



PERMANENT MISSION OF TURKEY  
TO THE UNITED NATIONS  
GENEVA

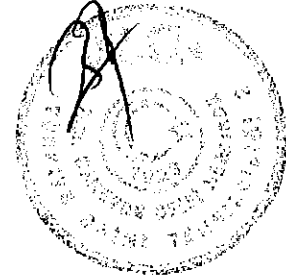
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The Permanent Mission of the Republic of Turkey to the United Nations Office at Geneva and other international organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the joint communication sent by Mr. Maina Kiai, Special Rapporteur on the rights to freedom of peaceful assembly and of association; Ms. Leilani Farha, Special Rapporteur on adequate housing; Mr. Chaloka Beyani, Special Rapporteur on the human rights of internally displaced persons and Ms. Rita Izsak-Ndiaye, Special Rapporteur on minority issues, dated 21 September 2016 (Reference: AL, TUR 5/2016), has the honour to enclose herewith an information note comprising the response of 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, 20 January 2017

Encl: As stated



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

**Observations Regarding the Joint Appeal of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the rights to freedom of assembly and of association; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on minority issues dated 21 September 2016  
(REFERENCE: UA, TUR 5/2016)**

1. The Government would like to present its observations in respect of the Joint Appeal of Special Rapporteur in the field of cultural rights; the Special Rapporteur on the rights to freedom of assembly and of association; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on minority issues dated 21 September 2016 (REFERENCE: UA, TUR 5/2016).
2. In the current Joint Appeal, the Government is requested to present information and comments on the allegations concerning the destruction of historical buildings and residential neighborhoods in Sur district, Diyarbakır since December 2015 and the plan to expropriate for urban renewal and regeneration in the region.
3. It is important that the nature of the terrorist attacks which have been carried out by the PKK terrorist organization in the south eastern Anatolian region in Turkey as from July 2015 must be given due consideration in the first place and particularly taken into account for a better assessment of the points that were raised in the current Joint Appeal.

In this context, it should be pointed out at the outset that Turkey is exposed to severe threats by the notorious terrorist organization, PKK. It is the right, duty and obligation of the Turkish State to fight against terrorism in all its forms as terrorist activity itself is a fundamental violation of human rights.

PKK is a vicious terrorist organization, which is included in the lists of terrorist entities of the EU as well as USA and many other countries in the democratic world. For decades, Turkey has been countering PKK terrorism which claimed thousands of lives of innocent people and violated the fundamental rights and freedoms of people; first and foremost, the right to life. While Turkish security authorities have been conducting counter-terrorism efforts in line with legal principles as well as norms and standards enshrined and permissible in international instruments, including those on human rights, Turkey has been targeted by baseless allegations, mostly as a result of PKK propaganda.

Since July 2015, PKK terrorist organization, after having sabotaged Government efforts for the Process, opted for terrorist violence and intensified its decades-old acts of terror. It adopted a new tactic to blend in with the local population and moved its violence to urban centers. The terrorist organization set Improvised Explosive Device (IED) traps in residential areas, built barricades, dug ditches and tried to establish control over the region by putting civilians' lives at risk and even used them as human shields. It declared so-called "autonomy" in some districts. It has also carried out suicide bombings in city centers, as was the case for instance, in Ankara, Diyarbakır, Kayseri and İstanbul.

YDG-H, which is the urban wing of PKK and formed mainly by PKK young recruits residing in cities, started a wave of massive terror attacks regardless of the fact that their actions violate the civilians' basic rights, including the right to life. Primarily in the districts of Cizre and Sur, it intensified terror attacks with a view to declaring so-called autonomous regions by force of arms. The terrorist organization started to exert pressure on civilians residing in the region by trenching the entry and exit points of neighborhoods, by setting bombed traps and barricades and by using firearms in order to disturb peace and public security and to create anarchy. Local residents were exposed to PKK violence, and thus obliged to leave their homes. PKK has been known to coercively take children to armed training in terrorist camps and to employ them in terror attacks, especially in urban areas (a considerable portion of surrendered and captured terrorists are under the age of 18).

As a sovereign country and as a democratic state based on the rule of law, Turkey has the duty and obligation to take necessary measures to protect its citizens against terrorism and to establish public order in its territory in line with its constitutional order and international norms.

In the course of this terrorist campaign since July 2015 (as of 28 November 2016), 323 civilians and 799 security personnel were murdered; 2,040 civilians and 4,428 security personnel were wounded; 231 civilians were kidnapped by the PKK. PKK terrorism has prevented people living in the region from accessing health services and enjoying their basic right to education. It has targeted public facilities, including schools, hospitals, ambulances, infrastructure such as dams as well as private business establishments. As from 20 July 2015, PKK attacked 247 public facilities, 6 dams, 231 private business establishments, 19 ambulances and 1,643 vehicles. It has used heavy weaponry. 3,355 grenades, 261 rocket launchers, 4,767 Molotov cocktails and 7,048 IED's have been captured only since that date.

In order to protect its people from PKK terrorism, Turkey has effectively carried out counter-terrorism operations within the limits of rule of law and in full observance of its national legislation and international obligations. The measures Turkey has taken within the framework of counter-terrorism operations are necessary and proportionate to the legitimate aim of protecting its people from unlawful terrorist violence by the terrorist organization PKK. Under these dire conditions, it was required to restore the public order, to remove the barriers, to close the ditches, to defuse the explosives planted in the barriers, ditches, roads and buildings. To this end, the intervention by the security forces by way of comprehensive operations was of an urgent necessity. Thus the security forces have carried out counter terrorist operations, in order to stop these terror acts as well as to restore public order and to protect civilians whose fundamental rights have been severely infringed upon.

