



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

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The Permanent Mission of the Republic of Türkiye 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 to the Communication from Special Procedures dated 11 May 2023 (AL TUR 1/2023), has the honour to enclose herewith the observations provided by relevant Turkish authorities.

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

Geneva, 10 August 2023



Encl: As stated.

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

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

**(Reference: AL TUR 1/2023)**

With reference to the joint communication of the Special Rapporteur on the sale, sexual exploitation and sexual abuse of children; the Special Rapporteur on the human rights of internally displaced persons; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on minority issues; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls dated 11 May 2023, the Government of the Republic of Türkiye would like to submit its responses and observations hereinbelow.

### **FACTS AND OBSERVATIONS**

1. On 6 February 2023, two great magnitude earthquakes occurred in Türkiye, causing immense destruction in ten provinces (Kahramanmaraş, Hatay, Osmaniye, Adıyaman, Gaziantep, Şanlıurfa, Diyarbakır, Malatya, Kilis and Adana). The loss of lives, injuries and material damage that resulted from the earthquake have caused deep sorrow to our entire nation.
2. According to Article 119 of the Turkish Constitution, state of emergency may be declared for a period of not exceeding six months in cases of natural disasters. With the Presidential Decree No. 6785, a state of emergency was declared in the above-mentioned provinces for 3 months as of 8 February 2023 in accordance with Article 119 of the Constitution and Article 3/1(a) of the Law on State of Emergency No. 2935. The decision which was published in the Official Gazette dated 8 February 2023 and numbered 32098, was also approved by the Grand National Assembly of Türkiye on 9 February 2023. In this framework, pursuant to Article 4 of the International Covenant on Civil and Political Rights (ICCPR), a derogation notification was duly submitted to the United Nations Secretary-General.
3. The state of emergency, which was declared in order to ensure that search and rescue activities in the aftermath of the earthquake could be carried out rapidly in the provinces where the earthquake occurred, ended on May 9, 2023, as no decision was taken to extend it.
4. In the aftermath of the earthquake, Türkiye urgently took action in many areas to ensure that earthquake victims, regardless of their citizenship status, recover from the effects of the earthquake with the least possible damage and to eliminate the material and moral damages caused. The following various measures were taken and recovery actions conducted in this process, which respond to the concerns raised in the joint communication.

**On the preventive measures taken to combat the risks of abuse, sale and sexual exploitation of children**

5. Türkiye's domestic law contains numerous legal tools aimed at preventing all kinds of violence, neglect, and abuse against children. The Turkish Penal Code (TPC) No. 5237 defines the crime of sexual abuse of children in Articles 103 and 104. Under these provisions, if this offense is committed by persons responsible for the protection, care, or supervision of the child or by a public official, an increase in punishment is envisaged due to aggravated circumstances. Article 232 of the same Code defines the offense of ill-treatment against children and Article 233 defines neglect of a dependent child as a crime. Article 80 of the Code, which concerns the crime of human trafficking, stipulates penalties for forcibly subjecting children to work, service, prostitution, or organ removal, as well as penalties for procuring, kidnapping, or transporting them from one place to another for these purposes, with the stipulation that the consent of the victim shall be deemed invalid in such cases. Moreover, Article 226 of the TPC prohibits providing children with products containing indecent images, writings or words, while Article 227 prohibits inducing a child into prostitution. In addition, many actions defined as crimes in the said Code have aggravating provisions in cases where the victim of the crime is a child, and children are protected by the force of law from all types of violence. Moreover, the failure of public officials and members of the health profession to report crimes they have learned about in connection with their duties is also included in the TPC as separate offences (Articles 279 and 280). In the Criminal Procedure Code No. 5271, the crimes of sexual assault, sexual abuse of children, persistent stalking, intentional injury, torture or harassment committed against women and children are included in the scope of legal aid. At the same time, the Child Protection Law No. 5395 regulates the procedures and principles regarding the protection of children in need of protection or dragged into crime.
6. According to Article 24 of the Regulation on Combating Trafficking in Human Beings and Protection of Victims, support services to be provided to all children identified as victims of trafficking in human beings, regardless of nationality, are carried out by specialized units under the Ministry of Family and Social Services. During the identification process of child victims, the principle of the best interests of the child is taken into consideration and psychologists or social workers are present during the interviews conducted with children. The procedures related to children identified as victims are carried out in accordance with the provisions of the Child Protection Law referred to above.
7. Within the scope of Child Monitoring Centers established to prevent the secondary victimization of children who are victims of sexual abuse, measures are taken to ensure that suspicions of abuse and statements from the child are obtained, the child is examined in the presence of experts, meetings with the family are conducted on a healthy basis, and the findings are documented and reported.

