



MISSION PERMANENTE DE LA RÉPUBLIQUE DE TURQUIE  
AUPRÈS DE L'OFFICE DES NATIONS UNIES À GENÈVE

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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 aux droits de l'homme et faisant référence à l'appel conjoint du Rapporteur spécial sur la situation des défenseurs des droits de l'homme, du Groupe de travail sur les disparitions forcées ou involontaires, du Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et du Rapporteur spécial sur les droits à la liberté de réunion pacifique et à la liberté d'association, du 12 mai 2021 (Réf : ALTUR 7/2021), a l'honneur de transmettre ci-jointe une note d'information contenant les observations et informations du Gouvernement de la République de Turquie.

La Mission permanente de la République de Turquie saisit cette occasion pour renouveler au Haut-Commissariat aux droits de l'homme les assurances de sa très haute considération.

Genève le, 08 juillet 2021



PJ : Susmentionnée

Bureau du Haut-Commissaire aux Droits de l'Homme  
Palais des Nations  
1211 Genève 10

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

**(Reference: AL TUR 7/2021)**

1. With reference to the letter of the Special Rapporteur on the situation of human rights defenders; the Working Group on Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association dated 12 May 2021, regarding “Saturday Mothers/Cumartesi Anneleri”, the Government would like to submit its observations herein below.

**I. OVERVIEW**

2. According to Article 34 of the Constitution, everyone has the right to hold unarmed and peaceful meetings and demonstration marches without prior permission. The right to hold meetings and demonstration marches shall be restricted only by law on the grounds of national security, public order, prevention of committing crime, protection of public health and public morals or the rights and freedoms of others as per Article 34/2 of the Constitution and Article 17 of the Law on Meetings and Demonstrations no: 2911.

3. The formalities, conditions, and procedures to be applied in the exercise of the right to hold meetings and demonstration marches are set forth by law. According to Article 10 of the Law on Meetings and Demonstrations, 48 hours prior to a meeting, the relevant authorities of the place the meeting is planned to be held, should be notified. According to Article 23 of the same Law, if the notification is not submitted prior to the meeting, the meeting shall be considered unlawful. As per Article 24, the participants of such illegal meeting will firstly be notified of their meeting’s illegal status and if the meeting is not ended upon such notification, a warning will be made, stating that proportionate force will be used in case the participants do not disperse after the warning.

4. The principles regarding the law enforcement's authority to use force are stipulated in detail in Law No. 2559. According to Article 16 of the said Law, if the police encounter resistance while doing their duty, they are authorized to use force in order to break it. Depending on the nature and degree of the resistance, the police may use physical and material force in a gradually increasing proportion to render the resisters ineffective.

5. In accordance with Human Rights Action Plan announced in March 2021, the relevant legislation and the practice will be reviewed in the light of international standards in order to strengthen rights to peaceful assembly and the association. Awareness-raising activities will be organised for governors and law enforcement officers. The implementation schedule of the Action Plan has also been announced.

## II. FACTS

6. Prior to the gathering of Saturday Mothers at the Istanbul Galatasaray Square on 25 August 2019, the demonstrators did not formally notify the local authorities. The Beyoğlu District Governorate declared the meeting unlawful as per Articles 10 and 17 of the Law no: 2911 on grounds of public order, prevention of committing crime, protection of public health and public morals and the right and freedoms of others.

7. At around 10:00 on the date of the meeting, around 50 people were seen gathering at the Square and setting up broadcasting systems. The authorities thereupon loudly announced that the event is unlawful and gave a written notice showing the reasons thereof to a representative of Human Rights Association present in the group. As the crowd was getting larger, the authorities kept loudly announcing through sound equipment that the meeting is unlawful.

8. As the protestors did not disperse and kept shouting slogans towards the security forces despite the announcements, the security forces moved in to separate the persons designated as “the sensitive group” from the crowd in order to protect them and not to let this group be affected by a possible intervention. As opposed to the image trying to be created by some selective photos on the social media, the aim was to protect the sensitive group. This group was not taken into custody.

9. Despite all the verbal warnings and written notifications, the protestors kept shouting slogans and throwing injurious objects towards the security forces. Upon observing physical assault from the demonstrators, an intervention was duly made, using physical force, pepper spray and non-pressurized water proportionately in line with the aforementioned Law no: 2559. The security forces did not use plastic bullets and the demonstrators did not make such allegations in their statements.

10. Prior to the intervention, the law enforcement officers tried to reconcile with the protestors to end their demonstration. However, some of the protestors were seen pulling the collar of a law

enforcement personnel, some officers got bitten, some others experienced physical injury due to kicking and punching. In total, 8 police officers were injured during the incident.

11. During the intervention, 46 suspects were duly apprehended, reminded of their legal rights, referred to hospitals and released after taking their statements. None of the demonstrators were arrested. A public lawsuit was filed against the suspects for violating the Law on Meetings and Demonstration Marches.

12. The suspects made their statements in the presence of their lawyers and were reminded of their right to inform their relatives.

### III. OBSERVATIONS

13. In order to organize a peaceful assembly in a democratic society, a notification is necessary to inform the authorities in advance to assist the authorities in facilitating the smooth conduct of peaceful assemblies and protecting the rights of others. Prior notification serves the aims of reconciling, facilitating the rights and lawful interests of others and prevention of disorder or crime. (*European Court of Human Rights, Judgment, Eva Molnar v. Hungary, App no: 10346/05, § 37*).

14. Making public assemblies a subject to an authorisation or notification procedure does not normally encroach upon the essence of the right as long as the purpose of the procedure is to allow the authorities to take reasonable and appropriate measures in order to guarantee the smooth conduct of any assembly, meeting or other gathering, be it political, cultural or of another nature (*ECtHR, Judgment, Sergey Kuznetsov v. Russia, App. no: 10877/04, § 42*). Organisers of public gatherings should respect the rules governing that process by complying with the regulations in force (*ECtHR, Primov and Others v. Russia, Judgment, App. no: 17391/06, § 117*).

15. As per Article 10 of the Law on Meetings and Demonstrations, in order to organize a meeting relevant authorities should be formally notified with a written letter containing the meeting's purpose, the date and place of the meeting, identities of the organizers and their occupation and signatures of the organizing committee. However, in the present case, the organizers failed to formally notify the authorities. Hence, the meeting was considered illegal as per the law on grounds of public order, prevention of committing crime, protection of public health and public morals and the right and freedoms of others.

16. Upon observing physical assault from the demonstrators and the crowd not dispersing despite the warnings, security forces duly intervened the meeting to restore the public order. The intervention carried legitimate purposes, was seen necessary in a democratic society and in line with the domestic provisions as well as international principles.

17. On the other hand, judicial proceedings duly conducted by the independent and impartial judiciary cannot be labelled as “*judicial harassment*” or “*systematic pattern of judicial persecution of human rights defenders*”. The suspects were legitimately subjected to judicial proceedings for violation of the Law on Meetings and Demonstration Marches based on their actions during the incident. As mentioned above, the participants were released after taking their statements and benefited from legal counsel.