



# Legal country mapping

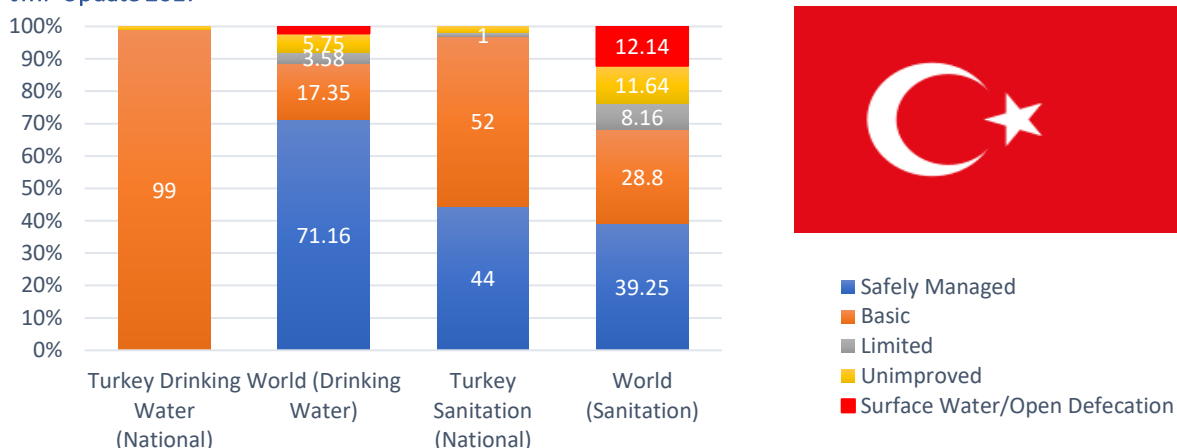
Turkey

07/2018

# Turkey Country Mapping

## Water and Sanitation Status

JMP Update 2017



## General Legislation

Member of a regional integration organisation	Yes.
State Organisation	Unitary State.
Relationship between International and National Law	Dualist.
Supreme Law	The Constitution
Independent National Human Rights Institution (NHRI)	Yes.
Name of Institution possessing regulation-making authority	No
Popular consultation as part of governing/legislative process	Not Officially.

## Water Governance

Right to Water or Sanitation mentioned in Constitution	No
A water code or a law specific to water resources	Yes
National Strategy, Policy, Action Plan etc. on Water and Sanitation	Yes
Transboundary Water Resources	Yes
Priorities in the allocation of water for different uses	No

## Legal Framework

### Human Rights Criterion



### Human Rights Principles



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## CHAPTER 1. WATER GOVERNANCE OVERVIEW

### A. Preliminary questions:

1. **What type of State is the country? (e.g. Federal, Unitary, etc)**

Turkey is a unitary state.

2. **Division of government powers exist? If yes, please elaborate on their functions.**

Under the Constitution of the Republic of Turkey (“**Turkish Constitution**”), (i) the parliament is entitled to promulgate laws, (ii) council of ministers is entitled to issue decrees having the force of law and bylaws, (iii) the prime ministry, ministries and public legal entities are entitled to issue regulations. As the constitutional changes grant the President the authority to issue regulations as well as abolish the Council of Ministers and the Prime Ministry, the President will alone constitute the executive branch. As a result, there will be presidential decrees having the force of law instead of governmental decrees. Bylaws that can be issued by the Council of Ministers will no longer exist under the new constitutional system. The ministries will continue to exist and the President will continue to appoint the ministers. The ministers will have the competence to issue regulations as well.

3. **Which institutions and levels of government have legislative powers?**

The Parliament promulgates laws upon the proposal of the Council of Ministers or representatives. These proposals are discussed in the relevant parliament commission. After the Parliament accepts the law, the law is brought before the President. If the President signs the law, it will be published in the Official Gazette. In addition, the Council of Ministers can issue decrees having the force of law if the Parliament promulgates the “authority law” which gives authority to the Council of Ministers to issue decrees in certain subjects.

Please note that, in the event of state of emergency, which is the situation in Turkey until April 19, 2018 unless extended, issuance of the decrees does not require the authority law. The decrees become enforceable upon its announcement in the Official Gazette. Please note that the Parliament votes for the decree after it is published in order for a decree to continue to be enforceable. The Council of Ministers is entitled to issue by laws upon obtaining the view of the Council of State. These bylaws should also be published in the Official Gazette. The Prime Ministry, Ministries and public legal entities are entitled to issue regulations and certain regulations, as determined by law, which are published in the Official Gazette.

