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Turkey

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

I. Background and framework

A. Scope of international obligations¹

<i>Core universal human rights treaties²</i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competence of treaty bodies</i>
ICERD	16 Sept. 2002	Reservation: art. 22 Declaration	Individual complaints (art. 14): No
ICESCR	23 Sept. 2003	Reservation: art. 13 (paras. 3 and (4) Declaration	-
ICCPR	23 Sept. 2003	Reservation: art. 27 Declaration	Inter-State complaints (art. 41): No
ICCPR-OP 1	24 Nov 2006	Reservation: art. 5, para. (2)(a) Declaration	-
ICCPR-OP 2	2 March 2006	None	-
CEDAW	20 Dec. 1985	Reservation: art. 29(1)	-
OP-CEDAW	29 Oct. 2002	None	Inquiry procedure (arts. 8 and 9): No
CAT	2 Aug. 1988	Reservation: art. 30, para.1	Inter-State complaints (art. 21): Yes Individual complaints (art. 22): Yes Inquiry procedure (art. 20): No
CRC	4 April 1995	Reservation: arts. 17, 29 and 30	-
OP-CRC-AC	4 May 2004	Binding declaration under art. 3: 19 years	-
OP-CRC-SC	19 Aug. 2002	Declaration	-
ICRMW	27 Sept. 2004	Reservation: art. 40 Declaration: arts. 15, 45, 46, 76 and 77	Inter-State complaints (art. 76): No Individual complaints (art. 77): No
CRPD	28 Sept. 2009	None	-

Core treaties to which Turkey is not a party: OP-ICESCR³, OP-CAT (signature only 2005), CRPD-OP (signature only, 2009) and CED.

<i>Other main relevant international instruments</i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	Yes
Rome Statute of the International Criminal Court	No
Palermo Protocol ⁴	Yes
Refugees and stateless persons ⁵	Yes, except 1954 and 1961
Geneva Conventions of 12 August 1949 and Additional Protocols thereto ⁶	Yes, except Additional protocols I, II and III
ILO fundamental conventions ⁷	Yes
UNESCO Convention against Discrimination in Education	No

1. In 2009, the Committee on the Elimination of Racial Discrimination (CERD) noted that Turkey's reservation to article 22 of ICERD and the two declarations on the implementation and the territorial applicability of the Convention made upon ratification, may affect the full implementation of the Convention.⁸
2. CERD welcomed Turkey's intention to withdraw the geographical limitation to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and encouraged it to give high priority to this process. It called upon Turkey to refrain from deporting refugees or persons registered with UNHCR as asylum-seekers.⁹ UNCT made similar remarks.¹⁰
3. In 2009, the Committee on the Rights of the Child (CRC) regretted the restrictive nature of Turkey's reservations to the Convention, reiterated and referred to in the declaration made upon ratification of the Optional Protocol, and that no progress has been made in withdrawing, or limiting, their extent since the consideration of Turkey's initial periodic report in 2001.¹¹ It recommended that Turkey consider ratifying Protocols I and II to the Geneva Conventions of 1949 and the Rome Statute of the International Criminal Court, 1998.¹²

B. Constitutional and legislative framework

4. In 2009, the United Nations Country Team (UNCT) highlighted positive developments in the legislative framework including the 2006 reforms to the Criminal Code and the alignment of the Criminal Code with the international protocols against smuggling and trafficking of human beings.¹³ The 2005 Turkish Disability Act includes provisions to strengthen the institutional structure of the Administration for Disabled People and brought improvement in disability services. It welcomed the approval of the law for the Equal Opportunities Commission for Women and Men in February 2009.¹⁴
5. CERD recommended that Turkey consider adopting a clear and comprehensive definition of racial discrimination into domestic law, including all elements contained in article 1 of the Convention.¹⁵ While noting that article 301 of the Penal Code criminalizes public denigration of "the Turkish nation" instead of "Turkishness" and that prosecution of this offence is made conditional on the prior authorization of the Minister of Justice, CERD remained concerned at the possibility that the new article may lead to action being taken against persons advocating their rights under the Convention.¹⁶
6. CRC expressed concern that the Penal Code fails to include the crimes covered in OP-CRC-AC and regretted that legislation regarding extra-territorial jurisdiction does not include the provisions of OP-CRC-AC.¹⁷
7. In 2006, CRC noted with appreciation the 2005 Child Protection Law aimed at integrating international standards into the procedures and principles regarding children in need of protection.¹⁸ It noted that the amendments to the Penal Code of 2005 provide for, inter alia, more effective sanctions with respect to crimes related to the sale of children, child prostitution and child pornography.¹⁹
8. In 2006, the Special Representative of the Secretary-General on human rights defenders noted that nine legislative harmonization packages had been adopted to adapt the existing legislation to recent constitutional amendments and the new civil, penal and criminal procedure codes. The reforms included key measures on fundamental freedoms.²⁰
9. In 2005, the Committee on the Elimination of Discrimination against Women (CEDAW) commended Turkey for the amendment of article 90 of the Constitution, ensuring the primacy of international treaties regarding basic rights and freedoms over

domestic law.²¹ It recommended that a definition of discrimination against women in line with article 1 of the Convention be included in the Constitution or in appropriate laws.²²

