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**PERMANENT MISSION OF THE REPUBLIC OF TURKEY  
TO THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE  
VIENNA**

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The Permanent Mission of Turkey to the Organization for Security and Cooperation in Europe (OSCE) presents its compliments to the Missions/Delegations of the participating States to the OSCE and to the Conflict Prevention Centre (CPC) and with reference to its Note no: 2013/17260111/109247 dated 15 April 2013 (FSC.EMI/83/13), has the honour to submit Turkey's response to the Questionnaire on the "Code of Conduct on Politico-Military Aspects of Security" for 2013.

The Permanent Mission of Turkey to the OSCE avails itself of this opportunity to renew to the Missions/Delegations of the participating States to the OSCE and to the CPC the assurances of its highest consideration.

Vienna, 3 June 2013



-Missions/Delegations of the participating States to the OSCE  
-Conflict Prevention Centre

Vienna

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## QUESTIONNAIRE ON THE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY

### Section I: Inter-State elements

#### 1. Account of measures to prevent and combat terrorism

##### 1.1. To which agreements and arrangements (universal, regional, subregional and bilateral) related to preventing and combatting terrorism is your State a party?

Turkey is party to most of the international conventions drafted under the auspices of the United Nations (UN) and its specialized agencies and the International Atomic Energy Agency (IAEA) as well as Council of Europe (CoE) pertaining to the fight against terrorism. These conventions are listed below;

(1) Convention on Offences and Certain Other Acts Committed on Board Aircraft (14 September 1963),

(2) Convention for the Suppression of Unlawful Seizure of Aircraft (16 December 1970),

(3) Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (23 September 1971),

(4) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (14 December 1973),

(5) Convention on the Physical Protection of Nuclear Material (26 March 1980),

(6) International Convention for the Taking of Hostages (17 December 1979),

(7) Protocol on the Suppression of Unlawful Acts of Violence Airport Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (24 February 1988),

(8) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (on March 1988),

(9) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (14 October 2005),

(10) Convention on the Marking of Plastic Explosives for the Purpose of Detection (01 March 1991),

(11) International Convention for the Suppression of Terrorist Bombings (15 December 1997),

(12) International Convention for the Suppression of Financing of Terrorism (09 December 1999),

(13) European Convention on Suppression of Terrorism (27 January 1977),

(14) CoE Convention on the Prevention of Terrorism (16 May 2005),

(15) CoE Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (16 May 2005)<sup>1</sup>,

(16) International Convention for the Suppression of Acts of Nuclear Terrorism (14 September 2005).

<sup>1</sup> Turkey signed the agreement and the ratification process is underway.

Coast Guard Command has signed an agreement on cooperation for border security with coastal states (Bulgaria, Georgia, Romania, Russian Federation and Ukraine) of the Black Sea. Pursuant to this agreement, the parties will prevent trafficking of narcotic drugs and their derivatives, ammunition, explosives, poisonous and radioactive substances, oil smuggling and unlawful migration. This agreement will further enhance relations between parties and will be conducive for the prevention of proliferation of weapons of mass destruction which is crucial in the fight against terrorism. This agreement is still on the agenda of Turkish Grand National Assembly (TGNA).

Furthermore, the exchange of information via secure internet environment with the Black Sea coastal states which are instrumental to prevent unlawful migration and enhance fight against organized crime has been achieved. Establishing a similar system with other neighboring States, including Greece, is aimed.

Moreover, several bilateral agreements with Romania, Ukraine, Georgia, Russian Federation, Bulgaria and Turkish Republic of Northern Cyprus have been signed. An agreement with Greece for cooperation in fight against terrorism, organized crime, smuggling of narcotic drugs and unlawful migration has been signed as well.

Besides, there are more than 800 legal texts signed bilaterally by the Ministry of Interior with almost 90 countries in the field of security cooperation, combating terrorism and organized crime, illicit trafficking in narcotic drugs, psychotropic substances. The Financial Crimes Investigation Board has also concluded numerous MoU's with its counterparts on the prevention of money laundering and financing of terrorism.

**1.2. What national legislation has been adopted in your State to implement the above-mentioned agreements and arrangements?**

Pursuant to Article 90 of Constitution, international agreements duly put into effect carry the force of law.

Domestic legislation on counter-terrorism is given below;

- (1) The Turkish Criminal Code (Law No: 5237),
- (2) The Turkish Criminal Procedural Code (Law No: 5271).
- (3) The Counter-terrorism Act (Law No: 3713),
- (4) The Law on Enforcement of Punishments and Security Measures (Law No. 5275),
- (5) The Law on the Prevention of Financing of Terrorism (Law No.6415),
- (6) The Law on Compensation of Damages Arising From Terrorism and Combating Terrorism (Law No.5233),
- (7) The Law on Witness Protection (Law No.5726),
- (8) The Law on Prevention of Laundering Proceeds of Crime (Law No.5549),
- (9) The Regulation on Employment of Relatives and Family Members of Those Who Have Fallen Victim to Terrorist Activities or Those Who were Injured,
- (10) The Regulation on Compensation of Damages Arising From Terrorism and Combating

Terrorism,

(11) The Regulation on Measures Concerning Prevention of Laundering Proceeds of Crime and Financing of Terrorism,

(12) The regulations on employment opportunities in public institutions of relatives of martyrs and disabled persons as well as disabled persons who have ability to work.