8. In addition, necessary social service interventions are carried out for children who are abused or at risk of being abused and in need of support, and various steps are taken to prevent all forms of abuse against children by considering the best interests of the child in accordance with the UN Convention on the Rights of the Child. Within the scope of protective social services provided for children, the victimized children are placed in children's shelters or home sites in case institutional care is required. In this context, foreign minors who have experienced violence in Türkiye, regardless of language, race, color, sex, political views, philosophical belief, religion, nationality, or similar reasons, can benefit equally from the protection provided by these legal regulations.
9. In the post-earthquake period, even though the state of emergency was declared as stated above, the Supreme Council of Judges and Prosecutors decided with its decision dated 12 February 2023 and numbered 57/5648 that “...since there is no such situation as a complete suspension of judicial services; investigations and the processing and evaluation of reports and complaints regarding crimes and criminals in this context should be handled with the necessary sensitivity, just as before the earthquake”. Consequently, preventive measures to protect children and judicial processes continued to be implemented with the same sensitivity as before the earthquake.

**On the measures envisaged to ensure adequate child and women protection, including access to rehabilitative services for the child victims; and gender-based violence**

10. Within the scope of the above-mentioned Turkish Disaster Response Plan (TDRP), the coordination of psychosocial support services in the event of a possible disaster has been entrusted to specialised groups through the "Psychosocial Support Programme". The tasks of these working groups include identifying the urgent needs of those affected by the disaster and informing the relevant authorities, carrying out special psychosocial intervention activities for vulnerable groups such as women and children, organising social rehabilitation activities to enable disaster victims to return to their daily lives, and ensuring that these people benefit from relevant social service practices if needed.
11. In this context, the teams are in charge of providing psychological first aid to the people waiting for rescue and treatment of their relatives in the disaster areas and tent cities; providing support for women, infants and children who may have special needs in the family by making household visits; and providing psychosocial services to children who have difficulty in making sense of the effects of the disaster.
12. In Türkiye, necessary legal and administrative measures are taken within the framework of the principle of the best interests of the child, in accordance with the social state approach enshrined in the Constitution and the United Nations Convention on the Rights of the Child, to protect all the rights of children. Without discrimination based on race, language, religion, sect, or ethnic origin, all children benefit equally and fairly from education, healthcare, social assistance, and services. In this regard, all services for children are provided in the same way to all foreign children in need of protection, focusing on the best interests of the child.

13. Furthermore, within the scope of the "Conditional Education Assistance for Foreigners (CCTE)" project, which aims to ensure that school-age children of foreign families under the risk of poverty continue attending school, in addition to cash assistance, the Child Protection component of the project visits the households of foreign children who are absent from school, identifies the reasons for absenteeism, provides necessary social services to children to overcome these reasons, and prevents the formation of a lost generation by referring them to appropriate institutions. Following the earthquakes, as the majority of the population of CCTE beneficiaries reside in the earthquake-affected regions, the Mobile Child Friendly Space activity carried out within the scope of the project was implemented in tent/container cities in the earthquake-affected provinces and psychosocial support was provided to children and families in the earthquake region, with the purpose of repairing the psychological destruction caused by the earthquake through comprehensive educational and social activities.
14. Secondly, the first article of the Law on the Protection of the Family and Prevention of Violence against Women No. 6284 states the purpose of the law as "*to protect the women, the children, the family members and the victims of stalking, who have been subject to violence or are at risk of violence, and to regulate procedures and principles with regard to the measures of preventing violence against those people.*" The scope of the legislation includes not only women and others who have been subjected to violence but also who are likely to be subjected to it; and also measures are envisaged against not only physical violence but also all other actions that may constitute violence. The law specifically addresses gender-based violence perpetrated against women simply because they are women. Thus, the aim is to prevent the narrow interpretation of violence against women and the confinement of protection for women within a limited scope. Within the scope of the protective measures stipulated by the law, appropriate shelter can be provided to the victim and, if necessary, to accompanying children. In cases of imminent danger to life, the concerned individual may be placed under temporary protection upon request or ex officio, and the person perpetrating the violence may be immediately removed from the shared residence or the location where they are present. The protected individual can be allocated the shared residence, and the violent offender shall not be allowed to approach the protected individuals. Foreign nationals including women and children who have experienced violence in Türkiye also benefit from the protection provided by this law without discrimination based on language, race, color, gender, political opinion, philosophical belief, religion, sect, nationality, marital status, and similar reasons.
15. In Türkiye, Violence Prevention and Monitoring Centres (VPMCs) are social service institutions that provide empowering and supportive counselling, guidance, orientation and monitoring services for the prevention of violence and the effective implementation of protective and preventive measures on a twenty-four hour basis.
16. VPMCs located in 81 provinces provide psychosocial, legal, educational, vocational, economic and medical support, guidance, counselling and orientation services to victims of violence within

