



**International Covenant on
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**Second periodic report submitted by Türkiye
under article 40 of the Covenant pursuant to the
optional reporting procedure, due in 2022***

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* The present document is being issued without formal editing.



Abbreviations

| | |
|--------|---|
| ATL | Anti-Terror Law |
| CoE | Council of Europe |
| CCt | Constitutional Court |
| CCP | Criminal Code of Procedure |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CJP | Council of Judges and Public Prosecutors |
| CPT | European Committee for the Prevention of Torture |
| ECHR | European Convention on Human Rights |
| ECtHR | European Court of Human Rights |
| EKAP | Electronic Public Procurement Platform |
| EU | European Union |
| FATF | Financial Action Task Force |
| FETO | Fetullah Terrorist Organization |
| GRECO | Group of States against Corruption |
| HRAP | Human Rights Action Plan |
| HRC | Human Rights Committee |
| HREIT | Human Rights and Equality Institution of Türkiye |
| ICCPR | International Covenant on Civil and Political Rights |
| ICTA | Information and Communication Technologies Authority |
| MoJ | Ministry of Justice |
| NPM | National Preventive Mechanism |
| OECD | Organization for Economic Cooperation and Development |
| OI | Ombudsman Institution |
| OPCAT | Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| PPA | Public Procurement Authority |
| PPL | Public Procurement Law |
| RTSC | Radio and Television Supreme Council |
| SCJP | Supreme Council of Judges and Prosecutors |
| SDIF | Savings Deposit Insurance Fund |
| SEC | Supreme Election Council |
| SoE | State of Emergency |
| SoEC | Inquiry Commission on the State of Emergency Measures |
| SPT | UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment |
| ŞÖNİMs | Violence Prevention and Monitoring Centres |
| TGNA | Turkish Grand National Assembly |
| TPC | Turkish Penal Code |
| TCC | Turkish Commerce Code |
| UN | United Nations |

Introduction

1. Türkiye has been implementing comprehensive reform processes to protect and advance human rights since early 2000s. In this regard, Türkiye became party to relevant international conventions, adopted necessary amendments in domestic law and ensured that reforms are fully reflected in practice.
2. Thanks to the numerous constitutional and legal arrangements, the legal framework has been improved to be harmonized with UN and CoE conventions to which Türkiye is a party to, with the case-law of the ECtHR and with the *acquis* of the EU.
3. Article 90 of the Constitution states that international agreements duly put into effect have the force of law. No appeal against them can be made on the grounds that they are unconstitutional. In case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.
4. With constitutional referendum held in 2010, the remedy of individual application to CCt was introduced on 23 September 2012.
5. Works by HREIT and OI have also been contributing to strengthening of democracy, human rights and the rule of law.
6. Following the coup attempt of 15 July 2016 by FETO terrorist organization, which atrociously plotted against the legitimate democratic Government and the Constitutional order, in grave violation of the fundamental rights and freedoms, first and foremost the right to life, SoE was declared on 21 July 2016 in order to completely eliminate the threats against the existence of the State and the values of democratic society. SoE was ended on 19 July 2018.
7. Türkiye continues its reforms for further strengthening its democracy and the rule of law, and to ensure that fundamental rights and freedoms are fully respected. Consequently, Türkiye maintains its constructive cooperation with the mechanisms of UN, CoE and the Organization for Security and Co-operation in Europe.

Responses to list of issues prior to reporting (CCPR/C/TUR/QPR/2)

A. General information on the national human rights situation, including new measures and developments relating to the implementation of ICCPR

Steps taken for implementing HRAP

8. HRAP was announced on 2 March 2021 with “Free Individual, Strong Society; More Democratic Türkiye” vision. Prepared with a participatory spirit, having received opinions from local stakeholders including NGOs and professional organizations, academics and members of the media, as well as CoE and EU, HRAP defines 11 main principles and covers 9 aims, 50 goals and 393 activities.
9. The essential approach put forward by HRAP is upholding the protection and promotion of human rights as the State’s utmost duty. It seeks to address a number of problems seen in practice and improve the legal framework.
10. Following the announcement of the HRAP, Implementation Schedule was announced with Presidential Circular no.2021/9 which was published in Official Gazette on 30 April 2021. Accordingly, for each activity listed in HRAP, short (one to three months), medium (six months to one year) and long terms (two years), as well as continuous periods have been determined for a number of activities.
11. To effectively implement and monitor HRAP, the “Human Rights Action Plan Monitoring and Evaluation Board” is established. To follow-up the implementation process

and to ensure reporting and periodic entry of data by the institutions in charge of the activities, a “Monitoring Follow-Up System” has been set up.

12. A website (<https://insanhaklarieylemplani.adalet.gov.tr>) has also been opened to public access for transparent implementation. Turkish and English texts of HRAP along with the French and Arabic translations, the implementation directive and its schedule have been published for all stakeholders.

13. The activities in HRAP are being implemented in accordance with the Implementation Schedule. Legal amendments, publicly known as the 4th and 5th Judicial Packages have been adopted and a number of other activities have been put to practice through subsidiary legislation and administrative measures. Among the activities realized;

- Objections to a higher court are introduced against arrest and judicial control decisions by the criminal magistrates.
- For the catalogue crimes which strong suspicion constitutes reason for arrest, an additional requirement that the suspicion should be “*based on concrete evidence*” is introduced.
- Possibility of release is introduced in respect of those arrested outside work hours upon an arrest warrant for statement-taking, on the condition that he/she will be present before the competent legal authority on the determined date.
- In decisions of arrest, continued arrest and dismissal of requests for release, it has to be demonstrated that judicial control measures would be insufficient.
- An upper time limit is introduced for judicial control measures and using technological means is introduced.
- Criminal magistrates and prosecutors continue to be given training on arrest and judicial control measures. Moreover, human rights trainings are provided in pre-service and in-service training programs, which include case-law of the CCt and ECtHR.
- Prolonged proceedings and decisions that lack reasoning in the appeal processes will be reported to the CJP so as to be taken into account in promotion and disciplinary evaluations.
- Pre-service and in-service trainings are enabled to ensure that the decisions issued by courts and public prosecutors are sufficient, convincing and comprehensible in a manner that also fulfill the standards laid down by the judgments of the CCt and ECtHR.
- Standard application forms have been prepared and added to the Lawyer Portal as well as e-Government with a view to facilitating application for legal aid for persons with financial difficulties.
- Number of special investigation bureaus set up against domestic violence have been increased. Judges and prosecutors in charge of examining these crimes are given special training.
- Legal amendments are made to ensure that issues pertaining to private life which are not relevant to the offense or alleged incident shall not be reflected in judicial proceedings.
- For the best interests of the child, Directorates of Judicial Support and Victim Services were assigned for handing the child to the parent instead of enforcement directorates.
- Inmates following different religions are given additional opportunities such as open visits and video calls on their religious holidays.
- Fundamental human rights topics are included in pre-service and in-service trainings for all public officials.
- For strengthening democratic representation, national electoral threshold is lowered from 10% to 7%.

- Legal arrangements are made to ensure full participation by the disabled to the electoral process.
- Act of repeated stalking is defined as a separate criminal offence, thereby reinforcing the protection provided to the victims.
- Women who are victims of violence are granted, if they so request, free legal aid and assistance of a lawyer appointed by the Bar Association.

Other Works on Human Rights

14. Judicial Reform Strategy, prepared with “*A trustworthy and accessible justice*” vision, containing 9 aims, 63 goals and 256 activities, was announced on 30 May 2019.

15. A number of significant activities realized are:

- The period of pre-trial detention during the investigation stage shall not exceed one year in cases falling within the jurisdiction of assize courts and six months in other cases. In offenses targeting the security of the State, the Constitutional order, national defense, State secrets, offenses within the scope of ATL and offenses committed collectively, this period shall at maximum be one year and six months, with the possibility of extending six more months, provided that reasons are shown.
- The provision “*expression of opinion aimed at criticism, which remains within the limits of news reporting shall not constitute an offense*” is added to ATL.
- Appealing before the Court of Cassation is enabled in respect of certain offenses committed by means of expression, which do not include violence.
- Upper limits for the pretrial detention of juveniles pushed to crime is reduced.
- Instead of blocking the whole website, decisions to block access to websites are confined to the publication, part or section of an item which is subject to violation.
- Compatibility of judgments and decisions by judges and public prosecutors with the case-law of the CCt and ECtHR shall be held as a criteria in promotion and oversight processes.
- The upper limit is raised for prison terms which can be commuted to home confinement in respect of the elderly, women and children.

16. Other works realized during the reporting period concerning the legal and institutional framework regarding human rights are addressed under relevant paragraphs.

Reservation made to Article 27

17. The reservation is aimed at avoiding conflict with the Turkish Constitution in the interpretation of Article 27 of ICCPR. According to Article 10 of the Constitution “*Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds [...] The State has the obligation to ensure that this equality exists in practice.*” As per the Constitution, minorities are defined and recognized by the bilateral and multilateral agreements to which Türkiye is a party. Minority rights are governed by the Lausanne Peace Treaty of 1923. Pursuant to the Constitution and the Lausanne Peace Treaty, Turkish nationals belonging to minority groups enjoy same rights with other nationals and also benefit from their minority status. Therefore, withdrawal of said reservation is not conceived.

Implementation of the recommendations of HRC

18. Views adopted by HRC during the reporting period (CCPR/C/104/D/1853-1854/2008, CCPR/C/123/D/2274/2013 and CCPR/C/125/D/2980/2017) have been conveyed to the relevant national authorities and the HRC has been provided with information within the framework of the follow-up procedure.

B. Specific information on the implementation of Articles 1-27 of ICCPR, including with regard to the previous recommendations of HRC

Constitutional and legal framework within which ICCPR is implemented – Article 2

HREIT

19. HREIT was established in conformity with the Paris Principles by Law no.6701, dated 20 April 2016. Upon the establishment of HREIT, the “Turkish Human Rights Institution”, established in 2012, was dissolved.

20. Its primary task being the protection and promotion of human rights, HREIT undertakes three major tasks, namely as National Human Rights Institution, NPM against Torture and Ill-treatment, and Anti-discrimination and Equality Institution.

21. HREIT makes *ex officio* examinations on human rights violations, delivers decisions and follows their outcome before relevant institutions. It also examines alleged discrimination cases upon applications and assists victims on administrative and legal remedies they can resort to. As NPM under OPCAT, it examines applications by persons deprived of their liberty or placed in protection, pays regular visits to the places they are held, with or without prior notice and prepares reports on these visits.

22. HREIT monitors the implementation of the international human rights conventions to which Türkiye is a party, follows legislative works falling within its mandate and submits its views and recommendations to the relevant bodies, maintains cooperation with national and international institutions and organizations in the same field and carries out activities to raise the level of awareness and education on human rights.

23. HREIT is a public legal entity with its own budget and has administrative and financial autonomy. It fulfills its duties and exercises its powers independently and, no office, authority, organization or person shall give orders, instructions, advice or suggestions on the issues falling within its purview.

24. Information showing applications and decisions by HREIT are submitted below:

- Examinations conducted *ex officio*:

| <i>Year/Duty</i> | <i>Combatting Discrimination and Ensuring Equality</i> | <i>Protection and Promotion of Human Rights</i> | <i>NPM</i> | <i>Total</i> |
|------------------|--|---|------------|--------------|
| 2018 | 1 | 1 | | 2 |
| 2019 | 2 | 7 | 2 | 11 |
| 2020 | 3 | 3 | | 6 |
| 2021 | | | 3 | 3 |

- Examinations conducted upon applications:

| <i>Year</i> | <i>Combatting Discrimination and Ensuring Equality</i> | <i>Protection and Promotion of Human Rights</i> | <i>NPM</i> | <i>Other Applications and requests</i> | <i>Total</i> |
|--------------|--|---|--------------|--|--------------|
| 2017 | 102 | 129 | 153 | 38 | 422 |
| 2018 | 371 | 78 | 598 | 60 | 1 107 |
| 2019 | 70 | 124 | 965 | 30 | 1 189 |
| 2020 | 276 | | 679 | 408 | 1 363 |
| 2021 | 180 | 287 | 529 | 189 | 1 185 |
| Total | 999 | 618 | 2 924 | 725 | 5 266 |

• Decisions:

| <i>Year</i> | <i>Combating Discrimination and Ensuring Equality</i> | <i>Protection and Promotion of Human Rights</i> | <i>NPM</i> | <i>Other Applications and requests</i> | <i>Total</i> |
|--------------|---|---|------------|--|--------------|
| 2018 | 30 | 1 | 30 | | 61 |
| 2019 | 18 | 7 | 193 | | 218 |
| 2020 | 43 | 3 | 176 | 203 | 425 |
| 2021 | 69 | 152 | 212 | | 433 |
| Total | 160 | 163 | 611 | 203 | 1 137 |

25. HREIT is a member of European Network of National Human Rights Institutions. HRAP foresees that “the structure of the HREIT will be rendered in compliance with the UN Principles relating to the Status of National Institutions and its accreditation by the Global Alliance of National Human Rights Institutions will be secured.” Documents required for the accreditation process have been submitted by HREIT on 1 June 2022 to the Global Alliance of National Human Rights Institutions. Evaluation for accreditation will be concluded in October 2022.

OI

26. OI was established as per Article 74 of the Constitution and in compliance with Paris Principles, by Law no.6328, dated 29 June 2012. OI, which has constitutional status, serves the purpose of an independent and effective complaint mechanism in the performance of public services.