Please note that the amendments to the Turkish Constitution abolish the Council of Ministers and allows the President to issue presidential decrees. The matters already regulated by law cannot be subject to presidential decrees. Presidential decrees cannot be issued on (i) fundamental constitutional rights, matters which are particularly stated to be regulated by law in the Turkish Constitution, (iii) matters which are already explicitly regulated by laws. If the parliament makes a new law on the same matter of the presidential decree, the presidential decree will be void.

4. **Who has the power to ratify treaties?**

The ratification of treaties concluded with foreign states and international organizations on behalf of the Republic of Turkey, shall be subject to adoption by the Turkish Grand National Assembly by a law approving the ratification.

International agreements duly put into effect bear the force of law. No appeal to the Constitutional Court shall be made with regard to these agreements, on the grounds that they are unconstitutional. In the case of a conflict between international agreements in the area of

fundamental rights and freedoms duly put into effect and the domestic laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail. ( The Constitution of The Republic of Turkey, Ratification of International Treaties (As amended on May 22, 2004), ARTICLE 90.

**5. Is there popular consultation as part of governing/legislative process?**

Pursuant to Law no. 167, private individuals and corporations can apply to the DSI for water exploration certificate, and the DSI is required to assess applications within one month in collaboration with related ministries' representatives.

**6. Has the country established a basin management agency? Is it autonomous?**

The Basin Management Committee, which is established by the Ministry, may be viewed as a regional agency of basin, as this committee prepares, implements and monitors the plans for basin management. By virtue of being established by the Ministry, it is not autonomous.

**7. Does the country have transboundary water resources?**

Turkey has five transboundary river basins. From north to south, they are Çoruh River Basin, Aras River Basin, Euphrates-Tigris River Basin, Asi (Orontes) River Basin; and in the west, the Meriç (Maritza) River Basin.

**8. Where transboundary water resources exist, is there an established international institution for basin management? Does it have any responsibility in relation to drinking water?**

Turkey is concerned by shared water resources (e.g. rivers, sea...). These shared water resources are governed by bilateral agreements (e.g. protocols executed with Iraq in relation to the management of Euphrates and Tigris rivers) or by international legal regime of the high seas. Although Turkey is a member of certain organizations (e.g. Mediterranean Network

of Basin Organizations which is a regional network of International Network Basin Organizations), these organizations generally serve the purposes of exchanging experience and knowledge in relation to water resources and do not address any issues relating to management of shared water resources.

**B. The country is member of a regional integration organisation?**

**1. Which countries form part of this organisation?**

The Republic of Turkey ("Turkey") is a member of certain regional integration organizations (e.g. OECD, Council of Europe).

**2. Are the decisions of the organisation binding for the members?**

No, these organizations do not possess the regulation-making authority to adopt directly enforceable legislations in Turkey. Moreover, Turkey is not a member of the European Union.

**3. What is the mandate of the organisation?**

The OECD provides a forum in which governments can work together to share experiences and seek solutions to common problems. It works with governments to understand the key drivers of economic, social and environmental change. It also measures productivity and global flows of trade and investment attempting to analyze and compare data to predict future trends. Additionally, it sets international standards on agriculture, tax and the safety of chemicals.

**4. Does the regional organisation have the authority to regulate or make decisions which affect water and sanitation?**

No, the OECD does not make decisions with respect to water and sanitation.

**C. Water governance and administration:**

**1. What is the structure of the government water administration (provide relevant organizational charts whenever available) and what power, role and responsibilities does the Government have at each level?**

Water administration generally belongs to the Ministry of Forestry and Water Affairs

(the “**Ministry**”) at the governmental level. This ministry consists of (i) minister, deputy-minister, certain consultant organs and undersecretaries and certain general directorates (e.g. Water Management General Directorate, Turkey Water Institute, General Directorate of State Hydraulic Works) at the national level and (ii) regional directorates at the regional level.

**At national/federal level:** The role of the Ministry and the relevant authorities is to establish policies for protection, coordination, management and sustainable utilization of nation-wide water resources and to monitor international developments.

**At the intermediate level (state, river basin, other)** The role of certain directorates of the Ministry (such as General Directorate of Soil Erosion Control and Forestation and Water Management Directorate) is to establish regional plans and strategies for the development of water basins, protection of water resources and prevention of water pollution.

**At the local level?** The duties and responsibilities of the Ministry at the national level are also applicable at the local level. The Ministry established regional directorates as provincial organizations, for duties such as the implementation of national politics at the local level. These directorates mainly engage in works and transactions in accordance with the instructions of the Ministry. In addition, at the local level, municipalities, which do have different legal entities, have a duty to provide water infrastructure services.

## 2. Which government ministries/agencies are directly or indirectly involved in governance of water and sanitation?

Certain departments of the Ministry (e.g. departments related to forestation and soil erosion control, state hydraulic works, forest-rural affairs, nature protection and national parks, and environmental management) and the water and sewage

administrations that are connected to metropolitan municipalities are directly involved in basin management. It is noteworthy that the Ministry of Agriculture and Rural Affairs and municipalities also play a direct role at the river basin level.

