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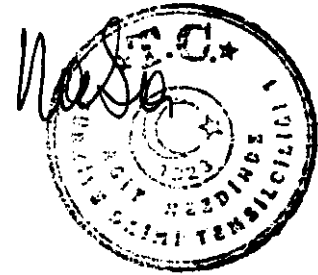
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No: 63-43

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: 37-23 dated 27 April 2010 (FSC.EMI/85/10), has the honor to submit Turkey's response to the Questionnaire on the "Code of Conduct on Politico-Military Aspects of Security" for 2010.

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, 21 June 2010



-Missions/Delegations of the participating States  
-Conflict Prevention Center

**QUESTIONNAIRE ON THE CODE OF CONDUCT ON ENGLISH only**  
**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, sub-regional and bilateral) related to preventing and combating terrorism is your State a party?**

Turkey is a party to many international conventions drafted by United Nations (UN) and Council of Europe (CoE) for fight against terrorism and some others that have regional character as well.

Some of these conventions are listed below;

- (1) UN Convention against International Organized Crime (17 November 2000),
- (2) Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the UN Convention against Transnational Organize Crime (17 November 2000),
- (3) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children Supplementing the UN Convention against Transnational Organized Crime (17 November 2000),
- (4) Protocol against the Illicit Manufacturing, and Trafficking in Firearms, Their Parts and Components and Ammunition, Supplementing the UN Convention against Transnational Organized Crime (17 November 2000),
- (5) UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (20 December 1988),
- (6) Convention on Offences and Certain Other Acts Committed on Board Aircraft (14 September 1963),
- (7) Convention for the Suppression of Unlawful Seizure of Aircraft (16 December 1970),
- (8) Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (23 September 197),
- (9) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (14 December 1973),
- (10) Convention on the Physical Protection of Nuclear Material (26 March 1980),
- (11) International Convention for the Taking of Hostages (17 December 1979),
- (12) Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (24 February 1988),

(13) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (10 March 1988),

(14) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (10 March 1988),

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

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

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

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

(19) Protocol Amending the European Convention on the Suppression of Terrorism (15 May 2003),

(20) CoE Convention on the Prevention of Terrorism (16 May 2005)<sup>1</sup>,

(21) Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime (08 November 1990),

(22) CoE Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (16 May 2005)<sup>2</sup>,

(23) Agreement on Illicit Traffic by Sea Implementing Article 17 of the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (31 January 1995)<sup>3</sup>,

(24) European Convention on Extradition (13 December 1957),

(25) Second Additional Protocol to the European Convention on Extradition (17 March 1978),

(26) Convention for the Protection of Human Rights and Fundamental Freedoms (04 November 1950).

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, unlawful migration; together with enhancing relations between parties and prevention of proliferation of weapons of mass destruction in fight against terrorism. The law for ratification of this agreement is still on the agenda of TGNA.

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<sup>1,2,3</sup>Turkey signed and subsequently sent this Convention to the Turkish Grand National Assembly (TGNA) but it has not been ratified yet.

Furthermore, the exchange of information via secure internet environment with the Black Sea coastal states for the prevention of unlawful migration and enhancement of struggling against organized crime has been achieved. Construction of a similar system with other neighboring States including Greece is aimed.

Moreover, as to be applied in the Black Sea region, several bilateral agreements with Romania, Ukraine, Georgia, RF, Bulgaria and Turkish Republic of Northern Cyprus have been signed. An agreement with Greece for cooperation in struggling against terrorism, organized crime, smuggling of narcotic drugs and unlawful migration has been signed as well.