27. OI is composed of one Chief Ombudsman and five ombudspersons, who are elected for a period of four years by secret vote at TGNA. It is attached to TGNA, is a public legal entity and has its own budget. It has been stipulated by law that no office, authority, organization or person shall give orders, instructions, send circulars, advice or suggestions on the issues falling within the mandate of the Chief Ombudsman and ombudspersons and that the Chief Ombudsman and ombudspersons shall act in accordance with the principle of impartiality while carrying out their duties.

28. Moreover, conditions legally required from the Chief Ombudsman and ombudspersons such as not being a member of a political party, being elected by a two-thirds majority by the Plenary Session and the Mixed Commission of the TGNA, being subject to an investigation relating to their duties only on authorization by the President of the TGNA and not being engaged in any other work ensure that OI performs independently.

29. OI is tasked with examining and investigating all kinds of actions and conduct of the administration in terms of conformity with law and equity, and making recommendations. All persons are able to file complaints to the institution for free, in person or through their legal representative, including in languages other than Turkish. Applications can be made in person, by mail, through the electronic application form on the official website (www.ombudsman.gov.tr), or at provincial or district governor’s offices. Children can also make electronic applications on their own via www.kdkcocuk.gov.tr.

30. OI carries out all necessary examinations to remedy violations and to settle disputes. Administrative authorities are obliged to submit all information and documents. OI has the power to appoint an expert and hear witnesses.

31. OI prepares an annual report, which includes applications admitted, omissions found, violations addressed, recommendations and other decisions taken, findings on administrations which abide by or ignore these decisions along with recommendations and opinions, which is submitted to TGNA, respecting principles of transparency and accountability. The report is debated in the General Assembly of the TGNA, and published in Official Gazette.

32. OI is further empowered to prepare special reports and make statements on issues it deems necessary, without awaiting an application or the annual report. Thus, it is capable of making sectorial interventions and contribute to solution of problems. All reports by OI are accessible on its website.

33. Application to OI is a constitutional right under Article 74 of the Constitution. Following a preliminary examination, in case an application is found inadmissible, either a decision of non-examination or referral is taken. In referral decisions, in addition to the applicant's request, the legal framework relevant to the application is explained where necessary, the administration is reminded of the actions it should take, requested to consider the applicant's request and invited to amicable settlement. Most referral decisions result in amicable settlement by the administration and the applicants' grievances are remedied.

34. Applications which pass the preliminary examination phase are examined on merits and a decision of recommendation, refusal, amicable settlement or non-decision is rendered, depending on the nature of the application and/or violation. OI is obliged to conclude applications within six months.

35. Information relating to applications and decisions by OI are shown below:

| <i>Type of decision</i> | <i>2017</i> | <i>2018</i> | <i>2019</i> | <i>2020</i> | <i>2021</i> | <i>2022 (Until April 1)</i> |
|--|---------------|---------------|---------------|---------------|---------------|-----------------------------|
| Referral | 4 629 | 4 812 | 8 112 | 8 555 | 7 148 | 1 644 |
| Inadmissibility | 4 381 | 6 517 | 6 981 | 9 254 | 5 514 | 1 491 |
| Invalid application | 56 | 187 | 159 | 164 | 426 | 17 |
| Merging applications | 94 | 75 | 98 | 87 | 95 | - |
| Separating applications | 14 | 24 | 27 | 20 | 36 | 7 |
| Amicable settlement | 1 575 | 1 916 | 1 607 | 1 808 | 1 928 | 530 |
| No ground exists for taking a decision | 469 | 433 | 435 | 284 | 280 | 182 |
| Recommendation | 245 | 677 | 860 | 68 128 | 1 201 | 199 |
| Refusal | 353 | 662 | 895 | 941 | 1 320 | 229 |
| Partial recommendation/Partial refusal | 177 | 269 | 410 | 704 | 403 | 193 |
| Total decisions | 11 993 | 15 572 | 19 584 | 89 945 | 18 351 | 4 492 |
| Total applications | 17 131 | 17 585 | 20 968 | 90 209 | 18 843 | 4 542 |

36. It is a legal obligation that authorities which do not comply with OI's recommendations shall cite reasons. In addition, authorities which fail to comply with the recommendations are disclosed to public through the press and officials from those authorities are invited to the Mixed Commission of the TGNA during annual report debates. Moreover, communication channels are kept open by inviting the authorities to workshops, conferences and similar activities organized by OI.

37. Recommendations adopted as a result of breaches of good governance principles are complied with at a rate of 83%. The "*Guidelines on Good Governance Principles*" have been prepared, aimed at the adoption of a "citizen-friendly" approach in the administrative mechanism, ensuring the protection of fundamental rights and freedoms and the rule of law in full in conducting services and adoption of good governance principles by public administration actors.

38. OI is a member of Ombudsman networks of International Ombudsman Institute and the European Network of Ombudsmen.

Other institutions and mechanisms

39. In strengthening civil oversight in prisons, the project "*Enhancing the Effectiveness of Civil Monitoring Boards (CMBs)*" is being implemented with technical assistance by CoE.

40. The Project is divided in 4 components:
- Strengthening CMBs independence through revision of the applicable legal and regulatory framework in line with the international standards;
 - Enhancing CMBs efficiency by further developing their monitoring standards and working methodology and tools;
 - Ensuring sustainable training provision for the CMB members;
 - Improving CMBs internal coordination and communication with other external monitoring mechanisms.
41. Active participation is ensured by HREIT and OI as external beneficiaries of the project.

Non-discrimination – Articles 2, 3, 6, 25 and 26

Legal measures taken, works and activities realized to combat discrimination

42. The Constitution safeguards the equality before the law without distinction (Article 10) and also contains provisions which prohibit discrimination on different matters, such as the statutes, programs and activities of political parties (Article 68) and the right to enter public service (Article 70).
43. Regarding laws:
- According to Article 7 of Law on Civil Servants, “civil servants cannot become members of a political organization, nor act in favor or against a political party, person or group; they cannot discriminate on the basis of language, race, sex, political thought, philosophical belief, religion or sect, cannot make any politically or ideologically-oriented statements or actions and cannot take part in such actions”. The penalty of suspension of advancement in grade is given for acting in contravention of this rule.
 - Article 12/1 of Law on Political Parties states: “...Political party statutes cannot contain provisions which make distinction on the basis of language, race, sex, religion, sect, family, group, class or profession among the applicants for membership”. According to the Law, political parties cannot aim for creating a distinction on language, race, color, religion and sect or establishing a State order in any way based on these concepts or opinions (Article 78), regionalism or racism (Article 82) or seek purposes contrary to principle of equality before the law (Article 83).
 - In Turkish Civil Law, Labor Law, National Education Principal Law, Radio and Television Law, Law on Social Services and Law on HREIT among others, non-discrimination measures are envisaged.
44. Within the scope of criminal law, Article 3/2 of TPC prohibits discrimination in the application of the law. In Article 115, “*prevention of the exercise of freedom of belief, thought and conviction*” and in Article 122 “*hatred and discrimination*” acts are criminalized. According to Article 135, illegally recording personal data that includes the person’s political, philosophical or religious opinions, racial background, moral tendencies, sexual life, state of health or labor union connections constitute an aggravating factor. In Article 216, provoking the public to hatred, hostility or degrading against another section of the public based on discriminatory motives are criminalized.

Legislation regarding penitentiary institutions

45. Article 2 of Law no.5275 on Execution of Sentences and Security Measures states that rules regarding the execution of sentences and security measures shall be implemented without distinction as to the race, language, religion, sect, nationality, color, sex, birth, philosophical belief, national or social origin, political or other opinion or thought, economic power or other public status of prisoners and without granting privilege to anyone.

46. Complaints of inmates regarding treatment from personnel are promptly forwarded to relevant authorities and judicial and administrative investigations are launched where deemed necessary.

HRAP activities

47. The principle of equality before the law is underlined in HRAP. The following activities are listed under “*Improving the Effectiveness of the Fight Against Hate Speech and Discrimination*” title:

- An effective fight will be put up against hate speech and discrimination based on language, religion, race, color, sex, political view, philosophical belief, sect, or similar other reasons.
- The effectiveness of policies concerning prevention of discrimination in the work life will be increased.
- The national and international developments will be tracked and periodical reports will be prepared on instances which constitute discrimination or hate speech/crime such as Islamophobia, xenophobia, migrant-phobia and racism.
- Investigation guides will be prepared to effectively combat discrimination and hate crime.
- A new provision will be put in place under TPC with regard to discrimination and hate crime.
- Psycho-social and legal support will be offered to the victims who are deemed to be most affected by discrimination and hate crime.
- A database will be created and a proper collection of statistics will be secured with regard to criminal offences and misdemeanors involving hate and discrimination and the law enforcement and prosecution staff will be trained.
- The awareness on hate speech and discrimination will be raised by trainings and preparing handbooks for media workers.

HREIT Activities

48. Combatting discrimination is among the three main duties of HREIT. Law no.6701 serves as a comprehensive legislation against discrimination.

49. Types of discrimination within the scope of the Law: making distinction, giving discriminatory orders and applying such orders, multiple, direct and indirect discriminations, workplace bullying, failure to make reasonable arrangement concerning disabled persons, harassment and discrimination based on perception. Negative treatment faced by those who initiated administrative or judicial proceedings requesting equal treatment or protection of discrimination, by those who joined such proceedings or their representatives, constitute discrimination as well.

50. According to Article 5/1 of the Law, real persons, public institutions and organizations or legal persons providing services cannot discriminate against persons wishing to use or get information about these services. The Law obligates all public institutions and legal persons to take all necessary measures for elimination of the discrimination along with its consequences, prevention of recurrence and following up the case administratively and judicially, in the event of a violation of the prohibition of discrimination.

51. Following duties have been given to HREIT for combating discrimination: (i) Examination of violations of the prohibition on discrimination, *ex officio* or upon application, conduct examinations and inquiry, take decisions and follow their outcome; (ii) Guiding those who apply to the institution alleging that they have been victim of discrimination, about the administrative and legal remedies they can follow and assisting them in following their applications; (iii) Providing information for the public, including by using mass media, on the combating discrimination; (iv) Contribution to the determination of principles for national education curriculum and vocational training courses for public officials; (v) Preparing annual reports on combating discrimination.

52. Anyone who claims being a victim of discrimination can apply to HREIT free of charge at provincial and district governor's offices. Identity of adult applicants can be hidden on request while the identity of minor applicants always remain undisclosed. Whereas it is sufficient for the applicant to put forward the existence of strong indications substantiating his/her allegation, the person or institution accused with violation must prove that the allegation is false.

53. In cases where HREIT finds a violation of non-discrimination, it can impose a fine against the persons or institutions responsible.

54. Other various works carried out by HREIT for combatting discrimination are:

- International conference on “*Combatting Discrimination in Business Life*” (17 April 2019).
- “*Report on Combatting Discrimination, Year 2018*”: In the report, fields of public service which are within the scope of the prohibition of discrimination as well as policies and activities in these fields have been addressed with a holistic approach.
- “*Report on the Right to Education of Children with Autism and Prohibition of Discrimination*” (2 April 2020, on the occasion of World Autism Awareness Day).
- National symposium titled “*Hate Speech and Hate Crimes*” (27 October 2021).
- First Meeting of the Consultation Commission (18 November 2021): The Commission has been established by HREIT to discuss problems, suggest solutions and exchange information and views in discrimination-related issues. Participation has been provided by many public institutions and organizations, NGOs, representatives of social and professional organizations, academics and experts who are members of the Commission.
- “*Special Report on the Role of the Principle of Non-Discrimination and Equality Institutions in the Context of Combatting Hate Speech and Xenophobia*”: Preparations for the report is ongoing.

Other Institution Activities

55. OI also has the power to monitor whether public institutions comply with the principle non-discrimination. A total of 85 discrimination applications were submitted to OI between January 2017 and April 2022. 14 of these applications were rejected, 47 were referred to the relevant persons/institutions, and 16 were concluded.

56. Türkiye, under CEDAW, submits periodic reports to the CEDAW Committee. In November 2014, the 7th Periodic Report, in November 2020 the 8th Periodic Report and in November 2021, responses to the “List of Issues” were submitted to the CEDAW Committee. Türkiye's undertakings concerning gender discrimination during the reporting period can be accessed from the UN database.

Hate Crime

57. “*Hatred and Discrimination*” offense is regulated in Article 122 of TPC. Accordingly, any person who (a) prevents the sale, transfer or rental of a movable or immovable property offered to the public, (b) prevents a person from enjoying services offered to the public, (c) prevents a person from being recruited for a job, (d) prevents a person from undertaking an ordinary economic activity on the ground of hatred based on differences of language, race, nationality, colour, sex, disability, political view, philosophical belief, religion or sect shall be sentenced to a penalty of imprisonment for a term of one year to three years.

58. By Law no.6529 dated 2 March 2014, the title of “*Discrimination*” was amended as “*Hatred and Discrimination*” to emphasize the hatred aspect of the offense.

State of Emergency – Article 4

59. On 15 July 2016, FETO, who had infiltrated many institutions of the State, attempted to eliminate the democratic Constitutional order using violence and coercion. FETO members who were structured within the Turkish Armed Forces used a great number of heavy

weaponry such as fighter jets, attack helicopters, tanks and armed vehicles in the coup attempt: public institutions were bombarded such as the TGNA building, Presidential complex, Directorate of General Security premises, and the National Intelligence Organization compound. Furthermore, media institutions were attacked to cut off television broadcasts and internet access, and an assassination attempt was made against the President of the Republic. This coup attempt targeted fundamental rights and freedoms of the people, the right to life foremost, the democratic values of the society and the Constitutional order. It resulted in the death of 251 lives and the injury of 2194 people.