Ministry of Forestry and Water Affairs (Directorate General for Water Management): Determining policies on protection and utilization of water resources, co-ordination of water management on a national and a global level, and monitoring water quality.

Ministry of Environment and Urbanization (“**Ministry of Environment**”) (General Directorate for Environmental Management, General Directorate of Environmental Impact Assessment): Taking precautions in order to prevent water pollution, construction of purification plants.

General Directorate for State Hydraulic Works (“**DSI**”): Making reforms on running waters, monitoring water quality of surface and ground waters.

Municipalities & Water and Sewerage Administrations: Implementing water related projects.

## 3. Which agency is responsible for drinking water? What are its responsibilities? Which agency is responsible for sanitation? What are its responsibilities?

The DSI may be viewed as the national agency for water and sanitation. The DSI has a separate public legal personality and is associated with the Ministry. The DSI mainly has the following power and authorities: establishing facilities to prevent flood and overflows; establishing irrigation facilities, rehabilitating wetlands, making plans regarding erosion and sedimentation, developing and implementing drinking water and sanitation projects, rehabilitating rivers, establishing facilities for the re-usage of utilized water, monitoring hydroelectricity plants, monitoring groundwater and surface waters in terms of their quality, procuring the maintenance of relevant facilities, developing other projects within the scope of its powers and

duties, and informing the Ministry if needed. Please also note that the DSI can use certain other authorities that public legal entities are granted under Turkish law (e.g. expropriation).

The Water Management Coordination Committee under the Ministry provides coordination and cooperation when determining measures to protect environment, improvement of water investment, development of strategies, and evaluating the implications of relevant public authorities in relation to the basin plans. The Water Management General Directorate of the Ministry pursues and coordinates the application of the decisions of this committee.

## CHAPTER 2: INTERNATIONAL AND REGIONAL TREATIES

1. **Has the country ratified the following international or regional treaties and declarations?  
Please insert the date of the signature/ratification/accession.**
2. **Has the country made any declaration or reservation to the following instruments?**

### A. Regional Multilateral/Bilateral Treaties

*Table 1. Regional multilateral and bilateral treaties*

Instruments	Participating States	Entry into force
Cooperation Agreement between the Government of the Republic of Turkey and the Government of the Republic of Djibouti in the field of Water	Djibouti and Turkey	Date of text: 13-05-2014
Cooperation agreement in the field of environment protection between the Government of the Republic of Turkey and the Government of the Syrian Arab Republic.	Syria and Turkey	Date of text: 28-05-2011
Memorandum of Understanding between the Government of Turkey and the Government of the Syrian Arab Republic on establishment of a pumping station for withdrawal of water from Tigris River.	Syria and Turkey	Date of text: 28-05-2011
Memorandum of Understanding between the Government of the Republic of Turkey and the Government of Syrian Arab Republic in the field of efficient utilization of water resources and combating of drought.	Syria and Turkey	Date of text: 28-05-2011
Memorandum of Understanding in the field of remediation of water quality between the Government of the Republic of Turkey and the Government of the Syrian Arab Republic.	Syria and Turkey	Date of text: 28-05-2011
Memorandum of Understanding on economic, scientific and technical co-operation in the field of agriculture between the Government of the Republic of Turkey and the Government of the Syrian Arab Republic.	Syria and Turkey	Date of text: 28-05-2011
Memorandum of Understanding on environment between the Republic of Turkey and the Islamic Republic of Iran.	Iran and Turkey	Date of text: 28-05-2011
Agreement between the Government of the Republic of Turkey and the Government of the Republic of Moldova for the construction of second phase of the drinking-water supply system and intra-urban water pipelines in Ceadir-Lunga.	Moldova and Turkey	Date of text: 07-11-2008



