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The Permanent Mission of the Republic of Turkey to the United Nations Office at Geneva and other international organisations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the latter's Note dated 4 June 2008 (Ref.: IW/MK/8W/is) has the honour to transmit herewith Turkey's contribution to the study on domestic legal measures for the implementation of the Convention on the Rights of Persons with Disabilities, pursuant to the Human Rights Council resolution 7/9, entitled "human rights of persons with disabilities".

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, 6 August 2008

Encl.:1



Office of the High Commissioner
for Human Rights
United Nations at Geneva
Palais des Nations
CH- 1211 Geneve 10

OHCHR REGISTRY

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Recipients :...A...2.....
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**Turkey's contribution to the study
on domestic legal measures for the implementation of the Convention on
the Rights of Persons with Disabilities, pursuant to the Human Rights
Council resolution 7/9**

1. General framework on equality and non-discrimination:

The constitutional system of Turkey is based on the principle of equality before the law of all individuals without discrimination, irrespective of their origins in terms of language, race, colour, ethnicity, religion or any other such particularity. In Turkey, all individuals enjoy the same rights and have the same obligations without discrimination. Acts of discrimination are prohibited and penalized by law.

The principle of equal rights implies that the needs of each and every individual are of equal importance, that those needs are met and necessary resources are employed in such a way as to ensure equal opportunity for all individuals to participate in all spheres of life. In this vein, the Turkish legislation provides for affirmative action to achieve de facto equality for persons with disabilities and to create an environment in which they can equally enjoy human rights and fundamental freedoms as well as to enable them to fully participate in the society.

Article 50 of the Constitution entitled "Working Conditions and Right to Rest and Leisure" envisages special protection for persons with disabilities with regard to working conditions. Article 61 of the Constitution entitled "Persons requiring special protection in the field of social security" stipulates that the state shall take measures to protect persons with disabilities, secure their integration into community life and establish necessary organizations and facilities for this purpose. The Turkish Disability Act of July 2005 No. 5378 is the main legal instrument that stipulates comprehensive affirmative measures for persons with disabilities in the fields of health, education, employment, rehabilitation, care and social security.

2. Legal Measures for ratification of the Convention on the Rights of Persons with Disabilities

UN Convention on the Rights of Persons with Disabilities was signed by Turkey on 30 March 2007. The ratification process is underway. The Convention was discussed and accepted by the Foreign Affairs Sub-Commission of the Turkish Grand National Assembly (TGNA) on 8 May 2008. Once ratified by TGNA, it will become a part of the domestic legislation.

Article 90 of the Turkish Constitution states that international agreements duly put into effect bear the force of law. Thus, international agreements ratified by Turkey in accordance with the domestic procedures have a direct effect in the national law. No appeal to the Constitutional Court can be made with regard to international agreements on the grounds that they are unconstitutional. In the case of a contradiction between international agreements in the realm of fundamental rights and freedoms duly put into effect, and domestic laws on the same matter, provisions of international agreements shall prevail.

3. Legal Measures for implementation of the Convention on the Rights of Persons with Disabilities

The Disability Act No. 5378 will constitute the main legal framework for the implementation of the Convention on the Rights of Persons with Disabilities, once the ratification process is completed.

The Act No. 5378, which entered into force in July 2005, was prepared in light of the principles enshrined in the “Standard Rules on the Equalization of Opportunities for Persons with Disabilities”. The purpose of this Act is to ensure that persons with disabilities, as members of the society, can exercise the same rights equally as others. It has injected a new vision and direction to the disability services and has introduced amendments to various laws and regulations concerning persons with disabilities. Through this vision, persons with disabilities are becoming more active and a driving force in the further development of disability policy in Turkey.

The main objectives of the Act No. 5378 are to prevent disability and impairment; to find solutions to the problems faced by persons with disabilities in the fields of health, education, employment, support services and social security; to take appropriate action in order to ensure their development; to remove obstacles preventing them from participating fully in the activities of the society and to enhance their independence in every day life.

The fundamental principles of the Turkish Disability Act are set forth in Article 4, which reads as follows:

“General principles

Article 4.- The following principles shall be observed in rendering services within the scope of this Law:

a) On the basis of the inviolability of human dignity and integrity, the State develops social policies against the exploitation of disability and persons with disabilities. Discrimination shall not be made against persons with disabilities; non-discrimination is the fundamental principle of all policies concerning persons with disabilities.

b) The participation of persons with disabilities, their families and voluntary organizations shall be ensured in all decision-making processes and services that concern them.

c) In rendering services for persons with disabilities family union shall be ensured.”

