



Submission on Turkey
for the 54th Session of the Human Rights Council
by
Association for Monitoring Equal Rights (AMER)

While this report has been prepared to contribute to the Human Rights Council Advisory Committee's review, on account of the reprisals CSOs face in Turkey we kindly ask, if possible, that our report not be shared with third parties and our association's name not be disclosed.

The Association for Monitoring Equal Rights - AMER /Eşit Haklar İçin İzleme Derneği - ESHID was established in October 2010 to monitor and combat discrimination in society, to ensure everyone can access and enjoy human rights on a full and equal basis. AMER carries out all its monitoring and reporting activities in consultation and partnership with national and grassroots civil society organizations (CSOs) which work with various disadvantaged groups including women, persons with disabilities, different ethnic and religious minority groups in different parts of Turkey. AMER has been observing every election since 2011 in terms of equal access of disadvantaged groups within society, as well as reporting discrimination with regards to the enjoyment of human rights. AMER is the sole CSO in Turkey which has been systematically monitoring freedom of peaceful assembly in Turkey since 2015. Since 2016, AMER has been working on access to justice for disadvantaged groups in Turkey. Prior to this report, AMER has submitted a LoIPR and Shadow Report to CEDAW in 2021 and 2022 respectively, LoIPR to the UN HRCtte in May 2021, an Alternative Country Report on Turkey for the 21st session of the CRPD in 2019, and the 88th CERD Meeting in 2015. Additionally, AMER has contributed with submissions to the calls of UN Special Rapporteur on freedoms of peaceful assembly and association regarding women and girls, access to justice, access to resources for CSOs, crisis situations; UN Special Rapporteur on freedom of religion or belief; UN Special Rapporteur on minority issues and UN Special Rapporteur on the right to education.

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BACKGROUND

There are many ethnic, linguistic, or faith groups in Turkey and most of them are not recognized as minorities. Contrary to the obligations of the human rights conventions to which Turkey is a party, it limits its policy on minority status to the Lausanne Treaty of 1923 and its framework. However, it also applies this framework in a limited way. In the text of the treaty, there are two criteria in the relevant articles minorities as non-Muslim groups and speakers of languages other than Turkish. However, among the non-Muslim groups in Turkey, only Armenians, Jews and Greeks are considered a minority. It does not recognize non-Muslim Assyrians, Chaldeans, and Bahá'ís as a minority. The continued minority policy results in the deprivation of minority status of ethnic groups other than religious groups, such as Kurds, Roma, Arabs, Alevis, Albanians, Circassians, Laz, Assyrians, Terekemes, Zazas, Abkhazians, etc. In terms of language criteria, Turkey does not accept any group as a minority. Under another international agreement, Turkey has also granted minority status to the Bulgarian Orthodox community.

Contrary to the framework set out by the human rights conventions to which it is a party, Turkey places reservations in all human rights conventions to which it is a party that will implement its policy on minorities within the framework of the Lausanne Treaty.

Racial and homo/transphobic discourse have been frequently used as political arguments, particularly in recent years in Turkey. High-ranking government officials and some opposition representatives' hate speeches against different groups rise significantly before the elections. For example, during his Uruguay trip in April 2022 Minister of Foreign Affairs Mevlüt Çavuşoğlu made the grey wolf sign used by Turkish racists as a response to the Armenians protesting him.

There has been no struggle against the stereotyped and common hate discourse towards Jews, Armenians, Christians, Arabs, Alevis, Greek of Turkish nationality, LGBTQI+, refugees, Romans, etc. in the public sphere.

QUESTIONS TO ALL STAKEHOLDERS:

1. Is there a working definition or understanding of systemic, structural, or institutional racism in your country/by your government/your organization?

In Turkey, there is no legal norm or policy document in which racism, systemic racism, or institutional racism is defined. The articles related to general equality regulations state that discrimination based on race, religion, language, gender, and disability is forbidden, however, sexual orientation is not counted among others.

The regulation related to the Crime of Hate and Discrimination (Article 122) in the Penal Code is very limited in scope. This article is not functional in terms of preventing all types of discrimination as well as hate speech in the country. Similarly, Article 216 of the Penal Code regulates the crime of insulting and humiliating people to hatred and enmity. However, in practice, this article is generally applied in cases where there are allegations of insulting Turkishness and the religion of Islam.