the scope of Law No. 6284; and ensure the follow-up and monitoring of measures taken against the victims.

17. "Alo-183 Social Support Line" operates as a psychological, legal and economic counselling line for women and children who have been subjected to violence or are in danger of being subjected to violence and who need support and assistance, informing them about their rights and where to apply.
18. In addition, Social Service Centres were established to ensure social service intervention and follow-up at the district level. Currently 401 Social Service Centres around the country provide counselling and guidance services, especially monitoring of measures for victims of violence.
19. Another protective service is the Women's Support Application (KADES), which was launched to ensure that victims of violence have quick and effective access to law enforcement officers. This application is available in 11 languages in order to provide access to foreign nationals residing in Türkiye. In this context, foreign women who are not citizens of the Republic of Türkiye can also register with the serial number of their passport or the document with which they entered in Türkiye.
20. In women shelters, all women victims of violence and their accompanying children benefit from services regardless of their status and nationality. In these centres, professional work is carried out to help women and their accompanying children cope with the trauma they have experienced, to empower them and to support them in maintaining healthy relationships in a violence-free environment.
21. In addition, "Forensic Interview Rooms" have been established in courthouses, that will contribute to the protection of women and children victims of crime in the judicial process, preventing secondary victimisation and strengthening their access to justice. Also "Directorates of Judicial Support and Victim Services" provide assistance on child surrender and establishing a personal relationship with the child.

***On the scope of the Turkish Disaster Response Plan with regard to protection of women and children***

22. The TDRP is a comprehensive framework that aims to coordinate the response activities of institutions, agencies and other bodies responsible for disaster response, starting from minute zero, covering all segments of the society, without excluding any group based on their sex, religion, language, race, citizenship or other status. In addition to TDRP, the psychosocial support services are regulated by the 'National Psychosocial Support Program'. Activities based on the principle of positive discrimination for disadvantaged groups and activities related to foreigners with temporary asylum-seeker or refugee status are carried out by the main partner institutions in accordance with their constitutionally based and internationally compatible legislations.

**On the measures that have been taken to protect unaccompanied and separated children, including measures towards family tracing and reunification**

23. With regard to unaccompanied children who come to Türkiye via irregular migration and request international protection, services are carried out within the framework of protective and supportive measures ordered by the relevant courts in accordance with the Child Protection Law No. 5395. Unaccompanied minors who are identified by law enforcement officers and referred to the relevant institutions are taken under protection and care in the relevant institutions following the completion of their procedures by the Provincial Directorates of Migration Management. In order to ensure the family integrity of children separated from their families during or after migration, family tracing and family reunification are carried out with utmost diligence in cooperation with relevant institutions and authorities.
24. Following the earthquakes that occurred in Türkiye in February, a "10-Line Call Centre" was established to receive notifications, requests and notifications regarding orphaned and separated children and the call numbers were shared with the public. This call centre continued to operate on a 24/7 basis. All incoming calls were meticulously addressed by specialised personnel, and the Family Information System Disaster Management Module was prepared and a registration system was established to record the notifications resulting from the calls. The follow-up process of foreign children affected by the earthquakes in Türkiye was also carried out through this system.
25. A professional team was established to conduct scanning/matching activities on the records in the system in order to reach the families or relatives of unaccompanied children placed in institutional care due to the earthquake disaster or undergoing continued treatment in the hospital. In case of a successful match as a result of scanning/matching efforts, the Provincial Directorate contacted the family/relatives of the concerned child. Collaborative efforts with relevant public institutions and other stakeholders have been carried out to reach the families and relatives of the children placed in our institutions. During this process, children who have not yet been reunited with their families, whose identities cannot be determined, or who cannot express themselves, and who have completed their treatment, have been placed under state protection in accordance with relevant legislation. They have been placed in facilities suitable for their age and development, where all their needs are met, and psychosocial support provided.

