreement - are considered within the scope of governments' sovereign rights. Turkey's reservations are in line with this principle.
11. On the other hand, Turkey can reconsider and sometimes withdraw its reservations, especially those regarding human rights. For example, some of the reservations that were made regarding CEDAW were later withdrawn. However, as we aren't considering withdrawing our reservations on the agreements referred to in the recommendation, it isn't accepted.

**Recommendation 6**

12. The circumstances under which the withdrawal of the "geographical restriction" can be proposed to Parliament have been stated in the 2005 National Action Plan:
13. This must not lead to an influx of refugees from the East
14. The legislative changes and infrastructural investments referred to in the National Action plan on Asylum and Immigration are completed
15. EU Member States show the necessary sensitivity on burden-sharing

16. Turkey's accession negotiations with the EU advance positively.
17. At this stage, the recommendation isn't accepted.

**Recommendation 7**

18. The reservations submitted by Turkey are in line with the Vienna Convention. Therefore, this part of the recommendation isn't accepted.
19. Law No. 6008 amending certain provisions of the anti-terror law regarding children entered into force on 22 July 2010. Thus, the second part of the recommendation has already been implemented.

**Recommendation 8**

20. The recommendation is accepted.

**Recommendation 9**

21. The constitutional system of Turkey is based on the equality of individuals before the law without regard to religion, race, color, gender, language or such characteristics (Article 10 of the Constitution). Discrimination is prohibited by law and constitutes a crime. In addition to judicial appeal there are also administrative and parliamentary remedies that individuals may apply for in order to fight against discrimination.
22. An independent "Council for Equality and Fight Against Discrimination" is planned to be established. It will monitor complaints regarding discrimination in the public and private sector. Work on the draft law is underway and includes comprehensive additional articles on discrimination.
23. Thus, the first part of the recommendation is accepted.
24. Since 2001, Turkey has taken great steps regarding the rights of groups defined as minorities in line with international standards. Turkey accepts the second part of the recommendation on the rights of non-Muslim minorities recognized according to certain bilateral agreements and the Lausanne Peace Treaty.

**Recommendation 10**

25. The draft law on anti-discrimination refers to the issues of gender, ethnic origin and sexual identity. The part of the recommendation regarding "women" and "gender identity" is accepted subject to the decision of the competent legislative authorities. The concepts of "ethnic minority" and "sexual orientation" do not figure in our national legislation and a review is currently not on the agenda. Thus this part of the recommendation isn't accepted.

**Recommendation 11**

26. In principle, it is accepted to enable individuals to use their rights, especially that of the freedom of association, in light of their sexual identity. The recommendation is accepted with the understanding that the current legislation is applied for the exercise of the rights of these individuals, without enacting any further legislation.

**Recommendation 12**

27. Work regarding the first part of the recommendation will be carried out by the "Anti Discrimination Sub-Working Group" of the Reform Monitoring Group. Almost all legislation which included discriminatory provisions against Turkish citizens of Roma origin have been amended. Thus, the first part of the recommendation is being applied. The

second and third parts of the recommendation are accepted, with the understanding that the elements referred to concerning the ninth and tenth recommendations are equally valid.

**Recommendation 13**

28. Excluding the part on “sexual orientation”, this recommendation is accepted with the understanding that the elements referred to concerning the ninth and tenth recommendations are equally valid.

**Recommendation 14**

29. According to Article 90 of the Constitution, in the case of a conflict between international agreements in the area of fundamental rights and freedoms and domestic laws, the provisions of international agreements shall prevail. Therefore, the provisions of CEDAW prevail over domestic laws and thus CEDAW is considered as domestic law. Moreover, the draft anti-discrimination law includes the issue of gender. The recommendation is accepted subject to the competent legislative authorities.

**Recommendation 15**

30. The first part of this recommendation isn't accepted because it is against Article 3 of the Constitution. The second part of the recommendation is accepted in terms of the non-Muslim minority rights granted under the Lausanne Peace Treaty and certain bilateral agreements.

**Recommendation 16**

31. The recommendation isn't accepted, since it isn't possible to undertake such a commitment in an environment where the revision of the legislation regarding political parties is still being widely discussed by all stakeholders.

**Recommendation 17**

32. Comprehensive anti-discrimination legislation is being prepared. The first part of the recommendation is accepted subject to the decision of the competent legislative authorities.

33. Upon the amendment made to Article 301 of the Penal Code in 2008, we have witnessed a substantial decrease in the number of cases opened. Various training programs have also contributed to a broader interpretation of the freedom of expression as regards cases filed under Article 301, especially in light of the ECHR and the case law of the ECtHR.