Other regional and bilateral agreements that Turkey is a party are as follows:

(1) Protocol between Turkish Ministry of Foreign Affairs of Turkey and Ministry of Foreign Affairs of India for Establishment a Mutual Workgroup (17 September 2003),

(2) Agreement between Government of Turkey and Government of Germany for Cooperation in Struggling Primarily against Terrorism, Organized Crime and Capital Crimes (03 March 2003),

(3) Agreement between Government of Turkey and Government of Sultanate of Oman on Cooperation in Struggling against International Terrorism, Smuggling of Narcotics and Psychotropic Substances and Organized Crime (31 January 2005),

(4) Agreement between Republic of Turkey and Republic of Greece for Collaboration in Struggling against Terrorism, Organized Crime, Smuggling of Narcotics and Unlawful Migration (20 January 2000),

(5) Agreement between Republic of Turkey and Kingdom of Saudi Arabia for Cooperation in Security and Struggling against Narcotics and Psychotropic Substances (12 February 2005),

(6) Agreement of Collaboration in the Field of Security between Government of Turkey and Government of Bahrain (06 March 2006),

(7) Agreement between Government of Turkey and Government of Bulgaria for Cooperation in the Field of Police Activities (02 February 2005),

(8) Agreement of Collaboration in the field of Security between Government of Turkey and Government of Qatar (25 December 2001),

(9) Agreement between Government of Turkey and Government of Arabic Republic of Egypt for Collaboration in Struggling against Perpetration of Crimes (26 July 1999),

(10) Agreement between Government of Turkey and Government of Uzbekistan for Collaboration in Struggling against International Terrorism (29 December 2003),

(11) Agreement between Government of Turkey and Government of Poland for Cooperation in Struggling against Organized Crime, Terrorism and Other Crimes (07 April 2003),

(12) Agreement between Government of Turkey and Government of Slovenia for Collaboration in Struggling against Organized Crime, Smuggling of Narcotics, International Terrorism and Other Serious Crimes (08 December 2004),

(13) Security Collaboration Agreement between the Government of Turkey and the Government of Yemen (05 May 2004),

(14) Agreement between Ministry of Internal Affairs of Turkey and Ministry of Internal Affairs of Kyrgyzstan against Crimes and Establishment of Public Security (23 July 1992),

(15) Agreement between Directorate of Investigating Fiscal Offenses of Ministry of Treasury of Turkey and National Authority of Romania on Prevention of Laundering in the Field of Exchanging of Fiscal Intelligence Concerning Money Laundering and financing of Terrorism (31 December 2008),

(16) Agreement Concerning Central Asia and Caucasus Regional Workgroup Established for Collaboration in Struggle against Terrorism and Transnational Organized Crime,

(17) Agreement between Government of Turkey and Government of Finland for Prevention of Crimes and Collaboration in Struggle against Crimes,

(18) Cooperation Agreement between Government of Turkey and European Police Organization (18 May 2004),

(19) Convention on Conference of Islamic Union Concerning Struggle against 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, duly ratified international agreements are equal to the statutes. Depending on the Law No: 244 and with respect to their topics and features, international agreements are either ratified by the Turkish Grand National Assembly (TGNA) via a law or endorsed by a decision made by the Council of Ministers (CoM).

Domestic regulations concerning international agreements are;

(1) Antiterrorism Act (Law No: 3713),

(2) The Law and its Directive for Compensation of Damages Arising from Terrorism and Struggling against Terrorism (Law No: 5233),

(3) Directive on Employment of Relatives and Family Members of Those Who Have Fallen Victim to Terrorist Activities or Those Who Were Injured, and Employment of Veterans who do not Have the Ability to Work,

(4) Directive on Employment of Handicapped, Criminals who executed his punishment and Victims of Terrorism,

(5) The Law for the Prevention of Laundering of Proceeds of Crimes (Law No: 5549),

(6) The Directive for the Prevention of Laundering of Proceeds of Crimes and Financing of Terrorism,

(7) Directive for Investigation of the Crimes of Laundering,

(8) Turkish Criminal Code (Law No: 5237),

(9) Turkish Criminal Procedural Code (Law No:5271).