**On the availability of child-sensitive victim identification, assessment and referral procedures in place and standard operating procedures for coordination**

26. During and after the earthquake disaster in Türkiye, activities were carried out by public institutions and non-governmental organisations in collaboration. In this context, cooperation protocols were signed with non-governmental organizations and cooperation activities were initiated. Within the scope of these protocols, efforts to reduce the negative effects of the earthquakes continue. In this context, as mentioned above, identification and guidance of unaccompanied minors are carried out by law enforcement and relevant public institutions in full coordination.

27. The child-focused judicial procedures that are permanently in place are as follows:

- In case of testimony of child victims, video and audio recording is mandatory.
- A child or a victim whose psychology has been affected by the offence committed may be heard only once as a witness in the investigation or prosecution of this offence.
- It is obligatory that an expert in the field of psychology, psychiatry, medicine or education be present during the hearing of child victims or other victims whose psychology were affected by the crime committed.
- Pursuant to the Child Protection Law, judicial and administrative authorities, law enforcement officers, health and education institutions and non-governmental organisations are obliged to report children in need of protection to the Social Services and Child Protection Institution, and the Social Services and Child Protection Institution shall immediately conduct the necessary investigation into the cases reported to it.

28. Child Monitoring Centres are child-friendly environments where relevant institutions will work in coordination under the roof of a hospital affiliated with the Ministry of Health, where all forensic and medical procedures can be carried out in a single centre at once.

29. Within the scope of the best interests of the child, Child Justice Centers aim to provide comprehensive services in the areas of child justice and child protection, with the inclusion of bar association personnel, forensic experts, social services officers, law enforcement child investigation units, universities, and other relevant departments. The objective is to ensure the provision of integrated services and to carry out all judicial procedures related to children in an effective and child-friendly manner within these centers.

30. In addition, children's waiting rooms and playgrounds have started to be established in courthouses in order to provide children with a more comfortable and safe environment and to protect them from possible tensions in courthouses.

**On the availability of child and women protection shelters and mechanisms, and the provision of appropriate protection and humanitarian assistance**

31. As mentioned above, children under international protection who remain unaccompanied in the post-earthquake period are taken under protection and care in relevant institutions by Provincial Directorates of Migration Management. In addition, there are specialised Children's Home Sites to provide protection, care and psychosocial support services to children for whom care measures have been decided. In these specialised institutions, it is ensured that children's basic needs are met, their psychological and social needs are determined, and if appropriate, their return to their family and close environment is ensured or they are prepared for other social service models. Necessary social service interventions are carried out for children who are abused or at risk of abuse and need support.

32. For the protection of women, in addition to the aforementioned Violence Prevention and Monitoring Centres, there are women shelters. In women shelters, all women victims of violence and their accompanying children benefit from services regardless of migration status and nationality. In women shelters, professional work is carried out to help women and their accompanying children cope with the trauma they have experienced, to empower them and to support them to maintain healthy relationships again in a violence-free environment. During this period, their urgent needs are met, psycho-social support is provided and they are referred to the relevant units.
33. In the period following the earthquakes of 6 February 2023, efforts were intensified to implement all the mentioned mechanisms for the benefit of vulnerable and disadvantaged population groups that were most affected by the disaster, specially with the aim of ensuring maximum protection of women and children.

**On the accessibility of justice complaints, reporting and referral mechanisms for women and children, without fear of deportation and violation of immigration laws**

