



PERMANENT MISSION OF TURKEY
TO THE UNITED NATIONS
GENEVA

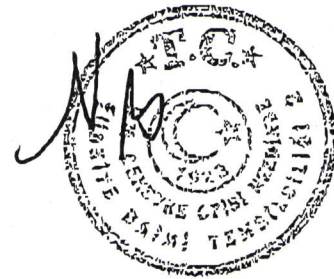
2010/BMCO/516906

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 United Nations High Commissioner for Human Rights and wishes to acknowledge the receipt of the latter's Note No. CM/SL/is dated 23 September 2010 concerning the extension of the deadline for the information requested regarding the Human Rights Council resolution 13/11- "Human Rights of Persons with Disabilities; national implementation and monitoring and introducing as the theme for 2011 the role of international cooperation in support of national effort for the realization of the rights of persons with disabilities", and has the honour to resubmit the "responses to the questions regarding to the human rights of persons with disabilities" (Note Verbal dated 1 October 2010, 2010/BMCO/246346) attached herewith.

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

Geneva, 12 October 2010

Enc. 1.



High Commissioner for Human Rights,
Palais des Nations
CH-1211 GENEVE 10

OHCHR REGISTRY

13 OCT. 2010

Recipients :...S...Tannings
 In...Genia.....

Responses to the Questions Regarding to the Human Rights of Persons with Disabilities:

The Convention on the Rights of Persons with Disabilities has been put on the agenda of the Turkish Republic Prime Ministry, High Commission of the Presidency of Administration on Disabled Persons (High Commission). The duties of the High Commission are to determine the priority order of the projects which have been prepared, submitted and examined by the Presidency of Administration on Disabled Persons (Presidency), the approval of the projects that should be applied, determine the high-level policies within the purview of the Presidency and state comments and recommendations on this issue to the Presidency.

On 11 January 2009 the High Commission held its twenty-fifth meeting and "Evaluation of the Application Process of the Convention on the Rights of Persons with Disabilities" was on the agenda. As a conclusion of the meeting, along with the relevant associations and institutions, the Presidency constituted a working group and consensus reached to identify and commence the work to be done in order to determine the monitor mechanism and fulfill the obligations set under the Convention for the member states.

Following the decisions taken by the High Commission, the Presidency convened a meeting with the relevant institutions regarding the establishment of institutional mechanisms for the national level following of the Convention and the institutions which have experienced likewise processes in Turkey have also been consulted.

The general principles and provisions relating to employment under the convention have been analyzed by Disabled Persons Council, which is the highest consultation body of the Presidency is charged with; discussing all the opinions and resolution recommendations concerning the disabled persons, constituting principles and programs in forming national policies, contributing to the public awareness and conveying the national and international ideas and developments regarding the disabled persons under the founding purposes and functions of the Presidency.

In order to constitute the infrastructure of the works for the fulfillment of the rights and obligations provided in the Convention regarding employment, on 16-20 November 2009 the Fourth Disabled Persons Council has been held. "Employment" was on the agenda and "the Commission for Equal Opportunity in Employment and Non-Discrimination for the Disabled Persons"(Commission) was one of the four Commissions in the Council. Within the context of the equity and non-discrimination principles of the Convention, important discussions such as legal and administrative measures to fight discrimination against disabled persons in the employment has been covered by the Commission.

The major issues discussed in the Commission were; definitions of discrimination and types of discrimination, procedural guarantees and deterrent measures necessary for an efficient discrimination ban, independent surveillance mechanism for monitoring the implementation of the Convention at national level and the necessary measures to be taken in order to avoid discrimination in existing employment processes etc. 32 decisions were taken as the result of the workings of the Commission. The decisions taken in the Commission, towards the principles that the Agreement envisages and the right to employment, are effective in guiding the disability policy of the Presidency.

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Applying the same regulation as the non-disabled persons to the disabled persons may bear inequality for the existing situations and may put disabled persons into a disadvantaged position in terms of benefiting the mentioned right. In this case, certain positive legislative and administrative measures are necessary for providing the disabled persons the possibility to benefit from equal rights as other individuals. In fact, in paragraph 4 of Article 5 of The Convention on the Rights of Persons with Disabilities, it is stated that; "The necessary special measures taken in order to provide or accelerate the operational equality of the disabled cannot be characterized as discrimination in terms of the concerned objectives of the Convention". Accordingly, with the 12 September 2010 referendum, an amendment has been made to Article 10 which regulates "Equality before Law" in the 1982 Constitution and the provision on positive discrimination relating to the disabled persons, has been included directly to the Constitution. According to this amendment, Article 10 Paragraph 2 of the Constitution dated 7/11/1982 and numbered 2709; "Measures taken for this purpose cannot be interpreted as contradicting to the equality principle" and the following paragraph added to the Article after this:

"Measures taken for children, elderly, disabled, widow and orphans of the war and mission martyrs, victims of wars/diseases and veterans are not contradictory to the equality principle. In this way, with the Constitutional change, it is guaranteed that positive measures taken for enabling the disabled to benefit their rights do not constitute a contradiction to the principle of equality.