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PERMANENT MISSION OF THE REPUBLIC OF TURKEY
TO THE UNITED NATIONS OFFICE IN GENEVA

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The Permanent Mission of the Republic of Turkey to the United Nations Office at Geneva and other international organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the letter by Michael K. Addo, Chairperson Working Group on the issue of human rights and transnational corporations and other business enterprises, concerning State contributions to the report of the Working Group to be submitted to the UN General Assembly focused on access to remedy in relation to business-related human rights abuses, has the honour to enclose herewith an information note compiled by Ministry of Labor and Social Security of the Republic of Turkey.

The Permanent Mission of the Republic of Turkey avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 14 June 2017

Encl: As stated



Office of the High Commissioner for Human Rights
Palais des Nations
1211 Geneva 10

REPLIES TO QUESTIONNAIRE REGARDING TO ACCESS TO REMEDY IN- RELATION TO BUSINESS-RELATED HUMAN RIGHTS ABUSES

1-The importance of the human rights in the Turkish legal system can be seen in the second article of The Constitution of Republic of Turkey that says "The Republic of Turkey is a democratic, secular and social state governed by rule of law, within the notions of public peace, national solidarity and justice, respecting human rights, loyal to the nationalism of Atatürk, and based on the fundamental tenets set forth in the preamble." While the main principles of Republic of Turkey grounds on the respect to the human rights, it has an effective mechanism of protection in case of a violation.

2- Turkey's legislation concerning business-related human right abuses has a lot of remedies which are very effective; it can be rated as 5

3-The main remedies of violation of business-related human rights are regulated under the Turkish Criminal Code and are being implemented as the following articles:

Violation of freedom of Work and Labour

ARTICLE 117-(1) Any person who violates freedom of work and labor by using violence or threat or performing an act contrary to the law, is sentenced to imprisonment from six months to two years and imposition of punitive fine upon complaint of the victim.

(2) Any person who employs helpless, homeless and dependent person (s) without payment or with a low wage incomparable with the standards or forces him to work and live inhumanly conditions, is sentenced to imprisonment from six months to three years or imposed punitive fine not less than hundred days.

(3) The same punishment is imposed also to a person who provides or transfers a person from one place to another to have him live and work under the above-mentioned conditions.

(4) Any person who unlawfully increases or decreases the wages, or forces employees to work under the conditions different than that of agreed in the contract, or causes suspension, termination or re-start of the works, is sentenced to imprisonment from six months to three years.

Prevention of use of syndical rights

ARTICLE 118- (1) Any person who uses violence or threat against a person in order to force him to become or not to become a member of a trade union, or to participate or not to participate in the activities of the union, or to cancel his membership from the union or to declare his resignation from the management of the union, is sentenced to imprisonment from six months to two years.

(2) In case of prevention of activities of the trade union/syndicate by using violence or threat or performing any other act contrary to the law, the offender is subject to punishment of imprisonment from one year to three years.

Joint conviction

ARTICLE 119-(1) In case of commission of offenses such as prevention of education and training, prevention of activities of public institutions and professional organizations in the nature of public institution, prevention of use of political rights, restriction of freedom of

belief, conception and conviction, violation of dwelling immunity or restriction of freedom of work and labour ;

- a) By use of a weapon,
- b) By unsigned letter or use of special signs concealing ones' identity,
- c) By more than one person,
- d) By taking advantage of the terror actions of the existing or potential organized groups,
- e) By undue influence based on public office,

the punishment to be imposed is increased by one-fold.

(2) The provisions relating to felonious injury are additionally applied in case of commission of aggravated form of this offense which creates the consequences of felonious injury.

Discrimination and hatred

ARTICLE 122-(1) Any person who makes discrimination between individuals because of their racial, lingual, religious, sexual, political, philosophical belief or opinion, or for being supporters of different sects and therefore;

- a) Prevents sale, transfer of movable or immovable property or performance of a service or benefiting from a service or bounds employment or unemployment of a person to above listed reasons,
- b) Refuses to deliver nutriments or to render a public service,
- c) Prevents a person to perform an ordinary economical activity, is sentenced to imprisonment from six months to one year or imposed punitive fine.

4-No Information available.

5- The geographical scope of the Turkish Criminal Code related to business-related human rights violations is regulated in the following articles:

Conviction in a Foreign Country

ARTICLE 9-(1) A person who is convicted in a foreign country for an offense committed in Turkey is subject to retrial in Turkey

Offences Committed By the Citizens

ARTICLE 11- (1) If a Turkish citizen, excluding the offences listed in Article 13, commits an offence in a foreign country which requires punishment with a minimum limit of less than one year imprisonment according to the Turkish laws, and if the offender is found in Turkey, then he is punished according to the Turkish laws provided that he is not convicted in the said foreign country for the same offense and there is possibility to proceed a trial in Turkey.

(2) Where the offence requires a punishment with a minimum limit of less than one year imprisonment, the trial is filed only upon rise of complaint by the injured party or the foreign

country. In such case, the complaint has to be brought within six months as of the date of entry of the citizen into Turkey.

Offences Committed By the Foreigners

ARTICLE 12-(1) If a foreigner, excluding the offences listed in Article 13, commits an offence in a foreign country causing injury to Turkey, which requires a punishment with a minimum limit of less than one year imprisonment, and if the offender is found in Turkey, then he is punished according to the Turkish laws. However, the trial is filed upon request of the Ministry of Justice.

(2) If the offence mentioned in the afore subsection is committed with the intension of causing injury to a Turkish citizen or a legal entity incorporated according to the Turkish laws and subject to special law, and if the offender is found in Turkey, then the perpetrator is punished according to the Turkish Laws upon complained of the injured party provided that that he is not convicted in the said foreign country for the same offense.

(3) If the aggrieved party is a foreigner, he is tried upon request of the Ministry of Justice in case of existence of the following conditions;

a) Where the offence requires punishment with a minimum limit of less than three years imprisonment according to the Turkish Laws;

b) Where there is no extradition agreement or the demand of extradition is rejected by the nation where the crime is committed or the person accused of a crime holds citizenship.

(4) A foreigner who is convicted of an offence in a foreign country within the scope of first subsection, or the action filed against him is extinguished or the punishment is abated, or the offence committed is not qualified for the prosecution, then a new trial can be filed in Turkey upon request of the Ministry of Justice.