**COMMENTS BY THE GOVERNMENT OF TÜRKİYE WITH REFERENCE TO THE LETTER OF THE COMMISSIONER FOR HUMAN RIGHTS**

Türkiye, as a founding member of the Council of Europe, has always maintained close cooperation and dialogue with the Council and its mechanisms, and will continue to actively and constructively contribute to their work. In this spirit, the Turkish Government takes note of the efforts of the Commissioner in fulfilling his mandate and remains open for dialogue with the Commissioner and his Office. The exchanges with Turkish authorities during the Commissioner's recent visits to Türkiye are a concrete testimony in this sense.

With regard to the Commissioner's letter on the "My Family is Safe" investigation, the Turkish Government would like to submit the following facts and comments in order to contribute to a more accurate and comprehensive understanding on the issues and allegations raised therein.

Türkiye provides constitutional guarantees for the enjoyment of fundamental rights and freedoms. In addition to its very strong domestic legislative framework, by being a party to numerous international conventions on human rights, Türkiye resolutely commits to fulfilling its international obligations on the protection of human rights.

The Constitution of the Republic of Türkiye qualifies fundamental rights as inviolable and inalienable. These fundamental rights also comprise the duties and responsibilities of the individual to the society, and the State is constitutionally obligated to protect fundamental rights from infringement.

As per Article 13 of the Constitution, fundamental rights and freedoms may be restricted only by law and in conformity with the relevant articles of the Constitution without infringing upon their essence. Children's right to protection and care together with the protection of the peace and welfare of the family is protected as a fundamental right under Article 41 of the Constitution and it is the State's obligation to provide the necessary measures for the aforementioned safeguards.

Article 14 of the Constitution states that no provision of the Constitution shall be interpreted in a manner that enables the State or individuals to destroy the fundamental rights and freedoms or to stage an activity with the aim of restricting them more extensively than stated in the Constitution. However, it is also noteworthy that Article 10 of the Turkish Constitution on "equality before the law" clearly favours the best interest of the child since it states that measures taken in favour of children shall not be considered as violation of the principle of equality.

Against this background, within the scope of the "My Family is Safe" investigation, upon receiving formal report of several criminal activities regarding some individuals, a digital research was conducted by law enforcement units in accordance with the duties and powers conferred upon them under the relevant legislation. Witness statements, digital investigation and video recordings have also been taken into consideration, as it is the usual practice for any investigation.

The digital research was based on ongoing judicial investigations against social media accounts that published content involving promotion or facilitation, or content that may constitute evidence of criminal offences of "obscenity" and "prostitution". Particular attention was paid to overtly obscene posts of sexual, pornographic or provoking nature that contradict with

morality, undermine the Turkish family structure protected by the Constitution and, in particular, adversely affect the psychosocial development of children.

The physical searches within the scope of the investigation were conducted in accordance with the procedures and principles laid down in the applicable legislation with necessary warrants issued by the competent judicial authorities. As a result of these physical searches, narcotic substances, several digital materials as well as unregistered firearms were confiscated.

Through the conduct of this judicial process, relevant provisions of the European Convention on Human Rights (ECHR) (Right to respect for private and family life (Article 8), Freedom of expression (Article 10), and Freedom of assembly and association (Article 11)) were meticulously considered.

Pre-trial detention decisions in question were taken by competent courts with due consideration of Article 5 (Right to liberty and security) of the ECHR and relevant domestic law compatible with the Convention. According to the fundamental principles of Turkish criminal law, the gravity and scope of such coercive measures taken for each suspect differs and is handled individually.

No discriminatory action was taken with the intention of targeting specific associations or specific individuals in the course of these procedures. Being a member of associations does not exempt individuals from legal proceedings. The said investigation solely focused on the public order and the protection of the rights of the victims. As a result, some coercive measures had to be taken without infringing upon the essence of fundamental freedoms.

It should be noted that, no association was banned or dissolved for its activities, and the investigation was carried out in compliance with the principle of the rule of law. The freedom of association may be restricted when it infringes other fundamental rights. Competent courts, upon the request of the prosecutor, are able to decide on dissolution only if the relevant law is violated.