Technical, Scientific and Economic Cooperation Protocol in the agricultural field between Lebanon and Turkey	Lebanon and Turkey	Date of document: 12-05-2004
Amendments to the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources	17 state parties. See footnote for full list. <sup>1</sup>	11-05-2008
Agreement between the Government of the Republic of Turkey and the Government of the Kingdom of Morocco on Cooperation in the field of Environmental Protection.	Morocco and Turkey	Date of text: 16-04-2004
Agreed Minutes of the third meeting of the Greek-Turkish Joint Committee on environmental cooperation.	Greece and Turkey	Date of text: 04-12-2003
Agreement between EU and the Republic of Turkey on the Environment Agency and the European Information and Observation Network	European Union and Turkey	18-03-2003
Agreement between Republic of Turkey and the Syrian Arab Republic on Technical, Scientific and Economic Cooperation in Agriculture	Syria and Turkey	01-08-2001
Memorandum of Understanding between the Hellenic Republic and the Republic of Turkey concerning co-operation on environmental protection	Greece and Turkey	Date of document: 20-01-2000
Agreement between the Republic of Turkey and the Republic of Bulgaria on determination of the boundary in the mouth area of the Mutludere/Rezovska River and delimitation of the maritime areas between the two States in the Black Sea.	Bulgaria and Turkey	Date of text: 04-12-1997
Protocol to the Agreement between the Government of the Russian Federation and the Government of the Republic of Turkey on delivery of the Russian natural gas to the republic of Turkey through the defined area of water of the Black Sea (1999)	Russian Federation and Turkey	30-12-1999
Agreement between the Republic of Turkey and the Republic of Israel on cooperation in the field of agriculture	Israel and Turkey	Date of document: 07-09-1998
Agreement between the Government of Uzbekistan and the Government of Turkey on cooperation in the sphere of environmental protection	Turkey and Uzbekistan	Date of document: 18-11-1997

<sup>1</sup> Albania, Croatia, Cyprus, European Union, France, Greece, Israel, Italy, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria, Tunisia and Turkey.

Agreement between the Government of the Russian Federation and the Government of the Republic of Turkey on delivery of the Russian natural gas to the Republic of Turkey through the defined area of water of the Black Sea (1997)	Russia and Turkey	14-05-1998
Agreement between the Government of Uzbekistan and the Government of Turkey on cooperation in the sphere of environmental protection.	Turkey and Uzbekistan	Date of text: 18-11-1997
Accord de coopération entre le Gouvernement de la République française et le Gouvernement de la République de Turquie dans le domaine de l'environnement, signé à Paris le 5 mars 1997.	France and Turkey	09-11-1997 (Le présent accord est entré en vigueur le 9 septembre 1997 )
Accord entre le Gouvernement de la République française et le Gouvernement de la République de Turquie dans le domaine de l'environnement, signé à Paris le 5 mars 1997.	France and Turkey	Date of text: 05-05-1997
Agreement between the Republic of Turkey and the Republic of Slovakia on cooperation for the Protection of the Environment.	Slovakia and Turkey	Date of text: 02-04-1997
Agreement between the Government of Kazakhstan and the Government of Turkey on cooperation in the sphere of environmental protection.	Kazakhstan and Turkey	11-06-1997
Agreement between the Republic of Turkey and the Republic of Bulgaria on determination of the boundary in the mouth area of the Mutludere/Rezovska River and delimitation of the maritime areas between the two States in the Black Sea	Bulgaria and Turkey	Date of document: 04-12-1997
Agreement between the Republic of Turkey and the Republic of Georgia on cooperation in the field of environment	Georgia and Turkey	Date of document: 14-07-1997
Memorandum of Understanding between the Ministry of Environment of the Republic of Turkey and the Department of Environment of the Islamic Republic of Iran.	Iran and Turkey	Date of text: 21-12-1996
Agreement between the Republic of Turkey and the Republic of Turkmenistan on cooperation in the field of environment	Turkey and Turkmenistan	Date of document: 18-11-1996
Agreement between the Republic of Turkey and the Republic of Tajikistan on cooperation in the field of environment.	Tajikistan and Turkey	Date of text: 10-09-1995

Convention on the Protection of the Black Sea against Pollution	6 state parties. See footnote for full list. <sup>2</sup>	29-03-1994  Ratification: 29-03-1994
Protocol on the Protection of the Black Sea Marine Environment against Pollution by Dumping	6 state parties. See footnote for full list. <sup>3</sup>	29-03-1994  Ratification: 29-03-1994
Protocol on the Protection of the Black Sea Marine Environment against Pollution from Land-Based Sources	6 state parties. See footnote for full list. <sup>4</sup>	29-03-1994  Ratification: 29-03-1994
Agreement on cooperation in the field of environmental protection between Hungary and Turkey.	Hungary and Turkey	Date of text: 21-09-1993
Convention no. 479/DP between Bulgaria, Georgia, Romania, the Russian Federation, Turkey and Ukraine on protection of the Black Sea against pollution	6 state parties. See footnote for full list. <sup>5</sup>	Date of document: 26-02-1993
Protocol on the protection of the Mediterranean Sea against pollution from land-based sources and activities.	21 state parties. See footnote for full list. <sup>6</sup>	Date of original text: 17-05-1980  Date of consolidation/reprint: 07-03-1996
Agreement Between the Peoples Republic of Bulgaria and the Republic of Turkey Concerning Co-operation in the Use of the Waters of Rivers Flowing Through the Territory of Both Countries (Maritsa/Marica, Tundzha, Veleka, Rezovska Rivers)	Bulgaria and Turkey	26-10-1970 <sup>7</sup>

<sup>2</sup> Bulgaria, Georgia, Romania, Russian Federation, Turkey and Ukraine.

