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Agenda Item 3 (a)

Thank you Mr Chairman,

My name is Saniye Karakas, I represent the Contemporary Lawyers Association of Diyarbakır Branch, Turkey.

I would like to draw your attention to the violations of the human and minority rights of the Kurdish population in Turkey.

It is stated that about 20 million Kurds currently live in Turkey.

The basic legally binding treaty regarding minority protection in Turkey is the Lausanne Peace Treaty.<sup>1</sup> The Lausanne Treaty protects only non-Muslim minorities. Kurds are not recognized as minority under the Treaty.

The Turkish Government's policy regarding Kurdish minority in Southeast Turkey has a long history.

After the collapse of the Ottoman Empire ,the new republic defined unintegrated and unturkified Kurds as a potential threat to the integrity of the new modern state. For this reason Kurds have been subject of assimilation polices, and their language and culture have been repressed. The existence of the Kurdish population had been denied, they were called mountain Turks. The Kurdish populated area has been ruled by military or emergency rule for decades.

The proclamation of the state of emergency was based on the PKK's (Kurdistan workers Party) activities in area. During the course of the 18 year armed conflict between the Turkish security forces and the PKK an estimated 30.000 people have died and over 3 million people were forcibly displaced from their homes in rural areas of the Southeast of Turkey.

Turkey's desire to be part of European Union has encouraged the government to undertake reforms. Since 2001, the Turkish government passed several legal reforms within the framework of harmonization with the Copenhagen Political Criteria, including a constitutional reform (October 2001),the adoption of a New Civil Code (November 2001), seven sets of reform packages. Turkey ratified ICCPR and the ICESCR. Turkey also made a reservation to Article 27 relating to minority rights. Therefore, Turkey has reserved the right to consider the minority rights in terms of Lausanne Treaty.

Despite carrying out reforms in order to meet the EU requirements, Turkey has been accused by the EU and human rights organizations that it is failing to implement these reforms in practice. Some of the criticisms are;

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<sup>1</sup> signed on 24 July 1923

## **Internal Displacement**

Goc-Der ( Immigration Association)reported in a press release on 16 September 2003 that more villagers had recently been displaced from their villages. On 7<sup>th</sup> and 8<sup>th</sup> September 2003, Turkish soldiers raided a village called Cigli, in the Cukurca District.

## **Educational Rights**

Article 40 of the treaty of Lausanne includes the educational rights of non-Muslim minorities and allowed them to manage their own churches, schools and hospitals. In contrast to Turkey obligations under the treaty of Lausanne, Article 42 of the Turkish Constitution which related to education right does not refer education in minority language.

The Turkish policy of recognizing non-Muslim groups as minorities has not changed significantly. Although, in the recent language reforms, the term “minority languages” is not used by the new government. Non-official languages are classified as “the different languages and dialects used traditionally by Turkish citizens in their daily lives.” However, according to the principles of international law, enjoyment of cultural rights does not depend on the recognition of minority status.

In year 2001 some university students started a campaign of petition demanding the introduction of optional Kurdish lessons at the universities. Thousands of students of universities and high schools and the parents of school pupils joined the campaign. The petitions were rejected and disciplinary actions were applied by the authorities. By July 2002 more than 4000 students were detained and 572 of them were arrested. Many of these students have been suspended from their school or universities.<sup>2</sup>

To comply with EU accession reforms, the by-law on the Learning of Languages and Dialects Used Traditionally by Turkish Citizens in their Daily Lives was drafted by the Ministry of Education.<sup>3</sup>

According to the legislation for the teacher who is to teach the course must document that he/she is qualified in regards to the language, and must be a philology graduate. But there is no institution in Turkey that teaches Kurdish. The Kurdish Institute has trained 200 teachers who could provide instruction in the courses. But only 60 of these are philology graduates.

Applications to open Kurdish courses in Van, Urfa, Diyarbakir, Kiziltepe, Dogubeyazit, Adana, Batman, and Istanbul have been submitted. Most of the applicants complain about the lengthiness of the bureaucratic process they have not yet been able to get past even the local portion of the bureaucracy. Examples of pretexts for delay refusal are;

- Narrowness of the entrance gate
- Absence of fire stairs.

The same practices are still continuing and despite these preventive practices until now 4 different Kurdish language courses have been received operating license.

## **Broadcasting in Kurdish**

Kurdish-language broadcasts were banned for many years, though a parliamentary vote in 2002 paved the way for their legalization. On June 19, the Turkish Parliament adopted the 6<sup>th</sup> harmonization package, including articles, which allow private radio and television stations to broadcast in non-official languages. The second Regulation on the Language of Radio and

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<sup>2</sup> (Human Rights Association Press Release, 12 October 2002, www.ihd.org.tr)

<sup>3</sup> published in the Official Gazette on September 20, 2002.

