

17 March 2017

REPLY TO THE QUESTIONNAIRE ON THE ORGANISATIONS AND FUNCTIONS OF THE OFFICE OF THE LEGAL ADVISER OF THE MINISTRY OF FOREIGN AFFAIRS

TURKEY

1. What is the title, rank and position of the Legal Adviser?

The Primary Legal Adviser is the head of the Office of Legal Advisers and is equal to the position of a director-general within the Ministry of Foreign Affairs. His/her position is mostly assigned to the highest career diplomat (Ambassador) who has legal background and is subject to the principle of rotation.

2. What are the principal functions of the OLA?

The principal functions are as follow:

- To provide legal advice on issues arising in the conduct of foreign affairs,
- To coordinate the negotiation and drafting of both bilateral and multilateral treaties,
- To contribute to the drafting process of legislation,
- To follow the development of international law,
- To take legal actions against the conflicts under domestic law/ internal case law,
- To give legal opinion with the issues related to the functioning and administration of the Ministry of Foreign Affairs,
- To share information on questions related to the status of treaties,
- To attend conferences and meetings both in Turkey and abroad as head or members of the Turkish delegation.

3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

OLA is composed of qualified professionals with legal background. Most of them are career diplomats who are subject to the principle of rotation. The others hold the positions such as legal consultant, lawyer and expert. Currently 58 % of the legal staff within OLA are women.

Regarding the overseas staff, the career diplomats might be appointed to any post while the legal consultants usually appoint where legal work is required. There is currently one legal consultant working at the Turkish Permanent Mission to the EU. On the other hand lawyers and experts do not work at overseas posts.

4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic religious minorities or of immigrant origin?

The Ministry of Foreign Affairs employs staff in accordance with the principles of non-discrimination and equal opportunities. There are not specific recruitment and promotion policies based on sex or for persons belonging to ethnic or religious minorities or of immigrant origin. On the other hand, there is a regulation to facilitate hiring individuals with disabilities in general but not specifically to the OLA.

5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?

The Constitution clearly emphasizes that Turkish laws do not discriminate on the basis of gender, and guarantees equality before the law. The article 10 of the Constitution states that *"Men and women have equal rights. The State has the obligation to ensure that this equality exists in practice. Measures taken for this purpose shall not be interpreted as contrary to the principle of equality."* Turkey has adopted comprehensive national legislation and joined international conventions enshrining the principles of equality of rights and opportunities between men and women.

The staff with legal background of OLA have an accurate level of knowledge on the legislation that regulates gender equality issues, international standards and the progress made in that field.

6. Briefly describe the organisation and structure of the OLA.

The Foreign Service of the Republic of Turkey is founded on the well-established traditions and legacy of Ottoman diplomacy with a long history which goes back the year 1523. After the proclamation of the Turkish Republic in 1923, the Ministry of Foreign Affairs began to develop both its internal and external institutional structure. In 1927, the first comprehensive legal regulation on the organization of the Ministry of Foreign Affairs was enacted with the adoption of Act No. 1154 which laid the foundation of the Ministry's present day institutional structure. The latest restructuring took place in 2010 with the Act No. 6004 on Organization and Duties of the Ministry of Foreign Affairs.

OLA is headed by the Primary Legal Adviser and considered as an advisory body of the Ministry of Foreign Affairs.

7. What is the OLA's place within the Ministry of Foreign Affairs?

The structure and organization are embedded in the law numbered 6004 on Organization and Duties of the Ministry of Foreign Affairs. The OLA is equivalent to a Directorate General of the Ministry and is under the direct supervision of the Deputy Undersecretary.

8. What are the main contacts of the OLA within Government?

The OLA works closely with all Ministries and institutions on matters related to agreements and international law issues and participates in the work of the Government and Parliamentary Committees during the discussions in any issue in the field of international law. The OLA is also responsible for submitting the treaties to the Prime Ministry for ratification and accession process.

9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.

The OLA has made efforts to develop relations with the academic community and civil society, as well as private practitioners and legal institutions.

The Primary Legal Advisor regularly lectures on international law both at the Diplomacy Academy and various Faculties. Staff members are encouraged to participate in both national and international seminars and courses and give lectures as well. The relations with the academia have been also growing in recent years. Most of the staff hold LL.M. degree and some of them are Ph.D. students. In addition private law firms have occasionally been consulted by Ministry of Foreign Affairs for particular cases.

10. Please provide a brief bibliography on the OLA, if available.

For the time being there is no bibliography on the OLA.