



23/06/2023

RAP/RCha/TUR/15(2023)

## **EUROPEAN SOCIAL CHARTER**

Comments submitted

by the Human Rights Association (İnsan Hakları Derneği -İHD)  
concerning the 15th National Report on the implementation of the  
European Social Charter

Report registered by the Secretariat

on 23 June 2023

**CYCLE 2023**



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**HUMAN RIGHTS ASSOCIATION SUBMISSION**  
**ON THE 15<sup>th</sup> NATIONAL REPORT**  
**ON THE IMPLEMENTATION OF THE EUROPEAN SOCIAL CHARTER (REVISED)**  
**SUBMITTED BY THE GOVERNMENT OF THE REPUBLIC OF TÜRKİYE**

23 June 2023

**About İHD**

Human Rights Association (İnsan Hakları Derneği - İHD) is a non-governmental, independent, and voluntary body. The association, which was founded in 1986 by 98 human rights defenders, today has 27 branches and 7 representative offices. İHD is the oldest and largest human rights organization in Turkey and its sole and specific goal is to promote “human rights and freedoms.”

İHD is a member of the International Federation of Human Rights (FIDH) based in Paris and of EuroMed Rights based in Copenhagen. İHD founded and is a member of the Human Rights Joint Platform (HRJP) in Turkey, while it founded the Turkish Coalition for the International Criminal Court and still serves as its speaker. İHD also founded the Human Rights Foundation of Turkey (HRFT) with a group of physicians in 1990.

İHD issues special reports on various human rights issues including annual reports on human rights violations in Turkey. These include but are not limited to violations of the rights of women, freedom of speech, the legal system, prisons, impunity, enforced disappearances, murders by unknown assailants, extrajudicial executions, torture and ill-treatment, and notably gross human rights violations in places where curfews were declared.

İHD is an organization that submits shadow reports before committees at the United Nations and the Council of Europe that Turkey is a party to. İHD works in cooperation with the UN High Commissioner for Human Rights and the CoE Commissioner for Human Rights and special rapporteurs. Furthermore, İHD is an organization that is engaged in exchange of views with diplomatic missions of countries emphasizing the protection of human rights in their foreign policies. İHD cooperates with bodies and institutions working for democracy in Turkey as well.

## Introduction

IHD's response to the government's 4-year report covering the period between 01.01.2018 and 31.12.2021 on Articles 7, 8, 16, 17, 19, 27 and 31 of the Social Charter (Revised) on the rights of children, families and migrants, defined as Group 4, is hereby briefly presented.

Turkey's current state of democracy and human rights, as well as some key labor, poverty, and wage statistics in the country are provided below for a better understanding of the issue.

The period between 2018 and 2021 in Turkey was politically different from the previous ones. This is because the political regime has changed in this period, shifting from a parliamentary system to an authoritarian presidential model.

The state of emergency (SoE) was initiated on 21 July 2016 on the grounds of the armed conflicts that started on 24 July 2015 and the coup attempt on 15 July 2016 was lifted on 19 July 2018. The SoE was made permanent through laws and the SoE regime was made permanent with the specially enacted Law No. 7145.

After the declaration of the SoE in Turkey, the Parliamentary Assembly of the Council of Europe decided on 25 April 2017 to subject Turkey to political monitoring again. This process is pending.

Although the SoE was lifted on 19 July 2018, it was extended for almost three years by Law No. 7145, which entered into force on 31 July 2018, and was extended for another year by Law No. 7333 in 2021, and the most important SoE measures were implemented for another four years.

With the constitutional amendment introduced under the SoE and adopted on 16 April 2017, the regime was changed and this regime was named the "Turkish-Type Presidential Model" or the "Presidential Cabinet." This regime is characterized by an authoritarian approach to governance. Before the constitutional amendment was submitted to referendum, the Venice Commission visited Turkey and released its opinion report on 13 March 2017, which contained important caveats. The Venice Commission's "Opinion on the amendments to the Constitution adopted by the Grand National Assembly on 21 January 2017 and to be submitted to a National Referendum on 16 April 2017"<sup>1</sup> found that the principle of separation of powers had been seriously undermined.

Turkey has not complied with the 10 November 2019 judgment of the European Court of Human Rights (ECtHR) in the case of *Kavala v. Turkey* (application no. 28749/18) that Osman Kavala's detention was politically motivated. Therefore, upon the application of the Committee of Ministers of the Council of Europe, the Grand Chamber of the ECtHR ruled for violation of Article 46/4 of the European Convention on Human Rights (ECHR) in the case of *Kavala v. Turkey* on 11 July 2022.<sup>2</sup> If the requirements of this judgment are not fulfilled, Turkey may be expelled from the Council of Europe.