60. In order to completely eliminate the threats against the existence of the State and the values of democratic society, to protect human rights and the rule of law and to prevent and eradicate future attacks on these values, SoE was declared on 21 July 2016 and approved by TGNA in accordance with Article 120 of the Constitution.

61. Under SoE, Türkiye resorted to its right to derogate from its obligations in ICCPR and ECHR. When exercising this right, exceptional, proportionate, necessary and temporary measures were taken in accordance with Article 4 of ICCPR and the principles outlined by General Comment no.29 of HRC. These measures did not cause changes or restrictions in everyday life and did not affect exercising of fundamental rights and freedoms. No measure was taken on the non-derogable rights and the right to a fair trial was respected.

62. During the SoE, 32 Emergency Decree-Laws were adopted. In this process, obligations arising from the international human rights conventions were observed to the maximum extent and it was ensured that these measures meet the criteria of necessity and proportionality.

63. All Decree-Laws and decisions to extend SoE were duly approved by TGNA. The Decree-Laws that were subject to political supervision of TGNA were also subjected to judicial supervision of the CCt as soon as they became laws with the approval of Parliament. The CCt examined and annulled a number of provisions in this regard.

64. Pursuant to the recommendations of CoE, “*Inquiry Commission on State of Emergency Measures*” was established with Decree-Law no.685 and started functioning on 22 May 2017 in order to assess and conclude the applications concerning administrative acts which were carried out directly by the Decree Laws within the scope of the SoE. SoEC is recognized as a domestic remedy to be exhausted by ECtHR and its decisions are subjected to judicial supervision. Information on the examinations made and decisions taken by SoEC as of 31 December 2021 are indicated in the table below:

| Subject | Measures | Applications | Decisions | | | Pending Cases |
|---|----------------|----------------|---------------|----------------|----------------|---------------|
| | | | Accepted | Rejected | Total | |
| Dismissal from public service | 125.678 | 123.078 | 15.841 | 101.987 | 117.828 | 5.250 |
| Annulment of ranks of retired personnel | 3.123 | 2.503 | 148 | 2.319 | 2.467 | 36 |
| Cancellation of scholarship | 270 | 185 | 10 | 146 | 156 | 29 |
| Closure of institutions | 2.761 | 1.017 | 61 | 191 | 252 | 765 |
| Total | 131.832 | 126.783 | 16.060 | 104.643 | 120.703 | 6.080 |

65. SoE was lifted on 18 July 2018. Derogation notice from ICCPR and ECtHR was duly withdrawn on the same date.

66. To effectively combat existing terrorist organisations in the ordinary state of affairs and to prevent future interventions to legitimate democratic social order, Law no.7145 entered into force on 31 July 2018, with a view to ensure fundamental rights and freedoms are under Constitutional guarantee, to regulate exigent provisions for investigations, prosecutions, disciplinary and administrative measures. With the Law, the judicial authorities

are given certain powers in terms of investigations and prosecutions to be carried out in the fight against terrorism, limited to a certain period of time. The Law did not foresee permanent conversion of these temporary measures taken in SoE.

COVID-19

67. Türkiye has not made a derogation notice pursuant to Article 4 of ICCPR as part of the fight against the COVID-19 pandemic. All measures were taken in accordance with the rule of law, non-disruption of public services and the needs of the people pursuant to Constitution, the Public Health Law No.1593 and the Provincial Administration Law no.5442 and other relevant legislation.

68. Measures taken were temporary, limited to geographical scope and subject matter and meet the criteria of necessity and proportionality. All measures have been regularly reviewed and adapted to changing course of the pandemic. Recommendations of the World Health Organization and “COVID-19 Scientific Advisory Board”, created specifically to combat the pandemic, were taken into account.

69. COVID-19 measures are subject to judicial supervision as any action of administration pursuant to Article 125 of the Constitution.

70. All health-related events and developments are closely monitored by the Ministry of Health. In this context, the “Pandemic Preparedness Plan” prepared in 2006 has been updated according to the new developments, the “National Pandemic Influenza Preparedness Plan” was issued in April 2019 and activities on “Provincial Pandemic Influenza Preparedness and Activity Plans” were conducted locally.

71. In the early stages of the pandemic, precautions were taken for all flights coming from risky areas, checks were made at entry points, travel, curfew and mass activity controls were applied and online education was launched.

72. Since the beginning of COVID-19, widespread contact tracing efforts have been carried out. In order to prevent the spread of the disease, controlled social life measures are taken and isolation measures are applied to positive cases and their contacts.

73. As of June 2020, social life began to normalize while attending the mask mandate, keeping physical distance and hygiene.

Measures at penitentiary institutions

74. Law no.5275 on Execution of Sentences and Security Measures, Regulation on the Management of Penitentiary Institutions and the Enforcement of Criminal and Security Measures, Public Health Law and Regulation on Principles of Surveillance and Control of Infectious Diseases as well as Recommendations from Scientific Advisory Board constitute the basis of measures taken at penitentiary institutions.

75. Because prisons pose a greater risk of infection, additional measures were needed. Considering the recommendations of Scientific Advisory Board:

- Detainees/convicts who will be admitted to penal institutions for the first time or transferred from another penal institution are given an initial PCR test and placed in a separate section until the result is obtained. Detainees/convicts within the institution who show symptoms are also given PCR test. If the test result is positive, the individual is quarantined for 10 days in a separate cell in a hospital or in the institution. If negative, after 10 days of isolation, the individual is placed in regular cells.
- Frequent checks are carried out to monitor the health of individuals who are under quarantine.
- In accordance with National COVID-19 Vaccination Program, vaccination procedures are carried out for all detainees and convicts, as well as for institution personnel with their consent. As of 3 June 2022; first dose vaccination rate of convicts/detainees is 94.2%. Second dose vaccination rate is at 88.3% and third dose rate is at 56%.

- Pursuant to Law no.7242, beginning from 14 April 2020, convicts who are in open penal institutions or entitled to move to open penal institutions, as well as those serving their sentence under probation measures, are given COVID-19 leave until 31 May 2020. Leave periods have later been continuously extended, lastly for two months on 31 May 2022. As of 2 June 2022, 99.650 convicts are on COVID-19 leave.

Counter Terrorism Measures – Article 2, 4, 6, 7, 9, 14 and 17

76. Türkiye, combatting multiple terrorist organizations for the past 30 years, has comprehensive legislation that grants the necessary and sufficient means in the effective fight against terrorism and its financing.

77. The principal law on combating terrorism in Türkiye is ATL no.3713. The Law defines concept of terrorism, terrorist offender, acts constituting terrorist crime and regulates the procedures for investigation, prosecution, proceedings and execution of sentences for terrorist crimes in a clear, comprehensible and foreseeable way in accordance with the Constitution and ICCPR.

78. With amendments made to ATL in 2013 and 2019, it is envisaged that only statements and expressions that legitimize, praise or encourage terrorist organizations' methods of force, violence or intimidation are punishable under the Law. Expressions of opinion made for the purpose of criticism within the limits of reporting do not constitute a crime and; though not members of a terrorist organisation, offenders who commit certain crimes on behalf of the organisation are prevented from receiving additional penalty under general provisions of Article 220/6 of TPC. Thus, legitimate exercise of rights and freedoms were expanded and compliance with the ECtHR standards in the field of freedom of expression was ensured.

79. Law no.6415 on the Prevention of the Financing of Terrorism, brought uniform regulation to the crime of financing of terrorism by specifying its elements and determined the principles and procedures on the prevention thereof and the freezing of assets. While the crime of financing terrorism is defined in Article 4 of the Law, in addition to acts regarded as terrorism offenses in the ATL, activities specified in the UN International Convention on the Prevention of the Financing of Terrorism and its annexes are also included within the scope of the crime.

80. Türkiye is a member of the FATF since 1991. After the adoption of Türkiye's Mutual Evaluation Report by FATF in 2019, important legislative and administrative steps to address the recommended actions in the Report have been taken. In order to compensate the technical deficiencies mentioned in the Report, Law no.7262 on Preventing the Proliferation of Financing Weapons of Mass Destruction was adopted by TGNA on 27 December 2020. With the Law, the prevention of proliferation financing legislation is enacted, and several amendments were made in anti-money laundering and counter-terrorist financing legislation.

81. The provisions concerning the associations in Law no.7262 were implemented by considering the international and national legislation and practices regarding the freedom of association, and also by consulting NGOs. The aim is to ensure transparency with a more effective audit, to prevent abuse of charitable sentiments of people and to make NGOs more effective and reliable. Since the Law's entry into force, no director or unit of any association has been temporarily suspended from duty, and no association has been suspended from activity.

82. Detailed information on the counter-terrorism measures have already been provided in the Government's replies to the communications from UN Special Procedures (AL TUR 13/2020 and OL TUR 3/2021).¹

¹ <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35641> and <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36144>.

Violence against women – Articles 2, 3, 6, 7 and 26

Measures against “Honour Killings”

83. Article 82 of TPC specifies the committing the act of intentional killing against a direct ascendant, descendant, spouse and sibling or with the “tradition” motive, as aggravating factors. With the amendment dated 12 May 2022, committing the crime “against a woman” is added to these factors.

84. Circular on “*Measures to be Taken to Prevent Honour Killings and Acts of Violence Against Children and Women*” issued on 4 July 2006, determined the measures to be taken and specified the institutions in charge for combating violence against women, children and the “honour and tradition” killings. Institutions fulfil their responsibilities in cooperation, and they are monitored through quarterly reports. Ministry of Interior also issued a Circular on “*Coordination of Measures for the Prevention of Honour and Tradition Killings*”.

Measures to provide assistance for victims and their access to justice

85. Law no.6284 on Protection of Family and Prevention of Violence Against Women entered into force on 20 March 2012. The aim of the Law is to protect women, children, family members and victims of stalking who have been subject to violence or at the risk of violence and to regulate procedures and principles in this regard. It covers every individual without any distinction based on language, religion, colour, sex, marital status, nationality or disability.

86. The Law introduced two types of cautionary decisions: protective and preventive. No evidence or report proving the violence is required in order to take cautionary decision. Measures which are ordinarily taken by local governors as to providing shelter to the victim and the victim’s children and providing a temporary protection if there is a life threatening danger to the victim, can be *ex officio* taken by law enforcement chiefs, where delay is considered to be risky. Likewise, measures ordinarily taken by a judge with regard to perpetrators of violence as to not exhibiting an attitude and behaviours including the threats of violence, insult and humiliation against the victim, moving from the shared residence or the vicinity immediately and to allocate the shared residence to the protected person, not approaching to the protected persons and their residences, schools and workplaces, not approaching the friends or relatives and children of the protected person even though they haven’t been subject to the violence, without prejudice to the decisions that allows personal connection with children, can be *officio* taken by law enforcement chiefs, where delay is considered to be risky.

87. Measures are foreseen for all types of violence within the scope of the Law. Women who are or may be victims of physical, sexual, psychological or economic violence are treated without any discrimination and their statements are taken as the only basis, in providing services in the ŞÖNİMs established with the Law and the women’s shelters.

88. “*The Coordination Plan for Combating Violence Against Women*” covering 2020–2021 has been put into effect as of 25 October 2019.

89. The Regulation on the Use of Tracking Systems with Technical Methods, which stipulates the procedures and principles regarding the monitoring with technical means and methods, entered into force on 4 September 2021 in order to effectively implement the cautionary decisions given by the authorities.

90. With Law no.7188 dated 17 October 2019, further amendments are introduced to strengthen the rights of victims and prevent them from being negatively affected during trials, especially in crimes of abuse against women and children. Child monitoring centres and forensic examination rooms in courthouses were codified, the statements of the victims were envisaged to be taken by experts in these centres and expenses of the victims who needed to be at a place outside of their area due to procedural matters are foreseen to be covered by the State.

91. With the “*Presidential Decree on Supporting the Victims of Crime*” dated 10 June 2020, the principles regarding the services and assistance provided to the victims and the

duties, powers and responsibilities regarding the fulfilment of these services are regulated and the Directorate of Judicial Support and Victims Services is established under the MoJ.

92. Among the primary duties of the Directorate of Judicial Support and Victims Services are; informing the victims about their rights and obligations and the judicial process awaiting them, supporting them with psycho-social activities, improving the services for vulnerable groups and their exercise of rights, taking preventive measures against repeated grievances, taking measures for the effective and efficient functioning of legal aid services and working on strengthening victims' access to legal remedies and justice. The Directorate also operates the interview rooms established in courthouses aimed to contribute the judicial process by providing comfort to victims of vulnerable groups whose statements are deemed necessary to be taken in a private and enabling environment.

93. With Law no.7242 dated 14 May 2020, committing the offense of intentional injury with a "monstrous" motive is specified as an aggravating factor and it was envisaged that female suspects who are pregnant or who have not exceeded six months after giving birth can be subjected to judicial control instead of arrest, even though conditions for arrest exist.

94. With Law no.7331 dated 14 July 2021, committing the intentional killing, intentional injury, torment, and deprivation of liberty offenses against the divorced spouse was added as aggravating factor.

95. With the amendment of 12 May 2022, the penalty stipulated for intentional killing, intentional injury, threat, torture and torment crimes against women were increased; and committing intentional injury against a woman is included as grounds for arrest. Acts of persistent stalking is regulated as separate crime; it is ensured that women victims of violence, who do not have a representative, are provided with a free attorney by the bar upon their request; the grounds for discretionary mitigation were limited; and the perpetrator's behaviours at the hearings, solely aimed at obtaining a good conduct abatement (such as paying attention to his attire, wearing a suit), are not to be taken into account.

96. Victims can also benefit from legal aid in criminal proceedings to be exempt from all costs, including attorney's fees. For victims who does not speak Turkish or disabled, the translator expenses are covered by the State.