During the counter-terrorism operations against PKK, in order to avoid harm to the civilian population, curfews had to be imposed in a number of provinces and districts as a temporary measure. Curfews were continuously reviewed and lifted when necessary according to the circumstances. In the course of time the imposition of this measure has considerably been narrowed down, as the operations progressed.

During the curfews, rapid and safe evacuation of the people wishing to leave the region before the operations was ensured by the Turkish authorities. Necessary measures have been taken to meet the basic needs of the people and to provide health services in an uninterrupted way. 155 "Police Emergency Line" was constantly kept operational to call ambulance or to ask for food. Distribution of packages of daily needs as well as electricity and water services have been

provided without interruption despite the shooting and shelling of PKK terrorists hiding in the buildings.

While measures were taken in response to these pressing circumstances, due consideration has been given to the principles of proportionality and necessity. Turkish authorities applied curfews as the most appropriate measure to protect civilians from being targeted as well as from being used as human shields by the terrorist organization; by separating civilians from terrorists during the course of security operations; and by avoiding harm to civilians while clearing booby-trapped trenches and barricades.

In compliance with the principle of proportionality, curfews were imposed not in city centers and districts where the operations were carried out, but only in areas where the city structures of PKK conducted its terrorist activities, built barricades, dug ditches that led to the serious violation of fundamental rights and freedoms.

On the other hand, in Turkey, international agreements duly put into effect bear the force of law, in accordance with Article 90 of the Turkish Constitution. In this vein, international conventions to which Turkey is party are an integral part of the national legislation. Accordingly, the judicial system of Turkey takes guidance from the articles of the relevant international agreements, including the European Convention on Human Rights, as well as the case-law of the European Court of Human Rights, compulsory jurisdiction of which was recognized by Turkey in 1990.

As for the legal basis of the measure of curfews, it is provided under Turkish legal system - in the Articles 11 and 32 of the Provincial Administration Law No 5442. Curfews are imposed on the basis of the authority granted with these provisions to governors and sub-governors to take necessary measures to prevent commission of crimes and to protect public order and security. Therefore, it is considered that the measure of curfews has the required legal basis in Turkish legislation and that it meets the quality of law requirements, namely, accessibility and foreseeability. As a matter of fact, there is no decision rendered by either a domestic court or the European Court of Human Rights indicating otherwise. The applications requesting interim measures for lifting curfews were rejected by the European Court of Human Rights as well as by the Turkish Constitutional Court. On the other hand, when it comes to the interim measures indicated by the European Court of Human Rights in a few cases concerning persons in need of medical care, Turkish authorities immediately put them in process.

With respect to the measures taken within the framework of counter-terrorism operations, including curfews, judicial remedies are available under Turkish legal system, including individual application to the Turkish Constitutional Court. The supervision of the European Court of Human Rights continues as usual.

Moreover, persons who have suffered damage due to terrorist acts or counter-terrorism operations are provided with adequate redress by the Turkish State. Victims of terrorism are compensated under the "Law on Compensation for Losses resulting from Terrorism and the Fight against Terrorism No. 5233" for their losses due to terrorist acts conducted by PKK or operations by security forces to remove barricades and to close ditches set up by terrorists

Turkey also remains resolved to giving priority to the economic development of the region, as recently announced by the Government, to mobilize funds for the cities affected by PKK terrorism.

In spite of the severity of the threat, Turkey had not resorted to the right of derogation under the International Covenant on Political and Civil rights and the European Convention on Human Rights and conducted its fight against PKK terrorism without deviating from any of its obligations under these Conventions, prior to the terrorist coup attempt on 15 July 2016.

In light of the above, it is clear that Turkey conducts its struggle against terrorism in accordance with national and international law, while at the same time attaching particular importance to the protection of all fundamental rights and freedoms.

4. The claim cited in the urgent appeal that the UN access to main cities has not been granted is at odds with the realities. Turkey maintains continuous constructive cooperation with all UN mechanisms on human rights, including Treaty Bodies and Special Procedures of the Human Rights Council, having extended a standing invitation to the latter in 2001. As far as UN and the Council of Europe are concerned, most recent visits to Southeastern Anatolia have been held by the Working Group on Enforced or Involuntary Disappearances (March 2016), Nils Muižnieks, Human Rights Commissioner of the Council of Europe (April 2016), co-rapporteurs of Council of Europe's PACE (May 2016) and Special Rapporteur on Torture Nils Melzer (December 2016). The fact that two UN missions visited the region in the second half of the year 2016 clearly demonstrates the unfounded nature of these allegations.

5. As regards the requested information on the measures taken for the protection of religious, historical, cultural significance and heritage, it should be mentioned that the site entitled "Diyarbakır Fortress and the Hevsel Gardens Cultural Landscape" was inscribed on UNESCO World Heritage List during the 39<sup>th</sup> Session of the World Heritage Committee in Bonn, in July 2015. The property includes Diyarbakır Fortress and Walls, the adjacent Hevsel Gardens, Dicle Bridge and Anzele Spring. The first buffer zone of the site is near the Suriçi Urban Site, whereas the second includes Dicle Valley and some parts of Yenişehir district.

Due to terrorist attacks in December 2015, certain parts of the periphery of the Province of Diyarbakır including the first buffer zone of the World Heritage Site, the Suriçi district, were severely affected along with other areas.

