

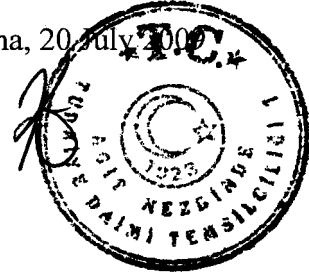


No: 92-60

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: 71-49 dated 15 June 2009 (FSC.EMI/165/09), has the honor to submit Turkey's response to the Questionnaire on the "Code of Conduct on Politico-Military Aspects of Security" for 2009.

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, 20 July 2009



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

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, 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 1971).
- (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)¹,
- (21) Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime

¹ Turkey signed and subsequently sent this Convention to the Turkish Grand National Assembly (TGNA) but it has not been ratified yet.

(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)²,

(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)³,

(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.

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 neighbouring 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 of 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

² Turkey signed and subsequently sent this Convention to the Turkish Grand National Assembly (TGNA) but it has not been ratified yet.

³ Turkey signed and subsequently sent this Convention to the Turkish Grand National Assembly (TGNA) but it has not been ratified yet.

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 Offences 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) Antiteror 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), The Directive for the Prevention of Laundering of Precedes of Crimes and Financing of Terrorism,

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

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

(8) 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?

Struggling against terrorism is indeed a struggle against crimes and in this regard, 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 materials that covered by the Law on the Control of the Institutions and Companies that Produce Weapons, Arsenal, Explosives and Other War Supplies (Law No:5201) are subjected to a notification made to Turkish General Staff (TGS) 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 neighbouring states, after a request made by the Governor through TGS channels and upon Government's permission and with respect to the consent of the neighbouring 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),
- (2) A Mine Hunting Ship to NATO Standing Naval Maritime Group (SNMG-2),
- (3) A Frigate, a Corvette and a Submarine 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 amphibious company deployed to Kosovo for Establishment and Maintenance of peace in the region,
- (6) In order to provide support for general elections that will be held in Afghanistan in August, 2009 and to provide assistance to the security of PRT that will be established after the elections; a platoon comprises 40 personnel will be 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.

Nowadays, new security risks such as ethnical conflicts, international terrorism, weapons of mass destruction have emerged. Due to these risks, security dimension has deviated from national security level to international security level which is defined as regional and global security concept.

To cope with present and future risks, and by considering the changing nature of operation theatre, for the most part, not only military forces but also the concept of crisis management which encapsulated multinationality is required. Similarly, it is contemplated that many coalition operations in the future will be within an alliance or under the supervision of UN, NATO, EU or OSCE and with Multinational character. Turkey gives crucial importance to prevention of crisis, de-escalation of regional tensions, in particular, control of armament and disarmament. Turkey also participates actively in the international efforts, fulfils its commitments under international agreements to which she is a party and provides utmost transparency at the highest level during the inspections made by other states.

Control of weapons and disarmament are two emphasized concepts by Turkey. Active participation to international initiatives in this field, to be a party to pertinent international agreements and literal application of these agreements are milestones of Turkey's security policies.

Conventional Forces in Europe (CFE) Treaty which has always been one of the cornerstones of security in Europe was signed in 1990 and entered into force in 1992. The

Adopted CFE Treaty was signed during the OSCE Summit held in Istanbul on 19 November 1999

The Open Skies Treaty which was signed in 1992 provides an unlimited opportunity of conducting observation flights above the territory of the states parties. It is a very important mechanism for the verification of the application of disarmament agreements. Turkey ratified the Treaty in 1994. The States Parties began to conduct observation flights on 01 August 2002, after the Treaty entered into force on 01 Jan 2002.

Turkey considers bilateral and regional Confidence and Security Building Measures as a supplementary tool to disarmament activities.

As a State located in a territory which is highly risky for proliferation of WMD, Turkey carefully observes the developments in this field and actively contributes to international efforts aiming to take hold of this threatening event.

Turkey believes that CFE Treaty has tremendously contributed and will continue to contribute in the future to the peace and stability of Europe. Turkey literally performs all its commitments under the CFE Treaty and desires to see all other parties also undertake and perform all their obligations and commitments.