10. In 2003, the Committee against Torture (CAT) welcomed the inclusion in domestic legislation of the principle that evidence obtained through torture may not be invoked in any proceedings.²³

C. Institutional and human rights infrastructure

11. As of 10 January 2009, Turkey does not have a national human rights institution accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).²⁴

12. The UNCT highlighted the lack of an independent monitoring mechanism for the promotion and protection of human rights. A law establishing a general ombudsman office was passed in 2006 but it was quashed by the Constitutional Court in 2008 on the grounds that it did not fit into the constitutional government framework.²⁵ The Special Representative of the Secretary-General on human rights defenders expressed the hope that an independent national human rights commission will be created soon.²⁶

13. In 2006, the Special Representative of the Secretary-General on human rights defenders reported that since 2001 Human Rights Boards, also referred to as Human Rights Councils, had been established at the provincial and district levels to conduct investigations of allegations of human rights abuses,²⁷ and that an Investigation Bureau for allegations of human rights violation had been established in February 2004 within the Inspection Board of the Ministry of Interior.²⁸

14. While noting the role of the General Directorate of Social Services and Child Protection Agency as having the responsibility to monitor and implement the provisions and principles of OP-CRC-SC, CRC remained concerned that the coordination and monitoring activities undertaken were insufficient.²⁹

15. CAT welcomed the establishment of Prison Monitoring Boards that include the participation of members of non-governmental organizations in their individual capacity.³⁰

D. Policy measures

16. The UNCT highlighted that the main aim of the National Action Plan on Combating Domestic Violence against Women (2007-2010) is strengthening the institutional mechanisms for the eradication of domestic violence.³¹ It indicated that the Ninth Development Plan (2007-2013) and Strategic Plan of General Directorate for Status of Women include measures to increase women's employment but indicated that the implementation of specific measures in this context had not occurred.³²

17. CRC welcomed the National Plan of Action on Combating Trafficking in Human Beings and recommended that Turkey strengthen its efforts to develop, adopt and implement a national plan of action on the issues referred to in OP-CRC-SC.³³

18. CEDAW recommended the implementation of campaigns to raise awareness of the Convention and the meaning and scope of discrimination against women aimed at the general public, parliamentarians, the judiciary and the legal profession.³⁴

19. In 2005, Turkey adopted the Plan of Action (2005-2009) for the World Programme for Human Rights Education focusing on the national school system.³⁵ The Ministry of National Education prohibits any educational materials and textbooks that are discriminatory or incompatible with human rights. In-service training of civil servants,

including law enforcement officials and members of the judiciary, includes human rights courses.³⁶

II. Promotion and protection of human rights on the ground

A. Cooperation with human rights mechanisms

20. The UNCT welcomed the recent presentation of reports to relevant human rights treaty bodies, particularly to the CRC and the CEDAW. However, it regretted that relevant recommendations and observations made by treaty bodies and also by special procedures mandate holders are not known to the relevant authorities.³⁷ It highlighted the fact that Turkey extended a standing invitation to special procedures in 2001, and to date, several special procedures mandate holders have visited the country.³⁸

1. Cooperation with treaty bodies

<i>Treaty body³⁹</i>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	Nov. 2007	March 2009	Due Mar. 2010	Fourth and fifth report due Oct. 2011
CESCR	-	-	-	Initial report submitted June 2008
HR Committee	-	-	-	Initial report overdue since Dec. 2004
CEDAW	July 2003	Jan. 2005	-	Sixth report submitted Oct. 2008
CAT	Nov. 2001	May 2003	-	Third report submitted June 2009
CRC	July 1999	July 2001	-	Second report submitted July 2009
OP-CRC-AC	Nov. 2007	Oct. 2009	-	Information on implementation to be included in next report under the Convention
OP-CRC-SC	June 2005	June 2006	-	Information on implementation included in report under the Convention submitted July 2009
CMW	-	-	-	Initial report overdue since Jan. 2006
CRPD	-	-	-	Initial report due Oct. 2011

2. Cooperation with Special Procedures

<i>Standing invitation issued</i>	Yes
<i>Latest visits or mission reports</i>	Special Rapporteur on violence against women (22 to 31 May 2006 ⁴⁰ and 31 Oct. to 1 Nov. 2008) ⁴¹ Working Group on Arbitrary Detention (9 to 20 Oct. 2006) ⁴² Special Rapporteur on human rights while countering terrorism (16 to 23 Feb. 2006) ⁴³ Special Representative of the Secretary-General on the situation of human rights defenders (10-21 Oct. 2004) ⁴⁴
<i>Visits agreed upon in principle</i>	Special Rapporteur on the right to freedom of opinion and expression

<i>Visits requested and not yet agreed upon</i>	Special Rapporteur on education, for follow-up Special Rapporteur on the independence of judges and lawyers Independent Expert on minority issues (requested in 2008 and 2009)
<i>Facilitation/cooperation during missions</i>	The Working Group on Arbitrary Detention expressed its gratitude to the Government. The Special Rapporteur on the promotion and protection of human rights while countering terrorism was grateful to the Government for extending full cooperation to him.
<i>Follow-up to visits</i>	Follow-up to the recommendations made by the Special Rapporteur on the question of torture in his report on his visit in November 1998 was provided by Turkey in a letter dated 25 October 2005. ⁴⁵
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 41 communications were transmitted, 32 of which were replied to by Turkey.
<i>Responses to questionnaires on thematic issues</i>	Turkey responded to 13 of the 21 questionnaires sent by special procedures mandate holders. ⁴⁶