### **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?**

The primary task pursuant to present regulations vests in law enforcement. Jurisdiction and limits pertaining to law enforcement have been designated in the Law on Jurisdiction and Tasks of Police Forces (Law No: 2559) and in the Law on Organisation, Jurisdiction and Tasks of Gendarmerie (Law No:2803). Turkish Armed Forces (TAF) is employed for struggle against terrorism in case the Local Governor so requests with respect to Article 11/D of the Law for the Governance of Urban Areas (Law No: 5442). This task has been conducted with regard to the request made by the Local Governor and the place, the duration specified by him or her.

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 regulations.

Besides, pursuant to the Law on Rural Provinces (Law No: 442), temporary village guards have been locally established for the protection of the life, security and properties of population living in villages and those militia that contribute to the security forces in fight against terrorism.

Security forces move 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 they complete their passage and stay; together with providing escort and protection to vessels shipping dangerous, chemical and poisonous material including LPG and LNG and physical protection of Coast Guard.

### **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.**

Since we have listed under bullet 1.1 the international conventions and agreements that Turkey is a party, we will not discuss them here again. However, it is useful to reiterate the fact that the export and import of the materials that 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 subjected to 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.

In addition to this, Coast Guard conducts intensive efforts in the Aegean Sea for the prevention of unlawful migration. It is understood after investigations carried out in this respect that the terrorist organisations entice the individuals living in the states that those terrorist organisations activate, with the promises of assisting them in employment once they moved into the European states; and that they gained venues and got their shares from monetary fees and charities provided to refugees by international organisations which constitute one of the 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 send troops abroad as a consequence of international agreements that Turkey is a party (for example NATO Agreement or UNSC resolutions). Pursuant to Article 92 of the Constitution, TGNA has the power to decide to send TAF elements abroad, apart from the cases where international agreements that Turkey is a party or international rules of courtesy so require. The latter constitutes the exception of the general rule.

Apart from the Constitution, Article 129 and 130 of the Rules of Procedure for TGNA, and Article 8 of the Law of War and Warfare, it is among the tasks, powers and responsibilities of CoM after soliciting the view of TGS on the matter to send TAF abroad, once international agreements that Turkey has ratified.

The Law No: 5442 mentions the term "border operations". In Article 11/D of this Law, it is specified that local governors will ask for assistance from Ministry of Foreign affairs or General Command of Gendarmerie or border troops of Land Forces Command, in cases where they concluded that it is not possible to cope with the ongoing threat. They will do this by the fastest means available to get assistance from the nearest and the most available land, air or naval troops. In cases where the incidences took place in border cities or provinces next to them and where the perpetrators took shelter or 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

with respect to the consent of the neighboring states in whose territory the terrorists are present, a limited purpose border operation can be carried out by using land, air and naval forces that are sufficient to cope with the threat in question. In regards to sending TAF elements abroad;

- (1) A Frigate to NATO Standing Naval Maritime Group (SNMG-2), (also takes part in Operation Ocean Shield)
- (2) A Mine Hunting Ship to Standing NATO Mine Counter Measures Group-2 (SNMCMG-2),
- (3) A Frigate and a Corvette to Operation Active Endeavour,
- (4) A Frigate to Combined Task Force -151 whose command has been undertaken by

Turkey,

(5) UNIFIL has been contributed by a Frigate or a Corvette or two Patrol Boats; together with the Engineer Construction Company deployed to Lebanon for Establishment and Maintenance of peace in the region,

- (6) A Battalion Task Force with 504 personnel to KFOR (Kosovo),
- (7) Two Maneuver Companies with 269 personnel to ALTHEA (Bosnia-Herzegovina),
- (8) We are continuing to contribute to training and education support to Afghanistan.

Within this context. Turkey has taken over the lead nation responsibility of Regional Command Capital on 1st November 2009, for one year. With regard to provide assistance to the security of PRT that will be established, a platoon comprises 40 personnel has been stationed in Afghanistan.

### **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.**

Turkey attaches particular importance to arms control and disarmament issues. An active participation in international efforts in these areas, adherence to the relevant international agreements and observance of their full implementation, as well as maintaining the coordination among relevant institutions are important elements of Turkey's national security policy. As a result of the momentous changes that took place in the European security architecture over the last decade, the general aspiration for a new security system based on cooperation has given a fresh impetus to arms control and disarmament endeavours, which was welcomed by Turkey.