- 2. Is systemic, structural, or institutional racism a prominent issue in your country? Is there any official acknowledgement that systemic/structural/institutional racism exists; and that it is a problem? In what sectors do systemic/structural/institutional racism occur – for example, access to justice, access to services, enjoyment of socio-economic cultural rights? (Refer to decided cases by national courts where relevant.)**

Field research in Turkey as well as the data gathered by civil society organizations finds racism as a crucial problem, however, although the state does not collect statistical information about any national, ethnic, religious, or language group, it claims in every platform including the reports submitted to the UN committees that there is no discrimination whatsoever in Turkey. All international mechanisms recommend Turkey collect segregated data for different groups based on human rights indicators, nevertheless, Turkey repeats its claim based on no data at all.

Nationalism provoked by government officials, politicians, and the media in Turkey, appears as racial harassment and assaults in public space. According to the data collected by our association, the number of harassment or assaults in public spaces against people from different backgrounds was 35 in 2021, and 89 by September 2022. In none of these attacks, which were claimed to have been made with racist motives, neither the police nor the judiciary conducted an effective investigation as to whether the attacks were carried out with racist motives.

- 3. What do you consider to be the root causes for systemic patterns of racial inequality?**

Inequality towards national or ethnic, religious, and language groups in Turkey is mainly due to the founding ideology of the state, which is based on assimilation that does not recognize differences. The state structure is founded on the assumption that everyone is Turkish and belongs to the Sunni sect of Islam. The coding of all groups as Turkish and Sunni Islam other than the minorities accepted by the Treaty of Lausanne also establishes the basic legal norms and institutional structure of the state.

This situation, which diminishes human rights to a personal dimension and eliminates group rights (collective rights), eradicates the rights of different cultures to exist and develop themselves. For example, although there are 18 languages spoken in Turkey on the UNESCO list of endangered languages, the state does not make any effort to keep these languages alive. The problem of non-recognition entails the state considering itself exempt from obligations that require eliminating unequal access to human rights but confining itself to general legal regulations.

- 4. What legal measures, if any, has your country put in place to address systemic, structural, or institutional racism? (These could be constitutional provisions, anti-discrimination legislation, policies/strategies/national action plans, administrative measures, or the establishment of institutions such as equality bodies.)**

Despite all the recommendations of international mechanisms, Turkey does not remove the reservations it has placed on human rights conventions. It has not signed Additional Protocol No. 12 to the European Convention on Human Rights. The Council of Europe is not a party to the Framework Convention for the Protection of National Minorities.

There is no special provision regarding racism in Turkish legislation. Racial discrimination is prohibited in the Constitution and laws. But these regulations are general equality regulations and are dysfunctional in preventing racism. Judicial organs and security forces do not conduct effective investigations into complaints based on differences in race, ethnicity, religion, and language. Acts allegedly motivated by racism go unpunished. Despite its request, Turkey does not provide information on police practices to any international mechanism.

In 2016, the Human Rights and Equality Institution of Turkey was established with Law No. 6701. HREIT does not comply with the Paris principles. The 11 members of the institution are appointed by the President, who is also the leader of a political party. In addition to impartiality and independence, HREIT does not comply with the universal norms of human rights conventions in its decisions. The president of HREIT lobbied for Turkey's withdrawal from the Istanbul Convention. From its establishment in 2016 until the end of September 2022, HREIT has decided on racial discrimination for only 2 incidents. One of these 2 decisions taken in 2022 is about a mayor who opposes the government and the other is about a leasing company. On the other hand, no violation decision was made in the applications made to HREIT against state institutions on the grounds of discrimination based on national affiliation, race, color, and ethnic origin. Information on the decisions of HREIT is attached.

5. More specifically, has your government/country taken any special/positive ('affirmative action') measures to ensure that past hindrances and obstacles to racial equality are overcome? (If so, please provide details.)

