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PROMOTION ET PROTECTION DES DROITS DE L'HOMME

Note verbale datée du 3 mai 2004, adressée au Haut-Commissariat des Nations Unies
aux droits de l'homme par la Mission permanente de Turquie auprès
de l'Office des Nations Unies à Genève

La Mission permanente de la République de Turquie auprès de l'Office des Nations Unies à Genève et d'autres organisations internationales en Suisse présente ses compliments au Haut-Commissariat des Nations Unies aux droits de l'homme et, se référant à sa note datée du 6 avril 2004 (Ref. n° 2344), a l'honneur d'informer ce dernier de ce qui suit.

En envoyant la note susmentionnée, la Mission avait demandé qu'elle soit diffusée en tant que document officiel de la soixantième session de la Commission des droits de l'homme.

Bien qu'il ait été établi que la note a été reçue par le secrétariat du Haut-Commissariat des Nations Unies aux droits de l'homme, elle n'a pas été publiée en tant que document officiel de la Commission. En conséquence, la Mission souhaite que ladite note¹ soit publiée dès que possible.

¹ Reproduite en annexe, telle qu'elle a été reçue, dans la langue originale seulement.

Annex

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 High Commissioner for Human Rights and, with reference to Commission on Human Rights document (E/CN.4/2004/NGO/98) containing the written statement of a non-governmental organization, namely Human Rights Advocates, Inc. (HRA), has the honour to bring the following to the latter's attention.

The above referred document attempts to mis-portray Turkey as a country with "death rows" (part of a prison reserved for inmates awaiting execution) in its prisons, which is a reflection of either pure ignorance about or ill-intention towards Turkey, and as such does not deserve a reply. Nevertheless, since the written statement seems to constitute a violation of ECOSOC resolution 1996/31, (part 1, paragraph 2), and particularly of paragraph 57 (a) of the said resolution, the Permanent Mission has felt obliged to put forward the below-mentioned facts:

1. Since 1984, the Turkish Grand National Assembly has not approved the execution of any death penalty given by the courts, thus introducing a de facto moratorium on capital punishment. In August 2002, death penalty in peacetime was abolished by the Turkish Grand National Assembly and accordingly "Protocol No.6 to the European Convention on Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty" was ratified. Furthermore, on 9 January 2004, Turkey signed Protocol No. 13 to the same Convention, abolishing death penalty in all circumstances, including in times of war. It is apparent from the written statement that the Human Rights Advocates, Inc. (HRA) is totally unaware of these developments.
2. In paragraph 4 of the document it is stated that "In Turkish death rows, prison conditions have been still worse: one court described cells so small that prisoners must either crouch or sit, inadequate sanitation, food shortages, and failure to provide basic medication". In footnote 6, a reference is made to the decision of the European Court of Human Rights (ECtHR) on the "Mamatkulov and Abdurasulovic v. Turkey" case (Applications nos. 46827/99 and 46951/99), apparently in an attempt to attribute the unfounded allegation of the HRA to the ECtHR.

Whereas, a careful reading of the said decision of the ECtHR, dated 6 February 2003, shows that:

-No reference has been made to the prison conditions in Turkey;

-A reference to the prison conditions in a third country exists, however, not in the form of a judgement by the ECtHR about the prison conditions in that particular country, but a description made by an NGO about the alleged conditions in prisons (para. 53 of the said decision).

At this juncture, it should be noted that a comprehensive prison reform in line with the recommendations of the European Committee for the Prevention of Torture (CPT) has already been completed in Turkey, making the prison system fully compatible with the

European Prison Rules of the Council of Europe and the UN standards. The appreciation of the results of this reform has found its expression in the CPT reports.

3. Based on the groundless assumption that death row phenomenon is valid for Turkey, in footnote 13 of the document a reference is made to the decision of the ECtHR in the "cinar v. Turkey" case, apparently in order to substantiate the view that the "death row phenomenon violates Article 3 of the European Convention on Human Rights." However, in the "cinar v. Turkey" case the ECtHR ruled in 1994 that Article 3 of the ECHR was not violated since it was known that capital punishment is not executed in Turkey.

The Government of Turkey appreciates the role and the contribution of the NGOs in the field of human rights. However, it is an established fact that the aims and purposes of NGOs shall be in conformity with the spirit, purposes and the principles of the Charter of the United Nations (Economic and Social Council resolution 1996/31, part 1, paragraph 2); that the NGOs to be accorded special consultative status because of their interest in the field of human rights should pursue the goals of promotion and protection of human rights in accordance with the spirit of the Charter of the United Nations, the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action (resolution 1996/31, part 3, paragraph 25); and that the NGOs granted consultative status by the Council shall conform at all times to the principles governing the establishment and nature of their consultative relations with the Council (resolution 1996/31, part 8, paragraph 55).

The Permanent Mission concludes that, in the light of the explanations above, in its written statement the HRA has not complied with the code of conduct in line with the letter and the spirit of the Charter of the UN and relevant UN resolutions.

The Permanent Mission would like to state further that, in accordance with the relevant provisions of Economic and Social Council resolution 1996/31, the Government of Turkey reserves the right to take further action regarding the NGO called Human Rights Advocates (HRA).

The Permanent Mission kindly requests the Office of the High Commissioner for Human Rights to circulate this Note Verbale as an official document of the sixtieth session of the Commission on Human Rights under agenda item 17.

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

6 April 2004