**1.3. What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?**

Since terrorism is a crime, the law enforcement is vested with the task of preventing and combating terrorism. The powers of the law enforcement and limits thereto are set in the Law on Powers and Tasks of Police Forces (Law No.2559) and the Law on Organisation, Powers and Tasks of Gendarmerie (Law No.2803). Turkish Armed Forces (TAF) is employed in combatting terrorism in situations where the Local Governor so requests pursuant to Article 11/D of the Law on Villages (Law No.5442). The place and duration is specified by the Local Governor.

Security forces that have been tasked with the establishment and preservation of public order (TAF, Gendarmerie, Coast Guard and Police) undertake this mission by conducting operations towards establishing internal security within the framework of rules and principles specified by both international agreements and domestic legislations.

Pursuant to the Law on Villages (Law No: 5442), temporary village guards have also been locally established for the protection of the life, security and properties of population living in villages and those village guards contribute to the security forces in fight against terrorism.

Security forces are deployed in accordance with the principles of proportionality and necessity when undertaking tasks concerning struggle against terrorism.

Coast Guard Command which was founded by the Law No: 2692 functions as a law enforcement agency for protecting and securing all of our seas and enforcing the laws on the seas. All tasks and responsibilities given to the law enforcement by present regulations are carried out by this Command.

Coast Guard Command is also tasked with providing escort to foreign war ships traversing Turkish Straits and visiting Turkish ports during the time of their passage and stay; together with providing escort and protection to vessels shipping dangerous, chemical and poisonous material including LPG and LNG.

**1.4. Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g., those pertaining *inter alia* to:**

- Financing of terrorism,
- Border controls,
- Travel document security,
- Container and supply chain security,
- Security of radioactive sources,
- Use of the Internet and other information networks for terrorist purposes,

- Legal co-operation including extradition,
- Safe havens and shelter to terrorists and terrorist organizations.

The international conventions and agreements that Turkey is party have been listed under bullet 1.1. It is useful to reiterate the fact that the export and import of the materials covered by the Law No:5201 on the Control of Industrial Enterprises Producing Vehicles and Equipment of War and Arms, Ammunition and Explosive Material are subject to the official permission of the Ministry of National Defense within the knowledge of Turkish General Staff (TGS) and the Ministry of Foreign Affairs in order to provide protection against terrorism and enhance the struggle against it.

The Law on the Prevention of Financing of Terrorism (No.6415) was adopted at the General Assembly of the Turkish Grand National Assembly on 7 February 2013 and came into effect following the approval by the President and publication in the Official Gazette on 16 February 2013.

The law provides the principles and procedures on the implementation of the United Nations Security Council Resolutions 1267 (1999), 1988 (2011) and 1989 (2011), without any delay, through decision of the Council of Ministers. The law regulates asset freezing requests made by foreign countries and requests that will be made by Turkey to other countries.

The adoption of this law is an important step by all standards, as it brings significant amendments to the Turkish counter-terrorism legislation. The Law has repealed Article 8 of the Counter-terrorism Law which had previously defined financing of terrorism offence and redefined this offence so as to comply with the international standards. As foreseen by the FATF, the Law introduced a mechanism of asset freezing, which is a new kind of administrative measure in Turkish legal system.

Turkey is party to the major instruments in legal co-operation including extradition, namely European Convention on Mutual Assistance in Criminal Matters and European Convention on Extradition under which most of the mutual assistance and extradition requests are exercised.

Adherence to and proper implementation of international instruments especially in the field of extradition and mutual legal assistance is of vital importance in combating terrorism effectively. One of the major difficulties encountered in this respect is the lack of co-operation in extradition of persons who have been prosecuted for terrorism related crimes.

Additionally, Coast Guard Command conducts intensive operations in the Aegean Sea for the prevention of unlawful migration. Terrorist organisations also raise funds through involvement in illegal immigration. As such, investigations reveal that groups involved in terrorism take commissions from illegal immigrants in return for their travels and also from refugees who are provided financial aid by charities and international organisations. These constitute one of the main means of financing terrorism.

## **2. Stationing of armed forces on foreign territory**

**2.1. Provide information on stationing of your States armed forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law.**

TAF sends troops abroad stemming from international agreements that Turkey is party to (for

example North Atlantic Treaty or UNSC resolutions). Pursuant to Article 92 of the Constitution, TGNA has the power to decide to send TAF elements abroad, other than in those cases where international agreements that Turkey is party to so require. The latter constitutes the exception to the general rule.

Apart from the Constitution, Article 129 and 130 of the Rules of Procedure of the TGNA, and Article 8 of the Law of War and Warfare, the Council of Ministers (CoM), after soliciting the view of TGS, is also authorized on the matter to send TAF abroad, pursuant to international agreements that Turkey ratified.

The Law No: 5442 mentions the term "border operations". In Article 11/D of this Law, it is specified that local governors may ask for assistance from the Ministry of Foreign Affairs or General Command of Gendarmerie or border troops of Land Forces Command, in cases where they conclude that it is not possible to cope with the ongoing threat with regular security forces. Under such circumstances, local governors are called upon to do this by the fastest means available by getting assistance from the nearest and most available land, air or naval forces. In cases, where the incident takes place in border cities or provinces next to them and where the perpetrators have taken shelter or benefit from safe havens in the territory of the neighboring states, after a request made by the Governor through TGS channels and upon Government's permission and the consent of the neighboring states in whose territory the terrorists are located, a limited border operation may be carried out by using land, air and naval forces that are proportional to coping with the threat in question.

