



PERMANENT MISSION OF THE REPUBLIC OF TURKEY
TO THE UNITED NATIONS OFFICE IN GENEVA

Z-2021/62441669/32522242 -

The Permanent Mission of the Republic of Turkey to the United Nations Office in Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference the Joint Communication from Special Procedures dated 27 January 2021 (AL TUR 24/2020), has the honour to enclose herewith the observations provided by the Government of the Republic of Turkey.

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.

Geneva, 24 March 2021

Encl: As stated.



Office of the High Commissioner for Human Rights
Palais des Nations
1211 Geneva 10

INFORMATION NOTE IN REPLY TO THE JOINT COMMUNICATION FROM THE SPECIAL PROCEDURES

(Reference: AL TUR 24/2020)

1. With reference to the letter of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Working Group on the issue of human rights and transnational corporations and other business enterprises dated 27 January 2021, the Government would like to submit its observations herein below.
2. According to Labour Law no. 4857, union membership or participating in union activities outside of working hours or during working hours with the consent of the employer does not constitute a valid reason for the termination of the employment contract. In case of termination, employee has the right to apply to the mediator and then to file a lawsuit. If it is determined that the employment contract is terminated due to union activities, the employer is obliged to recruit the worker within one month upon his application and if not, he is obliged to pay compensation to the worker.
3. Article 10 of the International Labour Organization (ILO) Convention No. 158 on the Termination of Employment Convention, which was ratified by Turkey in 1994, states that, if the termination of the contract is considered as unjustified by the courts and if they are not empowered or do not find it practical, in accordance with national law and practice, to declare the termination invalid and/or order or propose reinstatement of the employee, they shall be empowered to order payment of adequate compensation or such other relief as may be deemed appropriate.
4. Since no employer should be forced to recruit a worker by force according to civil law, in case the employee is not reinstated to his job, compensation to be applied by the courts is determined by national legislation in accordance with the provisions of the relevant contract.
5. Therefore, in accordance with the Labour Law and ILO provisions mentioned above, employer's termination of the employment relationship without any reason and without limit is prohibited. The relevant articles do not contain provisions on absolute reinstatement to work, but stipulate the right of the employer to choose whether to reinstate the employee to work or to pay the employee the amount of compensation specified in the court or special arbitration decision.