In 2016, an action plan was prepared for the period 2016-2021 within the scope of the Roma Citizens' Orientation Strategy Document. However, the active participation of the Roma in the preparation of the strategy document and action plan has not been ensured. The implementation of the action plan has not been monitored and no assessment of the objectives of the action plan has been made until the end of September 2022.

6. What extra-legal measures, if any, has your country put in place to address systemic, structural, or institutional racism? (These could be educational, awareness-raising, measures related to racial equality in sport, access to and quality of healthcare, etc.)
7. How effective is the practical/actual implementation and enforcement of these measures? Have they been successful in addressing systemic, structural, or institutional racism in your country?
8. How has the ongoing COVID-19 pandemic brought to the surface and exacerbated systemic, structural, or institutional racism in your country?
- 9. To what extent is disaggregated data gathered by state and non-state actors in your country to identify systemic, structural, or institutional racism, and to track progress in the measures adopted to address systemic/structural or institutional racism? Is any other data-gathering tool used specifically to capture data related to systemic/structural or institutional racism? (Please provide details; refer to quantitative and qualitative data-gathering methodologies, where relevant.)**

Although there are many different national, ethnic, religious, and language groups in Turkey, collective statistical data on these groups is not collected by the state. The state asserts that collecting statistical data regarding different groups is discrimination and that it does not collect data in order not to discriminate.

However, the information revealed in some cases showed that Turkey stores much data, including ethnic data, for security purposes. In the past years, it was stated, in an official written response to a family who wished to enroll their child in a minority school, that enrollment of the child was not possible because the family's pedigree code was not appropriate. Law No.7315 on the Security Investigation and Archive Research, which is still in effect, requires a security investigation and archive searching for everyone who will be recruited for public service. The practice shows that this investigation is not limited to the person who will be recruited into the public service but also includes the situation of 2nd or even 3rd-degree relatives. In many present cases, some people could not pass this investigation due to the political opinions of 2nd-degree family members or the family's Alevi or Kurdish origin.

10. To what extent has national antiracism policy research with a bearing on systemic racism been undertaken by national institutions/researchers, and what research is being undertaken, if any? (Please provide references if any.)

11. In your country, what are the main human rights challenges arising from systemic, structural, or institutional racism? List and explain them succinctly.

People belonging to minority groups face discrimination in access to economic, social, cultural, and political rights. Groups that lack equal access to economic and social rights, such as the Roma, face a spiral of poverty for generations. Children grow up without learning their language and cultural values.

12. Are specific resources allocated to address structural or institutional racism in your country?
13. In your country, which government agency has the mandate of combating and preventing racial discrimination? To what extent does the agency take issues into account related to systemic, structural, or institutional racism in its mandate? (Please provide the most recent annual reports of this agency.)
14. Do you think reparations for the root causes of systemic, structural, or institutional racism (such as Transatlantic Slavery, colonialism, and apartheid) have a current role to play in redressing systemic, structural, or institutional racism, and in eradicating it?
15. How are systemic patterns of racial discrimination addressed within the framework of the Sustainable Development Goals (SDGs) 2030 agenda? In your view, do the SDGs contribute to advancing racial justice and equality? (Refer to eg SDGs 1, 3, 4, 5, 6, 7, 8, 10, 11 and 16.)

16. Is the existing international framework, for example as it relates to the governance of international organizations, sufficient to deal with systemic, structural, or institutional racism?? If not, what more can be done?

Many countries make reservations or notifications to human rights treaties that are contrary to the spirit of the convention. The United Nations should reconsider its reservation regime. It should establish a mechanism to review the reservations made by member states to human rights treaties. This mechanism should evaluate the reservations made by states to the conventions and explain the evaluation results in a special session to be held every year.

17. Is the existing national legal and human rights framework, if any, sufficient to deal with systemic, structural, or institutional racism? If not, what more can be done?
18. What are the responsibilities of key stakeholders (UN agencies, states, NHRIs, civil society organizations, technical community and academia, private sector) in addressing systemic, structural, or institutional racism and racial discrimination? (Elaborate on what they can do to address systemic patterns of racial inequality.)
19. To what extent are private actors responsible for systemic patterns of racial discrimination in your country?
20. What role do you consider new emerging technologies, such as artificial intelligence based on algorithms, play in eradicating or sustaining systemic patterns of racial inequality?
- 21. Are there any other ‘good practices’ by your State or other stakeholders (such as business or civil society organizations) that advance racial justice and equality, and address systemic, structural, or institutional racism? If yes, could you please share these practices?**

No.