With regards to TAF elements abroad;

(1) A Frigate to Standing NATO Maritime Group-2 (SNMG-2), (also takes part in Operation Ocean Shield) and a Frigate to Standing Maritime Group-1 (SNMG-1), during the periods in East Mediterranean),

(2) A Mine Hunting Ship to Standing NATO Mine Counter Measures Group-2 (SNMCMG-2),

(3) A submarine to Operation Active Endeavor,

(4) A Frigate to Combined Task Force -151.

(5) A Frigate or a Corvette or a Fast Attack Boat; two Patrol Boats; together with the Engineer Construction Company deployed to Lebanon for Establishment and Maintenance of peace in the region, within the framework of UNIFIL,

(6) A Maneuver Company with supporting units of 377 personnel to KFOR (Kosovo),

(7) A Maneuver Company with supporting units of 239 personnel to ALTHEA (Bosnia-Herzegovina),

(8) Miscellaneous teams for training, advising and assisting Afghanistan. (Within this context, Turkey has taken over the lead nation responsibility of Regional Command Capital on 1st November 2009, until November 2013 with 1.261 personnel within current Area of Responsibility (AoR). With regard to provide assistance to Afghanistan, Turkey has two Provincial Reconstruction Teams (PRT), one is in Vardak in Regional Command East and the other is in Sheberghan in



Regional Command North.

In this context, Turkish Armed Forces started to take action in order to fulfill requirements imposed by UN Security Council Resolution No: 1325. In accordance with this resolution, women are assigned in NATO and Peace Support Operations in which Turkish Armed Forces participated. They play an important role in relations with local people and organize social activities and courses for local women.

Turkey also participates in one of the projects of South Eastern Europe Defence Ministerial (SEDM) Process related to the UNSCR 1325 on Women, Peace and Security. The name of the project is "Female Leaders in Security and Defence" and it is coordinated under the leadership of Bulgaria. In this context, two meetings were held in Sofia/BULGARIA in June 2012 and in March 2013. All the activities of the project is pursued by Ministry of Foreign Affairs and Ministry of National Defence.

Turkish Armed Forces are being represented by female officers in the regular meetings of NATO Committee on Gender Perspectives (NCGP). We are closely following the activities of NCGP.

### **3. Implementation of other international commitments related to the Code of Conduct.**

#### **3.1. Provide information on how your State ensures that commitments In the field of arms control, disarmament and confidence - and security - building as an element of indivisible security are implemented in good faith.**

Changes that have occurred in the OSCE area since 2007 have brought about a new political and security environment. Challenges that have emerged from this new environment must be dealt with in order to establish greater security, stability and prosperity.

Arms control, disarmament and non-proliferation constitute an integral part of Turkish foreign and security policy. Turkey is party to all major international and regional agreements and initiatives in these fields and actively contributes to their implementation and promotion.

Turkey regards the OSCE as an important instrument to enhance security through openness, transparency, dialogue and cooperation among its participating States. The OSCE has a particular role in the consolidation of the stability of the Euro-Atlantic and Eurasian space due to its set of norms, principles, commitments and mechanisms relating to the politico-military, human and economic and environmental dimensions.

Turkey is state party to all arms control and CSBM arrangements which have been negotiated within the broader context of the OSCE, namely the Treaty on Conventional Forces in Europe (CFE), the Treaty on Open Skies (OS) and Vienna Document 2011 (VD). These arrangements are the major components of the Euro-Atlantic and Eurasian conventional security architecture built upon the principles of indivisibility of security as well as cooperative and comprehensive security.

The document on "Confidence and Security Building Measures in the Naval Field in the Black Sea" is an important step towards establishing a functioning CSBM regime in the Black Sea. The implementation of this document bolsters confidence among the Black Sea littoral states and thus

peace, security and stability in the region.

Turkey continues to support the implementation of Article IV of the Dayton Peace Accord by providing personnel for Inspection/Escort Teams.

Turkey values the activities of the Regional Arms Control Verification and Implementation Assistance Center (RACVIAC), which helps foster a climate of dialogue among the nations in the Balkans on issues of common concern and interest as well as providing opportunities for joint trainings including in the field of arms control and CSBMs.

Turkey is party to the Ottawa Convention, aimed at preventing the use, production, stockpiling, transfer of Anti-Personnel Land Mines (APLM) and ensuring their destruction, since 01 March 2004. Turkey has destroyed all its stockpiles of APLMs and continues efforts to fulfill other treaty related commitments.

### **3.2. Provide information on how your State pursues arms control, disarmament and confidence • and security - building measures with a view to enhancing security and stability in the OSCE area.**

Turkey fulfills its commitments stemming from the arms control, disarmament and CSBM agreements mentioned in paragraph 3.1 in good faith as well as in accordance with the general principles of international law, including the principle of reciprocity. By doing so, Turkey, in cooperation with other parties, contributes to creating a politico-military environment conducive to enhancing security and stability in the Euro-Atlantic and Eurasian space.

In practical terms, Turkey fully abides by the numerical limitations set by the CFE Treaty regime, shares its military data with and accepts inspections from all non-defaulting parties in line with the provisions of the CFE Treaty regime and the Vienna Document. Furthermore, Turkey is one of the few state parties to the Treaty on Open Skies which operates its own national platform while conducting aerial observation flights.

Turkey is an active participant to the relevant multilateral processes and initiatives which aim at improving the implementation of the existing agreements as well as modernizing them.