34. There are multiple legal instruments in Turkish domestic law to prevent violence, neglect, and abuse against children and women. The TPC penalizes acts of violence against children and women under several criminal offenses. Neglect and abuse of children is also defined as a crime in the TPC.
- According to Article 103 of the TPC, *“A person who sexually abuses a child shall be punished with imprisonment from eight to fifteen years.”*
  - According to Article 104 of the same Code, *“A person who has sexual intercourse with a child who has completed the age of fifteen without force, threat or deception shall, upon complaint, be sentenced to imprisonment from two to five years.”*
  - According to Article 232, *“Anyone who maltreats one of the persons living together in the same dwelling shall be sentenced to imprisonment from two months to one year. A person who abuses the disciplinary authority arising from the right of upbringing over a person who is under his/her authority or whom he/she is obliged to raise, educate, care for, protect or teach a profession or art, shall be sentenced to imprisonment for up to one year.”*
  - According to Article 233, *“A person who fails to fulfill the obligation of care, education or support arising from family law shall, upon complaint, be sentenced to imprisonment for up to one year. Even if their parental rights have been abolished, a parent who seriously endangers the morals, safety and health of their children due to habitual drunkenness, use of drugs or stimulants, or lack of material and moral care as a result of degrading attitudes and actions, shall be sentenced to imprisonment from three months to one year.”*
35. Law No. 5395 on Child Protection aims at regulating the procedures and principles regarding the protection of children in need of protection or who have been dragged into crime, and securing their rights and well-being.

36. Law No. 6284 on the Protection of the Family and Prevention of Violence against Women aims to regulate the procedures and principles regarding the measures to be taken for the protection of women, children, family members and victims of unilateral stalking who have been subjected to violence or are at risk of being subjected to violence and for the prevention of violence against these persons.
37. In the event of any denunciation or complaint regarding these offenses, law enforcement officers shall first of all immediately notify the public prosecutor, and proceedings shall be initiated in line with the instructions received. In this context, in cases where there is a danger in delay, the security measures stipulated in the law are immediately applied to protect the persons who make a complaint.
38. As mentioned above, VPMCs, KADES, Alo-183 Social Support Line, Child Monitoring Centers and women/children shelters are protection mechanisms additional to the judicial authorities to which victims can apply.
39. In this context, foreign nationals who have been subjected to violence in Türkiye can also benefit from the protection provided by these legal regulations, without any discrimination based on language, race, color, sex, political opinion, philosophical belief, religion, sect, nationality, marital status and similar reasons.

**On the measures taken to assess the individual circumstances and protection needs of each foreign national in the context of possible deportation**

40. In Türkiye, deportation procedures are regulated under Articles 52 to 60 of the Law No. 6458 on Foreigners and International Protection (LFIP). According to the Article 54 of the Law, removal decision shall be issued in respect of those foreigners listed below who/whose:

*“a) shall be removed pursuant to the procedure set out in Article 59 of the Turkish Penal Code № 5237;*

*b) are ringleaders, members or supporters of a terrorist organisation or a benefit oriented criminal organisation;*

*c) submit untrue information and false documents during the entry into Türkiye or visa and residence permit processes;*

*ç) made their living from illegitimate means during their stay in Türkiye;*

*d) pose a threat to public order or public security or public health;*

*e) has overstayed their visa or the visa exemption period for more than ten days or whose visas are cancelled;*

*f) residence permits are cancelled;*

*g) overstayed the expiry date of the duration of their residence permit for more ten days without an acceptable reason;*

*ğ) are determined to be working without a work permit;*

*h) breach the terms and conditions for legal entry into or exit from Türkiye;*

*i) are determined to have entered into Türkiye despite an entry ban to Türkiye;  
i) application for international protection has been refused; who are excluded from international protection; whose application is considered inadmissible; who has withdrawn the application or whose application is considered withdrawn; whose international protection status has ended or has been cancelled, provided that pursuant to the other provisions set out in this Law they no longer have the right of stay in Türkiye after the final decision;  
j) fail to leave Türkiye within ten days in cases where their residence permit renewal application has been refused;  
k) are evaluated as being associated with terrorist organizations which have been defined by international institutions and organizations.”*

**41.** Furthermore, even if they fall within the scope of Article 54, the following foreigners shall not be subject to a deportation order (Article 55):

*“a) when there are serious indications to believe that they will be subjected to the death penalty, torture, inhuman or degrading treatment or punishment in the country to which they shall be returned to;  
b) who would face risk due to a serious health condition, age or pregnancy in case of travel;  
c) who would not be able to receive treatment in the country to which they shall be returned while undergoing treatment for a life threatening health condition;  
ç) victims of human trafficking supported by the victim’s assistance programme;  
d) victims of serious psychological, physical or sexual violence, until their treatment is completed.”*

**42.** According to Article 55(2) of the Law, “Assessment within the scope of the first paragraph shall be made on a case by case basis.” Therefore, it is not possible to deport asylum-seekers in Türkiye without assessing individual applications and taking into account their subjective circumstances as required by the law.