34. Thus, the second part of the recommendation isn't accepted as there are no major problems encountered with the application of the legislation.

**Recommendation 18**

35. Major steps have been taken regarding the freedom of expression in Turkey since 2001. The positive changes pertaining to Article 301 were explained in the answer to the 17th recommendation.

36. The Ministry of Justice has formed an internal working group for studying the shortcomings on the freedom of expression.

37. The recommendation isn't accepted as changing these specific Articles at this specific point in time isn't on the agenda.

**Recommendation 19**

38. The Law On Regulation Of Broadcasts Via Internet And Prevention Of Crimes Committed Through Such Broadcasts (Law No: 5651) entered into force on May 23, 2007.

39. The law states the types of crimes which can be committed via internet. The “blocking web sites” sanction has been implemented for only 8 crimes. The basic purpose of the legislation is to correct the problematic content related to 8 crimes without the necessity of blocking the access to the website entirely. Action is taken in line with the “notice and take-down” principle.

40. The catalogue limitation of crimes of the said Law is a requirement of the international aspect of Internet. Thus, this part of the recommendation isn’t accepted.

41. For the second part of the recommendation, the suggestion of ‘making further efforts’ is accepted in the framework of our legislation on the protection of the freedom of speech and the will to continue human rights reforms.

**Recommendation 20**

42. The recommendation is accepted.

**Recommendation 21**

43. Apart from crimes committed against a public officer on duty, the investigation and prosecution of an offense of libel is up to the complaint of the victim.

44. Crimes against dignity aren’t subject to criminal sanction and are relegated to compensation mechanisms, which is considered as a progressive legal step. However, when considering the elements in the Turkish Penal Code such as; disclaiming the complaint, compromise, postponing the filing of public lawsuits and society’s sensitivities, exempting defamation and cursing from being a crime isn’t yet considered to be appropriate.

45. The penalization of the offense of libel isn’t considered as a violation of human rights within the practice of ECHR either. Thus, the recommendation isn’t accepted.

**Recommendation 22**

46. Due to reasons mentioned in the reply to the nineteenth recommendation, this part of the recommendation isn’t accepted at this stage.

**Recommendation 23**

47. Turkey’s view on Article 301 has been stated in the response to the seventeenth recommendation.

48. On the other hand, the general part of the recommendation regarding principle is accepted, since the continuation of enhancements on the freedom of speech and the freedom of media is one of the fundamental aspects of Turkey’s human rights reforms.

**Recommendation 24**

49. With the Law on Association of 2004, full compliance has been achieved with ICCPR. Thus, the recommendation is applied.

**Recommendation 25:**

50. Measures continue to be taken in order to overcome the difficulties that non-Muslim communities might face, including the education of clergy.

51. The problems faced and the measures to take are evaluated through a consistent dialogue in the framework of the Reform Monitoring Group. Comprehensive meetings were held with the participation of representatives of 11 different religious groups and top-level bureaucrats. These meetings continue periodically. The last one was held on 13-14 May in Istanbul.

52. A Prime Ministry circular published on 13 May 2010 underscored that Turkish citizens belonging to non-Muslim minorities, like all Turkish citizens, have the right to enjoy and maintain their own identities and cultures. The circular emphasized that these citizens should be protected from needless impediments in their official dealings and transactions with governmental institutions.

53. The freedom of religion and belief of minorities living in Turkey are guaranteed in line with the ECHR and the jurisprudence of the ECtHR as well as the obligations stemming from international treaties.

54. Article 24 of the Turkish Constitution stipulates that education and instruction in religion and ethics shall be conducted under state supervision and control. The relevant Turkish institutions are continuing their efforts to satisfy the demands of certain groups which are recognized as minorities in line Turkey's international obligations, regarding the education of their clergy.

55. Since 2002, Turkey has been taking constructive steps to overcome some of the problems concerning property issues, particularly encountered by non-Muslim community foundations. In line with the EU reform packages, Laws No. 4471 and 4478 adopted in 2002 and 2003, enabled non-Muslim community foundations to register and acquire their property and to hold their administrative board elections.

56. The Law of Foundations adopted in February 2008 granted additional freedoms to non-Muslim community in matters regarding the administration of their foundations such as receiving donations, engaging in economic activity etc. Therefore the recommendation is already applied.

#### **Recommendation 26**

57. Freedom of religion and belief of minorities living in Turkey are guaranteed in line with the standards of the ECHR and the jurisprudence of the ECtHR as well as obligations stemming from international treaties.