Turkey is also party to regional security cooperation mechanisms such as RACVIAC and "Confidence and Security Building Measures in the Naval Field in the Black Sea" and plays an active role in promoting peace and stability in the Balkans, the Caucasus and the Black Sea basin.

In conformity with the Maritime Traffic Regulations for the Turkish Straits, all vessels carrying weapons and ammunition and intending to pass through Turkish Straits are requested to provide "end user certificates" in SP-1 reports in order to determine whether the shipment is legal and compatible with relevant international obligations. The same practice also applies for air transportation. As indicated in the Aeronautical Information Publication (AIP) of Turkey, all cargo flights, carrying dangerous goods are requested to provide "end user certificates" in order to obtain over flight and/or landing/takeoff permissions in the Turkish airspace.

## **Section II: Intra-State elements**

### **1. National planning and decision-making process**



### **1.1. What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?**

Pursuant to the Constitution, defense expenditure is determined by budget statutes enacted annually. CoM prepares the draft budget statute and submits it to the TGNA. Planning of expenditure and allotments are prepared in line with the Constitution, budget statute and pertinent regulations concerning supplies, by the Ministry of Defense in light of proposals of the TGS.

The principles pertaining to the deployment and representation of TAF have been specified in the Constitution. Commander-in-Chief is an inseparable part of TGNA's spiritual personality and represented by the President. Chief of Staff is appointed by the President and responsible to the Prime Minister with respect to his/her duties. CoM is responsible for maintaining national security preparation of TAF for defense of the Country. Nevertheless, decisions concerning war, sending elements of TAF abroad and welcoming foreign troops on Turkish territory belong to the TGNA.

The authority for budgeting, supply activities, defense industry, scientific surveys, political, legal, social, financial and budgetary services, building and mapping, together with enlisting and displacement related to measures necessary to minimize damage and loss, planning and providing civil defense are vested in the Ministry of Defense (MoD). Ministry of Internal Affairs coordinates civil defense issues with Turkish General Staff (TGS).

TAF comprises land, naval and air force components. General Command of Gendarmerie and Coast Guard Command operate as law enforcement agencies under the Ministry of Internal Affairs in peace time. However, in war time they fall under the authority of the Land Forces Command and Navy respectively. The Chief of Staff has the authority to command and control the TAF and is responsible for ensuring effective conduct of military operations together with providing effective wartime preparedness of TAF. Principles pertaining to personnel, intelligence, operations, organisation, training, education and logistics of TAF are designated by the Chief of Staff.

The power to engage in commitments for upcoming years concerning defense expenditure within the Strategic Goals Plan of TGS approved by the CoM in consideration of annual economic indicators is vested in the Ministry of Defense (MoD) or Ministry of Internal Affairs (MoIA), as relevant.

Allocations and allotments that Strategic Goals Plan of TAF require, take place in annual budgets of Ministry of Defense, General Command of Gendarmerie and Coast Guard Command with respect to their topics. Annual budget statutes are enacted by the TGNA and approved by the President.

### **1.2, How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?**

Turkey is party to the UN Charter and supports preservation and maintenance of international peace and stability which was framed by UN Charter, in particular, Article 2(4) of the Charter defining prohibition of unlawful use of force and Article 51 of the Charter defining

self-defense. Turkey's loyalty to these principles constitutes the most important guarantee for its neighbors.

## **2. Existing structures and process**

### **2.1. What are constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?**

TAF is under effective, democratic and political control of the TGNA and CoM, within the framework of the Constitution. TAF's powers, tasks, responsibilities and limitations designated by law is guarantor of democratic control of the TAF.

Jurisdictional relations between MoD and TGS have been designated by a statute. Defense expenditures of TAF and MoD have been approved by the TGNA. TGNA has the power and discretion of making necessary reductions and establishing supervision over the defense budget proposed by CoM, while it approves the defense budget.

TAF functions under effective control of the Prime Minister, CoM, the President and TGNA in the performance of its mission which takes place according to statutes designated by the limits of democratic legitimacy. In this regard, military tasks and missions have been directed and conducted pursuant to national security policies of the State designated by the CoM.

Furthermore Governors who are the representatives of the State, of the Government and of all the Ministries in the localities where they serve and who are the heads of the administrative mechanisms in their respective cities, are responsible for the establishment, conduct and supervision of governance. Governors are also the superiors of all law enforcement organizations and they have the power to inspect law enforcement agencies.

The conditions for restricting fundamental rights and freedoms are specified in Article 13 of the Constitution. Pursuant to this article, fundamental rights and freedoms may be restricted only by law and in conformity with the reasons mentioned in the relevant articles of the Constitution without infringing upon their essence. These restrictions shall not be in conflict with the letter and spirit of the Constitution and the requirements of the democratic order of the society and the secular Republic and the principle of proportionality. These conditions equally apply to all tasks performed by military, semi-military police, security forces and intelligence services. That is, the conditions set forth in the abovementioned article also constitute the limits of the powers of the security forces.

In this regard, actions and decisions of security forces;

- Must depend on a law,
- Must be in conformity with the conditions specified in the relevant article of the Constitution,
- Must be compatible with the letter and spirit of the Constitution,
- Must not prejudice the substance of the fundamental rights and freedoms,
- Must not contravene the secularist republic and,
- Must not be contrary to the principle of proportionality,

### **2.2. How is the fulfillment of these procedures ensured, and which**

**constitutionally established authorities/institutions are responsible for exercising these procedures?**

Pursuant to Article 125 of the Constitution, all actions and decisions of the administration are subject to judicial review and the jurisdictions of administrative branches have been designated by law. In this regard, those government employees who do not act in compliance with the limits specified by law can be subject to administrative and civil actions. Judicial oversight of the administration and the liability of government employees with respect to damages and offences that have arisen due to their personal negligence constitute some of the basic tenets of the system.