Emergency conservation measures were introduced by local authorities to secure the heritage site and to prevent access of terrorists. For security reasons, the passes of the bailey which has 82 bastions were closed with concrete blocks and some of its parts were filled with rubble in line with the decision of the Diyarbakır Regional Board of Conservation of Cultural Heritage.

On 1 April 2016, Prime Minister of Turkey, accompanied by Ministers of Culture and Tourism, Environment and Urban Affairs, and Interior, visited Diyarbakır. The Prime Minister pledged a recovery plan for Suriçi and announced the Government's unequivocal commitment to restore the historical and architectural heritage back to its original state.

Consecutively, the Ministry of Culture and Tourism of the Republic of Turkey established a Commission of Inquiry and deployed technical missions comprising architects, construction and survey engineers, restaurateurs, archaeologists, museum experts, art historians and urban planners in order to assess the damage that may have occurred in buildings and monuments therein.

In this context, six commissions for the World Heritage Site itself and three commissions for Suriçi Urban Site were formed and conducted on-site studies to assess the extent of damages as of April 2016. Their preliminary report indicates collateral damage in the area of the World Heritage Site caused by terrorist attacks.

A further damage assessment was concluded in coordination with all relevant institutions. A task force composed of 60 experts was established to assess the damage on the property and its monuments. The team visited the site and prepared a comprehensive report of 88 pages.

The report was immediately transmitted to UNESCO World Heritage Centre on 10 May 2016. Substantial planning is underway to restore and safeguard the property affected. Restorative and curative work has begun as soon as the security was fully restored. A conservation master plan for Diyarbakır Urban Walls was already included in the 2016 Investment Programme of the Ministry of Culture and Tourism.

Furthermore, a tender was initiated in order to restore the Armenian Catholic Church in Sur district that was severely damaged by terrorist attacks. As of 22 June 2016, the restoration work started and is expected to be finalized by the end of 2018. Besides, an approximate cost study was completed for the Protestant Church in Sur which was also damaged by terrorist attacks.

Turkey, as the member and former Chair of UNESCO World Heritage Committee, is well aware of its additional obligations arising from the 1972 UNESCO Convention Concerning the Protection of World Cultural and Natural Heritage. In close coordination with the World Heritage Center, Turkey is doing its utmost to preserve and protect the integrity of the site.

Turkey's efforts to sustain the Outstanding Universal Value, the authenticity and the integrity of the property were delivered by UNESCO World Heritage Committee. The Committee, during its 40<sup>th</sup> Session in İstanbul, examined the current state of conservation of "Diyarbakır Fortress and Hevsel Gardens Cultural Landscape" and took the decision 40 COM 7B.60 on the matter. While stating that the situation in Diyarbakır is a matter of concern, the Committee acknowledged the steps taken by Turkey to protect the property and its buffer zone.

With the afore-mentioned decision, the Committee requested Turkey to conduct an assessment of the state of conservation of the property and submit its results to the World Heritage Center and the Advisory Bodies for review and further submit an updated report on the state of conservation of the property to the World Heritage Center by 1 February 2017, to be examined by the Committee at its 41<sup>st</sup> Session in July 2017.

A meticulous work for this report has already been initiated. All along the process, utmost sensitivity and transparency will be displayed and the case will earnestly be addressed by all authorities concerned in coordination with UNESCO and in line with the spirit of the 1972 Convention.

**6.** Regarding the issues raised in respect of the urban renewal plans and related changes in legislation, the main objectives concerning the urban transformation works carried out in the Eastern and Southeastern provinces are submitted below.

These works include the renewal of the unhealthy and unsafe building stock; bringing cities to habitability standards with green spaces, social facility areas, infrastructure and transportation systems; and implementing works which will bring added value to these cities. In other words,

it aims to create healthy, safe and livable cities and buildings. In cooperation with the local administrations, fast and effective project designing and their application are conducted with a minimum damage understanding in the context of the urban transformation.

7. As regards the information requested on the urgent expropriation decision of the Council of Ministers, it should primarily be emphasized that *Suriçi* has been hosting low quality and risky buildings, which needed to be transformed in conformity with the historical texture. Thus, a “risk zone” had already been declared in the *Sur* district of Diyarbakır by the Council of Ministers Decision (No. 2012/3900) on 4 November 2012 in accordance with the Law No. 6306.

As to *Sur* risk zone, all powers including those related to planning and expropriation, under Article 6 § 5 of the Law No. 6306, are transferred to the Ministry of Environment and Urbanization. Considering that *Suriçi* is a protected site with many registered buildings, damage assessment works are carried by this Ministry in collaboration with the Ministry of Culture and Tourism, the General Directorate of Foundations and the General Directorate of Land Registry and Cadaster.

In fact, the Ministry of Environment and Urbanization, even before terrorist actions occurred in Diyarbakır’s *Suriçi* neighborhood, had been carrying out works both to protect the historical texture and to eliminate the risk caused by urban decay zones.

Terrorist activities badly damaged a large number of historical and other buildings in the *Suriçi* area. Many buildings were completely destroyed, heavily or mildly damaged. Many of the buildings became uninhabitable and people were obliged to leave their houses. Those left homeless are provided with rental allowance by the Governorship of Diyarbakır. The damage caused to local people’s household belongings is assessed and compensations are paid by the Diyarbakır Governorship.

Within the framework of the Urban Transformation Project, the Ministry of Environment and Urbanization approved the urgent expropriation of the immovable properties under the Expropriation Law No. 294 regarding those on which reconciliation with the owners could not be realized. Accordingly, the decision of urgent expropriation (No. 2016/8659) was taken by the Council of Ministers on 21 March 2016.