<sup>3</sup> Bulgaria, Georgia, Romania, Russian Federation, Turkey and Ukraine.

<sup>4</sup> Bulgaria, Georgia, Romania, Russian Federation, Turkey and Ukraine.

<sup>5</sup> Bulgaria, Georgia, Romania, Russian Federation, Turkey and Ukraine.

<sup>6</sup> Albania, Algeria, Bosnia and Herzegovina, Cyprus, Croatia, Egypt, France, Greece, Israel, Italy, Libya, Malta, Morocco, Monaco, Slovenia, Spain, Tunisia, Turkey, European Union, Lebanon and Syria.

<sup>7</sup> See [http://www.internationalwaterlaw.org/documents/regionaldocs/bulg\\_and\\_turk.html](http://www.internationalwaterlaw.org/documents/regionaldocs/bulg_and_turk.html) (current as of 17-06-2016).

International Convention for the Control and Management of Ships' Ballast Water and Sediments	Signature: 8 states <sup>8</sup> Ratification: 4 states <sup>9</sup> Accession: 46 states <sup>10</sup> Acceptance/approval: 1 state <sup>11</sup>	Accession: 14-10-2014
Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974	Entry into force: 120 states <sup>12</sup> Signature: 11 states Ratification: 8 states Accession: 104 states Acceptance/Approval: 2 states Succession: 6 states	03-12-2013  Accession: 03-09-2013
The Black Sea Biodiversity and Landscape Conservation Protocol to the Convention on the Protection of the Black Sea against Pollution	Entry into force: Bulgaria, Georgia, Turkey and Ukraine  Signature: Bulgaria, Georgia, Romania, Turkey and Ukraine  Ratification: Bulgaria, Georgia, Turkey and Ukraine	20-06-2011  Ratification: 12-08-2004

<sup>8</sup> Argentina, Australia, Brazil, Finland, Maldives, Netherlands, Spain and Syrian Arab Republic.

<sup>9</sup> Brazil, Maldives, Spain and Syrian Arab Republic.

<sup>10</sup> Albania, Antigua and Barbuda, Barbados, Belgium, Canada, Congo, Cook Islands (New Zealand), Croatia, Denmark, Egypt, Fiji, France, Georgia, Germany, Ghana, Indonesia, Islamic Republic of Iran, Japan, Jordan, Kenya, Kiribati, Republic of Korea, Lebanon, Liberia, Malaysia, Marshall Islands, Mexico, Mongolia, Montenegro, Morocco, Nigeria, Niue (New Zealand), Norway, Palau, Peru, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Sierra Leone, South Africa, Sweden, Switzerland, Tonga, Trinidad and Tobago, Turkey and Tuvalu.

<sup>11</sup> Netherlands.

<sup>12</sup> See, <http://www.ecolex.org/details/treaty/protocol-of-1978-relating-to-the-international-convention-for-the-safety-of-life-at-sea-1974-tre-000109/> [Note to White & Case – see link for complete list] (current as of 11-07-2016).

Protocol on the Protection of the Marine Environment of the Black Sea From Land Based Sources and Activities	Signature: 6 states <sup>13</sup>  Ratification: Georgia	Signed: 07-04-2009; not ratified
Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal	Entry into force: 7 states <sup>14</sup> Signature: 11 states <sup>15</sup> Ratification : 7 states <sup>16</sup>	18-01-2008  Ratification: 03-04-2004
Protocol concerning cooperation in preventing pollution from ships and, in cases of emergency combating pollution of the Mediterranean Sea	Entry into force: 14 states <sup>17</sup> Signature: 16 states <sup>18</sup> Ratification: 14 states <sup>19</sup>	17-03-2004  Ratification: 03-06-2003

<sup>13</sup> Bulgaria, Georgia, Romania, Russian Federation, Turkey and Ukraine.

<sup>14</sup> Albania, Malta, Montenegro, Morocco, Syrian Arab Republic, Tunisia and Turkey.

<sup>15</sup> Algeria, Egypt, Greece, Italy, Libya, Malta, Monaco, Morocco, Spain, Tunisia and Turkey.

<sup>16</sup> Albania, Malta, Montenegro, Morocco, Syrian Arab Republic, Tunisia and Turkey.

<sup>17</sup> Croatia, Cyprus, European Union, France, Greece, Israel, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syrian Arab Republic and Turkey.

<sup>18</sup> Algeria, Croatia, Cyprus, European Union, France, Greece, Israel, Italy, Libya, Malta, Monaco, Morocco, Slovenia, Spain, Syrian Arab Republic and Tunisia.