**2.3. What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?**

Armed forces, security forces and temporary village guards and their services are carried out within the confines of the law and in full compliance with the Constitution. In this regard, TAF and the Government act in coordination. Since, pursuant to Article 92 of the Constitution, the decision to send elements of TAF abroad and to receive foreign military forces into the country rests solely on a decision to be made by TGNA, nobody can arbitrarily or relying on his own discretion decide to use armed forces.

**3. Procedures related to different forces personnel**

**3.1. What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?**

Rules and procedures for enlisting has been specified in the Law on Military Service (Law No:1111) and in the Law on Reserve Officers and Reserve Military Employees (Law No: 1076) in accordance with Article 72 of the Constitution. Nevertheless, the rules and procedures for absolving military service in exchange for financial contribution or other form of compensation and absolving military service in exchange for working in other governmental agencies are designated by CoM.

Recruitment activities of TAF are conducted in compliance with objective criteria and everyone with the necessary qualifications specified by law and regulations equal opportunity to serve. Recruitment is carried out based on the principle of equality and is open to free competition. All recruitment activities are conducted transparently with all necessary information duly announced to the public. Judicial review is possible for all personnel acquisition activities.

There is no waiver in the Turkish domestic law for conscientious objection.

Any military personnel (including privates and conscripts) who think that their rights or interest pertaining to either military service or private affairs have been prejudiced have the right to file a complaint or application to their commanders beginning from their immediate superior, with respect to Articles 25-26 of the Law on Internal Service of TAF (Law No:211) or file a case in Court of law.

**3.2. What kind of exemptions or alternatives to military service does your State have?**

TAF has no immunity above the law. All regulations valid for other institutions are valid for

TAF. Every male Turkish citizen is under obligation of compulsory military service. However, pursuant to Article 10 of the Law No:1111, those who are not physically or mentally fit for military service are exempted from this obligation if documented by a health report provided by a competent military hospital.

Another exemption specified in the same article is for the brothers of those who have died and for both brothers and sons of martyrs who fell victim to terrorism during their military service. Those categories of citizens are not enlisted unless they declare that they voluntarily want to be enlisted.

Turkish citizens who have gained Turkish citizenship by way of migration and who have enlisted or accomplished their military service in the state that they have migrated from, are also exempted from military service.

Turkish Military Service Code (Law No: 1111) permits students to complete their high education (in the universities or institutes for L.L.M. or Ph.D. programs), before they are conscripted provided that they preserve their student status and are not older than 35.

All other male Turkish citizens are equal before the law with respect to performance of military service whose duration is specified by the same Law.

### **3.3. What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?**

It is ensured by statutes for military personnel to seek their rights in order to have an effective remedy either through administrative or judicial means. Right to petition, right to information and right to effective remedy are guaranteed by the Constitution and military personnel have the same opportunities in exercise of these rights with non-military citizens. Any crimes perpetrated in the military are investigated without requiring a complaint by the plaintiff or victim. The commanders and the superiors are responsible for the enactment of the relevant statutes in this regard.

## **4. Implementation of other political norms, principles, decisions and international humanitarian law.**

### **4.1. How does your State ensure that International Humanitarian Law and Law of War are made widely available, e.g., through training programmes and regulations?**

Leader personnel are trained on human rights and law of armed conflict (LOAC), during their education period through programs in specified schools and centers and via special courses and training programs once they begin their official duties. These topics are covered in detail at miscellaneous courses for unit commanders and in particular, at training programs towards international operations (peace keeping, peace support operations etc.).

International conventions in the field of international humanitarian law and LOAC oblige the states parties to train their military personnel who are responsible for the application of these conventions. For this reason, both as a result of these obligations and to perform the tasks specified primarily in the Constitution and other statutes. Training is provided to TAF personnel on LOAC in the schools and centers inside the country or by seminars, conferences, courses and official visits that are carried out either domestically or abroad.

#### **4.2. What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?**

Article 38 of the Constitution stipulates that "nobody can be sanctioned due to an action which was not specified as an offense in the time of commission of that offense, and nobody will be sanctioned with a graver punishment than the one specified for that offense in the statute; however, exceptions may be brought for internal functioning and structure of the armed forces". This applies to all members of the TAF without any exception.

The fact that military personnel will be responsible in front of civil and penal law due to any unlawful actions that they have committed, is taught to military personnel by real-time applications that are held beginning from early military schools and then continued during their service periods, via personnel development programs.

In Article 125 of the Constitution it is adjudicated that "all actions and decisions of administration is subject to judicial review and administration has to compensate the damages arising from its conduct". Pursuant to this regulation, all government employees including military personnel are under the obligation of compensating the damages that they caused.

According to Article 90 of the Constitution stipulating that "international agreements duly put into effect bear the force of law ", all government employees including military personnel are obliged to comply with international agreements that Turkey is a party to.

Furthermore, for government employees who commit one of the offences listed in the Turkish Criminal Code (Law No: 5237), the Code contains a general aggravating condition for them.

Likewise, TAF gives crucial importance to the training of LOAC. The objective, in this regard is to train the military personnel down to private level who will possibly engage with the enemy, and to provide them with the ability to develop a reflex in applying these rules. Moreover, military personnel is trained in a way to understand that they must also move in accordance with "jus ad bellum" rules that arise from the agreements that Turkey has ratified and that otherwise, they will be personally responsible before both international and domestic law.