Disability Act No. 5378 has three chapters. In the first chapter, definition, basic principles and fundamental concepts in disability policies are laid down. The second chapter contains provisions concerning classification of disabilities, care and support services, rehabilitation, employment and work, job and occupational analysis, social security, accessibility as well as education and training. The third chapter introduces amendments to the existing legislation in other fields.

Other laws and regulations have also specific provisions concerning persons with disability.

4. Legal Measures on national monitoring, particularly in relation to article 33 of the Convention

Article 33 of the Convention on the Rights of Persons with Disabilities foresees the establishment or designation of a national mechanism for monitoring the implementation of the Convention. Once the internal ratification process of the Convention by Turkey is completed, necessary arrangements shall be made to ensure effective monitoring of the implementation of the Convention at the national level.

The central agencies for national monitoring and evaluation of disability programs in Turkey are the High Council of Disability, the Prime Ministry Administration for Persons with Disabilities and its two consultative organs, the Executive Committee and the Council for Persons with Disabilities.

The Administration for Persons with Disabilities was established in May 1997. Its main objectives are to develop strategies and policies concerning persons with disabilities with a view to enabling them to lead an independent life, to have equal access to information and all other services. The Administration gives priority to prevention of disability, allocation of resources for disability services, removal of barriers that prevent persons with disabilities to actively participate in social life, changing negative stereotypes against persons with disabilities and improving their quality of life.

The Administration is entrusted with the following functions:

- to provide coordination and collaboration among governmental and non-governmental organizations in the fields of prevention of disability, education, employment, rehabilitation, integration with society and other issues that concern persons with disabilities,
- to monitor disability services, to address the challenges and problems of service providers, when deemed necessary make recommendations and proposals in this regard,
- to support projects that provide disability services,
- to publish researches and manuals and to maintain statistical data,

- to follow international developments concerning persons with disabilities, to monitor and evaluate the implementation of international treaties,
- to cooperate with non-governmental organizations and local administrations, to prepare joint projects concerning persons with disabilities,
- to issue ID cards for people with disabilities,
- to produce printed and visual materials including films and documentaries on education and awareness-raising,
- to prepare and review all draft legislations concerning persons with disability,
- to act as a secretariat of the High Council of Disability.

The Administration discharge its functions in line with the following policy principles:

- Promoting a “Society for All”,
- Promoting equal participation of persons with disabilities in social life,
- Promoting mobility and independent living abilities of persons with disabilities,
- Raising awareness and sensitivity about the rights of persons with disabilities in the society,
- Provision of equal educational opportunities for persons with disabilities throughout the life span,
- Improvement of employment facilities for persons with disabilities, re-arranging work environment and re-designing equipments/instruments according to the specific needs of persons with disabilities as well as taking necessary precautionary measures,
- Ensuring full participation of persons with disabilities in cultural, recreational, sporting and other activities,
- Guaranteeing full participation of persons with disabilities in decision-making processes,
- Forming partnerships with persons with disabilities, their organizations and NGOs,

The High Council of Disability was established in 1997. It is composed of representatives from the ministries of health, education, labor and social security, social services organizations, the confederation of disability organizations as well as universities. The High Council of Disability is responsible for determining the prioritization of projects prepared, instructed and evaluated by the Administration of Persons with Disabilities and informing the Administration of its opinions and proposals in this regard.

The Consultative Council is an affiliated organ of the Administration for Persons with Disabilities. It consists of representatives from non-governmental organizations, persons with disabilities and from other relevant associations. The functions of the Council are to discuss and analyze all ideas and developments on disability at the national and international level, make concrete proposals on wide ranging solutions to the existing problems faced by persons with disabilities. Through its conclusions and recommendations, the Council provides an input to the decision-making processes and contribute to devising national policies on disability matters.

The Executive Committee is another consultative organ of the Administration for Persons with Disabilities. It consists of representatives from governmental departments and agencies, non-governmental organizations, employee and employer unions as well as universities. The Executive Committee meet every three months. It is entrusted with determining priorities in the disability field and identify projects that could be administered and supported by the state.