**43.** Türkiye has been hosting the largest number of refugees for years and treats refugees equally with its citizens. Following the devastating earthquakes, rescue efforts were provided to all those affected without discrimination. Syrians under temporary protection and international protection applicants were allowed to reach other provinces where their relatives live without the need for travel permits. Foreign nationals were able to obtain a 90-day permit to stay in all cities except Istanbul. Syrians under temporary protection were granted a 6-month permit to visit Syria and return. The total number of Syrians benefiting from this permit is 106.308. As required by the exigencies of the disaster, certain relocations were made within the country and there was no practice of deportation in relation with the earthquakes.

**44.** Türkiye fully fulfills its national and international responsibilities to address the vulnerabilities and ensures the rights of migrants. National authorities respect the principle of non-refoulement as set out in national and international law. Accordingly, no refugee may be returned without his or her consent to a country where his or her life or freedom is threatened. Where specific data

such as name and location are obtained or provided regarding allegations of risk of deportation, the competent authorities duly inquire into the matter.

**On measures taken to provide protection and assistance to all internally displaced persons and durable solutions to their displacement**

45. Measures taken to provide social services, protection and assistance to all persons internally displaced due to the earthquake disaster, regardless of their ethnic, national and social origin, and to facilitate durable solutions to their displacement are explained below.
46. Teams are dispatched to the disaster area immediately following the earthquake to protect all people from the shocking, destructive, and chaotic effects of the disaster. Earthquake victims are placed in tent cities, temporary accommodation centers and container cities. Mobile teams are dispatched to areas where access to services may be more difficult due to the disaster. In disasters and emergencies, basic needs of all disaster victims such as food, clothing, furniture and shelter are met. Since citizenship is not a prerequisite for humanitarian aid services, there is no discrimination between citizens and foreigners.
47. Cash and in-kind aids in disasters and emergencies are carried out within the scope of the Decision on Social Aids to be Provided to Households Damaged by Emergencies and Disasters and Social Aids to be Provided to Households Damaged by Emergencies and Disasters annexed to the Presidential Decree dated 18 July 2022 and numbered 95044, pursuant to Law No. 3294.
48. In addition, the Emergency Social Safety Net (ESSN) Program, Conditional Education Assistance for Foreigners Project and Complementary Emergency Social Safety Net for Improving Living Standards of the Most Vulnerable Refugees with Basic Needs Support (C-ESSN) Project are implemented for the benefit of foreigners living in Türkiye.
49. Under the ESSN program and the C-ESSN project, social assistance is provided to vulnerable and socially insecure foreigners residing outside temporary accommodation centers who have temporary and international protection status, a pending application for protection or humanitarian residence permit.
50. In addition, Disaster Victim Shelter Support Program, launched under the coordination of the Disaster and Emergency Management Presidency (AFAD), envisages cash and non-refundable rental assistance for 12 months, along with relocation assistance, to families whose immovable properties are identified as heavily damaged or moderately damaged.

**On the measures taken to resolve legal disputes arising from the earthquake**

51. The Ministry of Justice sent official letters to relevant institutions in order to resolve the legal disputes arising from the earthquake and prevent the loss of rights of the people affected by the disaster. The matters addressed in these letters include:

- The due consideration of the Law No. 4539 on the Resolution of Legal Disputes Caused by Disasters and Facilitation of Certain Processes in legal proceedings,
- Facilitation of processes regarding the application for inheritance certificate,
- The substitution of other valid evidence in absence of official records,
- Ensuring that those who were obliged to leave the provinces because of the earthquake are able to request an inheritance certificate from Magistrate Judgeships and all notaries in other cities,
- The necessity of recording the time of death of the testator, to prevent loss of rights deriving from the regulation in Turkish Civil Code which states that those who are deemed to have died at the same time cannot inherit from each other,
- Ensuring that the aggrieved people benefit from legal aid upon their request.