#### **4.3. How does your State ensure that armed forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?**

Abovementioned rights and freedoms are ensured in the Constitution. Discrimination has been defined as an offense in the Turkish Criminal Code (Law No:5237). All necessary training is provided in order to ensure that no discrimination takes place within TAF. Similarly, Turkish citizens of different religions are allowed to practice the obligations of their religions and they are entitled to have sufficient time off during their religious days.

In the introduction of the Constitution a general framework of the governmental agencies including TAF has been drawn regarding their duties and responsibilities by stipulating that "Nation's decision is absolute, sovereignty belongs to Turkish Nation without any exception and no

organ or person that was empowered to exercise its power on behalf of the Turkish Nation, can deviate from the legal order which was outlined by liberal democracy and its qualifications that was specified in the Constitution; that the principle of separation of powers does not mean any superiority among the state organs but purports a collaboration between them; that superiority solely belongs to the Constitution and Statutes".

In Article 10 of the Constitution, it is emphasized that all are equal before the law and have equal rights, regardless of their language, race, color, gender, political conviction, philosophic belief, religion, denomination and other similar reasons; and that all governmental agencies including TAF are under the obligation of acting in accordance with the principle of equality before the law.

The task given to TAF is specified in Article 35 of the Law on Internal Service of TAF (Law No: 211). Pursuant to this article, the mission of TAF is to protect and watch over the Turkish territory and the Turkish Republic that was established by the Constitution.

In this regard, there is no scope for any elements to exist within or outside the hierarchical chain of TAF, who are not accountable or under control and who cannot be inspected by Constitution or other legal means,

#### **4.4. What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?**

Fundamental rights and freedoms guaranteed by the Constitution are also valid for military personnel. Principle of equality that is one of the fundamental rights specified in the Constitution are also enshrined in the activities of TAF and all activities of TAF are carried out accordingly. Discrimination is an offense defined and punished in the Turkish Criminal Code (Law No:5237). Furthermore, all kinds of political activities were banned for TAF personnel by the Law No: 211 and any conduct against this prohibition has been defined as an offense under Turkish Military Criminal Code (Law No: 1632). Those personnel who violate these rules are prosecuted.

TAF also gives utmost importance to political impartiality. In this regard, TAF has a model role and status. All necessary administrative and legal measures required to ensure political impartiality of TAF are taken.

Pursuant to Article 68 of the Constitution and Article 11 of the Law on Political Parties (Law No: 2820) "Judges, prosecutors, members of high judicial organs including High Court of Accounts, officials of government agencies that fall under the status of "government employee", even other governmental officials that do not fall under the category "worker" with respect to the job that they perform, members of TAF, and students at the time of pre-high education cannot be a member of a political party". Pursuant to Article 43 of the Law No: 211, TAF is outside and above of all kinds of political influence and opinions". For this reason, it is forbidden for the members of TAF to be a member of political parties and societies, to engage in political demonstrations and meetings, to give speeches, and to write memorandums. As a result of these regulations, members of TAF have



remained politically impartial and neutral.

Members of TAF can in no way engage in political activities, except in cases where they enjoy their Constitutional rights regarding right to vote in general elections and right to information.

**4.5. How does your State ensure that its defence policy and doctrine are consistent with international law?**

Pursuant to Article 90 of the Constitution "international agreements duly put into effect bear the force of law. No appeal to the Constitutional Court shall be made with regard to these agreements, on the grounds that they are unconstitutional. In case of a conflict between international agreements in the area of fundamental rights and freedoms duly put into effect and the domestic laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail."

Members of TAF are under obligation of complying with the provisions of international agreements. This obligation also stems from the fact that the defense policy and doctrine must be in accordance with international law.

**Section III: Public access and contact information**

**1. Public access**

**1.1. How is the public Informed about the provisions of the Code of Conduct?**

Every citizen has the right to ask and gather information he/she needs from the relevant institutions on the implementation of the Code of Conduct in accordance with the Law on Right to information (Law No: 4982).

**1.2. What additional information related to the Code of Conduct, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?**

Same as explained in paragraph 1.1 above.

**1.3. How does your State ensure public access to information related to your State's armed forces?**

Turkish citizens and foreigners who have a permanent residence in Turkey, together with foreign legal persons, provided that the information they require is in relation to their field of activity and with respect to the principle of reciprocity, can file an application to the military agencies within the framework outlined by the Law on Right to Information (Law No: 4982).

Much useful information has already been and is being continually posted on the web sites belonging to military agencies.

**2. Contact Information**

**2.1. Provide information on the national point of contact for the implementation of the Code of Conduct.**

Turkish Ministry of Foreign Affairs, Deputy Directorate for OSCE, Arms Control and Disarmament.