97. The website "<https://magdurbilgi.adalet.gov.tr>", which is available in Turkish, English and Arabic languages, was created in order to strengthen the access of crime victims to information and to increase their awareness about the application mechanisms.

98. With the "*Support to the Improvement of Legal Aid Practices for Access to Justice for all in Türkiye Project*", lawyers providing legal aid to disadvantaged groups were given training to improve their capacity, and performance criteria were developed for lawyers who are assigned as defense counsels. "*Gelincik*" system, a legal aid and awareness-raising for victims of violence project which is presented as a successful example by the Ankara Bar Association was put into practice in other pilot bar associations to increase the professional experience of the defense counsels assigned to the cases of violence against women. The "*Support Centres for Victims of Violence*" in pilot bar associations, which employ lawyers trained in this field, were opened on 24 February 2022.

99. The "*Guide for Approaching the Victims*" is prepared for law enforcement officers, healthcare workers and judiciary personnel, to gather the basic standards and principles for approaching victims in a single document, to guide service providers who deal with victims in their practices, and to support them in having a respectful and sensitive approach to the rights of victims.

National Plans for Combatting Violence against Women

100. In the 11th National Development Plan covering 2019–2023, prevention all kinds of discrimination against women, ensuring that women benefit from rights and opportunities equally in all areas of social life and the empowering women are determined as main objectives. Plan aims to accelerate the raising of social awareness on forced child marriages and all kinds of abuse, and to increase the efficiency and capacity of protective and preventive services.

101. Specifically addressing violence against women, “*National Action Plans for Combating Violence Against Women*” have been implemented for three separate periods covering 2007–2010, 2012–2015 and 2016–2020.

102. Implementation of the 4th Action Plan covering 2021-2025 is ongoing. In line with the principle of “*zero tolerance to violence*”, the Plan covers 5 main objectives, 28 strategies and 227 activities, the main objectives being “*Access to justice and legislation*”, “*Policy and coordination*”, “*Protective and preventive services*”, “*Social awareness*” and “*Data and statistics*”. The plan is open to the public and its details are available on the website of the Ministry of Family and Social Services.

103. HRAP also includes concrete steps to combat violence against women.²

Administrative Measures and Services, Research and Projects

104. With the KADES (Women’s Emergency Support) application, women who are exposed to violence or may be exposed to violence can access the Emergency Call Centre with a single tap by turning on the device location information on their mobile phones, and the closest unit or patrol is dispatched to the scene intervening the incident. As of 1 July 2022, 3.685.251 people downloaded the application and 405.014 women used the emergency system.

105. With the Circular of the MoJ dated 17 December 2019 on “*The Implementation of the Law on the Protection of the Family and the Prevention of Violence Against Women*”, investigation offices in charge of domestic violence crimes within the Office of Chief Public Prosecutor were created to conduct investigations by specialized public prosecutors.

106. With the Circular of the Ministry of Interior dated 1 January 2020, “*Bureau for Combating Domestic Violence and Violence Against Women*” under all provincial directorates of security and “*Fight Against Domestic Violence and Child Branch/Section Department*” under provincial gendarmerie commands were created as complementary units for the investigation offices.

107. To achieve uniform evaluation and effective follow-up of the protective and preventive cautionary decisions stipulated in Law no.6284, specialized courts were determined by CJP and began to function.

108. The ŞÖNİMs, established with Law no.6284, are centres where expert personnel, preferably women, are employed and support and monitoring services are provided for the prevention of violence and the effective implementation of protective and preventive measures on a 24/7 basis. Established in all provinces, ŞÖNİMs provide psycho-social, legal, educational, vocational, medical, economical support and guidance and counselling services, as well as follow-up and monitor the measures taken for victims of violence. People exposed to violence or at risk of being exposed, can apply to ŞÖNİMs. As of the end of May 2022, 124.773 people including 107.317 women, 7.393 children and 10.063 men received service. At district level, services are provided through 387 contact points within local Social Service Centres. A total of 149 women’s shelters serve with a capacity of 3.624. Efforts are underway to improve the capacity of the shelters.

109. “*Alo 183 Social Support Line*” works as a psychological, legal and economic advice service for women and children who were exposed or are at risk of violence and need support and assistance. The service informs the individuals of their rights and where to apply. In addition, calls from victims are regarded as a cause for precautionary measure to prevent cases of neglect, abuse and violence or honour and tradition killings and necessary intervention is provided. This line provides 24/7 service and is free of charge.

110. With the establishment of “*Electronic Monitoring Centres*”, technical infrastructure works have been completed on 25 January 2021 for country-wide expansion of the pilot electronic handcuff application, where victims of violence and perpetrators are tracked. “*Risk Analysis and Management Module*” was developed and implemented in all provinces.

² https://inhak.adalet.gov.tr/Resimler/SayfaDokuman/1262021081047Action_Plan_On_Human_Rights.pdf.

111. For perpetrators of violence, “*Awareness Seminar Program for Combating Domestic Violence*” is given on issues such as the concept of violence, anger management and communication skills.

112. “Impact Analysis Research” was conducted for the implementation of Law no. 6284. In addition, studies on “Violence against Women in Türkiye with the Aspects of Prevention, Intervention and Policy and the Effects of the Covid-19 Outbreak” have been started.

113. Around 1.4 million military personnel, 75.000 public officials, 110.000 religious officials, 200.000 healthcare workers and 400.000 law enforcement officers were given trainings and seminars since 2007.

114. Funded by EU, the “*Women’s Shelters for Combating Domestic Violence Project*” was carried out between 2014 and 2016, in order to establish and develop support services. The project aimed to provide protection for women in 26 provinces through the establishment or development of support services.

115. In cooperation with UN Population Fund, the “*Humanitarian Aid Program for Intervention and Combatting Gender-Based Violence*” was carried out towards the Syrians in Türkiye, to raise awareness on violence against women, prevent violence against Syrian women and children and strengthen the capacity of service providers. Trainings were given to service providers and meetings were held to create solidarity among Syrian women. In addition, informative brochures on violence against women, age of consent, civil marriage and women’s rights were prepared for Syrians.

COVID-19 measures

116. Since 10 March 2020, when the first case of COVID-19 was detected in Türkiye, necessary measures have been taken in cooperation with the Ministry of Family and Social Services, ŞÖNİMs, Social Service Centres and Women’s Shelters. In applications made with sheltering purposes during the pandemic period, alternative accommodation facilities have been created in social facilities, dormitories or similar places belonging to public institutions and organizations. In this context, 71 facilities have been used in 49 provinces.

117. As of March 2020, considering the increase in calls to the “*Alo 183 Social Support Line*” due to the social conditions of the pandemic, prioritization service was provided to the line and it was ensured that victims of violence could reach the relevant support personnel without queueing.

Anti-corruption measures - Articles 2 and 25

Allegations of money laundering, bribery and collusion in the distribution of government tenders

118. The principles regarding government tenders are clearly and specifically regulated in the relevant laws detailed below, each stage of the tenders is open to public, subject to internal and external audits and carried out in a transparent and competitive manner. Corruption crimes such as money laundering, bribery and collusion are provided by law and subject to judicial supervision.

Entities whose assets were expropriated after the coup attempt and trustee appointments

119. Decree-Laws nos.667, 689 and 695 issued within the scope of the SoE were subsequently adopted by TGNA as Laws nos.6749, 7088 and 7092. The closure of foundations in this period are based on these Laws and Decree-Laws. Appointment of trustees and management of closed organizations are determined by a court decision.

120. In terms of companies and other assets in affiliation or contact with terrorist organizations, in accordance with the Decree-Law no.674 (enacted by Law no.6758) and the Decree-Law no.677 (enacted by Law no.7083), the power of trustee in companies and asset values were transferred to the SDIF. SDIF currently acts as the trustee for 715 companies and 101 real persons’ assets.

121. The companies to which SDIF was appointed as the trustee are legal entities and directed by managers appointed under the relevant legislation under Law no.6758, in compliance with commercial practices and the prudent merchant principle. Rather than putting these companies at the risk of corruption, by appointing SDIF as trustee, informalities are addressed by recording commercial transactions thoroughly and transparent conduct of business is ensured in accordance with TCC, Turkish tax legislation, Capital Market Law and other relevant standards.

122. Decisions taken on the companies and the acts of the management are constantly queried by the shareholders and brought before the courts in accordance with Law no.6758. Some companies are also subject to independent audit in accordance with TCC, are under the supervision of regulatory and supervisory institutions and traded on the stock exchange.

123. SoEC evaluates and decides on the applications challenging the measures taken on these entities closed by Decree-Laws. Information regarding the examinations and decisions taken by SoEC as of 31 December 2021, including applications against the closure procedures, is stated in paragraph 64 above.

124. If an application regarding the closed entities is accepted, relevant provision regarding the entity in the Decree-Law are abolished, with all its consequences, effective from the date of publication.

125. Principles of managing associations by trustees are regulated in Articles 27, 30 and 32 of Law no.5253 on Associations. Accordingly, associations working for the public interest will be audited at least every two years. If a crime is detected, members may be suspended as a temporary measure and a trustee will be appointed by the decision of the court, upon request.

126. The ECtHR, in its judgment on *İpek v. Türkiye* (4158/19, 21 October 2021) concerning a trustee appointment in a criminal investigation carried out in connection with FETO to a number of companies, which the applicant is a major shareholder, found the application inadmissible for non-exhaustion of domestic remedies and claims being manifestly ill-founded.

Institutional and legal framework for anti-corruption

127. The prevention of corruption and the transparency of public institutions are safeguarded in Articles 71, 74, 108 and 160 of the Constitution. Regarding the fight against corruption, there are regulations in the State Procurement Law no.2886, the PPL no.4734 and the Anti-Money Laundering Law no.4208. In addition, corruption acts subject to direct criminal sanctions are regulated as in TPC as bribery, extortion, embezzlement, laundering, laundering of assets arising from crime, abuse of duty, and insider trading in the Capital Market Law. There are also regulations on Declaration of Property and Fight against Bribery and Corruption Law no.3628 and the Misdemeanour Law no.5326.

128. Necessary amendments have been made on the domestic legislation to ensure compliance with the UN Convention against Corruption and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

129. Public Financial Management and Control Law no.5018 provides for a financial management and control system in which public resources are used more effectively and efficiently on the basis of transparency, accountability. It ensures that everyone authorized in the acquisition and use of public resources, can be financially held responsible.

130. The Court of Accounts, which is a Constitutional institution, is charged with auditing, on behalf of TGNA, revenues, expenditures, and assets of the public administrations financed by central government budget and social security institutions, with taking final decisions on the accounts and acts of the responsible officials.

131. Procurement processes of public institutions are among main areas that are primarily examined during the Court of Accounts' audits. Whether they follow the established principles and procedures in using public resources, is examined both in terms of financial and compliance audit.

132. Public procurement is mainly regulated by PPL no.4734. The main principles of the Law are transparency, competition, equal treatment, reliability, confidentiality, public supervision, appropriate and prompt fulfilment of needs and efficient use of resources.

133. There are several tools to ensure transparency in public procurement. According to PPL, principal procurement methods are open and restricted procedures which require announcement of procurement opportunities prior to the tender. All tender notices covered by PPL are published on the EKAP (<https://ekap.kik.gov.tr>) and can be viewed by public. Contract award notices are also published on EKAP, containing information such as number of bidders, names of winning bidders, estimated value, contract value, contract date. In addition, tender documents must be made publicly available on EKAP. Tender search screen on EKAP allows public to search and obtain information on past and ongoing procurement procedures. Dispute resolutions and debarred suppliers are also available on EKAP without any registration or password.

134. Review and remedies system, audit and judicial control mechanisms are in place to ensure transparent and sound contract award procedures. PPA, established by PPL, is a regulatory and supervisory body in public procurement area. PPA has the duty and the authority for accurate implementation of the principles, procedures and acts specified in PPL. PPA is independent in fulfilling its duties. No organ, office, entity or person can issue orders or instructions for the purpose of influencing the PPA decisions.

135. PPL regulates the reasons for elimination from the tender procedure and lists the prohibited acts and behaviours in the tender process such as fraud, promising, threat, use of influence, gaining advantage, agreement, extortion, bribery or other means/attempts of rigging the transactions related to the tender acts.

136. Those who committed prohibited acts, shall be prohibited from participation in any tender realized by all public institutions and entities for at least one year and up to two years. In addition, PPA keeps a list of tenderers prohibited from participating in public tenders and tender commissions are to check whether successful tenderer is in the blacklist or not. If one of the prohibited acts constitute a criminal offence according to TPC, public prosecutors are notified and those against whom a criminal case is initiated cannot participate in public procurement until the judicial proceedings end. Procurement officials must fulfil their duties impartially and in accordance with the law, whom otherwise shall be subjected to sanctions listed in PPL.

137. Articles 235 and 236 of TPC describe and forbid fraud in tenders. Those who commit this offence are sentenced to imprisonment for a term of three to seven years.

138. Türkiye became a member of GRECO as of 1 January 2004 and actively participates in its activities and fully implements all the decisions and recommendations of the OECD and FATF.

Statistics

139. As for the acts that constitute a crime, the Court of Accounts sent 11 issues to the relevant Public Prosecutors' Offices as of the end of 2021 to be handled.

140. Since September 2016, when the SDIF appointed trustees to the companies, 15 complaints have been filed to the prosecutor's offices, and on 5, a decision of non-prosecution was given. In one file, the State Audit Board of the Presidency decided not to grant an investigation permission based on Article 127 of the Banking Law no.5411. The investigation and information and document collection processes in 6 files, and the criminal proceedings of 1 file are ongoing. In addition, out of 158 actions for annulment cases lodged before the administrative courts regarding judicial sales by the SDIF in its capacity as trustee, 113 were accepted, 4 were rejected and in appeal process, 41 is pending.