3. Cooperation with the Office of the High Commissioner for Human Rights

21. Turkey contributed financially to OHCHR between 2005 and 2009, including to the Voluntary Fund for Victims of Torture between 2005 and 2009, to the Voluntary Trust Fund on Contemporary Forms of Slavery between 2006 and 2009, and to the Voluntary Fund for Indigenous Populations in 2007 and 2008.⁴⁷

B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

22. The UNCT highlighted the fact that the principle of non-discrimination is enshrined in the Constitution and upheld in, inter alia, the Turkish Penal Code and Law on Execution of Penalties and Security Measures.⁴⁸

23. In 2007, the Special Rapporteur on violence against women reported that the basic development indicators for women were bleak and violence against them all too pervasive. The situation of women in the eastern regions was of particular concern. Their limited access to education, employment, information, health services and justice were major constraints on the exercise of their citizenship rights.⁴⁹ The UNCT made similar observations.⁵⁰ Discrimination against pregnant women in the workplace is a concern.⁵¹ In response to the Special Rapporteur, Turkey emphasized that women's issues were addressed as an independent policy area of concern in the national development plans.⁵²

24. CEDAW noted with concern that some provisions of the Penal and Civil Codes continue to discriminate against women and girls. It urged Turkey to ensure that the consent of the woman be made a prerequisite for genital examinations under all circumstances.⁵³

25. CEDAW expressed concern about the pervasiveness of patriarchal attitudes and deep-rooted traditional and cultural stereotypes, and the persistence of certain traditional and cultural practices such as early marriage, forced marriage and polygamy, notwithstanding the relevant provisions in the Civil Code.⁵⁴ The UNCT indicated that women and girl victims of trafficking are still subject to stigmatization.⁵⁵

26. CERD was concerned about allegations of persisting hostile attitudes on the part of the general public, including attacks and threats, towards Roma, Kurds and persons belonging to non-Muslim minorities. It recommended, inter alia, that Turkey take steps to

prevent and combat such attitudes, including through information campaigns and education.⁵⁶ It also recommended, inter alia, that Turkey take targeted measures to eliminate discrimination based on national or ethnic origin.⁵⁷ It was also concerned at the particularly serious situation of the Greek minority,⁵⁸ at the situation of many persons of Roma origin who continue to experience discrimination, and recommended that Turkey take special measures to improve their situation.⁵⁹

27. The UNCT indicated that Turkey still faces difficulties in addressing the physical accessibilities of persons with disabilities mainly due to physical barriers and lack of awareness.⁶⁰ It regretted de facto discrimination against people living with HIV with multiple manifestations; the refusal of treatment, lack of confidentiality, discrimination in the field of employment and education.⁶¹

2. Right to life, liberty and security of the person

28. CEDAW was concerned that the use of the term “custom killing” in the Penal Code may result in less vigorous prosecution and less severe sentences and urged Turkey to ensure that any crime committed in the name of custom or honour be classified as aggravated homicide and the severest penalties provided for it by law.⁶² In 2001, CRC expressed deep concern about the violation of the right to life with reference to the practice of “honour killings” and noted that both victims and perpetrators are often minors.⁶³

29. The Special Rapporteur on violence against women reported on suicides of women in eastern and south-eastern Turkey and on claims that the deaths of these women might have been caused by murder or forced suicides. She concluded that there were reasonable grounds to assume that some of the recorded suicide cases were disguised murders.⁶⁴

30. The Special Rapporteur on extrajudicial, summary or arbitrary executions sent a number of communications concerning the death of civilians due to attacks or killings and use of excessive force by the security forces or by private forces cooperating with, or tolerated by the State, mostly in the South East and East regions of Turkey. Turkey provided responses to these communications.⁶⁵

31. The Working Group on enforced or involuntary disappearances considered 63 cases as still outstanding, although Turkey had provided information on some of these cases.⁶⁶

32. CAT noted with concern allegations that torture and other cruel, inhuman or degrading treatment of detainees held in police custody are apparently still widespread⁶⁷. It recommended that Turkey ensure that detainees benefit fully in practice from the available safeguards against ill-treatment and torture.⁶⁸ The UNCT considered that the Government had made limited efforts to ensure compliance with the legal safeguards to prevent torture and ill-treatment. Allegations of torture and ill-treatment and impunity of perpetrators of these acts remain causes of concern.⁶⁹

33. The Working Group on Arbitrary Detention made recommendations with regard to safeguards against arbitrary detention in connection with terrorist threats, and in relation to the extension of protection against unlawful and unnecessary deprivation of liberty to those detained outside the criminal justice system, whether on grounds of mental health issues, or because they were foreigners awaiting expulsion or minors at risk.⁷⁰

34. CRC was concerned at the number of reported cases of torture and/or ill-treatment of children, especially those placed in pretrial detention.⁷¹ It recommended, inter alia, that Turkey enforce, or, when appropriate, review existing legislation, with a view to preventing children being held incommunicado, and investigate in an effective way reported cases of torture and ill-treatment of children.⁷²