Tel: + 90 312 292 1794

Fax: + 90 312 287 5660

Address: Dr. Sadik Ahmet Caddesi No: 8 06100 Balgat/Ankara Turkey

## **ANNEX-I**

### **IMPLEMENTATION OF UNSCR 1325 ON WOMEN, PEACE AND SECURITY**

#### **1. Main Policies and Practice regarding Female Soldiers in the Turkish Armed Forces**

a. The general personnel policy of the Turkish Armed Forces regarding female soldiers is based on two categories: "qualified female officers" and "female non-commissioned officers" (NCOs) who serve in various services and ranks. According to the regulations within the framework of this policy, it is essential that female officers and NCOs are appointed to the posts which are most suitable for their education, experience, personal skills and capacities, just as their male colleagues, in order to utilize the qualifications of female officers and NCOs effectively as an integral part of human resources.

b. For the purpose of ensuring the continuity and sustainability of the activities conducted by the Turkish Armed Forces in wartime and peacetime, female officers and NCOs are posted together with their male colleagues, according to the requisites of the post and without sexual discrimination, in combat troops, combat support troops and combat service elements, various-level HQs, military hospitals, recruiting units, military factories as well as technical and social facilities.

c. The legal regulations and existing practices are regularly reviewed and research and development efforts are made in light of the acquired experiences and studies for the purpose of appointing female officers and NCOs in the most suitable posts, determining the terms and conditions of their duties, increasing their numbers as well as facilitating their employment without sexual discrimination both in the execution of their duties and in their access to various level positions.

d. The female officers and NCOs serving in the Turkish Armed Forces enjoy the full rights that their male colleagues have. They also have additional rights of leave of absence due to pregnancy and maternity.

e. Concerning the appointments of female officers and NCOs who are married to their colleagues, female officers are appointed to the same garrisons with their spouses in order to protect the unity of the family. If the spouse works in another state institution, the post of the spouse is also taken into consideration.

f. Female officers and NCOs whose spouses are appointed to foreign countries for permanent duties can take four-year leave without pay if they require, without losing their positions.

g. Female officers and NCOs who are married to a colleague from a different service can be transferred to the services of their spouses in order to maintain the unity of the family.

h. Turkey participates in one of the projects of South Eastern Europe Defence Ministerial (SEDM) Process related to the UNSCR 1325 on Women, Peace and Security, namely "Female Leaders in Security and Defence", which is coordinated under the leadership of Bulgaria. In this context, two meetings were held in Sofia, Bulgaria in June 2012 and in March 2013. All the activities of the project are followed by the Ministry of Foreign Affairs and the Ministry of National Defence of Turkey.

i. Turkish Armed Forces are represented by female officers in the regular meetings of NATO Committee on Gender Perspectives (NCGP). We are closely following the activities of this Committee.

## 2. Organisation

a. Within the Turkish Armed Forces only officers and NCOs are employed as female soldiers. There are no female personnel within the Turkish Armed Forces employed in the status of ranks and files.

b. Total number of female officers and NCOs within the Turkish Armed Forces is 1.708 as of May 2013. The percentage of female officers is 3% and the percentage of female non-commissioned officers is 0.3% to the total number of army personnel.

c. The employment areas and distribution according to the ranks of female officers and NCOs are as follows:

### DISTRIBUTION OF FEMALE OFFICERS AND NCOs ACCORDING TO RANKS

RANKS	LAND FORCES	NAVAL FORCES	AIR FORCES	GENDARMERIE	COAST GUARD	TOTAL
GENERAL/ADMIRAL	-	-	-	-	-	-
COLONEL	53	21	9	3	-	86
LT.COLONEL	83	17	23	3	-	126
MAJOR	195	72	67	19	1	354
CAPTAIN	142	72	104	19	2	339
<sup>st</sup> 1 Lieutenant	105	46	81	24	1	257
Lieutenant	116	24	29	5	3	177
NCO	18	-	-	351	-	369
RANK&FILES	-	-	-	-	-	-
TOTAL	712	252	313	424	7	1.708

### **3. Employment**

a. It is essential in the Turkish Armed Forces to appoint female officers and non-commissioned officers to appropriate duties by considering their personal skills, training, experience as well as their potentials, without gender discrimination.

b. In this scope, female officers and non-commissioned officers are employed in various posts in troops, headquarters and agencies including United Nations and NATO duties in the country and abroad as well as in all branches of the Turkish Armed Forces excluding armour, infantry and submarine.

c. No discrimination is made in the legislation and implementation phase of the legislation governing the personal rights, such as employment and living standards as well as appointment, promotion, health, salary etc. of female officers and non-commissioned officers.

### **4. Recruitment and Conscription**

a. In accordance with the Military Service Law effective in our country, every male Turkish citizen is obliged to complete military service. Female Turkish citizens are not under such a liability. Regular female officers and non-commissioned officers serving in the Turkish Armed Forces join the armed services voluntarily.

b. Since male conscripts meet the needs of the Turkish Armed Forces, there is not a plan for the female nationals to be bound by compulsory military service.

c. The conscription, training and classification of female officers and non-commissioned officers in the status of professional soldiers are implemented as follows:

#### **(1) Conscription and Training**

(a) Female officers: They are classified under two categories; namely regular and contracted female officers. Regular Officers are trained in Military Academies in accordance with the provisions of the relevant law and manpower plans and/or are graduates of universities. Contracted officers are graduates of universities.

(b) Female non-commissioned officers are chosen among the graduates of the universities to work in a contractual status.

(c) Regular officers graduated from Military Academies start their duties after they complete 4-year-education and contracted officers start their duties after they are given military training in service schools or training centres following the preliminary contract.

#### **(2) Classification**

(a) The classification system allows the employment of female officers and non-commissioned officers according to their capabilities, training and experience and provides them with skills, capacity and personal improvement.

