



Ref: CommHR/RP/sf 067-2006

**Mr. Abdullah GÜL**

Deputy Prime Minister and Minister of Foreign Affairs  
Ministry of Foreign Affairs  
ANKARA  
Turkey

Strasbourg, 18 December 2006

Your Excellency,

I would like to thank you for the warm reception received from the Turkish authorities during my recent visit to Turkey, which took place from 1 to 4 November 2006. Your Ministry and the Representation of Turkey to the Council of Europe did an excellent work for the preparations and also throughout the visit.

I very much appreciated our constructive discussion on various human rights developments in Turkey, including on freedom of expression, minority rights, inter-religious and inter-cultural dialogue, the amendments to the anti- terrorism law and the national human rights monitoring mechanisms. As expressed in our meeting, I strongly support your determination in furthering the reform process in Turkey in order to achieve the full enjoyment of all human rights by the Turkish people.

In view of our continuous good cooperation, I would like to convey to you some preliminary observations which, as always, are made in a constructive spirit.

During our meeting, you mentioned the need to correct certain ambiguities in recently adopted laws. In particular, we discussed Article 301 of the Criminal Code, which has led to numerous prosecutions for the mere expression of peaceful opinion, due to lack of clarity. In view of the reassurances received from you, I trust that this article will be corrected through an amendment or repeal. I would greatly appreciate to be informed of the steps foreseen to remedy this situation.

While recognising the need to guarantee security, the amendments to the Law to Fight Terrorism [Law 3713 of 12/4/1991] adopted this year are also of concern. The definition of terrorism continues to be broad and unclear, threatening the legal certainty required for criminal law. In addition, the range of terrorist offences has significantly increased. Also, the possibility of detaining suspects "incommunicado" for the first 24 hours, and the severe restrictions to the right to immediate legal counsel for suspects may reverse Turkey's successful efforts in reducing torture and ill treatment in detention sites.

With the Ministry of Interior, I discussed, among other issues, the events and violence that took place in Diyarbakir in March 2006 following the funerals of PKK members. These events have led to allegations of excessive use of force, torture and ill treatment of many civilians, and even deaths, including of children. I am confident that we agree that such alleged violations must be properly investigated, regardless of the perpetrators' function or rank, leaving no space to impunity. I would like to request further information on this case, in particular on the results of the investigations.

I would also like to raise with you another matter recently brought to my attention. It concerns the permanent dismissal from office of Mr. Ferhat Sarikaya, the Van Public prosecutor who led the investigation into the 9 November 2005 bookshop bombing in the southern eastern town of Semdinli. According to reports, Mr. Sarikaya's appeal of the Higher Council for Judges and Prosecutor's decision has been rejected on unclear grounds. This decision may raise concerns regarding the effective guarantees of independence of the prosecution, essential for the good administration of justice in Turkey. I would be pleased to receive more clarifications on this issue.

The growing divide amongst the people in Europe, based on the misconception of religious beliefs, xenophobia and Islamophobia, is a common concern shared by your Government and myself. Over the last years, my Office has been addressing religious intolerance and xenophobia, notably through human rights and inter-religious dialogue with various religious communities. In this context, I would like to reiterate my willingness to cooperate with you and with the Alliance of Civilizations in seeking positive solutions for such matters.

I also took note of your concerns about the situation of the Meskhetian Turks and their return to their villages of origin in Georgia, as well as of the situation of the Muslim minority in Greece, particularly regarding discrimination and education rights.

Finally, I would like to stress the importance of enacting anti-discrimination legislation that properly addresses discrimination on all grounds. In this regard, the Minister of Labour announced the plan to create an Equality Institution, which could be very valuable to Turkey. I was also positively impressed with the ongoing Campaign on Violence against Women in Turkey. I would like to receive further information on developments related to the Equality Institution, the creation of a Human Rights Agency and the setting up of the Ombudsman.

Turkey has clearly gone a long way during the last years in reforming its legal system to uphold and respect fundamental rights and freedoms. It would be a step further for Turkey to ratify Protocol 12 to the European Convention on Human Rights and to withdraw the reservations made to the revised European Social Charter, in particular on the rights to organise and to bargain collectively. The accession to the Rome Statute for the International Criminal Court and to the Optional Protocol to the Convention against Torture is equally important.

Furthermore, I would like to bring to your attention reports on the hunger strike protests for the abolition of isolation practices in F-type imprisonment facilities. In this respect, I am confident that your government will address this issue taking into full account the recommendations of the European Committee for the Prevention of Torture contained in the Report to the Turkish Government on the visit to Turkey from 7 to 14 December 2005.

As we discussed, my Office will be conducting a follow up visit to Turkey in spring 2007. Any additional information provided by the Turkish authorities in the meantime would be very helpful for the preparation of the visit.

Confident of our continual co-operation, I look forward to the furthering of our work with the Turkish authorities.

Yours sincerely,

A handwritten signature in black ink, reading "Thomas Hammarberg". The signature is fluid and cursive, with a long horizontal stroke at the end.

Thomas Hammarberg