58. Citizens of the Greek Orthodox minority own 101 places of worship. They can hold mass for a day in churches which have the status of monument/museum with permission from relevant authorities. Therefore the said recommendation is applied.

#### **Recommendation 27**

59. This recommendation isn't within the framework of the UPR and has no relevance to international human rights or to any heading of applicable humanitarian law.

60. Nevertheless, due to Turkey's positive approach, the Church of Saint Paul in Tarsus, despite its museum status, can be utilized for worship upon request for a day. Permission isn't required. It is sufficient to inform the Tarsus district governance in advance to allow for the necessary preparations.

#### **Recommendation 28**

61. Recommendation is accepted.

**Recommendation 29**

62. The Regulation No 27449 on the Ministry of Education's Course Books / Training Materials dated 31.12.2009 states that "Textbooks shall not contradict basic human rights and shall not contain discrimination on the basis of gender, race, religion, language, color, political view, philosophical belief, sect etc." The Ministry annually re-examines course materials to extract connotations which could lead to misinterpretation. Therefore the recommendation is applied.

**Recommendation 30**

63. The recommendation is applied.

**Recommendation 31**

64. Article 2(e) of the Law on the Private Education Institutions dated 08.02.2007 stipulates that minority schools are attended by students who are Turkish citizens belonging to Greek, Armenian, Jewish minorities as secured by the Lausanne Treaty. The law states that the children of Turkish citizens who belong to minority groups can attend these schools.

65. The Regulation of Greek Private Secondary and Middle Schools states as a condition that Turkish citizens or children of the Greek Consulate staff may be registered to these schools.

66. Therefore, in accordance with the provisions of the Regulation Regarding Foreign Students Studying in Turkey, the children of Greek citizens who have no Turkish citizenship but are employed in Istanbul may attend educational institutions in Turkey, except for minority schools.

67. For children of foreign citizens who have residence permits in Turkey to attend minority schools, Law 5580 needs to be amended on the basis of reciprocity established by Articles 40- 41 of Lausanne Treaty. Therefore, the recommendation isn't accepted at this stage.

**Recommendation 32**

68. Civil servants and the groups specified in the recommendation receive human rights education. However, since the groups mentioned in the recommendation aren't identified as minorities in Turkey, the recommendation is accepted in principle with the exception of this definition.

**Recommendation 33**

69. The answer to Recommendation no. 25 covers this issue.

**Recommendation 34**

70. In accordance with efforts to comply with the EU acquis and to form the basis of the future administrative structure on asylum, the Directive for Implementation was enacted on the basis of the 1951 Geneva Convention, the 1994 Regulation on Asylum and the rest of the relevant Turkish legislation. Regulations on asylum and immigration as well as the administrative field are underway to comply with EU acquis. Hence, part of the recommendation in terms of improving the structures surrounding the situation for refugees is currently fulfilled. However, the issue of "geographical limitation" implicitly prevails in Sweden's recommendation. Therefore the recommendation isn't accepted.

**Recommendation 35**

71. There are no refugee children in Turkey under these conditions. In case of such an eventuality, the basic approach of the recommendation corresponds to the principles enshrined in the international agreements that Turkey complies with. The recommendation is accepted.

**Recommendation 36**

72. Individuals whose asylum applications are deemed inadmissible but who risk violence aren't returned and are given temporary residence in Turkey within the framework of secondary protection. Additionally, despite the geographic limitation, the 'non-refoulement' principle stipulated in Article 31 of 1951 Geneva Convention is duly applied.

73. Since the removal of geographic limitation isn't on the agenda (Recommendation 6) the recommendation isn't accepted.

**Recommendation 37**

74. Individuals seeking asylum are evaluated in line with Turkey's liabilities arising from international agreements. Refugees and asylum seekers are assured the appropriate standards compatible with human dignity.

75. In current practice and for new legislation, the EU acquis and the 'best practice' principle are considered.

76. Since the removal of geographic limitation isn't on the agenda (Recommendation 6) the recommendation isn't accepted.

**Recommendation 38**

77. The High Council of Counter-Terrorism chaired by a State Minister continues legislative reforms in light of Turkey's international obligations and tries to form the legal infrastructure to prevent human rights violations in the fight against terrorism. Moreover, the Undersecretariat of Public Security was established in August 2010. Together, these constitute the mechanism identified in the recommendation.

**Recommendation 39**

78. As stated in replies no. 17 and 18, the recommendation isn't accepted on the basis of Articles 301 and 318 of Turkish Penal Code. The Anti-terror law is revised on a regular basis and in July 2010 a specific law of amendment was enacted. Therefore, the second part of the recommendation is currently implemented.

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