ANNEX 1: JUDICIAL ENFORCEMENT AND DECISIONS

Festus Okey Case	Black	On August 20, 2007, Festus Okey, a Nigerian who was taken into custody by plainclothes police in Beyoğlu with his friend M.O. and taken to the Beyoğlu Asayış Branch Directorate, was shot by a policeman and died in the hospital where he was seriously injured.	Court of Cassation 1. In the case retried after it was overturned for the third time by the Criminal Chamber, the Court sentenced the defendant Cengiz Yıldız to 3 years and 4 months in prison for the crime of "murder by installment" in its 4th decision.
Mahir Çetin Case	Kurdish	On September 3, Mahir Çetin and Vedat Çetin, who worked in a hotel in the Kaş district of Antalya, were attacked by a group of 20-30 people, who beat two young people by shouting "Dirty Kurds". While Vedat Genç fainted as a result of the blow to his head, Mahir Genç suffered a brain hemorrhage and lost his life. Only one assailant has been arrested in connection with the incident.	In the reasoned decision dated 01/03/2016, the defendants were sentenced to 6 years and 3 months in prison for the crime of intentional killing. The criminal Court of Cassation was also upheld.
Selendi Case	Roma	At the end of 2009, after an argument broke out in a café in the Selendi district of Manisa, a group attacked the homes of Roma residing in Selendi. The incidents were suppressed by sending security forces from Manisa Center and surrounding districts. A lawsuit was filed against 26 defendants identified in the incidents, and the case requested by the Manisa Chief Public Prosecutor's Office to be heard in another province for security reasons was ordered by the Ministry of Justice and Uşak 2. It was filed in the Criminal Court of First Instance.	On 23 December 2015, the 22. At the hearing, the court decided. The case was followed by the Delegation of the European Commission to Turkey, an academician and students from the Department of Sociology at Uşak University, CHP Roma Deputy Özcan PURÇU, CHP Uşak Provincial Presidency, Monitoring Association for Equal Rights and the press. At the hearing, MP Özcan PURÇU requested to intervene in the case. Although there was a sentencing hearing, the court accepted the request and allowed him to defend himself. In the case, the 3 complainants were acquitted due to self-defense (self-defense). It was decided to acquit 5 children who were dragged into crime and 42 defendants because there was not enough evidence that they committed crimes. The 38 defendants were charged under Article 216/1 of the Turkish Penal Code (TCK), which covers "incitement to hatred and enmity and humiliation of the public," and Articles 151 and 152, which regulate "damage to property." They were sentenced to various prison terms ranging from 8 months to 45 years for their articles. The most striking issue in the decision was the court's Article 216 of the Turkish Penal Code. The article was to impose a prison sentence from the upper limit and not to postpone the announcement of the verdict. To date, 216. In the trials conducted on the article, as far as is known, there was no prison sentence. The case has been pending the Supreme Court review for 7 years.

İzник Case	Roma	<p>Following the murder of Zekeriya Dursun by a Roma on 07.09.2013, the crowd gathered in front of the house of the murdered person on 08.09.2013 and went to the neighborhood where the Roma live intensely and damaged the house, workplace, car and association building belonging to the Roma. The attackers also injured a policeman who was trying to disperse the crowd and damaged their vehicle. The events were reported in the press under the headlines "Racist Attack on Roma in İznik" (1,2), "Dangerous Tension in İznik" (2), and "Racist Attack on Roma in Bursa" (3).</p>	<p>At the 10th hearing held on 21 October 2015, the court decided. In the case of 31 defendants, the Court sentenced 9 defendants to between 5 months and 10 months in prison. The sentences imposed on all defendants except one defendant who had previously been sentenced to imprisonment were converted into fines and the decision was made to postpone the announcement of the verdict.</p> <p>Racist attacks against Roma living in the İznik district of Bursa were reported late to the Public Prosecutor's Office by the District Security Directorate. There was no effective investigation in the prosecutor's investigation. The video recordings were not included in the indictment. There was no mention of the racist rhetoric used during the attack on the Roma. The Roma Rights Association filed a criminal complaint with the İznik Chief Public Prosecutor's Office regarding the racist discourses in the video recordings. However, there have been no developments regarding the criminal complaint. Although these records were obtained, the court did not take any action. The entire process from the opening of the case to its termination suggests that the racist attack was aimed at covering it up. However, the incident was also reported as a racist attack in the press and the Prosecutor's Office did not take the press reports into consideration.</p>
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**ANNEX 2: DECISIONS OF THE HUMAN RIGHTS AND EQUALITY
INSTITUTION (HREIT)**