In this context, consultations are in progress so as to inform the right holders. Moreover, the Ministry of Environment and Urbanization, the Governorship of Diyarbakır (Provincial Environment and Urbanization Directorate) and the Liaison Office in *Suriçi* are assigned to provide information regarding the risk zone and urgent expropriation.

In addition, the Protective Master Plan of 2012 was prepared by the Municipality of Diyarbakır long before the terrorist attacks and the counter-terrorism operations. This plan, in compliance with national legislation and international law, seeks to preserve the historical texture. The decision for expropriation aims to implement this plan as promptly as possible and thus to eliminate risky buildings which pose dangers to the population. The primary objective is to design the plan with the consent of the people by way of reconciliation talks. Therefore, a reconciliation office was opened in May 2016 where a working group composed of various professionals started to collect the requests from the public. In this vein, approximately 5.000 people have been interviewed, and the following request categories have been established thus far:

- Those who wish to continue living inside the zone (house to be built by them or the State);
- Those who have been fed up with the terror conditions inside the zone and wish to move to a different location within Diyarbakır (either Çölgüzeli or Üçkuyular projects realized by the Housing Development Administration of Turkey);
- Those who wish to receive the compensation in cash and find another solution.

Moreover, the *headmen* (the elected head of a neighborhood within a town or city) of six neighborhoods which sustained damages as a result of operations, were also consulted. Another meeting was organized with the participation of all stakeholders, where forthcoming projects were presented and views were considered.

Street regeneration works were launched with a view to bringing the exteriors of stores in Suriçi in line with the historical texture. A pilot case was quickly completed to show store owners the result of the pilot project and their opinions were asked. Furthermore, Halkbank and KOSGEB (Small and Medium Industry Development Organization) are assigned to gather store owners' demands for zero-interest loans (which are to be paid in 18-month instalments, with the first payment beginning 6 months later).

8. It should also be emphasized that further required steps have been taken under the coordination of the Ministry of Environment and Urbanisation, in accordance with the Code on the Compensation of Damages Arising from Terrorism and from the Measures Taken against Terrorism (Law No. 5233).

The Governorship of Diyarbakır informed the Ministry of Environment and Urbanization with a letter dated 25 April 2016 that a number of dwellings and workplaces were severely damaged in Diyarbakır's Sur district as a result of digging trenches, forming barricades and detonation of explosives planted in these spots by members of the PKK terrorist organization. Upon the request of the Governorship, the Ministry initially deployed 10 teams to carry out damage assessment under the Law No. 5233.

Teams of three persons, including a civil engineer or an architect, an electrical engineer or a technician, and a mechanical engineer or a technician, were established and started to operate in the field. The technical staff from the Ministry of Environment and Urbanization identified the state of damage sustained scientifically and tried to determine the amount of pecuniary damage. Prior to all these works, the assigned staff were sufficiently informed and given field training.

Compensation for damages is assessed by the "Damage Assessment Commissions" set up under the Governorships and they operate pursuant to the Law No. 5233. Upon the requests of the Governorships the Ministry of Environment and Urbanization deploys technical staff as experts. Moreover, damage assessment reports are communicated to the concerned persons through the governorships and they are duly informed about their rights including to raise objection to reports. In case of objections, reports are reviewed by another team and the persons concerned are once more informed about the result.

9. In respect of the issues raised in the current Joint Appeal, the works undertaken by the Housing Development Administration of Turkey (TOKİ) should be elaborated as well. The construction of buildings by TOKİ with modern engineering services, aim to increase living standards of the people in the region and to meet their housing needs adequately.



The works on the 24.5 hectares area for which TOKİ is a project partner in Diyarbakır-Sur, aims to form habitable and safe living quarters befitting Diyarbakır in line with the zoning plan decision for protection and with the participation and support of the people.

TOKİ considers Diyarbakır Suriçi as highly different from the newly developed regions of the city in terms of housing intensity, building and street patterns. Suriçi is one of the areas with the highest intensity of population in the city. Thus, Urban Transformation projects have been launched with a protocol signed among Diyarbakır Metropolitan Municipality, Sur Municipality, Diyarbakır Governorship and TOKİ.

TOKİ has constructed 1272 houses (1<sup>st</sup> stage consisting of 816 houses, 2<sup>nd</sup> stage of 456 houses), 1 primary school, 1 village clinic, 1 mosque, 1 police station and 1 commercial center in Çölgüzeli district.

After reconciliation talks, the right holders were proposed to receive either a house built by TOKİ in Çölgüzeli in return for their existing immovable properties or cash payment worth the value of their real estates. In this context, 703 houses were delivered to the right holders until 28 October 2016 at discounted prices in accordance with the approval of the Prime Ministry within the scope of the Code on Housing Development (Law No. 2985). Besides, a sum of 20.222.122,56 TL (approximately 5,2 million US Dollars) has been pledged to 1040 land shareholders with price agreements.

It is obvious that the decision to enact laws expropriating property commonly involves consideration of political, economic and social issues. The margin of appreciation available in implementing social and economic policies should respect the public interest such as the conservation of the cultural heritage and, where appropriate, its sustainable use, in addition to the maintenance of a certain quality of life, the preservation of the historical, cultural and artistic roots of a region and its inhabitants. In order to satisfy the requirements of the principle of proportionality, an amount of compensation that is “fair and just”, “fair and payable in advance”, “fair and payable immediately”, “adequate” or “appropriate”, or that is based on the “value”, “full value”, “current value”, “market value” or the “fair price” of the expropriated property must be determined.