Television Broadcasts was prepared by the Turkish television watchdog RTUK.<sup>4</sup> According to new regulation;

- Organizations may only broadcast programs that target adults.( No Kurdish broadcasts for children)
- No broadcasts can be made with the aim of teaching a language other than Turkish.
- Organizations have to provide the Radio and Television Supreme Board (RTUK) with daily, monthly and yearly schedules of programs in any language other than Turkish and get the board's permission. This article is very hard to comply with.
- The language profile determination criterion, which aims at showing how many people speak the broadcasted language, is deceiving.
- The regulation says local and regional organizations may not broadcast programs in languages other than Turkish. The regulation is against the law.
- Besides, while there is no time limitation in the law, the regulation brings time limitations. Organizations will only be allowed to screen a 90-minute movie in the form of a series.

( Violation of UNDM, Art 1.1,2.1)

### **Using Kurdish Names**

Prohibition of using Kurdish names has been a state policy since the establishment of the Republic. This prohibition is still continuing in different types.

Kurds have been officially allowed since September 2003 to take Kurdish names, but cannot use the letters "x,w or q", which are common in Kurdish but do not exist in Turkey's version of the Latin alphabet. Under the recent legislation, families may now give their children Kurdish names, but the names cannot include X, W and Q.

Those letters, however, are used in Turkey in the names of companies, TV and radio channels, and trademarks. For example Turkish Army has company under the name of AXA OYAK and there is SHOW TV television channel in Turkey.

Hundreds of Kurds have applied to the courts seeking to change their names to Kurdish ones written with the letters X, W and Q. The names families are petitioning for include "Xebat, Axgin, Pervagin, Xezal, Bawer, Qalferat, Welat and Berwada".

According to investigations of TOHAV (Foundation of Society and Legal Studies) from November until 15 January 2004; 11 of the Kurdish name claims have been rejected due to the alphabet prohibition by the Civil Court.

As concrete example on the letters ban, the Gaziantep (province in Southeast Turkey) court decided that usage of the "x, q, w" could cause unrest and confusion in the country.<sup>5</sup>

On the other hand applicants of Kurdish name cases are being subjected to the illegal investigations of gendarme and police. On the latest week of December the city Gendarmerie Commanders of Diyarbakir, Mus and Izmir had asked with a letter the public prosecutor for information on people asking to change their names.<sup>6</sup>

The alphabet prohibition is not violating just to right to name in Turkey. The restriction is being implemented as an Administrative Punishment against the Cultural activities of Kurds. Bill

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<sup>4</sup> went into effect on January 25,2004

<sup>5</sup> yenidozgurgundem.com 19.02.2004

<sup>6</sup> REPORT OF TIHV (Foundation of Human Rights) December 2003

Boards, Concerts, Theaters and notes are being subject to the prohibitions. The prohibition is being used as an excuse to outlaw Kurdish cultural expression.

### **Political Rights**

Most problems relating to the political representation of the Kurdish minorities are the high voting threshold which is 10% in Turkey. Any party must get 10% of the votes in elections to take a seat in the parliament. Otherwise their votes are shared by other parties that pass the threshold. For this reason, pro-Kurdish political parties have never been able to enter the parliament, and people in the southeast region have had to be represented by the deputies whom they did not vote for.

The Democratic People's Party(DEHAP), founded in 1999 and now the most popular pro-Kurdish party, secured nearly 6.5 %of the votes nationwide in the 2002 general elections. However representation of DEHAP in parliament has been prevented by the undemocratic threshold level of 10%. (In violation of UNDM, Art.2.2,2.3)

### **RECOMMENDATIONS**

1-The Turkish government should begin the process of developing a comprehensive and effective return program. Those affected by armed conflict since 1984 must be permitted to return to their homes and given assistance to re-establish themselves and their families. Any return program should be consistent with the U.N Guiding principles on Internal Displacement and respect the rights of internally displaced persons.

2-In accordance with UNDM; the education in mother tongue in primary and secondary school must be guaranteed and teaching of Kurdish language must be allowed in each level of education.

3- In accordance with Article 2.1 UNDM; Turkey should recognize as a matter of priority the right to unlimited broadcasts on local and Commercial media of Kurdish music, news and cultural programs in Kurdish language, the reinstatement of local language place names and freedom to give first names and family names according to the local culture.

4- In accordance with Article 2.2and 2.3 Turkish government should change the electoral system and permit minority voices to be freely heard and to make it easier for them to be represented in parliament by removing the 10% threshold, inter alia.

5-Turkey should sign and ratify the Optional Protocols of ICCPR and ICESCR, the Council Europe's Framework Convention for the Protection of National Minorities, remove its reservation on Art 27 of ICCPR, amend the law and adopt new acts regarding minority rights.

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