In 2023, Turkey was hit by two major earthquakes in Kahramanmaraş on 6 February 2023. On February 6, 7.7 and 7.6 earthquakes centered in Pazarcık and Elbistan in Kahramanmaraş and their aftershocks affected many provinces, districts and villages, including Adana, Adiyaman, Diyarbakır, Elazığ, Antep, Hatay, Maraş, Kilis, Malatya, Osmaniye and Urfa. And according to official figures (as of 20 March 2023), at least 50,096 people lost their lives. Then, on February

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<sup>1</sup> [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2017\)005-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)005-e)

<sup>2</sup> <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-218516%22%5D%7D>

20, a 6.4 magnitude earthquake centered in Samandağ, Hatay killed at least 6 people. As of March 14 March 2023, 653,000 houses out of 1,805,842 buildings inspected in the earthquake zone were found to be heavily or moderately damaged or collapsed according to official data. Although there is no concrete data yet, approximately 2 million 200 thousand people migrated to other provinces immediately after the earthquake. Approximately 10 percent of Turkey's total surface area and 16.5% of the population (14 million 13 thousand 196 people) were affected by the February 6-20 earthquakes.<sup>3</sup>

Following the earthquake, a presidential decree to declare a state of emergency for three months in Adana, Adıyaman, Diyarbakır, Antep, Hatay, Maraş, Kilis, Malatya, Osmaniye and Urfa was approved by the ruling AKP and MHP votes in the General Assembly of the Grand National Assembly of Turkey on February 8. During this period, many emergency decrees were issued. In addition to the SoE, the government also declared 10 provinces as "Disaster Zones with a General Impact on Life."

The political power made all the preparations for the presidential and parliamentary general elections earlier and held them on 14 May 2023. The elections were held under all kinds of unequal conditions. The runoff for the presidential election was held on May 28 and the result remained unchanged.<sup>4</sup>

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<sup>3</sup> <https://ihd.org.tr/en/ihd-preliminary-report-on-the-6-february-2023-earthquakes/>

<sup>4</sup> [https://ihd.org.tr/en/wp-content/uploads/2022/12/sr20221205\\_IHD-Elections-Report.pdf](https://ihd.org.tr/en/wp-content/uploads/2022/12/sr20221205_IHD-Elections-Report.pdf)

## 1. Employment and wage statistics

Under the authoritarian regime in Turkey, the Covid-19 pandemic and the economic crisis that ensued, along with the impact of the February 2023 earthquakes, led to serious losses in workers' rights, to increased unemployment, impoverished workers, and left them under inflationary pressure.

According to April 2023 data released by the official statistics agency of Turkey, the Turkish Statistical Institute (TurkStat), the seasonally adjusted unemployment rate in Turkey is 10.2%. The broadly defined unemployment rate is 23.8%.<sup>5</sup> According to this published data, the actual weekly working time in Turkey is 44.4 hours.

According to the research report of TurkStat dated 16 August 2021, the rate of informal workers, which shows the share of those who work without being affiliated with a social security institution in total employees, decreased by 1.5 points in the second quarter of 2021 compared to the same quarter of the previous year and became 28.7%.<sup>6</sup>

According to the Confederation of Progressive Trade Unions of Turkey Research Center (DİSK-AR), the number of registered workers in Turkey in January 2022 was 15 million 294 thousand. Only 2 million 189 thousand of these workers were unionized. The unionization rate among workers in Turkey is 14.3%. Among unionized workers, 72% benefit from collective bargaining agreements, while 28% of these workers do not.<sup>7</sup>

According to the July 2021 statistics of the Ministry of Labor, 1,718 thousand out of 2,658 thousand public sector workers, who are allowed to join unions, are unionized and the unionization rate is 64.66%.<sup>8</sup>

TurkStat constantly changes the scale and underestimates the Consumer Price Index (CPI) from the inflation figures, causing the wages of employees to erode in real terms. The same TurkStat manipulates the Producer Price Index (PPI), which is important for employers, to a lesser extent. For example, the CPI (inflation) rate for 2022 announced on 3 January 2023 is **64.27%** per annum, while the PPI is 97.72% as of the end of 2022.<sup>9</sup> However, the **revaluation rate** in the General Budget Law for 2023, which was made to be approved by the government in the Grand National Assembly of Turkey, is **122%**. For the first time in the history of Turkey, the difference between the year-end CPI and the revaluation rate has almost doubled. This means that wage incomes have eroded by about 58% in real terms in just one year. We believe that the TurkStat does not publish reliable CPI figures. Otherwise, the revaluation rate and the CPI rate should have been very close to each other.

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<sup>5</sup> <https://data.tuik.gov.tr/Bulten/Index?p=%C4%B0%C5%9Fg%C3%BCc%C3%BC-%C4%B0statistikleri-Nisan-2022-45649&dil=1>

<sup>6</sup> <https://data.tuik.gov.tr/Bulten/Index?p=Labour-Force-Statistics-Quarter-II:-April-June,-2021-37546#:~:text=Sosyal%20g%C3%BCvenlik%20kurulu%C5%9Funa%20ba%C4%9Fl%C4%B1%20olmadan,%28%2C7%20olarak%20ger%C3%A7ekle%C5%9Fti>

<sup>7</sup> <http://disk.org.tr/2022/04/disk-ar-15-milyon-iscisinin-toplu-is-sozlesmesi-yok/>

<sup>8</sup> [https://www.csgeb.gov.tr/media/81565/2021\\_uyesayilari.pdf](https://www.csgeb.gov.tr/media/81565/2021_uyesayilari.pdf)

<sup>9</sup> [https://data.tuik.gov.tr/Bulten/Index?p=Yurt-Ici-Uretici-Fiyat-Endeksi-Mayis-2022-45854#:~:text=T%C3%9C%C4%B0K%20Kurumsal&text=Y%C4%B0%2D%C3%9CFE%20\(2003%3D100,%80%2C38%20art%C4%B1%C5%9F%20g%C3%B6sterdi](https://data.tuik.gov.tr/Bulten/Index?p=Yurt-Ici-Uretici-Fiyat-Endeksi-Mayis-2022-45854#:~:text=T%C3%9C%C4%B0K%20Kurumsal&text=Y%C4%B0%2D%C3%9CFE%20(2003%3D100,%80%2C38%20art%C4%B1%C5%9F%20g%C3%B6sterdi)

The inflation calculation group of ENAG, an independent group of academics in Turkey, measured the **year-end inflation rate** (CPI) for **2022** as of January 2023 as **137.55%**.<sup>10</sup> The difference shows that the wage increases of workers and pensioners in Turkey have been cut by more than half and they have become poorer.