In this respect, forced eviction of people with whom no reconciliation has been made is out of question. In view of the gravity and the complexity of the issues in question in the region, legally permitted expropriation was considered to be the most efficient and speedy way to address the problems. Therefore, appropriate and legally permitted expropriation process has been implemented for acquisition of the immovable properties. Expropriation is a process which is implemented at all parts of Turkey and not only in Southeastern Turkey. In this regard, the advance amount paid in relation with expropriation until today is above 53 million TL (approximately 14 million US Dollars). Acquisition right among the newly constructed houses shall also be granted to people to discharge their house as a result of the expropriation process.

In this context, the construction of buildings is in progress in Üçkuyu quarter for a total of 1.391 houses consisting of 315 in the 1st zone, 480 in the 2nd zone and 596 in the 3rd zone. The right holders of the immovable properties within the urban transformation project will be provided access to 2.657 houses, including 546 houses put in an allocation tender on 15 March 2016 and 720 houses put in an allocation tender on 27 April 2016. Furthermore the allocation tender of 808 houses were held on 24 November 2016 in Üçkuyu locality and the consideration

regarding the tender is in progress.

As of November 2016, implementation of 14.643 housing units has been carried out by TOKİ in the region while additional 18.650 units are still at planning stage. The construction of permanent housing projects will be continued with a view to provide quality and safe living conditions for the citizens in the region.

**10.** Besides the explanations above, a strong objection is submitted to the characterization of Kurdish origin citizens of Turkey as “minority” in the Joint Appeal.

It should be clarified that the minority rights in Turkey are regulated in accordance with the Lausanne Peace Treaty of 1923, under which Turkish citizens belonging to non-Muslim minorities fall within the scope of the term “minority”. Turkish citizens belonging to non-Muslim minorities enjoy and exercise the same rights and freedoms as the rest of the population. Additionally, they benefit from their minority status in accordance with the Lausanne Peace Treaty. However, citizens of Kurdish origin in Turkey are not recognized as a minority according to the national legislation including Lausanne Peace Treaty.

**11.** The Turkish nation is not a juxtaposition of communities or groups. It is an amalgamation of individuals from various backgrounds, who have found their home in this land throughout centuries. Thus, it is composed of those citizens, who are equal before the law irrespective of their origins in terms of language, race, color, ethnicity, religion or any other such particularity, and their fundamental rights and freedoms are enjoyed and exercised individually in accordance with the relevant law. In line with the fundamental principles of equality and non-discrimination, every Turkish citizen is considered an integral part of the Turkish national identity and culture. Diversity in their origins is the source of richness in Turkish society. Their fundamental rights and freedoms can be enjoyed through the exercise of individual liberties. Duly taking into account the needs and aspirations of our citizens from all backgrounds, important achievements have been made for the further protection and promotion of human rights, including additional measures to promote economic, social and cultural rights for those including the Turkish citizens of Kurdish origin in relation to their origin.

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During the curfews, rapid and safe evacuation of the people wishing to leave the region before the operations was ensured by the Turkish authorities. Necessary measures have been taken to meet the basic needs of the people and to provide health services in an uninterrupted way. 155 "Police Emergency Line" was constantly kept operational to call ambulance or to ask for food. Distribution of packages of daily needs as well as electricity and water services have

been provided without interruption despite the shooting and shelling of PKK terrorists hiding in the buildings.

While measures were taken in response to these pressing circumstances, due consideration has been given to the principles of proportionality and necessity. Turkish authorities applied curfews as the most appropriate measure to protect civilians from being targeted as well as from being used as human shields by the terrorist organization; by separating civilians from terrorists during the course of security operations; and by avoiding harm to civilians while clearing booby-trapped trenches and barricades.

In compliance with the principle of proportionality, curfews were imposed not in city centers and districts where the operations were carried out, but only in areas where the city structures of PKK conducted its terrorist activities, built barricades, dug ditches that led to the serious violation of fundamental rights and freedoms.

On the other hand, in Turkey, international agreements duly put into effect bear the force of law, in accordance with Article 90 of the Turkish Constitution. In this vein, international conventions to which Turkey is party are an integral part of the national legislation. Accordingly, the judicial system of Turkey takes guidance from the articles of the relevant international agreements, including the European Convention on Human Rights, as well as the case-law of the European Court of Human Rights, compulsory jurisdiction of which was recognized by Turkey in 1990.

As for the legal basis of the measure of curfews, it is provided under Turkish legal system - in the Articles 11 and 32 of the Provincial Administration Law No 5442. Curfews are imposed on the basis of the authority granted with these provisions to governors and sub-governors to take necessary measures to prevent commission of crimes and to protect public order and security. Therefore, it is considered that the measure of curfews has the required legal basis in Turkish legislation and that it meets the quality of law requirements, namely, accessibility and foreseeability. As a matter of fact, there is no decision rendered by either a domestic court or the European Court of Human Rights indicating otherwise. The applications requesting interim measures for lifting curfews were rejected by the European Court of Human Rights as well as by the Turkish Constitutional Court. On the other hand, when it comes to the interim measures indicated by the European Court of Human Rights in a few cases concerning persons in need of medical care, Turkish authorities immediately put them in process.

With respect to the measures taken within the framework of counter-terrorism operations, including curfews, judicial remedies are available under Turkish legal system, including individual application to the Turkish Constitutional Court. The supervision of the European Court of Human Rights continues as usual.