<sup>19</sup> Croatia, Cyprus, European Union, France, Greece, Israel, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syrian Arab Republic and Turkey.

European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities	Entry into force: 39 states <sup>20</sup> Signature: 40 states <sup>21</sup> Ratification: 38 states <sup>22</sup> Accession/approbation: 1 state <sup>23</sup>	12-10-2001  Ratification: 11-07-2001  Reservation: 11-07-2001
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal	Entry into force: 183 states <sup>24</sup> Signature: 53 states Ratification: 44 states Accession/approbation: 128 states Acceptance/approval: 8 states Succession: 3 states	20-09-1994  Ratification: 22-06-1994

<sup>20</sup> Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Georgia, Germany, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey and Ukraine.

<sup>21</sup> Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Georgia, Germany, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland and Turkey.

<sup>22</sup> Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Georgia, Germany, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Republic of Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland and Turkey.

<sup>23</sup> Ukraine.

<sup>24</sup> See, [http://www.ecolex.org/details/treaty/basel-protocol-on-liability-and-compensation-for-damage-resulting-from-transboundary-movements-of-hazardous-wastes-and-their-disposal-tre-001341/?xdate\\_max=&xdate\\_min=&q=Basel+Convention+on+the+Control+of+Transboundary+Movements+of+Hazardous+Wastes+and+their+Disposal](http://www.ecolex.org/details/treaty/basel-protocol-on-liability-and-compensation-for-damage-resulting-from-transboundary-movements-of-hazardous-wastes-and-their-disposal-tre-001341/?xdate_max=&xdate_min=&q=Basel+Convention+on+the+Control+of+Transboundary+Movements+of+Hazardous+Wastes+and+their+Disposal) [Note to White & Case – see link for complete list] (current as of 11-07-2016).

International Convention for the Prevention of Pollution from Ships (MARPOL) as modified by the Protocol of 1978	Entry into force: 153 states <sup>25</sup> Signature: 11 states Ratification: 10 states Accession/approb ation: 134 states Acceptance/appro val: 2 states Succession: 6 states Definite signature: 1 state	10-01-1991  Accession: 10-10- 1990
Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources	Entry into force: 22 states <sup>26</sup> Signature: 13 states <sup>27</sup> Ratification: 10 states <sup>28</sup> Accession/approb ation: 7 states <sup>29</sup> Acceptance/appro val: 3 states <sup>30</sup> Succession: 2 states <sup>31</sup>	17-06-1983  Accession: 21-02- 1983

<sup>25</sup> See, [http://www.ecolex.org/details/treaty/international-convention-for-the-prevention-of-pollution-from-ships-marpol-as-modified-by-the-protocol-of-1978-tre-000112/?xdate\\_max=&xdate\\_min=&q=International+Convention+for+the+Prevention+of+Pollution+from+Ships+%28MARPOL%29+as+modified+by+the+Protocol+of+1978](http://www.ecolex.org/details/treaty/international-convention-for-the-prevention-of-pollution-from-ships-marpol-as-modified-by-the-protocol-of-1978-tre-000112/?xdate_max=&xdate_min=&q=International+Convention+for+the+Prevention+of+Pollution+from+Ships+%28MARPOL%29+as+modified+by+the+Protocol+of+1978) [Note to White & Case – see link for complete list] (current as of 11-07-2016).

<sup>26</sup> Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, European Union, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syrian Arab Republic, Tunisia and Turkey.

<sup>27</sup> Cyprus, European Union, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Spain and Tunisia.

<sup>28</sup> Cyprus, Greece, Israel, Italy, Lebanon, Malta, Monaco, Morocco, Spain and Tunisia.

<sup>29</sup> Albania, Algeria, Egypt, Montenegro, Slovenia, Syrian Arab Republic and Turkey.

<sup>30</sup> European Union, France and Libya.

<sup>31</sup> Bosnia and Herzegovina and Croatia.

Convention for the Protection of the Mediterranean Sea against Pollution	Entry into force: 22 states <sup>32</sup> Signature: 14 states <sup>33</sup> Ratification: 12 states <sup>34</sup> Accession/approbation: 5 states <sup>35</sup> Acceptance/approval: 3 states <sup>36</sup> Succession: 2 states <sup>37</sup>	06-05-1981  Ratification: 06-04-1981
Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft	Entry into force: 21 states <sup>38</sup> Signature: 14 states <sup>39</sup> Ratification: 11 states <sup>40</sup> Accession/approbation: 5 states <sup>41</sup> Acceptance/approval: 3 states <sup>42</sup> Succession: 2 states <sup>43</sup>	06-05-1981  Ratification: 06-04-1981

<sup>32</sup> Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, European Union, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syrian Arab Republic, Tunisia and Turkey.