The minimum wage in Turkey as of June 2023 is 8,506.80 TL net (average US\$ 365).

Since the rate of collective bargaining is low in Turkey, wages are generally minimum wage or just above minimum wage. Therefore, there is also a problem in terms of wages. The unionization rate in the public sector is high. However, since public employees do not have the right to strike according to Law No. 4688 and collective bargaining disputes have to be settled by an arbitration board, wages are generally determined according to the government's budget and the official inflation rate. Yet, the average wage of public employees is higher than that of workers. Since 2022 was a year of high inflation in Turkey, we have not yet come across any research on this issue. Nevertheless, DİSK-AR's survey dated 28 December 2021 confirms this.<sup>11</sup>

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<sup>10</sup> <https://enagrup.org/>

<sup>11</sup> <http://arastirma.disk.org.tr/?p=8092#:~:text=T%C3%9C%C4%B0K%2C%202020%20y%C4%B1l%C4%B1na%20ait%20%C4%B0%C5%9Fg%C3%BCc%C3%BC,%C3%BCret%20ise%20y%C3%BCzde%20197%20artt%C4%B1>.

## 2. Article 7: The right of children and young persons to protection

One of the most important causes of child labor is poverty. Children from poor families have to work to earn income and thus try to provide for the family. According to TurkStat's poverty and living conditions statistics 2022 report released on 8 May 2023, the permanent poverty rate was 14.4%.<sup>12</sup> According to these statistics, the rate of children aged 0-17 who are at risk of poverty or social exclusion is 42.7%. This shows that poverty is the most important cause of child labor in Turkey.

According to the results of the "Child Labor Force Survey" conducted by TurkStat in late 2019 on child labor in Turkey, the number of children in the 5-17 age group working in an economic activity in Turkey was 720 thousand. The share of working children in the 5-17 age group among children in the same age group was 4.4%.<sup>13</sup> The number of child workers in the unregistered sector, however, was not specified within the data.

Another reason for child labor is domestic work. According to TurkStat's Turkey Child Survey 2022 report released on 22 March 2023, 52.5% of children in the 5-17 age group reported that they had to do at least one household chore.<sup>14</sup> When a child who starts doing work at home sees that they are not getting paid and considering the poverty of their family, they can be more easily convinced to work outside to get paid or are forced to do so for economic reasons.

In Turkey, there are not enough inspectors in the Ministry of Labor, which makes it difficult to combat child labor. Moreover, the European Committee of Social Rights (the Committee) stated that the situation in Turkey is not in compliance with Article 7/1 of the Charter. Unfortunately, the problem of child labor in Turkey continues to increase.

### 2.1. The situation with respect to the ban on employment of children younger than 18 years of age in occupations regarded as dangerous or unhealthy according to **Article 7/2**:

The Committee stated in its Conclusions 2019 on Turkey that the country did not meet the requirements of Article 7/2 of the Charter. It is understood that the legislation in Turkey is problematic in this regard and that the audit and inspection activities are not carried out sufficiently.

### 2.2. The situation with respect to the ban on employment of children who are still subject to compulsory education under **Article 7/3**:

Issues such as the schooling rate in Turkey, the status of public and private schools, the closure of village schools and the transition to a system of transported education, the division of the education system in Turkey into primary-secondary-high school and the abolition of compulsory attendance to education continue to exist as problems.

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<sup>12</sup> <https://data.tuik.gov.tr/Bulten/Index?p=Yoksulluk-ve-Yasam-Kosullari-Istatistikleri-2022-49746>

<sup>13</sup> <https://biruni.tuik.gov.tr/medas/?kn=202&locale=en>

<sup>14</sup> <https://data.tuik.gov.tr/Bulten/Index?p=Istatistiklerle-Cocuk-2022-49674#:~:text=Hanehalk%C4%B1%20%C4%B0%C5%9Fg%C3%BCc%C3%BC%20Ara%C5%9Ft%C4%B1rmas%C4%B1%202022%20y%C4%B1%C4%B1,%10%2C0%20oldu%C4%9Fu%20g%C3%B6r%C3%BCld%C3%BC>

According to TurkStat's 2022 report on Children in Statistics, the schooling rate has not reached the desired level according to the 2021-2022 formal education data of the Ministry of National Education. This situation shows that child labor is at a serious level.<sup>15</sup> According to the data, the net enrolment rate at the primary school level was 93.2%, the net enrolment rate at the secondary school level was 89.8% and the net enrolment rate at the high-school education level was 89.7% in the 2021-2022 academic year.

**2.3. The situation with respect to the working hours of persons under 18 years of age under Article 7/4:**

The Committee noted that the working hours of young workers under the age of 16 in Turkey are high and this situation is not in compliance with the requirement. This situation has not changed.

**2.4. The situation with respect to the right of young workers and apprentices to a fair wage or other appropriate allowances under Article 7/5:**

In Turkey, apprenticeship wages determined according to Article 25 of the Vocational Education Law No. 3308 are between 15% and 50% of the net minimum wage depending on the number of workers in the workplace and are quite low. In unregistered workplaces, apprentices are employed on a subsistence basis, i.e. by providing food and commuting fees.