35. CEDAW was concerned about the persistence of violence against women, including domestic violence, and called on Turkey to intensify its efforts to prevent and combat this

problem and invited it to undertake sustained awareness-raising measures through the media and public education programmes.⁷³ The UNCT highlighted violence against women as an issue of concern. Domestic violence, honour killings, early and forced marriages, and an increase of suicides committed by women and girls remain issues of concern in certain areas of the country.⁷⁴ The United Nations Population Fund (UNFPA) highlighted several interventions of the Government to combat violence against women.⁷⁵

36. As regards the sale and trafficking of children, the ILO Committee of Experts on the Application of Conventions and Recommendations (ILO Committee of Experts) requested that the Government ensure that the offenders are prosecuted and that dissuasive penalties are imposed in practice. It requested the Government to take measures to withdraw child victims of trafficking from commercial sexual exploitation and to ensure their rehabilitation and social integration, as a matter of urgency.⁷⁶

37. CRC was concerned that physical punishment in the home is culturally and legally accepted and that only “excessive punishment” resulting in physical injury is prohibited by the Penal Code. Although prohibited, corporal punishment is used in schools and other institutions. It encouraged Turkey, inter alia, to develop measures to raise awareness of the harmful effects of corporal punishment and promote alternative forms of discipline in families.⁷⁷

38. CRC was worried about the large number of children engaged in labour activities and recommended that Turkey continue measures to combat all forms of economic exploitation of children, including commercial sexual exploitation.⁷⁸ The UNCT noted that Turkey has committed to end child labour by 2014. Efforts are required to effectively implement the national laws prohibiting child labour, in line with the international treaties that Turkey has ratified.⁷⁹

3. Administration of justice, including impunity, and the rule of law

39. CAT was concerned about allegations that, despite the number of complaints, the prosecution and punishment of members of security forces for torture and ill-treatment are rare, sentences are not commensurate with the gravity of the crime, and officers accused of torture are rarely suspended from duty during relevant investigation.⁸⁰

40. The Special Rapporteur on violence against women noted that, in 2005, groundbreaking reforms to the Penal Code had entered into force, successfully removing the most obvious patriarchal biases from the law. Despite these advances in the legislative framework, many problems persist in their actual implementation, including lack of sufficient protective mechanisms such as shelters for women.⁸¹

41. The UNCT stated that, although efforts have been made to bring juvenile justice into line with international standards,⁸² the increasing numbers of children coming into contact with the law (the number of juveniles taken into custody and charged with an offence more than doubled between 1997 and 2006), long detention periods and poor conditions in some prisons are serious problems. The number of child courts remains inadequate. Despite the availability of free legal aid to all children, due to the low compensation for lawyers, children are not provided with quality legal assistance.⁸³ The Working Group on Arbitrary Detention recommended increasing efforts to fully implement the principle that deprivation of liberty shall be the last resort for juvenile offenders and to limit periods of remand detention by expediting proceedings in juvenile cases.⁸⁴ CRC made similar recommendations.⁸⁵

42. The UNCT considered that access to justice for foreigners and in particular for victims of trafficking in human beings is still limited. Free legal aid, redress and compensation mechanisms are not yet supported by provision of sustainable public funding.⁸⁶

4. Right to family life

43. CRC recommended that Turkey review the system of institutionalization of children and allocate more financial and human resources to improve the situation of children living in institutions.⁸⁷

5. Freedom of movement

44. The UNCT noted that the Government obliges refugees to reside in one of 32 provincial cities situated mainly in Central Anatolia, and freedom of movement is subject to prior authorization from the police.⁸⁸

6. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

45. The UNCT considered that, with regard to freedom of association, the legislative framework has improved and the establishment of associations is easier than in the past.⁸⁹ Nonetheless, there are frequent situations where the right to peaceful assembly is restricted and discouraged. In this regard, ILO stated that the rules relating to freedom of association and right to collective bargaining are not in line with ILO Conventions 87 and 98.⁹⁰

46. The UNCT also stated that article 301 of the Criminal Code is no longer used systematically to restrict freedom of expression. Revision of this Article led to a significant decline in prosecutions in comparison with previous years. The Constitutional Court annulled the provisions of the Anti-Terror Law making media owners liable for publishing terrorist propaganda or praise of terrorism.⁹¹ The ILO Committee of Experts urged the Government to take measures, including legislative measures, to ensure that no journalist, writer or publisher is restricted in the exercise of their employment or occupation because of their political opinions.⁹²

47. The Special Rapporteurs on the right to freedom of opinion and expression and on the situation of human rights defenders, in joint and separate communications, drew attention to charges brought against human rights defenders, journalists, academics and others in relation to written or oral speech considered to constitute or involve offences such as the “humiliation of jurisdictional power”, “denigrating Turkishness”, “insulting the armed forces”, “turning people against military service” or “violation of secrecy”.⁹³ In 2008, a communication sent jointly by three mandate holders referred to the assassination of a journalist in Istanbul in 2007.⁹⁴ CAT expressed concern at the continuing reports of harassment and persecution of human rights defenders and non-governmental organizations.⁹⁵

