



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



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Mr Beşir ATALAY

Minister of Interior of the Republic of Turkey

Strasbourg, 8 June 2010

Dear Minister,

Further to my visit to Turkey from 23 to 26 May 2010, I would like to take this opportunity to follow up on our constructive dialogue in particular regarding human rights of asylum seekers and the return of internally displaced persons including the current village guard system.

With regard to the first issue, I warmly welcome the plans of the Turkish government to introduce important changes to remedy long-standing human rights concerns. I trust that the new draft asylum and foreigners' legislation and its implementation will bring Turkish domestic law in line with the case-law of the European Court of Human Rights. In this context, I appreciate very much the visit of members of your Ministry to Strasbourg and the fruitful working meeting with members of my Office to discuss the draft asylum law.

Changes in the field of protecting human rights of asylum seekers in the stream of mixed migration being particularly urgent, I commend the first steps taken by the ministerial circulars in March 2010. I understand that they inter alia aim at better ensuring access to the asylum procedures, in particular for those detained, waiving the residence fee (*ikamet*) for those who do not have sufficient means and better protect particularly vulnerable groups like separated children, female survivors of gender-base violence as well as disabled and aged persons. I further note with appreciation the amendment made to ensure better access of asylum seekers to the labour market.

During my meetings with members of civil society and with UNHCR I received favourable comments regarding these important reforms as well as on enhanced consultation and cooperation with your ministry on these issues. In view of the scope of this domain I can only but encourage you to continue such cooperation.

As you know I have been stressing that detention of asylum seekers should be used sparingly and only as a means of last resort. Thus I note with satisfaction that all migrant detainees whose liberation was considered necessary by the European Court of Human Rights judgments of April 2010 have been released. During my visit I learned that access to the asylum procedures for detainees had improved but this appears not to be a stable development. This is why I urge you to ensure a vigorous and coherent implementation of the relevant circular. I was also informed that in some provinces asylum seekers, based on the circular, are already habitually exempted from the residence fee while in other provinces this seems not to be the case. Again I strongly encourage you to closely monitor the implementation of the circular to ensure a unilateral application across the country, possibly with the help of explanatory guidelines.

In my meeting with UNHCR I was informed about the progress made regarding resettlement of refugees in 2009 but also on the lesser prospects of resettlement for 2010 and possibly thereafter due to capacity reduction of receiving countries. I believe that in the context of responsibility sharing, more and in particular all European countries should in principle provide for resettlement of refugees as a humanitarian issue. I also encourage you to ensure better integration opportunities for such persons who will have to stay a long time in Turkey.

I note with appreciation the continuing efforts in the field of reception centres for asylum-seekers to be built in Turkey. During my visit I was informed that some or all of these centres should also include a detention section. I would appreciate more information on this topic.

Furthermore I welcome the progress made improving the situation of foreign nationals coming from European conflict areas who are in need of international protection. I trust that a durable solution will be found in due course.

As regards the question of internally displaced persons, I appreciate the continuing efforts made and the progress achieved by your authorities. I wish to underline the importance to fully respect their right to return home, resettle or integrate locally as well as the need to accelerate implementation of existing action plans.

In this context, I would like to draw your attention to complaints I received about the behaviour of village guards, allegedly using their weapons for illegal purposes. It seems that the current village guard system in place, albeit intended to be temporary, is seen by internally displaced persons as an obstacle to returning to their homes. I understand the need to ensure security in remote areas in particular in view of recent terrorist attacks and deeply deplore the casualties. Still I believe that a fully state-controlled system of security forces with an effective complaints mechanism is necessary in a democratic society. I thus commend the draft legislation aimed to introduce an independent police complaints mechanism and would like to receive more information, in particular on the issue whether the village guards are included in the proposal. I would also much appreciate an update on the current state of the return process of internally displaced persons.

Lastly, I would like to note that during my visit I was informed of several casualties and injuries caused by undetected mines, in particular severely injuring and sometimes even killing children. I strongly urge you to step up efforts for the demining of all contaminated areas in order to ensure an effective protection of the right to life of everyone within Turkey's jurisdiction.

I look forward to a continuing constructive dialogue with you and your Government.

Yours sincerely,

Thomas Hammarberg