**2.5. The situation with respect to the provision of time spent by young persons in vocational training during the normal working hours with the consent of the employer to be treated as forming part of the working day under Article 7/6:**

Under Article 4 of Law No. 5510, only students interning at military schools and police gendarmerie schools are included among those who are considered to be insured, but students attending other vocational high schools are not.<sup>16</sup> Such serious discrimination must be eliminated. In Turkey, graduates of vocational high schools of trade, industry and health along with vocational schools for girls (the number of which may amount to hundreds of thousands) have been victimized in this regard.

**2.6. The situation with respect to ensuring special protection against physical and moral dangers to which children and young persons are exposed under Article 7/10:**

The Committee found that the situation in Turkey was not in compliance with the requirement. The situation regarding sexual offences in Turkey has not changed with regard to children.

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<sup>15</sup><https://data.tuik.gov.tr/Bulten/Index?p=Istatistiklerle-Cocuk-2022-49674#:~:text=Hanehalk%C4%B1%20C4%B0%C5%9Fg%C3%BCc%C3%BC%20Ara%C5%9Ft%C4%B1rmas%C4%B1%202022%20y%C4%B1l%C4%B1,%10%2C0%20oldu%C4%9Fu%20g%C3%B6r%C3%BCld%C3%BC>

<sup>16</sup> <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=5510&MevzuatTur=1&MevzuatTertip=5>

### **2.6.1. Missing Children**

Another important problem in Turkey is the issue of missing children. According to a report of the Parliamentary Inquiry Commission established with the aim of investigating the problems that children, especially missing children, are victims of and determining the necessary measures to be taken, the number of missing children reported to the General Directorate of Security (the police) between 2005 and 2010 was 29,223. And although a significant number of them were found, it was determined during the work of the Inquiry Commission that 1,482 of these children were still unaccounted for. It was stated that 297 out of 2,961 reports of missing children made to the Gendarmerie General Command were still being searched in the same period.<sup>17</sup>

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<sup>17</sup> <http://www.sck.gov.tr/wp-content/uploads/2020/02/Turkiye-de-2006-2010-Yillari-Arasi-Kayip-Cocuk-Sorunu-ve-Ilgili-Risk-Faktorlerinin-Incelenmesi-Saha-Arastirmasi.pdf>

### **3. Article 8: The right of employed women to protection of maternity**

Turkey is not a party to ILO Convention No. 103 on the protection of maternity. It is also not a party to ILO Revised Convention No. 41 on night work (women).

**3.1.** The situation with respect to providing employed women to take leave before and after childbirth either by paid leave, by adequate social security benefits or by by benefits from public funds under **Article 8/1**:

The Committee concluded that the amount of maternity benefits provided to women working in the private sector in Turkey was inadequate, which is incompatible with the Charter.

According to Article 48 of the Labor Law and Articles 17 and 82 of Law No. 5510, women on maternity leave are paid 2/3 of their wages in case of maternity insurance. The 1/3 deduction from the wage creates a serious economic problem. This problem has still not been resolved in Turkey. Women working as public employees do not have their wages deducted during maternity leave.

In Turkey, women employed in the private are given a breastfeeding allowance but the amount is very low.

#### 4. Article 16: The right of the family to social, legal and economic protection

The Committee concluded that the situation in Turkey was not in conformity with Article 16 of the Charter and the state of affairs has not improved.

##### 4.1. Violence against women

Turkey unilaterally withdrew from the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, commonly known as the “İstanbul Convention,” by a presidential decree on 20 March 2021 and the process was finalized on 1 July 2021.

The lawsuits filed with the Council of State against the withdrawal notification made by the unilateral decision of the president were dismissed.

The government stated that Law No. 6284 was sufficient and the İstanbul Convention was not needed to combat violence against women. According to the government’s report submitted to the Committee, there are 393 Contact Points for Combating Violence and 149 Women’s Guest Houses in Turkey. These numbers are very insufficient. According to the Ministry of Interior, there are 30 metropolitan municipalities, 51 provincial municipalities (central districts), 519 metropolitan district municipalities, 403 district municipalities and 386 town municipalities in Turkey.<sup>18</sup> These numbers show that there are not enough contact points for the protection of women and there are not enough women’s guesthouses.

According to the data provided by the Platform to Stop Femicide Association:<sup>19</sup>

- In 2022, 334 women were murdered by men, while 245 women died under suspicious circumstances.
- In 2021, 280 women were killed by men, while 217 women died under suspicious circumstances.
- In 2020, 300 women were killed by men, while 170 women died under suspicious circumstances.

The data reveal that the number of cases of violence against women is on the rise.

Moreover, a dissolution case was filed against the Platform to Stop Femicide Platform Association, which is active in the field of women's rights, and the case is still pending before the İstanbul 13<sup>th</sup> Civil Court of First Instance.<sup>20</sup>

Turkey is under the monitoring of the Committee of Ministers of the Council of Europe due to the *Opuz Group of Cases* (no. 33401/02), an important ECtHR judgement in the combating violence against women. While the monitoring process is pending, the shadow report submitted by Mor Çatı Women’s Shelter Foundation to the Committee of Ministers can be consulted.<sup>21</sup>

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<sup>18</sup><https://www.e-icisleri.gov.tr/Anasayfa/MulkildariBolumleri.aspx>

<sup>19</sup> <https://kadincinayetlerinidurduracagiz.net/veriler/3040/kadin-cinayetlerini-durduracagiz-platformu-2022-yillik-veri-raporu>

<sup>20</sup> <https://www.mlsaturkey.com/tr/kadin-cinayetlerini-durduracagiz-platformuna-acilan-kapatma-davasi-eylule-ertelendi/>

<sup>21</sup> [https://morcati.org.tr/wp-content/uploads/2022/12/Opuz\\_Golge\\_Rapor.pdf](https://morcati.org.tr/wp-content/uploads/2022/12/Opuz_Golge_Rapor.pdf)

Despite all calls, Turkey has still not ratified the ILO Violence and Harassment Convention No. 190, which was adopted to prevent violence and harassment in working life.