Moreover, persons who have suffered damage due to terrorist acts or counter-terrorism operations are provided with adequate redress by the Turkish State. Victims of terrorism are compensated under the “Law on Compensation for Losses resulting from Terrorism and the Fight against Terrorism No. 5233” for their losses due to terrorist acts conducted by PKK or operations by security forces to remove barricades and to close ditches set up by terrorists

Turkey also remains resolved to giving priority to the economic development of the region, as recently announced by the Government, to mobilize funds for the cities affected by PKK terrorism.

In spite of the severity of the threat, Turkey had not resorted to the right of derogation under the International Covenant on Political and Civil rights and the European Convention on Human Rights and conducted its fight against PKK terrorism without deviating from any of its obligations under these Conventions, prior to the terrorist coup attempt on 15 July 2016.

In light of the above, it is clear that Turkey conducts its struggle against terrorism in accordance with national and international law, while at the same time attaching particular importance to the protection of all fundamental rights and freedoms.

**4.** The claim cited in the urgent appeal that the UN access to main cities has not been granted is at odds with the realities. Turkey maintains continuous constructive cooperation with all UN mechanisms on human rights, including Treaty Bodies and Special Procedures of the Human Rights Council, having extended a standing invitation to the latter in 2001. As far as UN and the Council of Europe are concerned, most recent visits to Southeastern Anatolia have been held by the Working Group on Enforced or Involuntary Disappearances (March 2016), Nils Muižnieks, Human Rights Commissioner of the Council of Europe (April 2016), co-rapporteurs of Council of Europe's PACE (May 2016) and Special Rapporteur on Torture Nils Melzer (December 2016). The fact that two UN missions visited the region in the second half of the year 2016 clearly demonstrates the unfounded nature of these allegations.

**5.** As regards the requested information on the measures taken for the protection of religious, historical, cultural significance and heritage, it should be mentioned that the site entitled "Diyarbakır Fortress and the Hevsel Gardens Cultural Landscape" was inscribed on UNESCO World Heritage List during the 39<sup>th</sup> Session of the World Heritage Committee in Bonn, in July 2015. The property includes Diyarbakır Fortress and Walls, the adjacent Hevsel Gardens, Dicle Bridge and Anzele Spring. The first buffer zone of the site is near the Suriçi Urban Site, whereas the second includes Dicle Valley and some parts of Yenişehir district.

Due to terrorist attacks in December 2015, certain parts of the periphery of the Province of Diyarbakır including the first buffer zone of the World Heritage Site, the Suriçi district, were severely affected along with other areas.

Emergency conservation measures were introduced by local authorities to secure the heritage site and to prevent access of terrorists. For security reasons, the passes of the bailey which has 82 bastions were closed with concrete blocks and some of its parts were filled with rubble in line with the decision of the Diyarbakır Regional Board of Conservation of Cultural Heritage.

On 1 April 2016, Prime Minister of Turkey, accompanied by Ministers of Culture and Tourism, Environment and Urban Affairs, and Interior, visited Diyarbakır. The Prime Minister pledged a recovery plan for Suriçi and announced the Government's unequivocal commitment to restore the historical and architectural heritage back to its original state.

Consecutively, the Ministry of Culture and Tourism of the Republic of Turkey established a Commission of Inquiry and deployed technical missions comprising architects, construction and survey engineers, restaurateurs, archaeologists, museum experts, art historians and urban planners in order to assess the damage that may have occurred in buildings and monuments therein.

In this context, six commissions for the World Heritage Site itself and three commissions for Suriçi Urban Site were formed and conducted on-site studies to assess the extent of damages as of April 2016. Their preliminary report indicates collateral damage in the area of the World Heritage Site caused by terrorist attacks.

A further damage assessment was concluded in coordination with all relevant institutions. A task force composed of 60 experts was established to assess the damage on the property and its monuments. The team visited the site and prepared a comprehensive report of 88 pages.

The report was immediately transmitted to UNESCO World Heritage Centre on 10 May 2016. Substantial planning is underway to restore and safeguard the property affected. Restorative and curative work has begun as soon as the security was fully restored. A conservation master plan for Diyarbakır Urban Walls was already included in the 2016 Investment Programme of the Ministry of Culture and Tourism.

Furthermore, a tender was initiated in order to restore the Armenian Catholic Church in Sur district that was severely damaged by terrorist attacks. As of 22 June 2016, the restoration work started and is expected to be finalized by the end of 2018. Besides, an approximate cost study was completed for the Protestant Church in Sur which was also damaged by terrorist attacks.

Turkey, as the member and former Chair of UNESCO World Heritage Committee, is well aware of its additional obligations arising from the 1972 UNESCO Convention Concerning the Protection of World Cultural and Natural Heritage. In close coordination with the World Heritage Center, Turkey is doing its utmost to preserve and protect the integrity of the site.

Turkey's efforts to sustain the Outstanding Universal Value, the authenticity and the integrity of the property were delivered by UNESCO World Heritage Committee. The Committee, during its 40<sup>th</sup> Session in İstanbul, examined the current state of conservation of "Diyarbakır Fortress and Hevsel Gardens Cultural Landscape" and took the decision 40 COM 7B.60 on the matter. While stating that the situation in Diyarbakır is a matter of concern, the Committee acknowledged the steps taken by Turkey to protect the property and its buffer zone.

With the afore-mentioned decision, the Committee requested Turkey to conduct an assessment of the state of conservation of the property and submit its results to the World Heritage Center and the Advisory Bodies for review and further submit an updated report on the state of conservation of the property to the World Heritage Center by 1 February 2017, to be examined by the Committee at its 41<sup>st</sup> Session in July 2017.