Enforced disappearances and abductions – Articles 6, 9 and 12

141. All actions by law enforcement are carried out in accordance with the procedures and principles specified in the relevant laws, and are supervised by judicial authorities, national and international authorities.

142. UN Working Group on Enforced and Involuntary Disappearances is informed about the investigation/prosecution processes regarding individuals communicated by the Working Group to Türkiye. Communications received from other UN Special Mechanisms on these issues are also duly responded.

143. Some allegations of abduction are part of a widespread and malicious strategy of FETO. The ringleader of the terrorist organization has clear directives indicating that those suspected of membership to FETO must hide in special houses called “*gaybubet* houses” (“hiding houses”) and act as if they were victims of abduction. The main objective is to give the members the opportunity to pursue the illegal activities of FETO and avoid the risk of being arrested.

144. For example, applications Irmak et al./Türkiye (Application no.18036/19),³ Zeybek et al./Türkiye (Application no.21330/19)⁴ and Kaya et al./Türkiye (Application no.14443/19),⁵ lodged to the ECtHR were later withdrawn by the applicants, consequently the Court decided for dismissal of the cases. Similarly, the ECtHR dismissed the application of Okumuş et al./Türkiye (Application no.58984/17),⁶ who was claimed to be abducted by state officials, as it was not followed up. Finally, the ECtHR found the application of Tunç et al./Türkiye (Application no.45801/19)⁷ filed with a similar complaint, inadmissible stating that the complaints were manifestly ill-founded.

145. Such tactics are deliberate attempts to deceive the international public and clearly constitute an abuse of international complaints mechanisms.

Prohibition of torture and cruel, inhuman or degrading treatment or punishment – Articles 2, 7, 9, 10, 12 and 14

146. Türkiye, adopted a “zero tolerance against torture” policy since 2003, and introduced a comprehensive set of legislation and other measures in order to prevent, investigate, prosecute and punish all acts of torture and ill-treatment. Türkiye submits periodic country reports to the Committee Against Torture. 4th Country Report dated 2014 and the 5th Country Report dated 2020 contain comprehensive and detailed information and can be accessed to in the UN database.

147. Article 17/3 of the Constitution states that no one can be tortured or subjected to a punishment or treatment that is incompatible with human dignity. Article 77 of TPC states that torture is a universal crime against humanity if committed against a community with political, philosophical, racial or religious motives. Article 94 of TPC regulates that acts incompatible with human dignity and which will cause a person to suffer bodily or mentally, affect his perception or willpower or cause humiliation by a public official, constitute the crime of torture.

148. The statute of limitations regarding the crime of torture was abolished completely in 2013 and torture was accepted as one of the grounds for dismissal from civil service with the Decree-Law no.682 dated 23 January 2017.

National preventive mechanisms and international supervision in the fight against torture

149. Penitentiary institutions are open to national and international supervision. At the national level they are monitored and overseen by public prosecutors, prosecutors in charge of prisons, inspectors from MoJ, controllers, civil monitoring boards, provincial and district human rights boards composed of NGO representatives, the Human Rights Inquiry Commission of the TGNA, HREIT and OI.

150. Pursuant to CCP and of Regulation on Arrest, Detention and Statement, the detention rooms, the rooms for taking statements, if any, the status of the detainees, the reason and

³ <https://hudoc.echr.coe.int/eng?i=001-211073>.

⁴ <https://hudoc.echr.coe.int/eng?i=001-209047>.

⁵ <https://hudoc.echr.coe.int/eng?i=001-202171>.

⁶ <https://hudoc.echr.coe.int/eng?i=001-191498>.

⁷ <https://hudoc.echr.coe.int/eng?i=001-216574>.

duration of their detention, all records and procedures related to arrest and detention are inspected by the Chief Public Prosecutors or the Public Prosecutors they will designate.

151. Police stations and places of detention are inspected by provincial and district general inspections, periodically by Civil Inspectors.

152. In order to enhance the effectiveness of investigations, MoJ issued Circular no.158 on 20 February 2015, and established that investigations regarding allegations of human rights violations in particular torture and ill-treatment should be personally conducted by Chief Public Prosecutor or a Public Prosecutor appointed Chief Public Prosecutor.

153. Law Enforcement Supervision Commission was established with Law no.6713 of May 2016. As a supervisory board, it aims to enhance the efficiency and transparency of the law enforcement units by creating a common database for all prosecutions and disciplinary procedures against law enforcement officials. Regulation on the Implementation of the Law was promulgated in Official Gazette on 7 August 2019.

154. HREIT, as NPM under OPCAT, examines the applications of persons who have been deprived of their liberty or taken under protection, makes regular informed or unannounced visits to the places where such persons are held and prepares reports on these visits. In addition to penitentiary institutions, HREIT visits repatriation centres, psychiatry centres, nursing homes, elderly care and rehabilitation centres, children's homes and children's home sites, child support centres, disability care and rehabilitation centres, and temporary accommodation centres.

155. At international level, all places where persons deprived of their liberty are held, can be visited and inspected by mechanisms such as CPT, SPT, UN Working Group on Arbitrary Detention and UN Special Rapporteur on the Prevention of Torture.

Statistics

156. There are a total of 104 administrative investigation files, 20 in 2017, 21 in 2018, 14 in 2019, 12 in 2020, and 37 in 2021, all involving allegations of "torture" against the staff of the General Directorate of Security and there are a total of 61 judicial investigation files, 16 in 2017, 10 in 2018, 8 in 2019, 13 in 2020, and 13 in 2021.

157. The (then) Human Rights Institution of Türkiye carried out 5 visits in 2014 and 7 visits in 2015 as NPM. In addition to the reports of these visits, 4 thematic reports in 2014 and 2 thematic reports and examination reports in 2015 were prepared as NPM. 134 applications in 2014 and 211 in 2015 were examined. Regarding the prohibition of ill-treatment, 21 applications were examined in 2015, excluding those coming from penitentiary institutions.

158. Information on the examinations and decisions taken by HREIT, which was established in 2016, *ex officio* or upon application, as NPM, is presented in the paragraph 24 above. Information on the visits and reports by HREIT regarding the places of detention are given in the table below.

| | 2017 | 2018 | 2019 | 2020 | 2021 |
|---------|------|------|------|------|------|
| Visits | 5 | 28 | 34 | 13 | 56 |
| Reports | 0 | 13 | 24 | 15 | 14 |

159. HREIT also carried out studies on the establishment of alternative monitoring methods and in cooperation with MoJ, audio-visual information system was installed in HREIT.

Right to Liberty and Security of Person – Articles 6 and 9

Alternative measures to detention

160. Pursuant to Article 109 of CCP; in case of existence of the reasons for detention specified in Article 100, a decision to put the suspect under judicial control may be taken

instead of arresting. Provisions regarding judicial control may also be applied in cases where the prohibition of arrest is stipulated in the law.

161. Different judicial control measures can be applied, such as ban on leaving the country or residence, receiving medical treatment or education, according to the nature of the crime status of the suspect and circumstances of each case. With the amendment made by Law no.7331 dated 8 July 2021, it is envisaged that a decision on continuation of judicial control, will be made by criminal magistrates upon request of the public prosecutor during the investigation phase, and by the court, *ex officio* during the prosecution phase, at intervals of four months at the latest.

162. Monitoring, supervision and follow-up of suspects, accused and convicts can also be carried out by using electronic devices.

Maximum legal detention period

163. According to Article 91 and subsequent articles of CCP, the detention period, as a rule, cannot exceed 24 hours. If the crime has been committed collectively and if there are difficulties in collecting evidence of the crime, or there are a large number of suspects, the public prosecutor may order in writing to extend the detention period for 3 days, not exceeding 1 day each time.

164. With the Decree-Law no.667 adopted during the SoE, the detention period was increased to a maximum 30 days for certain terrorism-related offenses, being limited to the period of SoE. It was then decreased to 7 days with the Decree-Law no.684 which came into force on 23 January 2017, and it was set forth that the public prosecutor may extend this period for a maximum of 7 days, limited to cases which larger number of suspects are involved or where there are difficulties in gathering evidence.

165. The 30-day maximum detention period, was not applied at maximum to every terrorism suspect. As a matter of fact, in around 80% of the terrorism-related investigations during the SoE, the suspects were generally detained for 4 to 5 days.

166. With Law no.7145 dated 25 July 2018, the maximum detention period for terrorism-related offenses and offenses against the Constitutional order, to be implemented for a period of three years from the date of entry into force of this Law, was further decreased to 48 hours and it was set forth that, this period may be extended up to two times for same periods limited to comprehensive cases or cases where there are difficulties in gathering evidence, and with a judge's decision in a hearing with the apprehended present, upon the public prosecutor's request.

167. With Law no.7333 dated 18 July 2021, the above-mentioned three-year period has been extended for one more year.

Right to object

168. It was possible to object to detention decisions in accordance with Article 104 of the CCP during the SoE. At every stage of the investigation and prosecution phases, the suspect or the accused may request his/her release. The continuation of detention of the suspect is decided by the court. These decisions can be appealed. The right to object is available not only in the courts of first instance, but also before the Regional Court of Justice and the Court of Cassation. Legal assistance is possible in custody.

169. If the court, which evaluates the objection of the suspect or the defendant, decides to reject the request, it sends the file to a higher court. Thus, the decision is also submitted to the review of the higher judicial authority. Pursuant to Article 108 of CCP, at the request of the public prosecutor, the magistrate decides whether the detention should be continued during the investigation phase every thirty days. Even without the request of the suspect, the Criminal Magistrate conducts this examination *ex officio* upon the request of the public prosecutor.

Capacity of penitentiary institutions

170. With the addition of Article 105/A on 11 April 2012 to Law on the Execution of Sentences and Security Measures, probation measures for conditional early release from penitentiary institutions was introduced and started to be applied to convicts with good behaviour who have 1 year or less to release on probation.

171. With the amendment made on 18 June 2014 to Article 106 (i) of the Law, convicts who do not pay the judicial fine imposed, are employed in a job useful to the public, instead of being admitted to penal institutions.

172. With the amendment made on 15 April 2020 to Article 110 of the Law, the upper limit has been raised for prison terms which can be commuted to home confinement for children, those who are unable to maintain their lives alone in prison conditions due to serious illness or disability, and convicted women who have not exceeded six months after giving birth and sentenced to imprisonment for a total of three years or less or whose sentence commuted from paying judicial fine to imprisonment.

173. Pursuant to the Probation Services Law, monitoring, supervision and tracking of convicts in the community can also be carried out by using electronic devices.

174. Detailed information about the measures taken in prisons regarding COVID-19 is given in paragraphs 67 to 73 above.

175. To eliminate overcrowding; 204 new penal institutions with a capacity of 153.305 have been built, and the construction of 61 new prisons with a capacity of 47.884 continues.

Abolishment of slavery, captivity and human trafficking – Articles 2, 7, 8 and 26*Action Plan on human trafficking*

176. National action plans for combating human trafficking were adopted in 2003 and 2009. Preparations are ongoing for 3rd National Action Plan, to be completed by the end of 2022. Field study activities in some current or planned projects will also support the Action Plan.

177. Through the Anti-Trafficking Research Project of September 2020–March 2022, risk factors related to child trafficking and labour exploitation, types of human trafficking exploitation, profiles of victims are analysed. In addition, good practice reports are prepared for the functioning of the National Guidance Mechanisms of eight countries (Netherlands, England, Italy, France, Germany, Romania, Greece, and Sweden).

178. Research within the scope of the Migrant Presence Detection Program in cooperation with the Presidency of Migration Management and the International Organization for Migration started in April 2021, reporting phase of which was completed in October 2021. The research was carried out in Istanbul and included issues of labour exploitation, sexual exploitation and forced marriage.

179. With the “*Strengthening the Protection of Migrants and Victims of Trafficking in Türkiye in terms of Human Rights*” project, which is another study supporting the preparations of the Action Plan, carried out in cooperation with CoE. “*Human Trafficking for the Purpose of Sexual Exploitation*” and “*Child Trafficking and Human Trafficking for the Purpose of Labour Exploitation*” reports are completed. Reports examine the areas of responsibility of relevant institutions and organizations and development of support services in combatting human trafficking.

Legal provisions for illegal acts committed by victims of human trafficking

180. Article 25 of TPC regulates the legitimate defence and necessity, Article 28, force and violence, menace and threat and Article 30, the concept of mistake. These provisions are applied to prevent the punishment of individuals who are victims of human trafficking for illegal acts that they are forced to commit by force of human traffickers.

Psycho-social support and legal protection measures for victims of human trafficking

181. According to Regulation on Combatting Human Trafficking and Protecting the Victims, individuals who are or are strongly suspected to be victims of human trafficking crimes are defined as victims by an administrative action to be taken without waiting for the outcome of the investigation or prosecution, regardless of whether they register a complaint or not. After this stage, the investigation and prosecution begin.

182. Victims can benefit from “victim support program” and “safe return program” services upon request. Article 28 of the Regulation states that support services to be given to the victims are guaranteed. Following services are provided within the scope of the program:

- Housing in shelters or safe places,
- Access to healthcare services,
- Psycho-social support,
- Access to social services and benefits,
- Access to legal aid and counselling on victims’ legal rights,
- Guidance on access to education and training services,
- Support for access to vocational training and labour market,
- Guidance on financial support in accordance with the provisions of the Social Assistance and Solidarity Encouragement Law,
- Access to consultancy services which can be provided by relevant NGOs and international organizations,
- Interpretation,
- Opportunity to provide information to the embassy or consulate of the country of citizenship upon consent, and to meet with its officials,
- Identification and assistance in providing travel documents.

