***Reply to the Questionnaire***

***in relation to GA resolution A/RES/77/205***

The constitutional system of Türkiye is based on the equality of all individuals without discrimination before the law, irrespective of “language, race, color, gender, political opinion, philosophical belief, religion and sect, or any such consideration” (Art. 10 of the Constitution). By referring to “or any such considerations”, the Constitution expands the protection ground against any kind of discrimination.

A key provision of the Constitution in bridging domestic legislation with international law is that of article 90 which provides that international agreements duly put into effect bear the force of law and directly become a part of domestic legislation. It further underlines that international agreements in the area of fundamental rights and freedoms prevail in case of conflict with the provisions of the national laws on the same matter.

Article 3 of the Turkish Penal Code (No.5237 - TPC) provides that no discrimination could be made between persons on the basis of their race, language, religion, sect, nationality, colour, gender, political (or other) ideas and thought, philosophical beliefs, ethnic and social background, birth, economic and other social positions in the application of the Penal Code.

While a number of legal provisions of national legislation are dealing with different aspects of the issue, TPC criminalizes the acts of humiliation of or hatred and discrimination against people, dissemination of racist manifestations, and incitement to violence or hatred on the grounds of social class, religion, race, sect or other origin, in its articles 122, 125 and 216.

National Action Plan on Human Rights, as a main policy paper aiming at enhancing legislative, institutional and policy frameworks pertaining human rights issues, also envisages a special benchmark of “Improving the Effectiveness of the Fight Against Hate Speech and Discrimination” and a number of related activities. Those activities are being performed by incumbent institutions within the identified time frame.

As part of a series of initiatives undertaken to uphold human rights and to ensure a stronger protection, the Turkish Government has set up a number
institutions, among which Turkish Human Rights and Equality Institution (HREIT), assuming the role of NHRI, has an important role to play in combatting racism, racial discrimination, xenophobia and related intolerance.

The Institution has stated the following:

Pursuant to its founding law the HREIT was mandated with fighting against discrimination and acting as Equality Body, in addition to its duties as a National Human Rights Institution (NHRI) and a National Preventive Mechanism (NPM)[[1]](#footnote-1).

In Article 3 of the Law, Principle of Equality and Non-Discrimination regulated as “(1*) All are equal in the exercise of legally recognized rights and freedoms*. (2) *It is prohibited under this Law to discriminate against persons based on the grounds of sex, race, colour, language, religion, belief, sect, philosophical or political opinion, ethnical origin, wealth, birth, marital status, health status, disability and age*.” In this regard, HREIT has the authority to inquire into, examine and take a final decision on and monitor the violations of non-discrimination principle – ex officio or upon an application. In case of violation of the prohibition of discrimination, it has the authority to impose administrative sanctions on institutions, organizations and/or private law legal entities and real persons who discriminate.

In the Law types of discrimination are listed as follows: Segregation, Instruction to discriminate and implementing such instructions, Multiple discrimination, Direct discrimination, Indirect discrimination, Mobbing, Failure to make reasonable accommodations, Harassment, Discrimination based on an assumed ground.

Any different treatment that prevents or makes it difficult for a person to enjoy the legally recognized rights and freedoms on an equal basis compared to those in a comparable situation, constitutes direct discrimination on the basis of race, colour, ethnicity, religion, belief, sect. In addition to that putting a person in a disadvantageous position that cannot be objectively justified in terms of benefitting from legally recognized rights and freedoms in connection with his/her race, colour, ethnicity, religion, belief and sect as a result of all seemingly non-discriminatory actions, transactions and practices constitutes indirect discrimination on the ground of race, colour, ethnicity, religion, belief and sect.[[2]](#footnote-2)

Pursuant to the Article 9/b of the Law “*Raising public awareness on human rights and non-discrimination through providing information and education including by use of mass media*” is counted as one of the duties of HREIT. In line with this regulation, activities carried out by HREIT to raise awareness on discrimination on basis of race, colour, ethnicity, religion, belief and sect are as follows:

* The papers book of the symposium on “Hate Speech and Hate Crimes” held on October 27, 2021 has been published.[[3]](#footnote-3)
* On May 2022 Roma Rights Summit was held.[[4]](#footnote-4)
* On May 2022 Discrimination Ground Series Guides published.[[5]](#footnote-5)
* On May 2022 Anti-discrimination consultation committee meeting was held and the mentioned grounds of discrimination were discussed.
* On 08 August 2022 press release on “August 2 the Roma and Sinti Holocaust Remembrance Day” was made.[[6]](#footnote-6)
* On 05 September 2022 “Hate Speech” fact sheet published.[[7]](#footnote-7)
* On 15 January 2023 press release on “the Rejection of a Turkish Student's Internship Application to a University in Sweden” was made.[[8]](#footnote-8)
* On 21 January 2023 press release on “Permission to the Act of Burning the Quran in Sweden” was made.[[9]](#footnote-9)
* On 27 January 2023 press release on “Increasing Islamophobic Acts” was made.[[10]](#footnote-10)
* On 15 March 2023 press release on “ 15 March International Day to Combat Islamophobia” was made.[[11]](#footnote-11)
* On 20 March 2022 press release on “the Allegation that a Student Who Wanted to Transfer to a School in Eskişehir Because of the Earthquake Being Rejected Due to Wearing Hijab” was made.[[12]](#footnote-12)
* On 21 March 2023 press release on “the International Day for the Elimination of Racial Discrimination” was made.[[13]](#footnote-13)
1. <https://www.tihek.gov.tr/public/editor/uploads/1660833133.pdf> (Access Date: 28.03.2023) [↑](#footnote-ref-1)
2. Discrimination Ground Series No:3 and No:5 <https://www.tihek.gov.tr/kategori/pages/pdf/d0gdhz.%203%20race> & <https://www.tihek.gov.tr/kategori/pages/pdf/kred62>. (Access Date: 28.03.2023) [↑](#footnote-ref-2)
3. <https://tihek.gov.tr/public/editor/uploads/1662712481.pdf> (Access Date: 28.03.2023) [↑](#footnote-ref-3)
4. <https://www.tihek.gov.tr/kurumumuz-tarafindan-roman-haklari-zirvesi-gerceklestirildi/> (Access Date: 28.03.2023) [↑](#footnote-ref-4)
5. <https://www.tihek.gov.tr/kategori/pages/pdf/kred62>. <https://www.tihek.gov.tr/kategori/pages/pdf/d0gdhz.%203%20race> [↑](#footnote-ref-5)
6. <https://tihek.gov.tr/-august-2-the-roma-and-sinti-holocaust-remembrance-day> (Access Date: 28.03.2023) [↑](#footnote-ref-6)
7. <https://www.tihek.gov.tr/public/editor/uploads/Hate%20Speech.pdf> (Access Date: 03.04.2023) [↑](#footnote-ref-7)
8. <https://tihek.gov.tr/press-release-on-the-rejection-of-a-turkish-students-internship-application-to-a-university-in-sweden> (Access Date: 28.03.2023) [↑](#footnote-ref-8)
9. <https://tihek.gov.tr/press-release-on-permission-to-the-act-of-burning-the-quran-in-sweden> (Access Date:29.03.2023) [↑](#footnote-ref-9)
10. <https://tihek.gov.tr/press-release-on-increasing-islamophobic-acts> (Access Date: 28.03.2023) [↑](#footnote-ref-10)
11. <https://tihek.gov.tr/15-march-international-day-to-combat-islamophobia> (Access Date: 28.03.2023) [↑](#footnote-ref-11)
12. <https://tihek.gov.tr/press-release-on-the-allegation-that-a-student-who-wanted-to-transfer-to-a-school-in-eskisehir-because-of-the-earthquake-being-rejected-due-to-wearing-hijab> (Access Date: 28.03.2023) [↑](#footnote-ref-12)
13. <https://tihek.gov.tr/press-release-on-the-international-day-for-the-elimination-of-racial-discrimination> (Access Date: 28.03.2023) [↑](#footnote-ref-13)