48. CEDAW recommended that Turkey introduce temporary special measures to increase the number of women in Parliament, municipal bodies and at higher levels in the Foreign Service, and carry out awareness-raising campaigns on the importance of women’s participation in political and public life and access to decision-making positions.⁹⁶ A 2009 United Nations Statistics Division source indicated that the proportion of seats held by women in the national parliament increased from 4.4 per cent in 2006 to 9.1 per cent in 2009.⁹⁷

49. CERD was concerned at the training of religious personnel and unresolved questions of restitution of property of worship places.⁹⁸ It invited Turkey to promote adequate representation of the various ethnic groups in the Parliament and other elected bodies, as well as their participation in public bodies.⁹⁹

7. Right to work and to just and favourable conditions of work

50. CEDAW was concerned, inter alia, about direct and indirect discrimination against women in the labour market, where women earn significantly less than men, women's high level of unemployment and their concentration in agriculture as unpaid family workers.¹⁰⁰ It recommended that Turkey take measures to eliminate occupational segregation and urged it to improve the availability of affordable childcare facilities for pre-school-age children.¹⁰¹

51. The ILO Committee of Experts expressed concern at the fact that the Labour Act only deals with sexual harassment in the context of termination of employment, and urged the Government to consider revising the legislation with a view to defining and prohibiting sexual harassment at work explicitly.¹⁰²

8. Right to social security and to an adequate standard of living

52. CEDAW noted with concern the persistence of high maternal and infant mortality rates in Turkey and recommended, inter alia, that Turkey make every effort to increase access to health-care facilities and medical assistance from trained personnel, particularly in rural areas and particularly for post-natal care.¹⁰³ A 2009 United Nations Statistics Division source indicated that the under-five mortality rate per 1,000 live births was 23 in 2007.¹⁰⁴ UNICEF observed that child poverty is a significant problem.¹⁰⁵

53. The UNCT highlighted, as an important legislative development in 2008, the entry into force of the Law on Social Insurance and General Health.¹⁰⁶

9. Right to education

54. CEDAW noted with appreciation that Turkey had increased compulsory basic education from five to eight years with a focus on increasing the enrolment rate of girls.¹⁰⁷ It recommended that Turkey take proactive measures to decrease the high rate of female illiteracy and strengthen girls' and women's access to all levels of education and teaching. It called on Turkey to implement further targeted policies and programmes to overcome educational disadvantages faced by girls and women belonging to diverse ethnic groups and those whose mother tongue is not Turkish, particularly in rural areas.¹⁰⁸

55. CERD remained concerned at the inadequate possibilities for children belonging to ethnic groups to learn their mother tongue. It recommended that Turkey ensure effective implementation of relevant laws and consider further amendments to the legislation to allow the teaching of languages traditionally used in Turkey in the general public education system.¹⁰⁹

56. The Office of the High Commissioner for Refugees (UNHCR) noted that while the right to primary education for refugee children, in the age of 6 to 14 years, is observed pursuant to the Constitution, the effective implementation of this right can only be achieved if some procedural requirements are met.¹¹⁰

10. Minorities and indigenous peoples

57. CERD noted that according to Turkish law, only Turkish citizens belonging to non-Muslim minorities under the Treaty of Lausanne of 1923 fall within the scope of the term "minority", and that the Treaty is applied only to the Armenian, Greek and Jewish communities.¹¹¹

58. The UNCT highlighted that Turkey's approach remains restrictive mainly due to the official definition and acceptance of minorities, which does not comply with the International Covenant on Civil and Political Rights. It underlined the fact that Roma population is defined as a disadvantaged group and policies are shaped by this definition.¹¹²

11. Migrants, refugees and asylum-seekers

59. The UNCT noted that refugees and asylum-seekers registered in the national procedure for temporary asylum are generally protected from refoulement.¹¹³ However, they have to obtain residence permits, for which they need to make payment every six months, with children charged half of the fee. Despite of the possibility of exemption under the relevant law, asylum-seekers who are not able to pay are not exempted from obtaining the residence permit. As a consequence, they remain illegally in Turkey and are excluded from access to basic assistance.¹¹⁴

60. CERD was concerned at reports of the deportation and refoulement of refugees recognized under the mandate of the UNHCR, as well as of persons registered with UNHCR as asylum-seekers. It called upon Turkey to refrain from deporting such persons.¹¹⁵

61. CRC encouraged Turkey to reinforce its identification mechanisms for refugee and asylum-seeking children who may have been recruited or used in hostilities, and to strengthen measures for their recovery and social reintegration.¹¹⁶

62. CAT expressed concern about allegations according to which the expulsion of undocumented migrants to their country of origin or to neighboring countries is often accompanied by ill-treatment.¹¹⁷

12. Human rights and counter-terrorism

63. In 2006, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism recommended that the definition of terrorist crimes be brought in line with international norms and standards including by defining more precisely what crimes constitute acts of terrorism.¹¹⁸ Turkey provided an exhaustive response to the Special Rapporteur's findings.¹¹⁹ The Working Group on Arbitrary Detention recommended the amendment of the definition of terrorism with a view to limiting the scope thereof.¹²⁰

64. The Working Group on Arbitrary Detention also noted a reluctance on the part of the authorities to extend the beneficial effects of the reforms to persons accused of terrorism, which, due to the broad definition of terrorist offences, affects thousands of individuals. In the Working Group's opinion, most of the restrictions on the safeguards against arbitrary detention cannot be justified with reference to the duty to defend the country and its population against terrorist threats.¹²¹