A meticulous work for this report has already been initiated. All along the process, utmost sensitivity and transparency will be displayed and the case will earnestly be addressed by all authorities concerned in coordination with UNESCO and in line with the spirit of the 1972 Convention.

**6.** Regarding the issues raised in respect of the urban renewal plans and related changes in legislation, the main objectives concerning the urban transformation works carried out in the Eastern and Southeastern provinces are submitted below.

These works include the renewal of the unhealthy and unsafe building stock; bringing cities to habitability standards with green spaces, social facility areas, infrastructure and transportation

systems; and implementing works which will bring added value to these cities. In other words, it aims to create healthy, safe and livable cities and buildings. In cooperation with the local administrations, fast and effective project designing and their application are conducted with a minimum damage understanding in the context of the urban transformation.

7. As regards the information requested on the urgent expropriation decision of the Council of Ministers, it should primarily be emphasized that *Suriçi* has been hosting low quality and risky buildings, which needed to be transformed in conformity with the historical texture. Thus, a “risk zone” had already been declared in the *Sur* district of Diyarbakır by the Council of Ministers Decision (No. 2012/3900) on 4 November 2012 in accordance with the Law No. 6306.

As to *Sur* risk zone, all powers including those related to planning and expropriation, under Article 6 § 5 of the Law No. 6306, are transferred to the Ministry of Environment and Urbanization. Considering that *Suriçi* is a protected site with many registered buildings, damage assessment works are carried by this Ministry in collaboration with the Ministry of Culture and Tourism, the General Directorate of Foundations and the General Directorate of Land Registry and Cadaster.

In fact, the Ministry of Environment and Urbanization, even before terrorist actions occurred in Diyarbakır’s *Suriçi* neighborhood, had been carrying out works both to protect the historical texture and to eliminate the risk caused by urban decay zones.

Terrorist activities badly damaged a large number of historical and other buildings in the *Suriçi* area. Many buildings were completely destroyed, heavily or mildly damaged. Many of the buildings became uninhabitable and people were obliged to leave their houses. Those left homeless are provided with rental allowance by the Governorship of Diyarbakır. The damage caused to local people’s household belongings is assessed and compensations are paid by the Diyarbakır Governorship.

Within the framework of the Urban Transformation Project, the Ministry of Environment and Urbanization approved the urgent expropriation of the immovable properties under the Expropriation Law No. 294 regarding those on which reconciliation with the owners could not be realized. Accordingly, the decision of urgent expropriation (No. 2016/8659) was taken by the Council of Ministers on 21 March 2016.

In this context, consultations are in progress so as to inform the right holders. Moreover, the Ministry of Environment and Urbanization, the Governorship of Diyarbakır (Provincial Environment and Urbanization Directorate) and the Liaison Office in *Suriçi* are assigned to provide information regarding the risk zone and urgent expropriation.

In addition, the Protective Master Plan of 2012 was prepared by the Municipality of Diyarbakır long before the terrorist attacks and the counter-terrorism operations. This plan, in compliance with national legislation and international law, seeks to preserve the historical texture. The decision for expropriation aims to implement this plan as promptly as possible and thus to eliminate risky buildings which pose dangers to the population. The primary objective is to design the plan with the consent of the people by way of reconciliation talks. Therefore, a reconciliation office was opened in May 2016 where a working group composed of various professionals started to collect the requests from the public. In this vein,



approximately 5.000 people have been interviewed, and the following request categories have been established thus far:

- Those who wish to continue living inside the zone (house to be built by them or the State);
- Those who have been fed up with the terror conditions inside the zone and wish to move to a different location within Diyarbakır (either Çölgüzeli or Üçkuyular projects realized by the Housing Development Administration of Turkey);
- Those who wish to receive the compensation in cash and find another solution.

Moreover, the *headmen* (the elected head of a neighborhood within a town or city) of six neighborhoods which sustained damages as a result of operations, were also consulted. Another meeting was organized with the participation of all stakeholders, where forthcoming projects were presented and views were considered.

Street regeneration works were launched with a view to bringing the exteriors of stores in Suriçi in line with the historical texture. A pilot case was quickly completed to show store owners the result of the pilot project and their opinions were asked. Furthermore, Halkbank and KOSGEB (Small and Medium Industry Development Organization) are assigned to gather store owners' demands for zero-interest loans (which are to be paid in 18-month instalments, with the first payment beginning 6 months later).

**8.** It should also be emphasized that further required steps have been taken under the coordination of the Ministry of Environment and Urbanisation, in accordance with the Code on the Compensation of Damages Arising from Terrorism and from the Measures Taken against Terrorism (Law No. 5233).

The Governorship of Diyarbakır informed the Ministry of Environment and Urbanization with a letter dated 25 April 2016 that a number of dwellings and workplaces were severely damaged in Diyarbakır's Sur district as a result of digging trenches, forming barricades and detonation of explosives planted in these spots by members of the PKK terrorist organization. Upon the request of the Governorship, the Ministry initially deployed 10 teams to carry out damage assessment under the Law No. 5233.

Teams of three persons, including a civil engineer or an architect, an electrical engineer or a technician, and a mechanical engineer or a technician, were established and started to operate in the field. The technical staff from the Ministry of Environment and Urbanization identified the state of damage sustained scientifically and tried to determine the amount of pecuniary damage. Prior to all these works, the assigned staff were sufficiently informed and given field training.