The DİSK delegation headed by DİSK President Arzu Çerkezoğlu made a press statement before a series of visits to the Grand National Assembly of Turkey on 15 November 2022 for the ratification of the ILO Convention No. 190 on Violence and Harassment. These calls and campaigns by DİSK continue.<sup>22</sup>

In Turkey, LGBTI+ persons face exclusionary and hateful discourse and practices. The very existence of the LGBTI+ was even cited as a reason for withdrawing from the Istanbul Convention.

## 4.2. Family Benefits

There is no family insurance in Turkey, which includes the family benefits specified in Articles 39-46 of ILO Convention No. 102 on Social Security (Minimum Standards). Instead, there are low-level social benefits interspersed in various laws under various names. For instance, public employees can receive family allowance under Articles 202-206 of Law No. 657. The first condition for the provision of family allowance is that the public employee is married, and the second condition is that their spouse is not working in an insured position. In addition, if the public employee has children, the amount of family allowance increases according to the number of children. Currently, public employees are paid 985.76 TL equivalent to 2,273 indicators for a non-working spouse, and 108.76 TL equivalent to 250 indicators for a child, which is quite insufficient. In Turkey, the minimum wage for a single person set by the government is currently 8,506.80 TL net. In the private sector, spousal and child allowances can only be granted through collective labor agreements. This right recognized for public servants is not granted to private sector workers.

All the aids mentioned in the report submitted by the government to the Committee are social aids or benefits and are not at a level to meet the requirements of the ILO Convention 102. All these benefits or aids must be organized as family Insurance and their amounts must be increased.

Turkey has not yet ratified or acceded to the following ILO conventions that are complementary to and necessary for the implementation of ILO Convention No. 102 on Social Security:

- ILO Convention No. 121 on Employment Injury Benefits,
- ILO Convention No. 128 on Invalidity, Old-Age and Survivors' Benefits,
- ILO Convention No. 130 on Medical Care and Sickness Benefits,
- ILO Convention No. 168 on Employment Promotion and Protection against Unemployment.<sup>23</sup>

Therefore, Turkey's ratification of ILO Convention No. 102 alone is not sufficient. For these reasons, family benefits are not sufficient in terms of legislation as well. In conclusion, we would like to state that Article 16 of the Charter is not met.

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<sup>22</sup> <https://disk.org.tr/2022/11/basin-aciklamasi-ilonun-190-sayili-siddet-ve-taciz-sozlesmesi-onaylansin-2/>

<sup>23</sup> <https://www.ilo.org/ankara/conventions-ratified-by-turkey/lang--tr/index.htm>

## **5. Article 17: The right of children and young persons to social, legal and economic protection**

The Committee concluded that the situation in Turkey is not in compliance with Article 17/1 of the Charter.

According to the statistics published by the Ministry of Justice as of 01.06.2023, there are 407 penitentiary institutions in Turkey, including 282 closed prisons, 93 detached open prisons, 11 closed women's prisons, 8 women's open prisons, 4 children's (reformatory) "education houses," 9 closed prisons for children and young persons, with a total capacity of 296,202 persons. According to the same statistics, there are 357,572 prisoners in Turkey. 2,540 of these prisoners are children. Of these children, 1,570 are detainees and 970 are convicted.<sup>24</sup>

According to a statement by the Ministry of Justice, only juvenile convicts are held in juvenile "education centers." However, young persons over the age of 18 can be held in these centers until they turn 21 if they continue their education. Apart from this, children and young persons who are arrested and convicted are held in closed penitentiary institutions for children and young persons. In addition, since there are no penitentiary institutions for children in many cities, children's sections are located as separate sections in penitentiary institutions for adults. The number of juvenile detainees in Turkey is almost twice the rate of convicted children. Under these circumstances, the judicial practice regarding the pre-trial detention of children has not changed. This indeed is a serious problem.

In Turkey, criminal liability is applied from the age of 12. Considering the psycho-social development of the child, it must be raised to the age of 15, just as it is foreseen for working children.

According to TurkStat's 2022 report on poverty and living conditions statistics released on 8 May 2023, the permanent poverty rate was 14.4%.<sup>25</sup> According to these statistics, the rate of children in the 0-17 age group who are at risk of poverty or social exclusion was 42.7%. This situation essentially shows how high the poverty rate in Turkey is among children.

**5.1. Article 17/2** regulates free primary and secondary education as well as encouraging regular attendance at schools.

According to TurkStat report, Children in Statistics 2022, the schooling rate has not reached the desired level according to the Ministry of National Education's 2021-2022 organized education data. This situation shows that compulsory and free education cannot be fully enjoyed.<sup>26</sup> According to the data, the net enrolment rate at the primary school level was 93.2%, the net enrolment rate at the secondary school level was 89.8% and the net enrolment rate at the high-school education level was 89.7% in the 2021-2022 academic year.