183. With Articles 48 and 49 of Law no.6458 on Foreigners and International Protection, it is established that foreigners, who are or are strongly suspected to be victims of human trafficking, are granted a 30-day residence permit so that they can recover from the effects of their experiences and decide whether or not to cooperate with the authorities. The residence permit can be extended for a maximum of six months due to health or special situation of the victim, but cannot exceed three years in total.

184. Victim support programs are offered in shelters. Victims and accompanying children who want to benefit from the program are sent to shelters where support programs continue. Currently, there are 2 shelters in Ankara and Kırıkkale with a capacity of 30 and 12 persons specialized for foreign victims.

185. Within the scope of the support services to be offered to the victim who is sent to the shelter for admission, information is given in their own language. All basic needs are covered by the institution’s budget. When the victim feels physically and psychologically ready, interviews are held by social workers and psychologists. Individual intervention plan is prepared specific to the victim. These plans are prepared in the best interests of the child.

186. After the recovery and rehabilitation processes are completed, victims are directed to appropriate business sectors so that they can access long-term solutions in line with their abilities and skills. With the “*There is Hope in the Kitchen*” project carried out in partnership with the UN Food and Agriculture Organization and the Ministry of National Education, the victims were provided employment with the certificates they received. Victims are also subsidized in cooperation with social assistance and solidarity foundations, international organizations and NGOs.

187. Victims who want to live independently are supported in finding a suitable house. They are supported through municipalities and NGOs in accessing to goods, transportation, rent, etc.

Statistics

188. The table regarding human trafficking crime data in the police responsibility area between 2011–2021 is as follows:

| <i>YEAR</i> | <i>CASES</i> | <i>TRAFFICKERS</i> | <i>VICTIMS</i> | <i>PRISONERS</i> |
|-------------|--------------|--------------------|----------------|------------------|
| 2011 | 15 | 151 | 145 | - |
| 2012 | 20 | 182 | 62 | - |
| 2013 | 19 | 92 | 113 | - |
| 2014 | 29 | 161 | 134 | - |
| 2015 | 19 | 91 | 50 | - |
| 2016 | 56 | 161 | 118 | 4 |
| 2017 | 80 | 333 | 315 | 75 |
| 2018 | 63 | 218 | 218 | 76 |
| 2019 | 80 | 377 | 376 | 99 |
| 2020 | 42 | 126 | 102 | 32 |
| 2021 | 64 | 194 | 362 | 63 |

189. Table regarding human trafficking victims between 2017–2021 is as follows:

| <i>Type</i> | <i>2017</i> | <i>2018</i> | <i>2019</i> | <i>2020</i> | <i>2021</i> | <i>Total</i> | <i>%</i> |
|-------------------------------|-------------|-------------|-------------|-------------|-------------|--------------|--------------|
| Total | 303 | 134 | 215 | 282 | 402 | 1.336 | 100,0 |
| Sexual Exploitation | 186 | 95 | 144 | 160 | 200 | 785 | 58,7 |
| Labour Exploitation | 52 | 39 | 55 | 73 | 111 | 330 | 24,7 |
| Forced Panhandling | 65 | - | 4 | 43 | 22 | 134 | 10,1 |
| Forced Marriage | - | - | 11 | 4 | 54 | 69 | 5,2 |
| Child Soldiers | - | - | - | - | 14 | 14 | 1,0 |
| Sale of Children | - | - | 1 | 1 | 1 | 3 | 0,2 |
| Trading of Organs and Tissues | - | - | - | 1 | - | 1 | 0,1 |

190. In 2017–2021, approximately 33% of the victims are children and 59% are between the ages of 18–35. Majority of the victims are women who are trafficked for sexual exploitation. Approximately 80% of the victims identified in the last five years are women. Foreigners from Syria, Uzbekistan, Kyrgyzstan, Afghanistan and Morocco are the top five nationalities with highest number of victims of human trafficking between 2017 and 2021. Victims of human trafficking are mostly found in provinces such as Istanbul and Antalya, with a large foreign population and entertainment sector.

Freedom of Movement – Article 12

Amendments to the laws regarding issuance of passports

191. With Decree-Law no.674 (enacted by Law no.6758 on 10 November 2016), issuance of passports or travel documents is restricted for those who are confirmed to be the founder and director or employee of education, training and health institutions, foundations, associations or companies abroad which belong to, connected to or have contact with terrorist organizations.

192. With Decree-Law no.667 (enacted by Law no.6749 on 18 October 2016), obligation to notify law enforcement and judicial authorities and relevant passport units was introduced in the investigations and prosecutions carried out in terrorism-related crimes. Administrative restrictions may be imposed upon notification in accordance with Passport Law.

193. Parts of Article 1/2 of Law no.7086 dated 6 February 2018 regarding cancellation of the passports of persons dismissed from public service were annulled by CCt on 24 June 2021 for being unconstitutional. CCt stated that this provision limits the freedom of movement of persons who were dismissed from public service in a way that exceeds the exigencies of SoE, and that there is no effective control mechanism against which those persons could apply, and that cancellation of passport without the decision of a judge is incompatible with the guarantees for the freedom of movement regulated in Article 23/3 of the Constitution.

194. With Additional Article 7 to Passport Law with Law no.7188, it was initially envisaged that; among those whose passports were cancelled pursuant to the legal arrangements which entered into force in the period of SoE, those against whom there was no pending administrative or judicial investigation or prosecution; in respect of whom a decision of non-prosecution, acquittal, no need for imposing a penalty, dismissal or discontinuation of the action was rendered; whose sentence, if any, was completely served or suspended; in respect of whom a decision of suspension of the pronouncement of the judgement was rendered due to same reasons, may be given passport by the Ministry of Interior in line with the inquiry by the law enforcement units upon their application. By CCt's decision dated 3 June 2021, this provision was annulled for being unconstitutional.

195. Passport cancellation procedures are carried out according to notifications made by judicial authorities regarding terrorist organization members against whom a criminal investigation or prosecution is carried out. Special or service passports obtained by those who are dismissed from public service due to their duties are made invalid as their entitlement is lost.

Treatment to migrants, refugees and asylum seekers – Article 7, 9, 12, 13 and 24

196. Türkiye is carrying out legal and institutional reforms to build an effective national asylum system in line with international standards. In this context, Law no.6458 entered into force on 11 April 2014. The Law introduced the basic pillars of Türkiye's national asylum system and established the General Directorate of Migration Management (which became the Presidency of Migration Management) as the main institution responsible for policy making and procedures regarding foreigners in Türkiye. Türkiye also adopted the Temporary Protection Regulation on 22 October 2014, which sets out rights, obligations and procedures for persons under temporary protection in Türkiye.

197. As a party to the 1951 Geneva Convention and the 1967 Protocol, Türkiye is attached to the principle of non-refoulement. In this framework, the principle of non-refoulement is also guaranteed by Article 4 of Law no.6458. Voluntary return procedures are applied in accordance with national legislation, readmission agreements, voluntary return programs and National Supported Voluntary Return Mechanism.

198. Foreigners who enter Türkiye under Law no.6458 can apply for international protection. Accordingly, foreigners whose applications are accepted or pending cannot be deported.

Access to justice, the right to a fair trial and the independence of lawyers and judiciary – Articles 2, 7, 9, 10 and 14

Legal amendments regarding CJP

199. With the 2017 Constitutional amendment adopted by referendum, the word "Supreme" in the name of SCJP was removed, number of members was reduced from 22 to 13, and number of departments from 3 to 2. The structure of the Council was rearranged in order to eliminate the problems arising in its then structure and practices. The structure of the Council is based on the principles of independence and impartiality.

200. In line with Article 159/3 of the Constitution, the Chairman of CJP is the Minister of Justice. However, the Minister cannot, in his capacity as the Chairman, participate in chamber meetings nor plenary meetings related to disciplinary proceedings. The Deputy Minister of the MoJ is a natural member of the Council. 3 members of the Council are elected by the President among the judges and prosecutors of the judicial justice, 1 member from among the judges and prosecutors of the administrative justice; 3 members are elected by TGNA

from among the members of the Court of Cassation, 1 member from the members of the Council of State, 3 members from faculty members working in the legal departments of higher education institutions and lawyers.

201. Amendments are related to the number of members, election and working methods and they have not affected the independence, duties and power of CJP. Owing to its independent and impartial structure, CJP is not subject to political influence.

202. Judges and prosecutors can be subjected to disciplinary investigation, not because of the decisions they have made, but if there are complaints against them, and upon permission granted by CJP so as to determine the accuracy of the complaint issues. As a result of the disciplinary investigations carried out, the disciplinary punishment stipulated in the legislation is imposed against the relevant judicial member only in cases of deliberate action or gross negligence.

Regarding appointment of judges and prosecutors and Law no.7145

203. The process of judges and prosecutors' admission to candidacy, nomination and admission to the profession are regulated by law. The President does not have any authority in these processes. In the candidacy process, the MoJ and in the admission process, CJP bear the duty and power with regard to judges and prosecutors. The candidacy process and the stage of admission to the profession are carried out in accordance with Law no.2802 on Judges and Prosecutors.

Amendments to Attorneyship Law

204. Number of lawyers Türkiye reached 127.691 as of 31 December 2019. Such high numbers brought certain difficulties in bar associations which essentially aim to protect and improve professional solidarity, cooperation, professional discipline and morality. It has been made possible by Law to establish more than one bar association in the same province, particularly in terms of bar associations with a large number of lawyers, in order to perform the profession better, to eliminate possible delays in conducting the work, and to carry out the bar association services in a healthier way.

Dismissed judges and prosecutors

205. Following the coup attempt, the Ankara Chief Public Prosecutor's Office launched an investigation against a large number of judges and prosecutors who were associated and affiliated with FETO, and the CJP decided to suspend these individuals from profession. Subsequently, in accordance with the Decree-Law no.667, they were dismissed from profession having right to appeal.

206. By creating an inquiry commission before CJP, it was ensured that the relevant persons who were suspended from duty and dismissed from the profession exercised their right to petition and defend.

207. Suspension is a measure that should be taken in a prompt fashion owing to its nature. Thus, this measure was taken as a matter of urgency in order to prevent judges and prosecutors, against whom there were strong suspicion and evidence of affiliation or connection with FETO, from disrupting the Constitutional order. In extraordinary circumstances where urgent precautionary measures are necessary, failure to implement all guarantees stipulated by Article 6 of the ECHR do not constitute violation, as established in *Micallef v. Malta* judgment of ECtHR (no.17056/06).⁸

208. Nevertheless, even under such extraordinary circumstances, the procedures in question were undertaken by CJP, an independent and impartial authority, in accordance with Article 6 of ECHR. While examination of objections, the opportunity to defend themselves in writing was granted to the applicants. Within CJP, commissions were formed, petitions submitted were carefully examined by these commissions, presentations were made to the General Assembly of CJP, and a separate disciplinary file was created for each case. Before the Decree-Law no.667 was published, disciplinary processes were initiated, and after the

⁸ <https://hudoc.echr.coe.int/eng?i=001-95031>.

entry into force of this Decree-Law, it was deemed inappropriate for the judges and prosecutors to remain in the profession in accordance with the Decree-Law. Domestic legislation stipulates that a person who does not comply with the principles of impartiality and independence cannot practice as a judge or prosecutor. Therefore, the procedures comply with the principle of legal certainty.

209. On the other hand, the applications lodged for interim measure to ECtHR against the dismissal proceedings were found inadmissible and rejected.

210. While making evaluations on each application on an individual basis, CJP stated the reason for dismissals in a single decision, covering all the files, on grounds that the acts that led to dismissal were committed in an organized manner. Neither the case-law of the ECtHR nor administrative law require separate decisions for the acts committed collectively within an organization. What matters is the reasoning of the decision.

211. During the proceedings against them, a significant part of those concerned admitted their affiliation with FETO, expressed their remorse, and claimed that they no longer have any contacts with the organization. The presence of such judges and prosecutors within the judiciary was the real risk towards the independence and impartiality of the courts which had violated the right to fair trial and would have continued to hinder this right. Therefore, the dismissal decisions of the SCJP, based on Article 3/1 of the Decree-Law no.667, were a necessary step for preserving and strengthening the independence and impartiality of the judiciary.

212. In accordance with the Constitution and relevant legal regulations, it is possible to appeal against dismissal decisions and file an annulment case at the Council of State. Pursuant to appeal, hundreds of judges and prosecutors have been reinstated through the administrative review of CJP. In addition, finalized dismissal decisions of CJP are subject to judicial review of the Council of State which is the highest administrative court.

Recruitment of new judges and prosecutors

213. After the coup attempt, 6785 judges and 4684 public prosecutors in the judicial justice and 1240 judges in the administrative justice were admitted to the profession. Of those, 350 have a master's degree and 6 have a doctorate. The training of candidates is carried out by the Justice Academy of Türkiye.

214. Admission to the profession and subsequent promotion have been carried out within the framework of the procedures and principles stipulated in Law no.2802 on Judges and Prosecutors. No political criteria are taken into consideration in admission and promotion of judges and prosecutors.

Investigations initiated in 2014

215. In 2014, SCJP initiated investigations and disciplinary procedures against members of the judiciary that were involved in the controversial cases such as "Ergenekon", "Sledgehammer" and "Oda TV". Prior to launching these investigations and disciplinary procedures, the SCJP received several allegations from the public as well as from other prosecutors regarding the misuse of legal proceedings by some judges and prosecutors to the advantage of FETO, forming a parallel structure within the judiciary, executing the decisions of FETO ringleader, victimizing many innocent people by opening biased cases with no legal basis and without evidence. Accordingly, Inspection Board of the SCJP identified a large number of judges and prosecutors as members of FETO.