2022/175 K.	HREIT initiated an ex officio investigation into the fact that the decision of the Bolu Municipal Council to apply different tariffs on water and marriage fees for foreigners living in Bolu constitutes discriminatory treatment on the basis of race and ethnicity within the scope of the right to protect and develop material and moral assets, the right to marry and establish a family and the right to access clean water. As a result of the investigation, HREIT unanimously decided that there was a violation of the prohibition of discrimination on the basis of race and ethnic origin and that an administrative fine of TL 40,000 should be imposed on the addressee. 15.03.2022 https://www.tihек.gov.tr/upload/file_editor/2022/05/1652971126.pdf
2022/12 K.	On 08.02.2022 it was decided that the Site Management had violated the prohibition of discrimination on the basis of colour against a real estate agent who did not rent a house to a black applicant by stating that it had decided that "houses shall not be rented to black persons".
2022/182 K.	The applicant, who was of Iranian origin, alleged that she had been discriminated against and mobbed in a hospital affiliated with the Ministry of Health where she worked as a nurse because she was of Iranian origin and because of her faith. HREIT decided that there was no violation of the prohibition of discrimination in this application. https://www.tihек.gov.tr/upload/file_editor/2022/05/1652703474.pdf
2022/326 K.	A foreign national prisoner in Espiye Prison said that he was subjected to discrimination on his nationality, prison 2. He alleged that his manager had made derogatory remarks to him. HREIT decided that there was no violation of this application. https://www.tihек.gov.tr/upload/file_editor/2022/08/1659443817.pdf
2022/492 K.	Somali national Mohamed Issa Abdullahi has been living in Turkey since 2012. As of August 2021, arbitrary inspections and enforcement actions have begun on Saab Cafe, of which Abdullahi is a partner. During these inspections, the arbitrary practices of the security forces and the racist discourses they used were also reflected in the media. In the images reflected in the media, it is clearly seen that during the inspections, all the customers in the café were taken out, the colors of the name sign of the café were changed, racist discourses such as "go from here you are not wanted here" etc. were used against the operators. The HREIT did not initiate an ex officio investigation into these allegations, which were made public by media reports and MPs from various political parties. On 01.12.2021, Abdullahi applied to HREIT on the grounds that he was "ill-treated and discriminated against by law enforcement personnel". Abdullahi was taken into custody again on 20.09.2022 and taken to Akyurt Removal Center. HREIT Abdullahi, who did not take any action despite having a legal duty, authority and application for about 2 years and remained silent on the racism and discrimination Abdullahi experienced, published its decision on the website 6 days after Abdullahi was locked in the removal center and 10 months after his application. https://www.tihек.gov.tr/2022-492-sayili-kurul-karari/

ANNEX 3: MOHAMED ISSA ABDULLAHI

Mohamed Issa Abdullahi, who is from Somalia, came to Turkey for university education in 2012. He studied at two universities, and graduated from the first university in 2017 and the second university in 2021. Abdullahi has six articles published in Turkish, and translated the book "Theology and Professional Ethics of Religious Service" from Turkish to Somali (Af Soomaali).

Abdullahi, who lives in Ankara, applied for a work permit from the authorities three times but could not get a work permit. In 2019, he invested in "Saab Cafe" and "Somali Sofrası" in Kızılay/Ankara as a partner. Following the news targeting the Somali business in Kızılay published in Sözcü Newspaper on April 15, 2021¹ Abdullahi's life changed.