The main problems have been described in the "State of Education at the End of the 2022/2023 Academic Year" report drafted by the Education and Science Laborers' Union

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<sup>24</sup> <https://cte.adalet.gov.tr/Resimler/Dokuman/7062023102827istatistik-1.pdf>

<sup>25</sup> <https://data.tuik.gov.tr/Bulten/Index?p=Yoksulluk-ve-Yasam-Kosullari-Istatistikleri-2022-49746>

<sup>26</sup> <https://data.tuik.gov.tr/Bulten/Index?p=Istatistiklerle-Cocuk-2022-49674#:~:text=Hanehalk%C4%B1%20C4%B0%C5%9Fg%C3%BCc%C3%BC%20Ara%C5%9Ft%C4%B1rmas%C4%B1%202022%20y%C4%B1l%C4%B1,%10%2C0%20oldu%C4%9Fu%20g%C3%B6r%C3%BCld%C3%BC>

(Eğitim Sen) on 15 June 2023.<sup>27</sup> In the report, there are striking findings especially about the earthquake region. The report stated that education in the cities hit hard by the earthquake was seriously disrupted:

While nearly 4 million students are receiving education in 12 thousand 550 schools in the earthquake zone, the number of teachers working only in public schools is 210 thousand. 21% of the 56,259 educational institutions affiliated with the Ministry of National Education, 21.4 % of all students, and 19.1% of teachers are located in the 11 provinces where the earthquake hit. According to official data, 555,938 students/trainees receive formal and non-formal education and accommodation services in 5,024 private education institutions in the earthquake-affected provinces. Approximately 380 thousand students and 45 thousand academic and administrative staff continue their education and training activities in 16 universities in the earthquake zone. The number of refugee students in these regions is 358 thousand 376.

The number of schools built before the Earthquake Regulation that entered into force in 2007 is 31 thousand 307. Between 2011 and 2022, only 5 thousand schools (16%) were tested for earthquake resistance and 1,500 schools were demolished because they were not earthquake resistant. The number of retrofitted schools is only 2 thousand. According to the earthquake report prepared by the Chamber of Geological Engineers, 4,159 schools across Turkey are located in high-hazard areas on fault lines. Schools located in areas under high earthquake risk must be urgently relocated.

According to the data for the 2021-2022 academic year, approximately 203,483 children in the 5-17 age group are out of education in the earthquake zone. Current research draws attention to the fact that children whose ties with school are weakened are more likely not to return to education after disasters.<sup>28</sup>

On another note, Turkey continues to provide compulsory religion classes. The cases of *Cumhuriyetçi Eğitim ve Kültür Merkezi Vakfı* (Application No. [32093/10](#)), *İzzettin Doğan and Others* (Application No. [62649/10](#)), *Hasan and Eylem Zengin Group of Cases* (Application No. [1448/04](#)) v. *Turkey* are under the monitoring of the Committee of Ministers of the Council of Europe.<sup>29</sup> On 2 December 2021, the Committee of Ministers made several recommendations to Turkey, recommending that the judgments be complied with and that Alevi children should not be subjected to compulsory religious education.

Turkey has made reservations to Articles 17, 29 and 30 of the Convention on the Rights of the Child and these reservations are still in effect. It should be noted that these reservations are generally related to the rights of minority children in the fields of language, education and culture. This situation brings along discrimination in education.

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<sup>27</sup> <https://egitimsen.org.tr/2022-2023-egitim-ogretim-yili-sonunda-egitimin-durumu/>

<sup>28</sup> Ibid.

<sup>29</sup> [https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22CM/Del/Dec\(2021\)1419/H46-36E%22%5D%7D](https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22CM/Del/Dec(2021)1419/H46-36E%22%5D%7D)

## **6. Article 19: The right of migrant workers and their families to protection and assistance**

The Committee found the situation in Turkey to be incompatible with Article 19/1 of the Charter.

In its report on Turkey as of the end of 2020, the Refugee Rights Centre in Turkey concluded that asylum-seekers were not provided with sufficient information about their rights, obligations and procedures in practice, and that they have difficulty accessing such information.<sup>30</sup> It is understood that asylum-seekers cannot effectively access NGOs and UNHCR in line with their requests in border areas, while they can hardly access them in administrative detention facilities.

A study on Syrian refugees in the Turkish labor market conducted by ILO Turkey Office was announced on 9 February 2022.<sup>31</sup> According to this study, there were 813,781 Syrians working in the Turkish labor market as of 2017. It should be noted that most work informally. It is estimated that 657,385 of these employees are over the age of 15 and 127,140 are under the age of 15. In fact, one can safely argue that asylum-seekers and migrants constitute a significant part of the unregistered employment in Turkey.

### **6.1. The situation regarding the absence of steps against misleading propaganda relating to emigration and immigration**

Turkey is still not a party to Protocol No. 12 to the ECHR on non-discrimination. In addition, it does not comply with ECRI's General Policy Recommendation No. 7. Therefore, it does not effectively combat hate speech. Moreover, during the presidential and parliamentary elections on 14 May 2023, anti-refugee/asylum-seeker/migrant hate speech emerged as one of the most important problems.