### **On Allegations of Restriction of Press Freedom After the Earthquake**

52. As a manifestation of freedom of expression, freedom of the press and journalistic activities constitute one of the indispensable elements of a democratic society. In Türkiye, which is committed to protect and further strengthen democracy in dialogue with the international organisations of which it is a member, freedom of expression and press activities are protected and promoted with great effort. Article 25, 26, 28 and 29 of the Constitution regulate the freedom of thought and opinion, the freedom to express and disseminate opinions, the freedom of the press, and the right to periodical and non-periodical publications respectively. According to Article 28 of the Constitution, the press is free and cannot be censored and the State shall take measures to ensure the freedom of the press and freedom of information.
53. On the other hand, freedom of expression is not absolute and may be subject to certain limitations determined within the framework of the principle of the rule of law. Article 19 of the ICCPR, to which we are a party, states these limitations as follows: “[...] *this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or moral.*” Similar to the ICCPR, according to our Constitution, “*The exercise of these freedoms may be restricted for the purposes of national security, public order, public safety, safeguarding the basic characteristics of the Republic and the indivisible integrity of the State with its territory and nation, preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation or rights and private and family life of others, or protecting professional secrets as prescribed by law, or ensuring the proper functioning of the judiciary.*”
54. On the development and widespread use of internet broadcasting, many countries have adopted the principle of shared responsibility regarding the content of press and media activities. Within this scope, it is acknowledged that social media companies and other platforms share a common responsibility to promote and facilitate freedom of expression in the online world. Simultaneously, all these actors also share the responsibility of ensuring that the internet does not become a free space for violence and hatred. Similarly, in *Delfi AS v. Estonia*, which the European

Court of Human Rights characterized as the first application made to the Court in the context of developing internet technology and freedom of the press, the Court found that portals and websites which publish online commentary have an obligation to establish a system to ensure the control of commentary content. The Court evaluated that cases where user-generated comments are characterized by hate speech, malicious false statements, or violent content, failure of internet portals to take measures to promptly remove clearly unlawful comments, could grant Contracting States the right to impose liability on internet news portals on behalf of others and society as a whole. (Delfi AS v. Estonia [GC], Appl. No. 64569/09, 16 June 2015, §50)

55. As a result of the earthquakes dated 6 February 2023, houses were destroyed in 62 districts and 10.190 villages in 11 provinces and over fifty thousand citizens lost their lives, and 13 million citizens were affected by the earthquakes. Due to their severity, these earthquakes are referred to as "the disaster of the century". After the incident, many state institutions and non-governmental organisations supported search and rescue activities. In order to reach our citizens trapped under the rubble in the fastest way possible, there was a critical need for healthy information, but it was observed many times during this difficult process that unfounded reports may cause fear and panic among the public and carry risks that may lead to public outrage and bring the state and citizens against each other at a time of a great urgency. The measures adopted regarding Twitter in the period following the earthquake were taken within the scope of combating manipulative content that causes fear, panic and turmoil, as well as disinformation among the public and directly affects the response to the earthquake disasters.
56. Besides, with regard to periods of state of emergency, Article 25 of the Law on State of Emergency No. 2935 stipulates that "*in places where a state of emergency has been declared due to natural disasters, dangerous epidemics or severe economic depression; those who spread or transmit unfounded, exaggerated news and information with the specific purpose of causing public alarm and excitement shall be punished[...]* In the event that these offences are committed through the press and broadcasting organs, the penalties to be imposed shall be increased one-fold."
57. According to Article 217/A of the TPC No. 5237, "*anyone who openly disseminates false information related to the internal and external security, public order, and general health of the country with the intention of causing fear, panic, or anxiety among the public and thereby disturbing public peace, shall be punished with imprisonment from one to three years.*" Article 218 states that "*if the aforementioned offence is committed through the press and media, the penalty to be imposed shall be increased by up to half; however, expressions of opinion within the limits of reporting and criticism shall not constitute a crime*". Therefore, even in a democratic country, freedom of expression can be subject to certain limitations. These limitations are determined by international conventions and the jurisprudence of international courts and bodies established by these conventions. Turkish courts also consider the case law established by these international bodies while rendering judgments.

**58.** In conclusion, Türkiye's national legislation is compatible with international standards in terms of protecting freedom of expression and press freedom. As mentioned above, there are sufficient legal guarantees to protect expressions of thought that do not exceed the limits of reporting and are made for the purpose of criticism. However, it is considered a criminal offense under Article 217/A of the TPC to share false information about national security, public order, and public health with the aim of causing fear and disturbing public peace. In a country governed by the rule of law, no one has the privilege of committing offences. As stated in the case law of the ECtHR mentioned above, news reporters are expected to act in accordance with the principle of "shared responsibility". Finally, it is important to note that the domestic legislation does not allow individuals to be subjected to investigation or prosecution solely for engaging in journalistic activities in Türkiye.