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Point 4 de l'ordre du jour

Situations relatives aux droits de l'homme qui requièrent l'attention du Conseil

Note verbale datée du 22 mars 2021, adressée au Haut-Commissariat des Nations Unies aux droits de l'homme par la Mission permanente de la Turquie auprès de l'Office des Nations Unies à Genève

La Mission permanente de la République turque auprès de l'Office des Nations Unies à Genève et des autres organisations internationales en Suisse fait tenir ci-joint un document contenant les observations de la République turque concernant le rapport de la Commission d'enquête internationale indépendante sur la République arabe syrienne, qui a été soumis au Conseil des droits de l'homme à sa quarante-sixième session (A/HRC/46/55) et distribué aux États Membres et aux États observateurs le 1^{er} mars 2021 (voir annexe).

La Mission permanente demande que la présente note verbale et son annexe* soient publiées en tant que document de l'Organisation des Nations Unies au titre du point 4 de l'ordre du jour et affichées sur la page pertinente du site Web du Conseil des droits de l'homme.

* L'annexe est reproduite telle qu'elle a été reçue, dans la langue de l'original seulement.



Annex to the note verbale dated 22 March 2021 from the Permanent Mission of Turkey to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

Observations of the Republic of Turkey on the Report of the UN Independent International Commission of Inquiry on the Syrian Arab Republic submitted to the 46th Session of the Human Rights Council

<p>Para. 6 and onwards / The Commission's choice of flawed language with respect to the illegitimate entity in north east Syria</p>	<p>- The PKK/YPG-affiliated entity in north east Syria is explicitly referred to as "<i>Kurdish-led forces, including the Kurdish People's Protection Units (YPG and YPJ) that, as of 2015, operated under the US-supported "Syrian Democratic Forces" in para. 6 and as "SDF", "SDF and related entities" and "self administration"</i> in the rest of the report. The term "<i>self administration</i>" lacks a legal basis and constitutes a deliberate attempt by the Commission to confer legitimacy to a region of a Member State, implicitly, as if it is a separate area, and upon an entity closely linked with a terrorist organization.</p> <p>- The report fails to establish the link between the so-called "<i>Syrian Democratic Forces</i>" and the internationally recognized terrorist organization PKK.</p> <p>- Neither PKK/YPG nor the so-called "<i>SDF</i>" represents the people of Kurdish origin living in Syria.</p>
<p>Para. 8 and onwards / Ignoring the content provided by a Member State</p>	<p>The content submitted by Turkey to the Commission, which had detailed information regarding the violations of the "SDF" was not taken into account by the Commission in the report at all. The Commission was provided with detailed information on violations of the "SDF" and its affiliated entities including, but not limited to violations concerning forcefully detained minors, violations with regard to arbitrary detention, including torture and other inhuman or degrading treatment or punishment under detention and extrajudicial killings, locations of illegal detention centers operated by PKK/YPG and the "SDF" as well as the illegal transfer of detainees to/from Syria.</p>
<p>Paras. 12 and onwards / Percentage of the interviews related to the detention-related violations of the "SDF" / Flawed methodology and deliberate intention to distort facts</p>	<p>-Albeit controlling about a third of Syrian territories, interviews regarding "SDF"s violations constitute the least interviewed cases (7%). In contrast, the number of interviews related to the Syrian National Army (SNA) [and Free Syrian Army (FSA)], which controls a much less portion of the country, consist 10% of the interviews.</p>
<p>Para. 14 and onwards / Deliberate failure to mention the names of the "pro-government forces" while explicitly pointing out Turkey</p>	<p>-Although the reference to "pro-government forces" is present in various parts of the report, there is no mention of names of these countries and, thus, no attribution of responsibility for the violations were mentioned in the report. Turkey, on the other hand, is explicitly referred to in the report, using a deliberate wording designed to attribute responsibility. This selective approach employed by the Commission towards a specific Member State reflects a biased stance and begs explanation.</p>