From August 2021 on, random inspections and practices have started against Saab Cafe, with which Abdullahi is a partner. During these inspections, the arbitrary rules of the security forces and the racist rhetoric they used began to be reflected in the media². In the footage reflected in the media, it is seen that during the inspections, racist statements such as kicking out all customers in the cafe, changing the colors of the cafe's nameplate, and words "get out, you are not wanted here" were used against the managers³.

Mohammed Issa Abdulahi was detained on September 15, 2021, at midnight, along with 19 foreign nationals, seven of whom were Somalis, who owned a business in Kızılay. Abdullahi, who was taken to the removal center after being held in Necatibey Police Station for two days, was released on September 21, 2021 on the condition that he leave the country within a month.

However, incidents such as the ongoing arbitrary inspections against Somali-owned businesses in Kızılay, the detention of Somali customers during police controls, and the closure of the cafe for specific periods without justification, began to gain continuity. Law enforcement officers turn the names of the businesses into Turkish words and remove the Somali phrase from their names. The names of the Somali businesses were changed on November 26, 2021. The name of the Somali Cuisine business, of which Abdullahi is a partner, was changed to Güzelyurt Sofra and the Saab Cafe sign was removed⁴.

The Human Rights and Equality Institution of Turkey (HREIT), did not initiate an ex officio investigation regarding these allegations, which were announced to the public by the news reflected in the press and by the deputies of various political parties. Abdullahi applied to HREIT on December 1, 2021, on the grounds that "he was ill-treated and discriminated against by law enforcement personnel". However, discriminatory practices continued after this application.

¹ <https://www.sozcu.com.tr/2021/gundem/ankaranin-gobegi-somali-oldu-6374193/>

² <https://www.gazeteduvar.com.tr/irkci-baskilara-maruz-kalan-somalili-abdullah-gozaltinda-haber>

³ <https://www.youtube.com/watch?v=LqC7xXX0z34>

⁴ <https://kronos35.news/tr/sozcu-hedef-gosterdi-uc-ogrencinin-actigi-somali-sofrasinin-adi-degistirildi-guzelyurt/>

Law enforcement officers raided Saab Cafe on May 7, 2022 by saying “You are not wanted in Kızılay. Go to Esentepe, Keçiören, Uyanış. Let them eat in Keçiören, let them eat in Altındağ. Everyone will be at their residential area. Not only you, we want neither Syrians nor Iraqis here.”

On June 15, 2022, the citizens' work to re-hang the dismantled sign of the Saab Cafe, in solidarity with the Somali operators, was arbitrarily interfered with by the law enforcement officers. The night lettering of the name 'Saab Cafe' on the hanging sign was forcibly covered with white paint.

HREIT had not decide on Abdullahi's application submitted on December 1, 2021, for a long time, despite the presence of many clear evidences and witnesses regarding racist and discriminatory treatment, and the public authorities did not have any statements refuting the allegations and images.

On May 8, 2022, Abdullahi applied to our association (AMER) for legal support. While the lawyers were working on his files, the Ankara 1st Administrative Court decided to deport Abdullahi on May 23, 2022. Against this decision, our association's lawyers applied to the Constitutional Court.

Abdullahi was detained one more time on September 20, 2022, and taken to Akyurt Removal Center⁵.

HREIT published its decision on its website, on 26 September, six days after Abdullahi was detained at the removal center. Even though HREIT had a legal duty and authority they did not take any action on the application made for about 2 years, and remained silent about the racism and discrimination that Abdullahi experienced⁶.

According to the information in the decision published on the website; the decision was taken by a majority of votes on August 9, and 5 members opposed the decision stating that Abdullahi's rights had not been violated. Opposition members wrote their opposition texts on September 15, 2022.

Abdullahi is still being held in Akyurt Removal Center. Besides his application to the Constitutional Court, Abdullahi, who has an International Protection Application, was not visited by HREIT.

⁵ <https://www.gazeteduvar.com.tr/irkci-baskilara-maruz-kalan-somalili-abdullah-gozaltinda-haber-1581914> ⁶ https://www.tih.gov.tr/upload/file_editor/2022/09/1663928905.pdf