65. CRC expressed concern that the 2006 amendments to the Anti-Terrorist Act (ATA) allow for the prosecution of children above 15 years as adults in "Special Heavy Penal Courts", and that sanctions for children may include life imprisonment, contrary to the Convention on the Rights of the Child. It recommended, inter alia, that Turkey amend the ATA in order to ensure that children are not tried as adults.¹²² The UNCT noted that many boys are being detained and charged as adults under the ATA for taking part in political demonstrations.¹²³

III. Achievements, best practices, challenges and constraints

66. The Working Group on Arbitrary Detention concluded that, in the course of the past 15 years, Turkey had made progress in the reform of its criminal justice system. This had been particularly visible in the fight against torture which, as far as the Working Group's mandate is concerned, is the fight against intimidation of persons in detention and against extorted confessions.¹²⁴

67. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism acknowledged the progress achieved over the last years in terms of respect for human rights. He concluded that challenges remain the large number of prosecutions related to terrorism, continuing restrictions on the freedom of association and expression, and impunity.¹²⁵

68. The Special Representative of the Secretary-General on human rights defenders welcomed the reform process in which the Government had engaged, notably in the field of freedom of expression, assembly and association.¹²⁶ She welcomed the abolition of State security courts, which had been used to prosecute human rights defenders.¹²⁷

IV. Key national priorities, initiatives and commitments

69. CERD¹²⁸ requested Turkey to provide, within one year, information on the follow-up to the recommendations regarding the withdrawal of reservations and declarations;¹²⁹ hostility towards ethnic minorities;¹³⁰ the situation of the Greek minority;¹³¹ and the possibilities for children belonging to ethnic minorities to be taught in their mother tongue.¹³²

V. Capacity-building and technical assistance

70. CRC recommended seeking cooperation with the Special Representative of the Secretary-General for Children and Armed Conflict in the event that children are found to have been recruited or used by armed groups.¹³³

71. The 2006-2010 United Nations Development Assistance Framework (UNDAF) highlighted as priority areas improvement of democratic governance, reduction of poverty/disparities including access to quality basic services, and improving the status of women, children and youth.¹³⁴

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>.

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination;
ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR;
ICCPR	International Covenant on Civil and Political Rights;
ICCPR-OP 1	Optional Protocol to ICCPR;
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty;
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women;
OP-CEDAW	Optional Protocol to CEDAW;
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
OP-CAT	Optional Protocol to CAT;
CRC	Convention on the Rights of the Child;

OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict;
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography;
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
CRPD	Convention on the Rights of Persons with Disabilities;
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities;
CED	International Convention for the Protection of All Persons from Enforced Disappearance.

- ³ Adopted by the General Assembly in its resolution 63/117 of 10 December 2008. Article 17, paragraph 1, of OP-ICESCR states that “The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant”.
- ⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- ⁵ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.
- ⁶ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.
- ⁷ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning the Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ⁸ Concluding observations of the Committee on the Elimination of Racial Discrimination, (CERD/C/TUR/CO/3), para. 8.
- ⁹ Ibid., para. 15.
- ¹⁰ United Nations Country Team (UNCT) submission to the UPR on Turkey, pp. 2-3.
- ¹¹ Concluding observations of the Committee on the Rights of the Child (CRC/C/OPAC/TUR/CO/1), para. 5.
- ¹² Ibid., para. 17.
- ¹³ UNCT submission to the UPR on Turkey, p. 1.
- ¹⁴ Ibid., pp. 3-4.
- ¹⁵ CERD/C/TUR/CO/3, para. 11.
- ¹⁶ Ibid., para. 16.
- ¹⁷ CRC/C/OPAC/TUR/CO/1, para. 15.
- ¹⁸ Concluding observations of the Committee on the Rights of the Child (CRC/C/OPSC/TUR/CO/1), para. 4 (b)
- ¹⁹ Ibid., para. 17.
- ²⁰ E/CN.4/2006/95/Add.5, para. 1649.