<sup>33</sup> Cyprus, Egypt, European Union, France, Greece, Israel, Italy, Libya, Malta, Monaco, Morocco, Spain, Tunisia and Turkey.

<sup>34</sup> Cyprus, Greece, Israel, Italy, Libya, Malta, Monaco, Montenegro, Morocco, Spain, Tunisia and Turkey.

<sup>35</sup> Albania, Algeria, Lebanon, Slovenia and Syrian Arab Republic.

<sup>36</sup> Egypt, European Union and France.

<sup>37</sup> Bosnia and Herzegovina and Croatia.

<sup>38</sup> Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, European Union, France, Greece, Israel, Italy, Lebanon, Libyan Arab Jamahiriya, Malta, Monaco, Morocco, Slovenia, Spain, Syrian Arab Republic, Tunisia and Turkey.

<sup>39</sup> Cyprus, Egypt, European Union, France, Greece, Israel, Italy, Libyan Arab Jamahiriya, Malta, Monaco, Morocco, Spain, Tunisia and Turkey.

<sup>40</sup> Cyprus, Greece, Israel, Italy, Libyan Arab Jamahiriya, Malta, Monaco, Morocco, Spain, Tunisia and Turkey.

<sup>41</sup> Albania, Algeria, Lebanon, Slovenia and Syrian Arab Republic.

<sup>42</sup> Egypt, European Union and France.

<sup>43</sup> Bosnia and Herzegovina and Croatia.



International Convention for the Safety of Life at Sea (SOLAS)	Entry into force: 162 states <sup>44</sup> Signature: 32 states Ratification: 21 states Accession/approbation: 122 states Acceptance/approval: 11 states Succession: 6 states Definite signature: 2 states	31-10-1980  Accession/approbation: 31-07-1980
Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water (London Version)	Entry into force: 105 states <sup>45</sup> Signature: 90 states Ratification: 81 states Accession/approbation: 11 states Succession: 13 states	08-07-1965  Ratification: 08-07-1965
Agreement for the Establishment of a General Fisheries Commission for the Mediterranean	Entry into force: 25 states <sup>46</sup> Acceptance/approval: 25 states <sup>47</sup> Withdrawal: 2 states <sup>48</sup>	06-04-1954  Acceptance/approval: 06-04-1954

<sup>44</sup> See, [http://www.ecolex.org/details/treaty/international-convention-for-the-safety-of-life-at-sea-solas-tre-000115/?xdate\\_max=&xdate\\_min=&q=International+Convention+for+the+Safety+of+Life+at+Sea](http://www.ecolex.org/details/treaty/international-convention-for-the-safety-of-life-at-sea-solas-tre-000115/?xdate_max=&xdate_min=&q=International+Convention+for+the+Safety+of+Life+at+Sea) [Note to White & Case – see link for complete list] (current as of 11-07-2016).

<sup>45</sup> See, [http://www.ecolex.org/details/treaty/treaty-banning-nuclear-weapon-tests-in-the-atmosphere-in-outer-space-and-under-water-london-version-tre-000418/?xdate\\_max=&xdate\\_min=&q=Treaty+Banning+Nuclear+Weapon+Tests+in+the+Atmosphere%2C+in+Outer+Space+and+under+Water+%28London+Version%29](http://www.ecolex.org/details/treaty/treaty-banning-nuclear-weapon-tests-in-the-atmosphere-in-outer-space-and-under-water-london-version-tre-000418/?xdate_max=&xdate_min=&q=Treaty+Banning+Nuclear+Weapon+Tests+in+the+Atmosphere%2C+in+Outer+Space+and+under+Water+%28London+Version%29) [Note to White & Case – see link for complete list] (current as of 11-07-2016).

<sup>46</sup> Albania, Algeria, Bulgaria, Croatia, Cyprus, Egypt, European Union, France, Greece, Israel, Italy, Japan, Lebanon, Libya, Malta, Monaco, Morocco, Romania, Serbia, Slovenia, Spain, Syrian Arab Republic, Tunisia, Turkey and United Kingdom.

<sup>47</sup> Albania, Algeria, Bulgaria, Croatia, Cyprus, Egypt, European Union, France, Greece, Israel, Italy, Japan, Lebanon, Libya, Malta, Monaco, Morocco, Romania, Serbia, Slovenia, Spain, Syrian Arab Republic, Tunisia, Turkey and United Kingdom.

<sup>48</sup> Serbia and United Kingdom.