	<p>-Paragraph 83 has a similar guarding tone on the responsibility of third countries with regard to violations. There are multiple states known for their affiliation with forces on the ground in Syria. Grouping all of them under “third countries” while pointing out a single Member State cannot be justified. This approach seriously compromises the impartiality of the Commission in violation of its mandate.</p>
<p>Para. 36 / Flawed and biased methodology regarding allegation attributed to a Member State</p>	<p>-The allegation directed at Turkey regarding “appointing judges and paying them in Turkish lira” is baseless. The areas cleared of terrorism as a result of Turkish operations in Syria are controlled by the Syrian Interim Government (SIG), the legitimate body of the Syrian opposition. The courts operating in these areas are part of the judicial branch of the SIG.</p> <p>-The Commission chose to include an unverified allegation regarding the Turkish authorities and did not deem it necessary to formally ask the Turkish authorities for their response.</p> <p>-In case the Commission had tangible findings with regard to these allegations, they should have been asked to the Turkish authorities during the preparation of the report. The absence of such prior consultation with the Turkish authorities seriously undermines the credibility of the methodology used by the Commission in drafting the report. The Commission should therefore provide clarification explaining the absence of any attempt for such verification.</p>
<p>Para. 36 and onwards / Biased approach towards the representatives of the legitimate Syrian opposition</p>	<p>- While the report openly refers to the PKK/YPG-linked entity in north east Syria as “<i>self administration</i>” in an attempt to portray it as if it is a legitimate authority, it refers to the Syrian Interim Government (SIG) only in quotation marks despite the fact that SIG represents the internationally recognized legitimate Syrian opposition.</p> <p>- Furthermore, despite the information provided, the report fails to establish the link between the so-called “<i>autonomous administration</i>” and the internationally recognized terrorist organization PKK as well as its Syrian offshoot PYD/YPG, while mentioning SNA components individually. This biased approach begs explanation.</p>
<p>Paras. 41 and 45 / Flawed and biased methodology regarding allegations attributed to a Member State</p>	<p>-The Commission fails to state the fact that allegations regarding “Turkish officers being present” during the interrogations of civilians, primarily by Kurdish and Yazidi origin, who are “detained by SNA” were denied by the Turkish authorities. These allegations were once again included in the Commission’s report A/HRC/45/31 (para. 53) and have been officially rejected by Turkey (A/HRC/45/G/15). This official written response was disregarded by the Commission. Even if the Commission assumes to have had reasonable ground to reach such a conclusion, the report should have included the position of the Turkish authorities which was officially communicated to the Human Rights Council.</p> <p>-TAF fully respects all rules of international humanitarian law. TAF has never been involved, directly or indirectly, in any violation in Syria. Once again, Turkey categorically rejects baseless allegations of violations directed at the Turkish authorities.</p>

<p>Paras. 40 and 41 / Biased approach on perpetrators of violations of economic and social rights</p>	<p>- While paragraph 40 refers to the allegations related to the SNA about the “confiscation of the property”, the report fails to mention obvious practices in the so-called “SDF”-controlled areas such as the attempt to enact the so-called “<i>Law 7/2020 for the Management and Protection of Absentee’s Properties</i>”. This clear attempt to confiscate the wealth of Syrians and make the ongoing demographic change permanent in north east Syria was completely disregarded in the report.</p>
<p>Para. 46 / Flawed and biased methodology regarding allegations attributed to a Member State</p>	<p>-The Commission fails to state the fact that allegations directed at Turkey regarding “transferring of Syrian nationals, who were detained by the SNA in Afrin and Ra’s al-Ayn”, were denied by the Turkish authorities at the meeting of 9 January 2020 between the Commission and the Turkish authorities. This flawed methodology overshadows the Commission's impartiality. - As in the case of all the other allegations in the report directly concerning Turkey, the Commission seems to have relied solely on unverifiable “witness” accounts and did not deem it necessary to consult the Turkish authorities for verification which further erodes the report’s credibility.</p>
<p>Paras. 47-55 / Section related to the violations of the “SDF” was drafted comparatively shorter and lacks key elements</p>	<p>-The report contains only 8 paragraphs on the violations of the “SDF and related entities”, 13 paragraphs on the violations the regime, in comparison to 17 paragraphs about the FSA+SNA. This reflects a biased approach, deliberately focusing on the legitimate opposition rather than regime and the illegitimate entity in north east Syria. There is an extensive record of the regime’s violations registered in the UN system. However, the number of violations provided in the report is starkly noteworthy. Considering the fact that the Commission did not have any access to any region in Syria, including the areas under control of SIG, the reason behind focusing mainly on the areas controlled by the legitimate opposition in the report is incomprehensible. -There are no references to any responsibility of supporters of the “SDF” regarding this illegitimate entity’s violations. This selective approach begs explanation. -The information that Turkey has conferred to the Commission regarding and "SDF"s forced abductions and forced recruitment/conscription of minors were totally ignored in the report.</p>
<p>Para. 53 / Flawed portrayal of a terrorist entity</p>	<p>The way “SDF” is portrayed in this paragraph, which praises “SDF” for fighting another terrorist organization and ignores the fight of others, first and foremost Turkey as a member of the Global Coalition against DAESH since its inception, constitutes a deliberate and politically motivated attempt by the Commission to confer legitimacy upon an entity closely linked with a terrorist organization.</p>
<p>Para. 55 / Deliberate failure to mention the violations in al Hawl and al Roj camps as well as the responsibility of “SDF” and its supporters</p>	<p>-The report fails to delve into the details of the violations in the camps run by “SDF”. It is striking that the report completely ignores the joint communication sent by 13 UN Special Rapporteurs and Representatives of the Working Group on Arbitrary Detention as well as the Working Group on discrimination against women and girls dated 26 January 2021, which describes the violations that took</p>