- ²¹ CEDAW, *Official Records of the General Assembly, Sixtieth session, Supplement No.38 (A/60/38)*, para. 355.
- ²² *Ibid.*, para. 362
- ²³ Concluding observations of the Committee against Torture, (CAT/C/CR/30/5), para. 4 (d).
- ²⁴ For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/10/55, annex 1.
- ²⁵ UNCT submission to the UPR on Turkey, p. 3.
- ²⁶ E/CN.4/2005/101/Add.3, para.108.
- ²⁷ E/CN.4/2006/95/Add.5, para. 1650.
- ²⁸ *Ibid.*, para. 1651.
- ²⁹ CRC/C/OPSC/TUR/CO/1, para. 5.
- ³⁰ CAT/C/CR/30/5, para. 4 (e).
- ³¹ UNCT submission to the UPR on Turkey, pp. 5-6.
- ³² *Ibid.*, p. 4.
- ³³ CRC/C/OPSC/TUR/CO/1, paras. 7-8.
- ³⁴ A/60/38, para. 362.
- ³⁵ See General Assembly resolution 59/113 B of 14 July 2005 and Human Rights Council resolution 6/24 of 28 September 2007.
- ³⁶ Letters from the Permanent Mission of the Republic of Turkey dated 13 March 2006, 3 April 2008 and 30 July 2009, and the response of the Permanent Mission of the Republic of Turkey to the questionnaire of the Human Rights Council Advisory Committee on the issue of the draft United Nations declaration on human rights education and training dated 29 December 2008, and letters from the United Nations High Commissioner for Human Rights dated 9 January 2006 and 10 December 2007, see <http://www2.ohchr.org/english/issues/education/training/Summary-national-initiatives2005-2009.htm> (accessed on 10 November 2009). See also General Assembly resolution 59/113 B and Human Rights Council resolution 6/24.
- ³⁷ UNCT submission to the UPR on Turkey, p. 11.
- ³⁸ *Ibid.*, p. 4.
- ³⁹ The following abbreviations have been used for this document:
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| CERD | Committee on the Elimination of Racial Discrimination; |
| CESCR | Committee on Economic, Social and Cultural Rights; |
| HR Committee | Human Rights Committee; |
| CEDAW | Committee on the Elimination of Discrimination against Women; |
| CAT | Committee against Torture; |
| CRC | Committee on the Rights of the Child; |
| CMW | Committee on the Protection of the Rights of All Migrant Workers and Their Families; |
| CRPD | Committee on the Rights of Persons with Disabilities. |
- ⁴⁰ A/HRC/4/34/Add.2.
- ⁴¹ A/HRC/11/6, para. 3.
- ⁴² A/HRC/4/40/Add.5.
- ⁴³ A/HRC/4/26/Add.2.
- ⁴⁴ E/CN.4/2005/101/Add.3.
- ⁴⁵ See E/CN.4/2006/6/Add.2.
- ⁴⁶ The questionnaires referred to are those reflected in an official report by a special procedure mandate holder issued between 1 January 2006 and 31 January 2010. Responses counted for the purposes of this section are those received within the relevant deadlines, relating to the following questionnaires: (a) report of the Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation, 2005; (b) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31), questionnaire on the sale of children's organs, 2006; (c) report of the Special Rapporteur on trafficking in persons, especially

women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons, 2006; (d) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants, 2006; (e) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities, 2006; (f) report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35/Add.3), questionnaire on human rights policies and management practices; (g) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), questionnaire on the human rights of indigenous people, 2007; (h) report of the Working Group on the use of mercenaries (A/62/301), questionnaire on measures adopted and envisaged, including legislation, regarding mercenaries, 2007; (i) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/7/8), questionnaire on assistance and rehabilitation programmes for child victims of sexual exploitation, 2007; (j) report of the Special Rapporteur on violence against women (A/HRC/7/6), questionnaire on indicators on violence against women, 2007; (k) report of the Special Rapporteur on the right to education (A/HRC/8/10), questionnaire on the right to education in emergency situations, 2007; (l) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/10/16 and Corr.1), questionnaire on trafficking in persons, 2008; (m) report of the independent expert on the question of human rights and extreme poverty to the eleventh session of the Council (A/HRC/11/9), questionnaire on Cash Transfer Programmes, 2008; (n) report of the Special Rapporteur on the right to education, (A/HRC/11/8), questionnaire on the right to education for persons in detention, 2009; (o) report of the Special Rapporteur on violence against women (A/HRC/11/6), questionnaire on violence against women and political economy, 2008; (p) report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences (A/HRC/12/21), questionnaire on national legislation and initiatives addressing the issue of bonded labour, 2009; (q) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/12/23), questionnaire on measures to prevent and combat online child pornography, 2009; (r) report of the Special Rapporteur on the right to food (A/HRC/12/31), questionnaire on world food and nutrition security, 2009; (s) report of the Working Group on Arbitrary Detention (A/HRC/13/30), questionnaire on the detention of drug users, 2009; (t) joint study on global practices in relation to secret detention in the context of countering terrorism (A/HRC/13/42), questionnaire on secret detention, 2009; (u) report of the Special Rapporteur on the situation of human rights defenders (A/HRC/13/22), questionnaire on the security and protection of human rights defenders, 2009.

⁴⁷ OHCHR 2009 Report on Activities and Results.; OHCHR 2008 Report on Activities and Results, p.207; OHCHR 2007 Report on Activities and Results, p. 174; OHCHR 2006 Annual Report, p. 159.

⁴⁸ UNCT submission to the UPR on Turkey, p. 5.

⁴⁹ A/HRC/4/34/Add.2, p. 2.

⁵⁰ UNCT submission to the UPR on Turkey, p. 5.

⁵¹ *Ibid.*, p. 6.

⁵² A/HRC/4/G/10, annex, paras. 7-10.

⁵³ A/60/38, paras. 363-364.

⁵⁴ *Ibid.*, para. 367.

⁵⁵ UNCT submission to the UPR on Turkey, p. 6.

⁵⁶ CERD/C/TUR/CO/3, para. 13.

⁵⁷ *Ibid.*, para. 12.

⁵⁸ *Ibid.*, para. 18.

⁵⁹ *Ibid.*, para. 19.

⁶⁰ UNCT submission to the UPR on Turkey, pp. 8-9.

⁶¹ *Ibid.*, p. 5.

⁶² A/60/38, paras. 363-364.