Turkey regards Confidence and Security Building Measures (CSBMs) as an important tool for establishing security and stability. As an indication of the importance attached to regional security cooperation and drawing upon the experience gained from the Vienna Document, Turkey started to conclude bilateral CSBM arrangements with her neighbours in the Balkans.



In this context, Turkey has CSBM arrangements with Albania and with Macedonia. Turkey has also proposed to sign similar documents with other regional countries.

Turkey attaches great importance to enhancing confidence and security in the Black Sea. The document on “Confidence and Security Building Measures in the Naval Field in the Black Sea” constitutes a landmark in this direction. On the other hand, the Document constitutes a unique example of an endeavour to establish a regional confidence and security building regime in the naval field. Turkey firmly believes that implementation of this document will be highly instrumental in increasing confidence among the Black Sea littoral states and thus substantially contribute to peace, security and stability in the region. Turkey has been making her utmost effort to cooperate in good faith for putting into practice the provisions contained in this Document.

Turkey considers the Treaty on Conventional Armed Forces in Europe (CFE) as the cornerstone of the European security architecture. Turkey participated, in an active and constructive manner, in the negotiations for adapting the CFE Treaty to the new conditions that emerged with the end of the bipolar structure of the Cold War era. Turkey also attaches importance to the early entry into force of the The Adapted Treaty.

Turkey ratified the Open Skies Treaty in 1994 and welcomed the entry into force of it on 1 January 2002. Turkey has its own Open Skies Aircraft, CN-235 Casa, which was certified on 6 May 2004, to conduct observation flights over territories of other States Parties. Turkey supports the idea to make use of Open Skies regime for environmental and ecological purposes.

Turkey, a country who has initiated bilateral regimes of confidence and security building measures in the Balkans since 1991, also attaches importance to the confidence and security building arrangements in South East Europe. In this context, Turkey supports the Regional Arms Control Verification and Implementation Assistance Centre (RACVIAC), which was established within the framework of the Stability Pact for South East Europe and activated in October 2000. The domestic legal procedure regarding Turkey’s accession to the said agreement has been finalized and Turkey has become a party to the Agreement in September 2004.

Conference on Interaction and Confidence Building Measures in Asia (CICA) is a multi-national forum for enhancing cooperation towards promoting peace, security and stability in Asia. From the outset, Turkey, attached utmost importance to the CICA process; bearing the importance of international disarmament and arms control in mind, and believing that regional cooperation and expansion of the concepts such as prevention of disputes, confidence and security building beyond the OSCE region will further improve relations among Central Asian countries. Third Summit of the CICA was held in İstanbul on 7 - 9 June 2010. Turkey took over the Chairmanship of CICA from Kazakhstan for 2010 - 2012.

### **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.**

In the light of the threatening dimension of terrorism and the proliferation of weapons of mass destruction, Turkey sincerely desires to see that all countries will come to share the goals of non-proliferation and collectively work towards a safer and more stable world.

The proliferation of nuclear, biological and chemical weapons and their means of delivery continue to be a matter of serious concern for Turkey. Since Turkey is situated close to regions posing high risks of proliferation, she monitors with vigilance the developments in this field and takes part in collective efforts aimed at devising measures to reverse this alarming trend. Turkey attaches great importance to arms control and non-proliferation treaties and also to export control regimes as means to prevent such proliferation. In this context, in order to follow the developments and enable an effective exchange of views in the field of non-proliferation regarding Turkey's obligations; regular meetings are held in the Ministry of Foreign Affairs with the participation of representatives of all related institutions.

Turkey became party to the Treaty on Non-Proliferation of Nuclear Weapons in 1979 and to the Comprehensive Test Ban Treaty in 2000. Turkey is also party to both the Chemical Weapons Convention since 1997 and the Biological Weapons Convention since 1974. In 1996, Turkey became the founding member of the Wassenaar Arrangement regarding export controls of conventional weapons and dual-use equipment and technologies.