Besides, Turkey treats Vienna Document as an important asset effectively contributing to the Confidence and Security Building Measures in the OSCE region. In this regard, it is one of the principles of Turkey to spend all its best efforts to provide accurate application of Vienna Document in the light of openness and transparency; to perform all its obligations timely and literally. Turkey does this just to prove her goodwill and to provide as much support as she can to the parties that have difficulties in this regard.

In addition, Turkey considers the Open Skies Treaty as a tool of verification mechanism and fulfils all its obligations under this Treaty.

In March 2003 and with the Law No: 4824, Turkey also adopted the Ottawa Convention which had entered into force on 01 March 1999. The convention bans using, stockpiling, manufacturing and transferring of anti-personnel land mines and requires destruction of stocked land mines no later than 4 years and of buried land mines no later than 10 years.

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 actively participates in the activities maintained mainly under the CFE Treaty, Vienna Document-99, Open Skies Treaty, which, by establishing mutual trust, prepares the ground for cooperation that aims to stop the ongoing armament competition, unlawful use of force or threat and to serve both regional and global peace and security. Likewise, Turkey also effectively engages in the activities of the UN, OSCE, Export Control Regimes and NATO. In this regard, regional agreements with neighbouring states are underway.

Turkey, by inviting and sending maximum guest inspectors for CFE and Vienna Document inspection teams contributes to the active implementation of international agreements of arms control and disarmament .

In accordance with the provisions of the Vienna Document the States Parties are obliged to notify all others about the military activities and exercises that exceed the specified thresholds. Turkey fulfils this obligation and even if she does not carry out any military activities or exercises over the thresholds, by inviting observers to exercises below thresholds provides extra transparency. In this regard, Turkey made a proposal in the OSCE regarding notification of the largest exercise that is below the threshold. This proposal has been accepted by the other States Parties and thus she made important contribution in line with the principles of openness and transparency of the Vienna Document.

Turkey has equipped one of its CN-235 CASA planes as observation aircraft and this event has been documented in 2004. Thereafter this aircraft has been used in the observation activities. Turkey also allocates the aircraft for rent to requesting states parties and in this context contributes to arms control and disarmament activities.

During the activities carried out in the Turkish Straits, the vessels which manifest that they

are shipping weapons are checked in a way to determine if they move in accordance with their international obligations. In case, it is concluded that they manifest wrongly or that they do not have necessary documents they are not let to pass the strait.

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, defence 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 Defence 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 defence 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, defence 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 defence vest in the authority of the MoD. Ministry of Internal Affairs coordinates civil defence 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 affectivity of the 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 defence 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 Defence (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 Defence, 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-defence. Turkey's loyalty to these principles constitutes the most important guarantee for its neighbours.

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. Defence 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 defence budget that was proposed by CoM, while it approves the defence 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 policies 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 the 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.

The conditions set forth in the 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 outlawed.

2.2. How is the fulfilment 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 the 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 in compliance with 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 roles 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 CoM.

Acquisition of personnel 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 is 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 complain or application to his or her commanders beginning from his or her nearest 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.

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 complaint 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 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 centres 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 centres 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 offence in the time of commission of that offence, and nobody will be sanctioned with a graver punishment than the one specified for that offence 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 offence 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, colour, 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 the 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 is also considered in the activities of TAF and all activities of TAF are carried out in accordance with it. Discrimination is an offence defined and punished in the Turkish Criminal Code (Law No:5237). Furthermore, all kinds of political activities were prohibited for TAF personnel by the Law No: 211 and any conduct against this prohibition has been defined as an offence 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 a conflict occurs 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 defence policy and doctrine must be in accordance with international law. This obligation also involves the fact that the defence 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?

Any person has the right to ask and gather the necessary 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 required 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).

Much useful information has already and steadily been posted on the web sites belonging to the 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-Department of OSCE, Arms Control and Disarmament.

Tel: 00.90.312.292 18 03/ 00.90.312.292 16 52/ 00.90.312.292 17 94

Fax: 00.90.312.287 37 31/00.90.312.287 56 60