⁶³ Concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.152), para. 31.

⁶⁴ A/HRC/4/34/Add.2, p. 2.

⁶⁵ A/HRC/4/20/Add.1, pp. 320-331.

⁶⁶ A/HRC/10/9, paras. 409-416.

- 67 CAT/C/CR/30/5, para. 5 (a).
- 68 Ibid., para. 7 (a).
- 69 UNCT submission to the UPR on Turkey, p. 7.
- 70 A/HRC/4/40/Add.5, paras. 98-103.
- 71 CRC/C/15/Add.152, para. 39.
- 72 Ibid., para. 40.
- 73 A/60/38, paras. 365-366.
- 74 UNCT submission to the UPR on Turkey, p. 5.
- 75 Cited in the UNCT submission to the UPR on Turkey, p. 5.
- 76 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Worst Forms of Child Labour Convention, 1999 (No. 182), 2009, Geneva, doc. No. (ILOLEX) 062009TUR182, third paragraph.
- 77 CRC/C/15/Add.152, paras 47-48.
- 78 Ibid., paras. 61-62.
- 79 UNCT submission to the UPR on Turkey, p. 9.
- 80 CAT/C/CR/30/5, para. 5 (d).
- 81 A/HRC/4/34/Add.2, p. 2.
- 82 UNCT submission to the UPR on Turkey, p. 2.
- 83 Ibid., p. 7.
- 84 A/HRC/4/40/Add.5, para. 102.
- 85 CRC/C/15/Add.152, para. 66.
- 86 UNCT submission to the UPR on Turkey, p. 7.
- 87 CRC/C/15/Add.152, paras. 43-44.
- 88 UNCT submission to the UPR on Turkey, p. 8.
- 89 Ibid.
- 90 Cited in the UNCT submission to the UPR on Turkey, p. 8.
- 91 UNCT submission to the UPR on Turkey, pp. 7-8.
- 92 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2008, Geneva, doc. No. (ILOLEX) 062008TUR111, para.5.
- 93 A/HRC/4/27/Add.1, paras. 669-681; A/HRC/4/37/Add.1, paras. 683-699; A/HRC/8/4/Add.1, paras. 294-300; A/HRC/7/14/Add.1, paras. 677-690; A/HRC/7/28/Add.1, paras. 1894-1901; A/HRC/11/4/Add.1, paras. 2481-2518; A/HRC/10/12/Add.1 paras. 2559-2595.
- 94 A/HRC/10/12/Add1, paras. 2556-2559.
- 95 CAT/C/CR/30/5, para. 6 (c).
- 96 A/60/38, para. 370.
- 97 United Nations Statistics Division coordinated data and analyses, available at <http://mdgs.un.org/unsd/mdg>.
- 98 CERD/C/TUR/CO/3, para. 18.
- 99 Ibid., para. 10.
- 100 A/60/38, para. 373.
- 101 Ibid., para. 374.
- 102 ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Direct Request concerning ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 2008, Geneva, doc. No. (ILOLEX) 092008TUR111, para.3.
- 103 A/60/38, paras. 375-376.
- 104 United Nations Statistics Division coordinated data and analyses, available at <http://mdgs.un.org/unsd/mdg>.
- 105 Cited in the UNCT submission to the UPR on Turkey, p. 8.
- 106 UNCT Turkey submission to the UPR on Turkey, p. 9.
- 107 A/60/38, para. 358.
- 108 Ibid., para. 372.
- 109 CERD/C/TUR/CO/3, para. 20.
- 110 Cited in the UNCT submission to the UPR on Turkey, p. 9.
- 111 CERD/C/TUR/CO/3, para. 12.
- 112 UNCT submission to the UPR on Turkey., p. 6.

- ¹¹³ Ibid., p. 10.
¹¹⁴ Ibid., p. 8.
¹¹⁵ CERD/C/TUR/CO/3, para. 15.
¹¹⁶ CRC/C/OPAC/TUR/CO/1, paras. 20-21.
¹¹⁷ CAT/C/CR/30/5, para. 6 (b).
¹¹⁸ A/HRC/4/26/Add.2, para. 90.
¹¹⁹ See A/HRC/4/G/4.
¹²⁰ A/HRC/4/40/Add.5, para. 101.
¹²¹ Ibid., para. 98.
¹²² CRC/C/OPAC/TUR/CO/1, paras. 18 and 19 (a).
¹²³ UNCT submission to the UPR on Turkey, p. 7.
¹²⁴ A/HRC/4/40/Add.5, para. 97.
¹²⁵ A/HRC/4/26/Add.2, p. 2.
¹²⁶ E/CN.4/2005/101/Add.3, para. 107.
¹²⁷ E/CN.4/2006/95/Add.5, para. 1644.
¹²⁸ CERD/C/TUR/CO/3, para. 30.
¹²⁹ Ibid., para. 8.
¹³⁰ Ibid., para. 13.
¹³¹ Ibid., para. 18.
¹³² Ibid., para. 20.
¹³³ CRC/C/OPAC/TUR/CO/1, para. 23.
¹³⁴ United Nations Development Assistance Framework for Turkey 2006-2010, Ankara, 2005, p. 4, available at http://www.undp.org.tr/AboutUsDocuments/UNDAF_2006_2010.pdf.
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