Turkey joined the Missile Technology Control Regime in 1997, the Zangger Committee in 1999, the Nuclear Suppliers Group and the Australia Group which seeks to ensure that exports do not contribute to the development of chemical or biological weapons, in 2000.

Within the framework of the VII. article of the Chemical Weapons Convention, the national act (no. 5564) on "Prohibition on the Development, Production, Stockpiling and Use of Chemical Weapons" entered into force at the end of 2006.

In line with her general stance against proliferation of WMD, Turkey has declared her support to the Proliferation Security Initiative (PSI) which was launched by the President of the USA during a speech in Krakow, Poland, in May 2003. Turkey, while following other PSI activities, has herself hosted a land, sea and air interdiction PSI exercise in 24-26 May 2006 with the participation of 37 guest nations. Turkey continues to actively contribute to the PSI activities.

Pursuing an active policy against terrorism, Turkey has joined, as initial partner state, the “Global Initiative to Combat Nuclear Terrorism” (GICNT), launched by Presidents Putin and Bush of the Russian Federation and the USA, following a joint statement in St. Petersburg on 15 July 2006. Turkey has hosted the Initiative’s second meeting in Ankara on 12-13 February 2007.

Turkey has also welcomed the UN Security Council Resolution 1540 regarding the prevention of the proliferation of nuclear, chemical or biological weapons and their means of delivery. With a view to fulfilling the provisions of international non-proliferation instruments and arrangements to which Turkey is party, an enhanced system of export controls is implemented in Turkey. The Turkish export controls system is in line with the standards of the European Union.

Turkey strongly supports international cooperation to combat and eradicate illicit trade in SALW within the framework of the UN, the OSCE and other fora. The OSCE Document on SALW constitutes an important basis for our efforts in this field. The UN Programme of Action to prevent, combat and eradicate the illicit trade in SALW in all its aspects adopted in 2001 is also a milestone in placing the issue of SALW firmly on the international agenda. In this respect, full and comprehensive implementation of the UN Programme of Action, as well as strengthening it with new measures in accordance with evolving security needs bear significant importance in fight against risks and threats emanating from illicit trafficking and proliferation of SALW.

Turkey fully supports the efforts of the international community, particularly in the UN, the OSCE and the Wassenaar Arrangement to establish stricter export controls and information exchange to combat the proliferation of MANPADS. In addition to the threats posed by the proliferation of SALW and MANPADS, Turkey is fully conscious of the human sufferings and casualties caused by the irresponsible and indiscriminate use of Anti-Personnel Land Mines (APLM).

In 1996, Turkey announced that it would ban the production and transfer of the anti-personnel land mines for three years. Then it extended the period for another three years in 1999 and for an indefinite duration in 2002. Turkey stopped the mining activities and started the clearing studies in January, 1998. Turkey became a party to the Ottawa Convention together with Greece and the Convention entered into force for Turkey on 1 March 2004. The existing legislation of Turkey is sufficient to give legal effect to all Treaty prohibitions. In order to destroy the stockpiled anti-personel land mines, the “Turkish Armed Forces Munitions Disposal Facility” was built and has been operational as of November 2007.

Furthermore, Turkey became a State Party to “Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons” (CCW) and its three Protocols (Protocol I, Amended Protocol II and Protocol IV) in 2005.

During the activities carried out in the Turkish Straits, the vessels that manifest that they are shipping weapons are checked in a way to determine if they moved in accordance with their international obligations. In case, it is concluded that they manifested wrongly or that they did not have necessary documents they are prevented from passage.

## **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 Constitution, defense expenditure is designated by budget statutes enacted annually. CoM prepares the draft budget statute and submits it to the TGNA. Planning of expenditure and allotments have been prepared with respect to Constitution, budget statute and pertinent regulations concerning supplies, by the Ministry of Defense in the light of opinions granted by the TGS.