	<p>place during the “registration and verification exercise” that took place in early June 2020 in al-Hawl and in May 2020 in Roj. According to the joint communication, during the afore-mentioned exercise, third party nationals residing in the camp were deprived of their liberty, biometric data was forcibly taken from them, and humanitarian access was denied, which all took place in presence of more than 1000 “SDF” militants.</p> <p>-The joint communication states that “the failure to provide access to those in charge of delivering assistance only compound the abuses and violations of fundamental rights, including the non-derogable right to life and the right to be free from torture, inhuman and degrading treatment that are taking place on a daily basis in the camps, increasing human suffering and, potentially, the number of unlawful deaths, particularly of women, girls and children.”</p> <p>-The joint communication also points out to the potential responsibility of the third countries that are engaging in intelligence cooperation with the “SDF” for the above-mentioned violations.</p> <p>-It seems the UN Commission has failed or did not care to read the text of another related UN mechanism.</p> <p>-The Commission’s deliberate effort to cover up violations in the camps operated by the “SDF” further compromises its impartiality.</p>
<p>Para. 92 / Deliberate failure to mention “SDF” regarding war crimes</p>	<p>Paragraph 92, in contrast to the previous paragraphs (para. 52), fails to mention the fact that “SDF” is responsible for deaths in detentions. This contradiction is a testament to the obvious intent on the part of the Commission to hide facts with regard to the violations of the “SDF”.</p>
<p>Para. 94 / Baseless and biased accusation towards a Member State</p>	<p>-Areas that were cleared from terror with the counter-terrorism operations conducted by the Turkish Armed Forces (TAF) and SNA are under the control of the SIG - the executive branch of the legitimate Syrian opposition-, which deems the term “<i>areas under the effective Turkish control</i>” false.</p> <p>-Allegations regarding the SNA should be first and foremost addressed to the SIG, which is the superior authority over the Ministry of Defense under the command of which SNA operates.</p> <p>-TAF fully respects all rules of international humanitarian law. TAF has never been involved, directly or indirectly, in any violation in Syria. Turkey categorically rejects baseless allegations of violations directed at Turkish authorities.</p> <p>-The selective approach employed by the Commission towards a specific Member State overshadows the credibility of the report.</p>
<p>Paras. 95 and 96 / Failure to hold countries who support “SDF” responsible</p>	<p>The report fails to hold countries who support “SDF” responsible for the violations conducted by this entity, clearly contrasting with the conclusions of the joint communication of the UN Special Rapporteurs and Working Groups dated 16 January 2021, and also fails to mention various other violations of the “SDF” presented in the afore-mentioned letter.</p> <p>On the contrary, while trying to minimize the violations of the regime, the Commission prefers to single out Turkey, a country shouldering the burden of the security of almost 9</p>

	million Syrian civilians, reflecting an unfair approach towards a specific Member State. This approach of the Commission not only compromises its impartiality, but also oversteps its mandate.
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