The İHD report on hate crimes and discriminatory practices in Turkey published in 2020 revealed all the shortcomings in this regard.<sup>32</sup>

### **6.2. Article 19/2: The situation regarding the facilitation of the departure, journey and reception of migrant workers**

The European Committee for the Prevention of Torture (CPT) published its report on its visit to Turkey on 16-23 June 2015 and the Government of Turkey's response to this report.<sup>33</sup> The visit examined the situation of foreign nationals held under the aliens legislation. The report incorporated CPT's findings and recommendations regarding the removal centers and the transit zone at İstanbul Atatürk Airport.

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<sup>30</sup> <https://www.mhd.org.tr/tr/>

<sup>31</sup> [https://www.ilo.org/ankara/publications/WCMS\\_739463/lang--tr/index.htm](https://www.ilo.org/ankara/publications/WCMS_739463/lang--tr/index.htm)

<sup>32</sup> [https://ihd.org.tr/en/wp-content/uploads/2020/09/sr20200922\\_Hate-Crimes-and-Racist-Attacks-Report\\_Sept-2020.pdf](https://ihd.org.tr/en/wp-content/uploads/2020/09/sr20200922_Hate-Crimes-and-Racist-Attacks-Report_Sept-2020.pdf)

<sup>33</sup> [https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2017/10/24/cpt\\_2017-32-inf-eng.pdf](https://insanhaklarimerkezi.bilgi.edu.tr/media/uploads/2017/10/24/cpt_2017-32-inf-eng.pdf)

**6.3. Article 19/6: The situation regarding the facilitation of the reunion of the family of foreign workers**

The Committee noted that the situation in Turkey was incompatible with the Charter, the length of time required for residence was long and the exclusion of social benefits in the calculation of worker income was incompatible with the Charter. The situation has not improved.

**6.4. Article 19/10: The situation regarding extension of protection and assistance to self-employed migrants**

The Committee found that the situation in Turkey was not in compliance with the Charter. The situation has not improved.

## **7. Article 27: The right of workers with family responsibilities to equal opportunities and equal treatment**

### **Child daycare centers and kindergartens**

In Turkey, places providing care for children aged 0-36 months are called kindergartens (kreş). For children aged 36-72 months, the term daycare center is used. Places providing care services are affiliated with the Ministry of Family and Social Services. Schools for the education of children aged 36-66 months are affiliated with the Ministry of National Education.

In Turkey, apart from this, in accordance with the regulation on child care centers to be opened by public institutions and organizations in public institutions issued in accordance with Article 191 of the Civil Servants Law No. 657, a daycare center can be opened if there are at least 50 children between the ages of 0-6 in the relevant workplace.<sup>34</sup> Yet, the number of such places is quite limited in Turkey. Daycare centers are charge fees and the fees are determined by the Budget Law each year. For the year 2023, according to the communiqué on public social facilities (communiqué no: 2023-1), the fee is 621.00 TL.<sup>35</sup> The situation is even worse in private sector workplaces.

The “Regulation on the Conditions of Employment of Pregnant or Breastfeeding Women, Nursing Rooms and Children's Dormitories” incorporates rules on the obligation of workplaces to open kindergartens and child daycare centers. Accordingly, workplaces employing more than 100 women workers are obliged to provide a breastfeeding room, and workplaces employing more than 150 women workers are obliged to open daycare centers for children aged 0 to 66 months. In practice, very few large workplaces have child care centers.

According to the data released by the Ministry of National Education, the number of schools, branches, students, teachers and classrooms of pre-school education institutions according to school types for the 2021-2022 academic year shows how alarming the situation is.<sup>36</sup> The number of kindergartens and child daycare centers affiliated with the Ministry of Family and Social Services, which is not affiliated with the Ministry of National Education, is 2,242. 89,586 children are cared for at these centers. The number of kindergartens and child daycare centers in public institutions is 180 with 8,441 children cared for. In private sector workplaces, there are merely 6 kindergartens and daycare centers with 222 children cared for.

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<sup>34</sup> <https://www.mevzuat.gov.tr/MevzuatMetin/3.5.8712197.pdf>

<sup>35</sup> <https://www.resmigazete.gov.tr/eskiler/2023/01/20230106-6.htm>

<sup>36</sup> [http://sgb.meb.gov.tr/www/icerik\\_goruntule.php?KNO=460](http://sgb.meb.gov.tr/www/icerik_goruntule.php?KNO=460)

## **8. Article 31: The right to housing**

According to TurkStat's building and housing features survey 2021 report of 27 December 2022, 47.4% of households in Turkey reside in buildings constructed in 2001 and later. In this context, Turkey's greatest problem is the risk of earthquake. The earthquake regulations in Turkey have been amended several times in the construction of earthquake-resilient housing and have been finalized with what is known as the 2008 regulations. In this case, the number of houses built before 2008 is around 60%. Therefore, the transformation of areas under disaster risk is one of the most important issues in Turkey.

The Kahramanmaraş-centered earthquake that hit the country on 6 February 2023 caused a great shock in Turkey.

The Law No. 6306 on the Transformation of Areas under Disaster Risk was adopted in 2012. Since this law came into force, only 213 buildings and 896,350 independent units have been identified as risky buildings, whereas there are at least 10 million independent units in Turkey that can be considered in this category.

Another problem in Turkey is the "zoning amnesty" which was introduced with the provisional Article 16 added to the Zoning Law No. 3194 in 2018 with the Law No. 7143. Under this law, 26 billion 151 million 389 thousand 263 TL building registration certificate fees were collected for 3 million 119 thousand 947 illegal and un-zoned buildings and citizens were allowed to use risky buildings. Documents were issued to 7 million 393 thousand 413 independent units in these buildings. The 6 February 2023 earthquake showed how high the risk was. It is understood that 290,929 building registration certificates were issued in the earthquake zone within the scope of the zoning amnesties.