The principles pertaining to use and representation of TAF have been specified in the Constitution. Pursuant to this, 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 its duties. CoM is responsible for maintaining national security preparation of TAF for defense of the Country. Nevertheless decisions concerning waging war, sending elements of TAF abroad and welcoming foreign troops in the Turkish Territory belong to the TGNA.

Budgeting, supply activities, defense industry, scientific surveys, military justice, social services, building and mapping, together with enlisting and displacement pertaining to measures necessary to minimize the damage and loss, planning and providing civil defense vest in the authority of the 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 connected to Ministry of Internal Affairs in the peace time. However, in war time they are connected to Land Forces Command and Navy respectively. Chief of Staff has the power to command and control the TAF and 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 of engaging in commitments for upcoming years concerning defense expenditure taking place in the Strategic Target Plans of TGS that were approved by CoM by considering economical indications of that year, pertains to Ministry of Defense (MoD) or Ministry of Internal Affairs (MoIA), regarding its relation and topic.

Allocations and allotments that Strategic Target Plans 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 a party to 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 an effective, democratic and political control of the TGNA and CoM, in the light of Constitution. Designation of TAF's powers, tasks, responsibilities and their limitations by law is an effective way 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 that was proposed by CoM, while it approves the defense budget.

TAF functions under effective control of the Prime Minister, CoM, the President and TGNA while it performs its missions that take place in statutes and that were designated by the limits of democratic legitimacy. In this regard, military tasks and missions have been directed and conducted pursuant to national security politics of the State that was designated by CoM.

Furthermore a Governor who is the representative of the State, of the Government and of all the Ministries in the locality that he or she serves and who is the head of the administrative mechanisms in the city, are responsible for establishment, arrangement and supervision of governance. Governors are also the superiors of all law enforcement organisations and they have the power to inspect law enforcement agencies.

The way and conditions of limiting fundamental rights and freedoms have been specified in Article 13 of Constitution. Pursuant to this article, fundamental rights and freedoms can only be confined in a way not to prejudice their substance, with respect to reasons specified in relevant articles of the Constitution and only by law. These limitations can not be contrary to the spirit and wording of the Constitution, to the necessities of democratic structure of the society and secularist republic and to the principle of proportionality. These conditions, in other words, limitations to limitations are also valid for the compliance of the actions with the Constitution, in this regard the actions that are performed by military, semi-military police and security forces, intelligence services are included. That is conditions set forth in abovementioned article 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 depend on the conditions specified in the relevant article of the Constitution,
- Must be compatible with the spirit and the wording of the Constitution,
- Must not prejudice the substance of the fundamental rights and freedoms,
- Must not be contrary to the necessities of secularist republic and,
- Must not be contrary to the principle of proportionality,

Since actions and decisions of security forces that do not match the conditions mentioned above, application of such actions and decisions will not be possible or will be outlaw.

## **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 open to judicial review and jurisdiction 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 subjected to administrative and civil actions. Judicial control of the administration and the liability of government employees with respect to damages and offences that arose due to their personal negligence are some of the basics 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 with respect to law and with compliance to the Constitution. In this regard, TAF and the Government move in harmony. Since, pursuant to Article 92 of the Constitution, the decision to

send elements of TAF abroad and to welcome foreign military forces into the country solely depend on a decision 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 military service in exchange of money or compensation and military service in exchange of working in other governmental agencies are designated by BoM (Board of Ministers).

Recruitment activities of TAF are conducted in compliance with objective criteria and anyone who has qualifications specified in the law and regulations has the chance to undertake these positions. In addition to this, these activities are carried out based on the principle of equity and are open to free competition. All activities in this regard are conducted transparently and all necessary information are duly announced to the public. Judicial review is possible for transactions pertinent to personnel acquisition activities.

There is no waiver in the Turkish domestic law for conscientious objection. This is in a way, a consequence of the conditions arising from the strategic location of our country and compulsory security needs of the country as well.

No amendment is foreseen in the domestic law concerning conscientious objection unless all factors leading the way to internal and external threats surrounding the country are undermined.