216. Before the coup attempt, 1.479 files were opened by SCJP concerning complaints regarding 2.146 judges and prosecutors. In addition, there were 989 judges and prosecutors against whom permission to launch an investigation were issued.

217. In accordance with the investigations and disciplinary procedures previously launched, after the coup attempt, 2.735 judges and prosecutors were suspended. Therefore, contrary to the allegations, judges and prosecutors against whom there was a strong suspicion of membership to or affiliation with FETO were first suspended by SCJP, and they were dismissed only after sufficient evidence was collected against them through the investigations and disciplinary procedures carried out by the SCJP.

218. As explained above, right after the coup attempt, Ankara Chief Public Prosecutor's Office launched *ex officio* an investigation pursuant to Article 161/6 of CCP. With the decision of the 3rd Chamber of CJP, dated 16 July 2016, the Council inspector was given permission to conduct an investigation. In order not to harm the dignity, reliability and credibility of the judiciary, the judges and prosecutors in question were temporarily suspended from duty pursuant to Article 77 of Law no.2802, by the 2nd Chamber of CJP, which evaluated the inspector's preliminary report on the same date. Judges and prosecutors, whose membership and affiliation to the FETO were identified, were dismissed from the profession with the unanimous decision of SCJP General Assembly following the enactment of the Decree-Law no.667.

Issues regarding right to a fair trial

219. CCP contains detailed regulations on the rights of persons involved in criminal procedures. Accordingly, suspects are duly informed of their rights. For those who request a private lawyer, private lawyers they requested are called. For the suspects who do not request a private lawyer, legal aid is provided and a lawyer is appointed from the bar association. According to Article 154 of CCP, any suspect at any time shall have the right to an interview with his/her lawyer. The suspect and the lawyer have the right to access investigation or prosecution files and ask for a copy of it. They can object to custody or detention decisions at any time according to CCP.

220. Access to justice is a right guaranteed by the Turkish legal system. HRAP contains further guarantees to strengthen the right to fair trial.

221. Ebru Timtik and Aytaç Ünsal were convicted for the offence of "*Membership of DHKP/C Armed Terrorist Organisation*" on 20 March 2019. They appealed the decision but, in the meantime, they also started a hunger strike which turned into a death fast. Their state of health had been closely monitored and necessary measures were taken but they kept refusing the medical examinations and treatments to be performed and ignored the ECtHR's invitation to call off their hunger strike and cooperate with the medical authorities. It should be noted that the death fast initiated by inmates of their own accord, does not confer on them the right to be released. It is also held as such in the case-law of ECtHR. Timtik died on 27 August 2020 as a result of her death fast, despite all the efforts made to convince her to cooperate with the medical authorities. It should also be noted that ECtHR rejected Ünsal's request for an interim measure for his release and did not consider Timtik's application due to death.

The SoEC

222. Information on the decisions of the SoEC, which was established to assess and conclude the applications concerning administrative acts carried out directly by the Decree-Laws within the scope of the SoE is indicated in paragraph 64.

223. The SoEC, whose decisions are open for judicial review, was recognized as a domestic remedy to be exhausted by ECtHR. In *Köksal v. Türkiye* decision dated 12 June 2017 (no.70478/16), ECtHR ruled that any complainant must apply to the SoEC first in order to exhaust domestic remedies. Following this decision, majority of cases brought to ECtHR in this context have been started to be struck out of its list as inadmissible.

Right to Privacy – Article 17

224. Law no.6698 on Protection of Personal Data entered into force on 24 March 2016. The Law regulates processing of personal data to protect the rights of individuals to privacy and obligations of real and legal persons processing personal data. Personal Data Protection Authority was established to monitor the compliance of natural and legal persons with the principles established by the Law, to take decisions about complaints in this regard, to keep the register of data officers and to take regulatory actions on this subject.

225. The principles for obtaining data during criminal investigations are regulated in the CCP. According to the Article 135/1, the judge or, in cases of peril in delay, the public prosecutor, may decide to locate, listen to or record the correspondence through telecommunication or to evaluate the information about the signals of the suspect/accused, if

there are strong grounds of suspicion indicating that the crime has been committed and there is no other possibility to obtain evidence. The public prosecutor submits his decision immediately to the judge for approval and the judge shall make a decision within 24 hours. If the period expires or the judge decides otherwise, the measure is immediately lifted by the public prosecutor. Correspondence of the suspect/accused with those who may refrain from testifying as witness cannot be recorded. In cases where this circumstance is revealed after the recording takes place, the recordings will be destroyed immediately. The decision can be issued for a maximum of 2 months, which can be extended for another 1 month.

226. The public prosecutor submits his decision for the approval of the judge within 24 hours, and the judge makes his decision no later than 24 hours. If the period expires or the judge decides otherwise, the records will be destroyed immediately. According to paragraph 8 of the Article, provisions regarding listening, recording and evaluation of signal information can only be applied in relation to specified crimes. No one can listen to and record someone else's communication via telecommunications, except for the principles and procedures established in this article.

227. On the other hand, listening and recording of telephone conversations, which constitute a violation of freedom of communication and privacy, constitutes the offenses regulated in Articles 132, 133, 134, 135 and 136 of TPC if the conditions stipulated in the law are met.

Freedom of religion and belief – Articles 2, 18, 19, 25 and 26

228. There is no regulation on conscientious objection within the scope of military service, nor any work underway to abolish Article 318 of TPC.

229. Turkish Constitution guarantees equality before the law without distinction on any ground including religion or sect as well as freedom of religion and conscience, and respect for religious values. Relevant legislation also provides an extensive framework for the protection of freedom of religion and conscience in order to ensure that all citizens are able to freely manifest and practice their religion or belief.

230. Rights of non-Muslim Turkish citizens are regulated in Articles 37–45 of 1923 Lausanne Peace Treaty. Non-Muslim citizens have their own schools, places of worship, foundations, hospitals and media organizations. They practice their religion and hold religious ceremonies without any impediments.

231. In recent years, several places of worship, including the Grand Synagogue in Edirne (third largest synagogue in Europe), the 120-year-old Sveti Stefan Bulgarian Church (Iron Church) in İstanbul, have been restored and reopened for worship. Foundation laying ceremony of an Assyrian Orthodox Church in İstanbul was held in 2019.

232. With the legal amendments adopted in 2003 and 2008 on community foundations, significant improvements have been made especially on the property rights of these foundations. Accordingly, the registration of immoveable properties or, if not possible, payment of their current value to foundations have been allowed.

233. HRAP includes goals and activities aimed at protecting freedom of religion and conscience, solving the problems of non-Muslim communities, and securing the activities of community representatives and foundations.

234. The administrative measures applied to three individuals belonging to Protestant sect as well as worship places and property issues have already been addressed in the Government's reply to the joint communication from UN Special Procedures (AL TUR 14/2020).⁹

Human Rights Defenders – Articles 6, 17, 19, 20, 21, 22 and 26

235. Nobody has the privilege to commit a crime in a democracy governed by the rule of law. In this regard, persons identified as human rights activists may also be subject to investigation or prosecution due to their criminal acts committed individually or within an

⁹ <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35670>.

organization. Exposing persons to investigation or prosecution solely for being engaged in human rights advocacy activities is not the case in Türkiye.

236. Detailed information has already been provided about those mentioned in the paragraph, in the Government's replies to the relevant communications from UN Special Procedures. Judicial proceedings related to the concerned are conducted by independent and impartial judiciary. During the trial, the persons can use all their legal rights, including the right to apply to legal remedies guaranteed in Article 14 of ICCPR as well as CCP and ECtHR.

237. Just satisfactions awarded by ECtHR are paid within 3 months from the date of finalization of the decision according to the ECtHR Rules.

238. In addition, ECtHR judgments have been accepted as a reason for the retrial procedure in domestic law in respect of criminal (Articles 311 to 323 of CCP) and civil (Articles 374 to 381 of CCP) proceedings. Article 311 of CCP provides that in cases where a ECtHR's final decision has established that the criminal sentence has violated ECHR or its Protocols, retrial may be requested within 1 year following the date of ECtHR's final decision.

239. Article 9 of the Constitution states; "*Judicial power is exercised by independent and impartial courts on behalf of the Turkish nation*". Article 138 of the Constitution provides; "*Judges shall be independent in the discharge of their duties; they shall give judgment in accordance with the Constitution, laws and their personal conviction conforming to the law. No organ, authority, office or individual may give orders or instructions to courts or judges relating to the exercise of judicial power, send them circulars or make recommendations or suggestions.*" In this respect, the implementation of ECtHR judgments is evaluated by independent and impartial judiciary.

Freedom of Expression, Peaceful Assembly and Association – Articles 19, 21 and 22

240. Freedom of expression is safeguarded by the Constitution (Article 26) and other relevant legislation. This right is not absolute and subject to limitations as determined by ICCPR, ECHR and ECtHR's case-law. Domestic courts give verdict by considering the limitations specified in international conventions and the Constitution.

241. In order to comply with ECtHR standards and strengthen the freedom of expression, significant amendments have been made on Articles 6 and 7 of ATL as mentioned in paragraph 78.

242. The addition made to Article 286 of CCP by Law no.7188 dated 17 October 2019 aims to prevent violations of right by allowing a legal remedy against decisions which are given regarding certain crimes that are considered to be directly related to freedom of expression and which cannot be appealed. Accordingly, crimes such as insulting, insulting the President, threatening to create fear and panic among the public, inciting to commit crime, praising crime and criminal, provoking the public to hatred and to hostility, humiliating, inciting to disobey the law, degrading the symbols of state sovereignty, degrading the Turkish nation, the Republic of Türkiye and the institutions and bodies of the state, armed organization and alienating the public from military service have been included in the regulation.

Law no.5651

243. Law no.5651 on "*Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publication*", entered into force on 23 May 2007, was enacted to combat with certain number of catalogue crimes listed under TPC, which are incitement to suicide, sexual abuse of children, facilitation of the use of drugs or stimulants, supply of substances harmful to health, obscenity, prostitution, arranging a place or facility for gambling and the offenses listed under Law no.5816 on Crimes Committed against Atatürk.

244. Articles regarding violation of personal rights and the right to privacy were amended in 2014. With further amendments in 2015, grounds for exceptions are clearly defined in Articles 22 and 26 of the Constitution concerning the freedom of communication, Article 19 of ICCPR and Article 10 of ECHR. Grounds for exceptions also include protection of national security, public order, protection of life and property, and protection of public health and prevention of crime in un-reprieveable cases. Thus, it was aimed to ensure that protective

measures could be taken with respect to violations that can occur in the internet within short time on one or several of the grounds of protection of national security and public order.

245. Additionally, ICTA takes administrative decisions on content removal/access blocking concerning internet pages upon formal request of the Presidency of the Republic or relevant Ministries. The President of the ICTA submits the decision to the criminal magistrate for approval within 24 hours and the judge decides within 48 hours upon submission; otherwise, the administrative decision is revoked automatically. Any person or entity affected by the measures may appeal the decisions of the court or authority. As stated above, administrative decisions have only been exercised and submitted to judges for approval concerning the internet pages only in exceptional circumstances prescribed by law and have been subjected to judicial review at all cases.

Online Discourses

246. Law no.5651 aims combating illegal content on the internet that cannot be defined as systematic restrictions. For this purpose, providers are first noticed and contents are taken down afterwards. In the event that the relevant content and/or hosting provider do not comply with their responsibilities concerning the illegal content in question, an administrative measure is exercised to the URL address where the violation occurred. In cases where measures cannot be implemented due to technical inadequacies, a measure for blocking access to the entire website is applied as a last resort. This procedure is compatible with the Constitution and the ICCPR.

247. Social media companies are obligated to develop effective mechanisms in order to solve complaints pertaining to fake accounts, account takeovers, violation of personal rights and/or private life and inappropriate content. Their reluctance to take required measures for user complaints on content that clearly violate their own policies, compel users to apply to related public institutions and legal authorities. The representatives of the relevant companies are notified continuously that the courts and related institutions have to step in when user complaints are not solved effectively. When the user complaints are not solved in time by the companies, simple user complaints are brought to the courts or related authorities and are wrongly reflected as Government requests.

Procedure for the Media Organs Closed After the Coup Attempt and Confiscation of Their Properties

248. Freedom of the media is safeguarded by the Constitution and other relevant legislations and there is an active and pluralistic media community enjoying international standards.

249. After the coup attempt of 15 July 2016, by Decree-Laws nos.668, 675, 677, 683, 693, 697 and 701 adopted during the SoE and decisions of SoEC established by Decree-Law no.668; 62 private media service providers have been closed, and the closure decision of 10 institutions have been abolished or removed from the list.

250. SDIF is assigned for sale and liquidation of the acquired moveable assets and broadcasting rights of media institutions and organizations that have been closed by trusteeship in companies or their assets due to their belonging, affiliation or connection to terrorist organizations.

251. Transfer and registration of broadcasting licenses, rights and permits, made by SDIF, which are reported to be sold within the scope of Decree-Law no.687 are evaluated and finalized by the Supreme Board of the RTSC.

252. Procedures are conducted by RTSC regarding applications which are made to and accepted by SEC for reopening the organizations, restoring their assets and providing access to compensation.

Claims Regarding the Channels Removed from Private Satellite Providers

253. Cable and/or satellite TV/radio broadcast services deals are made between media service providers and platform operators engaged in cable and/or satellite TV/radio transmission. RTSC, the regulatory and supervisory institution, has no statutory authority.