(b) The following criteria are taken as a basis in the preliminary and reclassification of female officers and non-commissioned officers:

(I) Personnel requirement of the arms

(II) Health conditions of the personnel

(III) Intellectual capabilities of the personnel

(IV) Education level, experience, personal talents and interests of the personnel

(V) Physical profile

(VI) Personal preferences

(c) Female officers who are currently at combat arms in the Armed Forces can be reclassified to be transferred to auxiliary arms by considering the abovementioned criteria.

(d) Female officers in air forces are not reclassified as long as they fulfil the flight requirements for their duties.

## **5. Training**

a. There are equal opportunities with respect to the training of female and male soldiers in the Turkish Armed Forces. The training is given in Military Academies and in other military training institutions.

b. Female officer cadets in the Military Academies are provided with four-year-undergraduate education. Besides academic education, at the end of four-year-military training, female officers graduated from Military Academies acquire the knowledge and competence to command an infantry platoon.

c. Female officers who successfully complete their education/training in Military Academies are provided with branch training in the service schools of their respective military arms.

d. The curriculum and education programmes of the female cadets in Military Academies are prepared according to contemporary scientific and technological standards, requirements of the country and related services, in a way to allow postgraduate level training and education of the cadet.

e. Female officers who joined the Turkish Armed Forces in the status of contracted officers after graduating from university and by signing preliminary contract in accordance with related legislation are trained during six months to become an officer. Those who complete the training successfully are provided with branch training in the military arms service schools from which they graduated in the rank of second lieutenant. Those who completed branch training successfully, start their duties in the units/institutions to which they are appointed after finishing their training.

f. Female officers, who will join the Turkish Armed Forces in the status of contracted non-commissioned officer designate, following the preliminary contract, are subject to training to acquire the title of non-commissioned officer. Those who successfully complete this training receive six-month-occupational orientation training in the rank of staff sergeant and those who are successful start their duties in the units/institutions to which they are appointed.

g. Female and male officer/non-commissioned officer candidates both in Military Academies as well as in Service Schools in the status of contracted officer/non-commissioned officer in the Turkish Armed Forces are subject to the same academic and military training programmes and opportunities without any discrimination.

## **6. International Peacekeeping and NATO Missions**

a. In accordance with UN Security Council Resolution 1325, female soldiers are assigned to NATO and other international Peace Support Operations in which Turkish Armed Forces participate, without any discrimination. Our experience shows that in addition to their regular duties, they play an important role in establishing relations with local populations as well as organizing courses and social activities for local women, especially in challenging areas.

b. During the assignment of female personnel in peacekeeping operations, the requirements of the unit participating in the peacekeeping operation and the training level, capabilities and capacity of the personnel are taken into consideration.

c. Female officers, NCOs and military nurses in the Turkish Armed Forces have served in peacekeeping operations in ISAF, KFOR, IFOR, SFOR and EUFOR.

## **7. Career Building**

a. Our female officers and NCOs serving in Turkish Armed Forces are included in the professional improvement program implemented for all officers and NCOs without any discrimination.

b. The professional improvement program implemented for the officers in the Turkish Armed Forces consists of four stages:

### **(1) Basic Professional Improvement Stage:**

It covers the period beginning from the promotion from the rank of second lieutenant to the rank of senior captain. During this stage, officers participate in those courses regarding the tasks of a platoon and company commander and those who fulfil the required conditions receive post-graduate education in service war colleges and other educational institutes at home and abroad.

Our female officers are allowed to attend the entry examination of service war colleges and to be appointed to the command posts in the Turkish Armed Forces as a staff officer after being successful in the related examinations and study.

In addition, all personnel are encouraged without any discrimination to follow the post-graduate education covered by the professional improvement program.

### **(2) Advanced Professional Improvement Phase:**

At this stage covering the period from the office of senior captain to the office of major, the officers attend preparation courses for the office of battalion commander and staff officer. Additionally, staff officers participate in Armed Forces Academy, and successful service officers attend the course for commandship and office of staff officer.

### **(3) Final Professional Improvement Stage:**

This stage covers the rank of lieutenant colonel. The officers under this scope serve as staff officer and battalion commander.

### **(4) Advanced Commandship and Managership Stage:**

This stage consists of the rank of colonel. The officers in this stage are assigned as the senior staff, troop, regiment commander and deputy commander in order to get prepared for the managership. Furthermore, the eligible colonels are subject to education of National Security Academy.

c. The non-commissioned officers are subject to preparation courses for their troop and staff offices related to their branch and specialty and also professional improvement program containing on-the-job training.

The professional improvement program prepared for the non-commissioned officers is divided as follows:

(1) "Basic Professional Improvement Stage" extends from the rank of staff sergeant to the rank of first sergeant,

(2) "Advanced Professional Improvement Stage" extends from the rank of first sergeant to the rank of command sergeant major,

(3) "Final Professional Improvement Stage" extends from the fourth year of the rank of sergeant major to the rank of command sergeant major.



## **8. Conclusion**

a. The common personnel policy of Turkish Armed Forces related to female soldiers covers the employment of the qualified female officers and non-commissioned officers of relevant class, branch and rank. Within the framework of this policy, it is essential that our female officers and non-commissioned officers are assigned to most suitable office in terms of best use of their qualifications, training, experiences, personal skills and their current capacity without discrimination, like their male counterparts.

b. Female soldiers in the Turkish Armed Forces, without any gender discrimination, are employed as commissioned and non-commissioned officers in all the task fields including the combat units.

c. In order to enhance the employment rate through suitable assignment of our female soldiers and to improve their acquired personal rights, the current legal legislation and experiences are being reviewed continuously and adjustments are made accordingly.