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

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

TAF has no immunity across the law. All regulations are valid for TAF as well as they are valid for other institutions.

Every male Turkish citizen has the right to join TAF and at the same time, is under the obligation of compulsory military service. However, pursuant to Article 10 of the Law No:1111, those who do not fit physically or mentally for military service are exempted from this obligation by depending on a health report proving this condition, prepared by responsible and competent military hospitals.

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.

By the way, Turkish Military Service Code (Law No: 1111) permits students to accomplish their high education (in the universities or institutes for L.L.M. or Ph.D. programs), provided that they preserve their status of being a student and are not older than 38.

All other male Turkish citizens are equal in front of the law with respect to performance of military service whose duration 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 by administrative or judicial means. Right to petition, right to information and right to have an effective remedy have guaranteed by the Constitution and military personnel have the same opportunities in exercise of these rights when compared to non-military citizens. Any crimes perpetrated across the military are investigated automatically and without requiring a complain by the plaintiff or victim. The commanders and the superiors are responsible for pursuing this procedure.

## **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 programs 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 began 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 for a result of these obligations and to perform the tasks that were specified primarily in Constitution and other Statutes. We provide training 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 saying 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" has been applied for all members of the TAF without any exception.

The fact that the military personnel will be responsible with regards to civil and penal law due to the actions that they have committed unlawfully with respect to the regulations in use, 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 this way, it is ensured that personnel observed these topics.

In Article 125 of Constitution it is adjudicated that "all actions and decisions of administration is exposed 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, provided that the administration has such an intent and have primarily compensated the damage and satisfied the plaintiff.

As regulation in Article 90 of the Constitution saying "duly ratified international agreements are equal to statutes", all government employees including military personnel are obliged to comply with international agreements that Turkey is a party.

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 till down to private level who will possibly engage with enemy, and to acquiesce them the ability of developing a reflex while 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 across 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 there happens no discrimination across TAF. Similarly, Turkish citizens of different religions are allowed to practice the obligations of their religions and they are entitled to have a 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 saying 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 everybody is equal in front of the law and has equal rights, regardless of their language, race, color, gender, political idea, philosophic belief, religion, denomination and similar reasons; and that all governmental agencies including TAF are under the obligation of moving in accordance with the principle of equity across the law.

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

In this regard, it is not possible to tolerate the existence of any elements across TAF either moving within or outside the hierarchical chain of TAF, who are not controllable and who cannot be inspected by Constitution or any 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 ensured for military personnel. Principle of equity that is one of the fundamental rights specified in the Constitution are also considered in the activities of TAF and all activities of TAF are carried out in accordance with it. Discrimination is an offense defined and punished in the Turkish Criminal Code (Law No:5237). Furthermore, all kinds of political activities were forbidden 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 cares for utmost sensitivity about 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 have been taken.

Pursuant to Article 68 of the Constitution and Article 11 of the Law on Political Parties (Law No: 2820) saying that "Judges, prosecutors, members of high judicial organs including High Court of Accounts, officials of governmental agencies that fit for the status of "governmental employee", even other governmental officials that do not fit for the term "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. By the help of these regulations, members of TAF have kept impartial and neutral from political point of view.

These regulations keep TAF out of active political affairs. 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 "duly ratified international agreements are equal to the statutes. They cannot be a subject of a case of non-compliance with the Constitution in front of the Constitutional Court. In case there happens a conflict between duly ratified international agreements concerning fundamental rights and freedoms and the statutes, the provisions of international agreements will prevail." When Turkey ratifies an international agreement that international agreement becomes a part of Turkish domestic law at a level equal to the statutes. For this reason, ratified international agreements are valid across domestic law and their non-compliance with the Constitution cannot be asserted.

Members of TAF are under the obligation of complying with the provisions of international agreements. This obligation also involves 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 the 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 that they requested is in relation with 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).

Moreover, much useful information has already and steadily been 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, OSCE, Arms Control and Disarmament Department.

Tel: + 90 312 292 1794

Fax: + 90 312 287 5660

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