Compensation for damages is assessed by the "Damage Assessment Commissions" set up under the Governorships and they operate pursuant to the Law No. 5233. Upon the requests of the Governorships the Ministry of Environment and Urbanization deploys technical staff as experts. Moreover, damage assessment reports are communicated to the concerned persons through the governorships and they are duly informed about their rights including to raise objection to reports. In case of objections, reports are reviewed by another team and the persons concerned are once more informed about the result.

**9.** In respect of the issues raised in the current Joint Appeal, the works undertaken by the Housing Development Administration of Turkey (TOKİ) should be elaborated as well. The

construction of buildings by TOKİ with modern engineering services, aim to increase living standards of the people in the region and to meet their housing needs adequately.

The works on the 24.5 hectares area for which TOKİ is a project partner in Diyarbakır-Sur, aims to form habitable and safe living quarters befitting Diyarbakır in line with the zoning plan decision for protection and with the participation and support of the people.

TOKİ considers Diyarbakır Suriçi as highly different from the newly developed regions of the city in terms of housing intensity, building and street patterns. Suriçi is one of the areas with the highest intensity of population in the city. Thus, Urban Transformation projects have been launched with a protocol signed among Diyarbakır Metropolitan Municipality, Sur Municipality, Diyarbakır Governorship and TOKİ.

TOKİ has constructed 1272 houses (1<sup>st</sup> stage consisting of 816 houses, 2<sup>nd</sup> stage of 456 houses), 1 primary school, 1 village clinic, 1 mosque, 1 police station and 1 commercial center in Çölgüzeli district.

After reconciliation talks, the right holders were proposed to receive either a house built by TOKİ in Çölgüzeli in return for their existing immovable properties or cash payment worth the value of their real estates. In this context, 703 houses were delivered to the right holders until 28 October 2016 at discounted prices in accordance with the approval of the Prime Ministry within the scope of the Code on Housing Development (Law No. 2985). Besides, a sum of 20.222.122,56 TL (approximately 5,2 million US Dollars) has been pledged to 1040 land shareholders with price agreements.

It is obvious that the decision to enact laws expropriating property commonly involves consideration of political, economic and social issues. The margin of appreciation available in implementing social and economic policies should respect the public interest such as the conservation of the cultural heritage and, where appropriate, its sustainable use, in addition to the maintenance of a certain quality of life, the preservation of the historical, cultural and artistic roots of a region and its inhabitants. In order to satisfy the requirements of the principle of proportionality, an amount of compensation that is “fair and just”, “fair and payable in advance”, “fair and payable immediately”, “adequate” or “appropriate”, or that is based on the “value”, “full value”, “current value”, “market value” or the “fair price” of the expropriated property must be determined.

In this respect, forced eviction of people with whom no reconciliation has been made is out of question. In view of the gravity and the complexity of the issues in question in the region, legally permitted expropriation was considered to be the most efficient and speedy way to address the problems. Therefore, appropriate and legally permitted expropriation process has been implemented for acquisition of the immovable properties. Expropriation is a process which is implemented at all parts of Turkey and not only in Southeastern Turkey. In this regard, the advance amount paid in relation with expropriation until today is above 53 million TL (approximately 14 million US Dollars). Acquisition right among the newly constructed houses shall also be granted to people to discharge their house as a result of the expropriation process.

In this context, the construction of buildings is in progress in Üçkuyu quarter for a total of 1.391 houses consisting of 315 in the 1st zone, 480 in the 2nd zone and 596 in the 3rd zone. The right holders of the immovable properties within the urban transformation project will be

provided access to 2.657 houses, including 546 houses put in an allocation tender on 15 March 2016 and 720 houses put in an allocation tender on 27 April 2016. Furthermore the allocation tender of 808 houses were held on 24 November 2016 in Üçkuyu locality and the consideration regarding the tender is in progress.

As of November 2016, implementation of 14.643 housing units has been carried out by TOKİ in the region while additional 18.650 units are still at planning stage. The construction of permanent housing projects will be continued with a view to provide quality and safe living conditions for the citizens in the region.

**10.** Besides the explanations above, a strong objection is submitted to the characterization of Kurdish origin citizens of Turkey as “minority” in the Joint Appeal.

It should be clarified that the minority rights in Turkey are regulated in accordance with the Lausanne Peace Treaty of 1923, under which Turkish citizens belonging to non-Muslim minorities fall within the scope of the term “minority”. Turkish citizens belonging to non-Muslim minorities enjoy and exercise the same rights and freedoms as the rest of the population. Additionally, they benefit from their minority status in accordance with the Lausanne Peace Treaty. However, citizens of Kurdish origin in Turkey are not recognized as a minority according to the national legislation including Lausanne Peace Treaty.

**11.** The Turkish nation is not a juxtaposition of communities or groups. It is an amalgamation of individuals from various backgrounds, who have found their home in this land throughout centuries. Thus, it is composed of those citizens, who are equal before the law irrespective of their origins in terms of language, race, color, ethnicity, religion or any other such particularity, and their fundamental rights and freedoms are enjoyed and exercised individually in accordance with the relevant law. In line with the fundamental principles of equality and non-discrimination, every Turkish citizen is considered an integral part of the Turkish national identity and culture. Diversity in their origins is the source of richness in Turkish society. Their fundamental rights and freedoms can be enjoyed through the exercise of individual liberties. Duly taking into account the needs and aspirations of our citizens from all backgrounds, important achievements have been made for the further protection and promotion of human rights, including additional measures to promote economic, social and cultural rights for those including the Turkish citizens of Kurdish origin in relation to their origin.