The best interest of the child is of paramount importance to the Government of Türkiye, in line with its Constitution. In this regard, Türkiye signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, also known as the Lanzarote Convention, on the day it was opened to signature (25.10.2007) and continues to fulfil its obligations under the said Convention with utmost care.

With a view to preventing the rapid dissemination of such potentially criminal content among the public including the children, necessary procedures were initiated with a view to obtaining an order for the removal of the content and/or the blocking of access thereto, in accordance with the provisions of Law No. 5651 on the Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications.

Due consideration was also given to strike the right balance between the authorities' fulfilment of their duty on the protection of children from abuse and exploitation, and of the liberties of individuals. The Turkish Government highly doubts that offences relating to "obscenity", "prostitution", "narcotic substances", "unregistered firearms" and "sexual abuse and exploitation of children" could be considered as falling within the scope of the "ordinary functioning of LGBTI organisations and their public activities" as claimed in the Commissioner's letter.

The Republic of Türkiye pursues a zero-tolerance policy towards torture and has enacted legislation providing for strict and severe sanctions against acts of ill-treatment, contrary to the allegations in the Commissioner's letter. In this context, Türkiye has accepted the relevant international principles and standards, particularly those established by United Nations and Council of Europe conventions, and has made compliance with them a constitutional requirement per se through the prohibition of torture and ill-treatment, enshrined in Article 17 of its Constitution.

The international legal framework underpinning the prohibition of torture is based largely on the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT, 2002) and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (European Convention for the Prevention of Torture, 1987). The European Committee for the Prevention of Torture (CPT) has established international standards for, inter alia, police custody facilities and prisons in areas such as minimum living space per person, lighting, ventilation and hygiene. Similarly, the United Nations Standard Minimum Rules for the Treatment of Prisoners, known as the Nelson Mandela Rules, lay down rules requiring the humane treatment of persons held in police custody or detention. In preparing its domestic legislation, Türkiye has taken, and continues to take, the necessary steps to ensure compliance with relevant international standards, having regard to both the CPT and OPCAT.

In addition, the Turkish Code of Criminal Procedure subjects police custody procedures to strict rules and robust safeguards. These include medical examinations, access to legal counsel and notification of relatives. The Code also regulates the custody facilities in which detainees are to be held, interview rooms where available, the conditions of detainees, the grounds for and duration of their detention, and the inspection of all records and procedures concerning apprehension and police custody.

The Regulation on Apprehension, Police Custody and the Taking of Statements also contains detailed provisions, consistent with international standards, concerning the physical conditions and hygiene standards of custody facilities, security and camera systems, medical examinations, record-keeping and oversight mechanisms.

Accordingly, law enforcement officers carry out all procedures concerning apprehended persons and persons held in police custody within the framework of the legal safeguards established to protect their physical and mental integrity and to prevent ill-treatment. These procedures are conducted in accordance with the principle of equality, without discrimination on any grounds. No one receives differentiated treatment before the law.

Furthermore, the Government of the Republic of Türkiye emphasizes that Türkiye, as a State party to the European Convention for the Prevention of Torture, is open to visits by the CPT, abides by its obligations stemming from the Convention.

The Government of Türkiye wishes to underline that the "My Family is Safe" investigation was carried out by abiding to the rule of law, with due regard for the principle of personal criminal liability and maintenance of an impartial stance towards the suspects. Within the course of this legal process, Türkiye carefully considered its constitutional and legal obligations together with its obligations undertaken with the international human rights law (first and foremost the

European Convention on Human Rights) and will continue to do so in the remaining course of this legal process, despite the allegations raised by widespread disinformation campaigns.

Nonetheless, while fulfilling its obligations under the ECHR, the OPCAT, the European Convention for the Prevention of Torture and the Council of Europe Convention on the Protection of Children against Sexual Exploitation, Türkiye provides a wide range of domestic and international mechanisms for individuals who claim that their rights and liberties have been violated, including but not limited to individual applications before the Turkish Constitutional Court and the European Court of Human Rights.

On this occasion, the Government extends its cordial thanks to the Commissioner for Human Rights of the Council of Europe and wishes to maintain this close dialogue with the Commissioner's Office.