Yet another problem in Turkey is to make the existing building stock earthquake resistant. The vast majority of people in Turkey face the risk of death because most of the houses they live in are not earthquake resistant.

An important problem area in Turkey is the housing of university students. In the 2021-2022 academic year, 4,579,047 students were enrolled in undergraduate programs at universities in Turkey, and 759,838 of these students resided in 776 student dormitories affiliated with the Directorate General of Student Loans and Dormitories. The total number of private dormitories or houses accepting students under different names is close to 4,000.<sup>37</sup> However, there is no information on their capacity. The majority of such private residences are considerably more expensive than state dormitories. In general, students have accommodation problems due to economic reasons.

### **8.1. Internally displaced persons**

In Turkey, armed conflict continues due to the unresolved Kurdish issue.

According to a report<sup>38</sup> (No. 10/25) of the Parliamentary Inquiry Commission of the 20<sup>th</sup> term of the Grand National Assembly of Turkey, which was established to inquire the problems of citizens who were forced to migrate due to evacuated settlements in Eastern and

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<sup>37</sup> <https://www.yurtlarfiyatlar.com/vakif-yurtlari-yurtlari-yurdu/>

<sup>38</sup> <https://www5.tbmm.gov.tr/sirasayi/donem20/yil01/ss532.pdf>

Southeastern Anatolia and to determine the measures to be taken, a total of 3,428 settlements, including 905 villages and 2,523 hamlets, have been forcibly evacuated in 20 provinces, including Diyarbakır, Hakkari, Siirt, Şırnak, Tunceli, Van, Batman, Bingöl, Bitlis, Mardin, Muş, Ağrı, Kars, Erzurum, Erzincan, Sivas, Şanlıurfa, Adıyaman, Iğdır and Elazığ. The Ministry of Interior states that 378,335 people have been displaced. Yet, NGOs claim that this figure is between 1 and 3 million.

The 3,428 settlements mentioned in the Parliamentary Inquiry Commission report were the result of military operations conducted under the name of internal security operations in the 1990s. “Return to Village” programs have not been successful in eliminating the consequences of the displacement that took place approximately 25-30 years ago because the state of armed conflict continues.

In Turkey, the peace and solution process between 2013 and 2015 ended in failure. Since 24 July 2015 armed clashes have been ongoing.

According to the Human Rights Foundation of Turkey’s (HRFT) Documentation Centre, from 16 August 2015 to 1 January 2020, at least 381 curfews were declared in 11 provinces and at least 51 districts.<sup>39</sup> According to the data collected by the İHD Documentation Center for the year 2021, curfews that started on 1 January 2021 and lasted until the end of 2021 include curfews in central Bitlis and neighborhoods and villages of Tatvan and Hizan districts (11), Mardin, Mazıdağı, Ömerli, Derik, Curfews have been declared at least 24 times in neighborhoods and villages in Nusaybin, Artuklu and Kızıltepe districts (11), in central Hakkari and villages in all its districts (1) and in central Şırnak (1), at intervals starting from 24 hours at the shortest and lasting up to 15 days.<sup>40</sup> It is clear that as a result of the prolonged “blanket curfews,” approximately 1 million 809 thousand people were deliberately “arbitrarily deprived of their liberty.” Persons residing in areas under the full control of the state have been deprived of their fundamental rights and freedoms and their access to basic needs such as water, food and health care has been restricted for prolonged periods.

The “blanket/day-long curfews,” which were commonly declared in 2015-2016, violated the most basic rights to life and health of at least 1.8 million people known to live in the provinces and districts where they were declared, and which were clearly stated in the reports of the European Commission for Democracy through Law (Venice Commission) and the Council of Europe Commissioner for Human Rights to have no legal basis in terms of both domestic and international law, were experienced with all their problems, albeit for shorter periods and on a smaller scale later on. In this process, particularly in 2015 and 2016, military operations were carried out in Şırnak city center and Cizre district, Hakkari Yüksekova district, Mardin Nusaybin district, Diyarbakır Sur district, and trenches and barricades were destroyed, thousands of buildings were destroyed or heavily damaged, and an estimated 500 thousand people were displaced. A joint report by İHD and other NGOs entitled the “Cizre Observation Report”<sup>41</sup> reveals how dire the situation was in this regard. Also the comprehensive report drafted by the Migration Monitoring Association discloses important data on this issue.<sup>42</sup> On the

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<sup>39</sup> <https://en.tihv.org.tr/curfews/>

<sup>40</sup> [https://ihd.org.tr/en/wp-content/uploads/2022/11/SR2022\\_2021-Turkey-Violations-Report.pdf](https://ihd.org.tr/en/wp-content/uploads/2022/11/SR2022_2021-Turkey-Violations-Report.pdf)

<sup>41</sup> <https://ihd.org.tr/en/cizre-report/>

<sup>42</sup> <https://gocizlemedernegi.org/2015-2020-donemi-sokaga-cikma-yasaklari-veri-derleme-ve-medya-izleme-raporu/>

administrative and judicial pressure on NGOs as a result of these reports, one can consult joint reports by İHD and the Observatory for the Protection of Human Rights Defenders (OBS).<sup>43</sup>

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<sup>43</sup> <https://ihd.org.tr/en/wp-content/uploads/2022/06/OBS-TURKEYangweb-final.pdf>