254. Press cards are issued in line with the Press Card Regulation, without any discrimination among press members. Press card cancellation procedures are conducted within the framework of the Press Card Regulation; for technical or compulsory reasons such as leaving the job, closure of the institution, expiration of the card, changes in card information, application for a worn-out card, change of title, retirement or death. Cancellation does not mean that the applicant cannot get a press card again. On the contrary, in the event that the deficiencies are eliminated or the individual's condition becomes suitable for carrying a press card, their applications are evaluated positively and a press card is issued again. Journalists who have a press card can carry out journalistic activities by participating in press conferences, meetings of TGNA and similar activities.

Meetings and Demonstrations

255. Freedom of peaceful assembly is a democratic right safeguarded by the Constitution (Article 34) and the relevant national legislation. Everyone has the right to hold unarmed and peaceful meetings and demonstrations without prior permission. Peaceful assemblies and demonstrations were held without any interference in the event of their conformity with the law.

256. Law no.2911 on Meetings and Demonstration Marches regulates forms, conditions and procedures to be applied for the use of this right as well as the place, time, procedure and conditions for the meetings and demonstration marches to be held by natural and legal persons, duties and responsibilities of the organization committee, the cases of prohibition and postponement by the competent authority, the duties and powers of security forces, and prohibitions and penal provisions.

257. Any individual or group can, without discrimination, enjoy their rights to hold peaceful meetings and demonstrations in a safe and free environment within the scope of the relevant national and international legislation. No restrictions other than those specified in law (national security, public order, prevention of commission of crime, protection of public health and public morals or the rights and freedoms of others) shall be imposed.

258. In cases problems occur, it is, in the first place, resolved through negotiation and effective communication with demonstrators. Security forces intervene, as a last resort, within the legal boundaries.

259. Similar to all modern police organizations, tear gases, launchers, stun guns and their ammunition are used within the scope of the principle of proportionality and only as a last resort, in all kinds of protests and activities which are illegal or become illegal. Police officers receive "*Training on How to Use Tear Gases, Gas Launchers and Stun Guns and Equipment and Ammunition Related to Them*".

260. In the last 5 years, more than 99% of the mass protests/activities in Türkiye were held in a peaceful environment without any intervention. Figures regarding demonstrations and intervention rates are listed in the following table.

| <i>Year</i> | <i>Protests/activities</i> | <i>Protestors/participants</i> | <i>Intervention rate</i> |
|-------------|----------------------------|--------------------------------|--------------------------|
| 2016 | 40.016 | 43.900.170 | 2% |
| 2017 | 38.976 | 25.277.339 | 0,8% |
| 2018 | 46.389 | 31.036.329 | 0,8% |
| 2019 | 53.118 | 32.553.402 | 0,7% |
| 2020 | 33.609 | 5.452.212 | 0,8% |
| 2021 | 46.555 | 10.016.895 | 0,6% |

261. During the SoE, all security measures were taken by exercising high degree of caution in order to allow citizens to enjoy their right to hold meetings and demonstration marches. Mass protests/activities held within the legal framework were permitted and no restrictions were imposed. Until 19 July 2018, when the SoE was lifted, 79.812 protests/activities attended by 70.500.919 people were held across Türkiye. Security forces intervened against 819 illegal protests/activities and legal proceedings were initiated against 4.442 individuals.

Based on this, the ratio of protests/activities intervened to protests/activities held without intervention is 1%.

262. Compared to the period before SoE, the total number of protests/activities decreased by 9.58% during the SoE, while the number of protestors/participants increased by 45.32%. During the SoE, the number of attempted illegal protests/activities decreased by 72.60%, the number of protests/activities intervened against decreased by 70.62% and the number of persons apprehended decreased by 59.68%. These figures prove that the right to hold meetings and demonstrations was exercised during the SoE without imposing any restrictions.

“Pride Parade” organized by LGBTI groups

263. Security measures are precisely implemented before, during and after meetings and demonstration marches, regardless of the identities of demonstrators/participants. Members of LGBTI groups enjoy their right to hold meetings and demonstration marches without any restrictions, provided that they observe the provisions of the legislation.

264. Regarding the parade intended to be held every year in the last week of June under the name of “Pride Parade” on Istiklal Avenue in Beyoglu district of Istanbul province; Istiklal Avenue which is the most central and busy street and most visited tourist attraction in Istanbul, with hundreds of thousands of pedestrians at any time and an average of more than two million pedestrians daily, is visited by a large number of citizens and tourists at all hours of the day. In light of these circumstances, Istiklal Avenue has not been designated as a place and route for meetings and demonstration marches, taking into account the fact that such meetings and demonstration marches would make the ordinary course of everyday life extremely and unbearably difficult, prevent the performance of routine activities and have an adverse effect on a large number of business concerns.

265. Allegations that LGBTI and some other groups have been prevented from exercising their constitutional right to hold meetings and demonstration marches are not true. An analysis of the years between 2015 and 2022 reveals that 22.984 people participated in 170 protests/actions held by the members of LGBTI groups. Legal proceedings were only initiated against 303 of these people for holding illegal protests/activities.

“Saturday Mothers”

266. The protest attempted to be held by the said group on 25 August 2018 at Galatasaray Square has already been addressed in the Government’s reply to the joint communication from UN Special Procedures (AL TUR 7/2021).

267. The aforementioned group was not banned and it continued, prior to the COVID-19 outbreak, to hold regular protest, with an average of 80 participants, in front of the Human Rights Association building, without any intervention or restrictions. The press statements issued inside the said building have been posted on social media since 21 March 2020 (782nd week) due to COVID-19, and this regular protest continues through its 896th week as of 30 May 2022.

Activities to celebrate International Women’s Day

268. Activities to celebrate the 8 March International Women’s Day are held in a democratic and free environment, backed up by a constitutional guarantee, and legal proceedings are initiated against those who hold illegal actions.

269. An analysis of the activities held in the last 5 years reveals that 329.767 people participated in a total of 1894 activities, and legal proceedings were initiated against 96 people in 7 illegal actions. 61.197 people participated in 614 activities held in 2022, and legal proceedings were initiated against 97 people in 8 illegal actions.

Institutions closed during the SoE and the activities of the SoEC

270. Information on the examinations and decisions of the SoEC, which was established to examine the measures taken by the decree-laws issued within the scope of the SoE and the applications submitted against these measures, is set out in paragraphs 64 and 223 above.

271. Further information on other issues is provided in paragraphs 119 et seq., 222 and 223 above.

Provisions of Law no.7262 concerning freedom of association

272. Information on Law no.7262 has already been provided in the Government's reply to the joint communication from the UN Special Procedures (OL TUR 3/2021)¹⁰ and in paragraphs 80 and 81.

Right to enter public service – Articles 2, 3, 19, 21, 25 and 26

273. Pursuant to Article 83/2 of the Constitution and Articles 131 to 134 of the TGNA's Rules of Procedure, the legislative immunity of a deputy may, based on an imputed offence, be lifted exclusively for the current case file or investigation file, by a decision of TGNA or by a constitutional amendment through the legislative process. The power to lift legislative immunity shall rest solely with TGNA.

274. Accordingly, the lifting of the legislative immunity of those deputies, whose case files on legislative immunity are pending in the relevant authorities as of the date specified in the provisional Article 20/1 added, by obtaining a qualified majority, to the Constitution by Law no.6718 dated 20 May 2016, does not violate Articles 2, 3, 19, 21, 25 and 26 of ICCPR. It does not serve a particular or different purpose.

275. Information about final court decision on Ömer Faruk Gergerlioğlu, Deputy for Kocaeli, which was presented to the Office of the Speaker on 11 March 2021 in accordance with Article 84/2 of the Constitution, was provided to the Plenary at its 60th session held on 17 March 2021. As a result of this process, the said deputy lost his membership pursuant to the same paragraph. However, he regained his membership on 16 July 2021 based on the judgment of the CCt finding violation upon his individual application.

Legal amendments regarding elections

276. With the Constitutional amendments of 2017, the number of deputies was raised to 600, the age of eligibility to parliament was lowered to 18, elections for TGNA and for the President of the Republic were scheduled to be held every five years on the same day. The conditions for nominations of presidential candidates were made more favourable in order to increase democratic participation and the influence of political parties. The condition regarding the termination of the party membership of the President of the Republic, who is directly elected by the public and is essentially a political figure, was revoked. The President of the Republic, alone, or TGNA, by the three-fifths majority of its full membership, were allowed to decide to renew the elections in order to eliminate system bottlenecks when renewing elections. It was prescribed that the presidential and parliamentary elections shall be held together if elections are renewed in order to create a checks and balances mechanism. In addition, it was prescribed that a person may be elected as President of the Republic for a maximum of two terms; however, in case TGNA decides to renew elections during the second term of the President of the Republic, he/she may stand for election one more time.

277. Law no.2839 was amended to allow eligible political parties to participate in elections by forming an alliance. In connection with this, Law no.2820 on Political Parties was amended to lift the ban on political parties to support other political parties in the elections.

278. With Law no.7102 dated 13 March 2018, new regulations have been prescribed in order to provide proper execution of voting, such as allowing voters confined to bed to exercise their voting rights at their residences, and the principles on ensuring orderly voting in polling zone.

279. The voting period for voters living abroad was extended. Law no.298 was amended to allow political parties and candidates to make all kinds of propaganda in other languages and dialect than Turkish.

¹⁰ <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36144>.

280. Law no.7393, which entered into force on 6 April 2022, amended the electoral legislation in order to lower the 10% threshold applied in general elections to 7% so that a wider cross-section of society and more political parties would be represented in the Assembly.

Decisions of and complaint procedure followed by SEC

281. The electoral legislation includes provisions for addressing all objections raised and complaints lodged during electoral calendar, on the voting day and after the voting day. Articles 110 to 132 under Law no.298 include provisions on objections to electoral procedures.

282. SEC, pursuant to Article 79 of the Constitution, regards certain circumstances as absolute unlawfulness and evaluates the objections lodged. Accordingly, as set forth in Article 130 of Law no.298, if, after candidacies are finalised, the candidate in question is determined not to be a Turkish citizen, not to be over the age specified in the law, to be illiterate, or to be sentenced for the crimes that make him/her ineligible to stand for election, these circumstances shall be regarded as facts that affect his/her eligibility to stand for election, or validity of certificate of election, or the result of the election. SEC may review and take a final decision on claims and objections concerning these circumstances at any time, on the grounds of absolute unlawfulness.

Elections held during the SoE

283. Regarding the Referendum held for Constitutional Amendments of 2017; Law no.6771 on the Amendment of the Constitution of the Republic of Türkiye, adopted by the Plenary of TGNA on 21 January 2017, was published in Official Gazette dated 11 February 2017. Article 2 of Law no.3376 on Submitting of Constitutional Amendments to the Referendum states that “*Constitutional amendment referendum shall be held on the first Sunday, sixty days after the constitutional amendment’s publication in the Official Gazette.*” The referendum was held on Sunday, 16 April 2017, pursuant to these provisions.

284. Regarding the Presidential and 27th term Parliamentary General Elections held in 2018; the Decision no.1183 adopted by the Plenary of TGNA at its 89th session on 20/04/2018 prescribed that the parliamentary general elections shall be renewed and the new election shall be held on Sunday, 24 July 2018; and this Decision was published in Official Gazette. The Presidential Election and 27th term Parliamentary General Elections were held on 24 June 2018 in line with this decision of TGNA.

285. Article 127/3 of the Constitution prescribes that local administration elections shall be held every five years. The said elections were held on Sunday, 31 March 2019 (after SoE was lifted) pursuant to Constitution and Law no.2972.

Election campaigns

286. The procedures and principles to be followed, in order to promote democratic elections, during the election period, which covers the period from the opening day of an election until the voting day, are regulated by the relevant laws. SEC has taken all required measures in order to create an environment that allows political parties and independent candidates, before the voting day, to promote themselves on the basis of freedom, equality and independence, and to compete against other political parties and independent candidates through their programs and projects. All objections related to the prohibition of propaganda during the electoral calendar and to the violations of electoral rules during the election campaigns were reviewed and a final decision was taken by provincial and District Election Boards and SEC.

Local Administrations Elections in 2019

287. In local administrations elections held in 2019, SEC annulled the mayorship election held in Kesmetepe village in Besni district of Adiyaman province, the mayorship election held in Yusufeli district of Artvin province, the mayorship election held in Honaz district of Denizli province, the mayorship election held in Keskin district of Kırkkale province and

the mayorship election held in Istanbul Metropolitan Municipality, due to objections that could affect the results of the elections, and decided to renew the elections in these areas.

288. According to electoral legislation, detainees may stand for election. However, their participation in election campaigns shall be restricted due to detention. The electoral legislation does not separately regulate the election campaigns and propaganda activities of candidates who are detainees.

289. The provincial election board resolves the objections to be raised against candidates on the grounds of deficiency or disagreement in the conditions of candidacy and SEC resolves the objections raised against candidates for the mayorship elections for metropolitan municipalities pursuant to Article 15 of Law no.2972 and Article 125 of Law no.298. After the candidate list for the local administrative general elections was finalized, it was detected that some persons elected as mayors had been permanently dismissed from public service by a Decree-Law, upon the objections made within the periods prescribed in Article 130 of Law no.298 or upon district election boards' requests for opinion; therefore, the candidates who came second with the highest number of votes were granted a certificate of election.

290. According to the respective SEC decisions on objections or requests for opinion, those who had been dismissed from public office were not granted a certificate of election, not because they had lost their eligibility to stand for election, but because they could not be employed in the public sector and therefore could not assume the office of mayor. SEC therefore decided, by implementing, *mutatis mutandis*, Article 16 of Law no.2972 and pursuant to Article 2 of Law no.2972, that the person who came second would be deemed elected on the basis of the majority system.