Agreement for the Cooperation in the field of Environment Protection between Turkey and Pakistan	Turkey and Pakistan	Date of Document: 15-06-2003
Agreement for the Cooperation in the field of Environment Protection between Turkey and Ukraine	Turkey and Ukraine	Date of Publication on the Official Gazette: 02-03-1998 <sup>49</sup>
Agreement for the Cooperation in the field of Environment between Turkey and Thailand	Turkey and Thailand	Date of Publication on the Official Gazette: 02-03-1998 <sup>50</sup>
Agreement for the Cooperation in the field of Environment between Turkey and Tunisia	Turkey and Tunisia	Date of Publication on the Official Gazette: 02-03-1998 <sup>51</sup>
Agreement for the Cooperation in the field of Environment Protection between Turkey and Oman	Turkey and Oman	Date of Document: 13.01.2004 <sup>52</sup>
Agreement for the Cooperation in the field of Environment Protection between Turkey and Ukraine	Turkey and Ukraine	Date of Document: 01-12-2003 <sup>53</sup>

<sup>49</sup> The Agreement shall be in force for 5 years from the date of ratification and subject to renewal every 5 year periods. However, the information on renewal(s) is not publicly available.

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Agreement for the Cooperation in the field of Environment between Turkey and Bulgaria	Turkey and Bulgaria	Date of Publication on the Official Gazette: 09-02-1997 <sup>54</sup>
Agreement for the Cooperation in the field of Environment between Turkey and Turkish Republic of Northern Cyprus	Turkey and Turkish Republic Northern Cyprus	Date of Document: 29-05-2004 <sup>55</sup>
Agreement for the Cooperation in the field of Environment Protection between Turkey and Bulgaria	Turkey and Bulgaria	Date of Document: 19-04-2004 <sup>56</sup>
Agreement for the Cooperation in the field of Environment between Turkey and Kosovo	Turkey and Kosovo	Date of Document: 20-05-2010 <sup>57</sup>
Agreement for the Cooperation in the field of Environment between Turkey and Azerbaijan	Turkey and Azerbaijan	Date of Document: 09-07-2004 <sup>58</sup>
Agreement for the Corporation in the field of Protection of Environment between Turkey and the Mongolia	Turkey and Mongolia	Date of Document: 15-03-2011 <sup>59</sup>

<sup>54</sup> The Agreement shall be in force for 5 years from the date of ratification and subject to renewal every 5 year periods. However, the information on renewal(s) is not publicly available.

<sup>55</sup> The Agreement shall be in force for 5 years from the date of ratification and subject to renewal every 5 year periods. However, the information on renewal(s) is not publicly available.

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<sup>58</sup> The Agreement shall be in force for 5 years from the date of ratification and subject to renewal every 5 year periods. However, the information on renewal(s) is not publicly available.

<sup>59</sup> The Agreement shall be in force for 5 years from the date of ratification and subject to renewal every 5 year periods. However, the information on renewal(s) is not publicly available.

Agreement for the Corporation in the field of Protection of Environment between Turkey and the Kyrgyzstan	Turkey and Kyrgyzstan	Date of Document: 27-05-2009 <sup>60</sup>
Agreement for the Corporation in the field of Protection of Environment between Turkey and the United States	Turkey and the United States	Date of Document: 12-10-1991 <sup>61</sup>
Agreement for the Corporation in the field of Environment between Turkey and the Netherlands	Turkey and the Netherlands	Date of Publication on the Official Gazette: 15-04-2002 <sup>62</sup>
Agreement for the Cooperation in the field of Environment between Turkey and Azerbaijan	Turkey and Azerbaijan	Date of Document: 03-04-1993 <sup>63</sup>
Agreement for the Cooperation in the field of Water between Turkey and Turkmenistan	Turkey and Turkmenistan	Date of Document: 29-02-2012

<sup>60</sup> The Agreement shall be in force for 5 years from the date of ratification and subject to renewal every 5 year periods. However, the information on renewal(s) is not publicly available.

<sup>61</sup> The Agreement shall be in force for 5 years from the date of ratification and subject to renewal every 5 year periods. However, the information on renewal(s) is not publicly available.

<sup>62</sup> The Agreement shall be in force for 5 years from the date of ratification and subject to renewal every 5 year periods. However, the information on renewal(s) is not publicly available.

<sup>63</sup> The Agreement shall be in force for 5 years from the date of ratification and subject to renewal every 5 year periods. However, the information on renewal(s) is not publicly available.

## B. International Treaties

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*Table 2. International binding instruments*

Instruments	signature	ratification
International Covenant on Civil and Political Rights (1966) <u>Reservation/Declaration:</u> Declaration issued on 23-09-2003 <sup>64</sup> Reservation issued on 23-09-2003 <sup>65</sup>	15-08-2000	23-09-2003
Optional Protocol to the International Covenant on Civil and Political Rights (1966) <u>Reservation/Declaration:</u> Declaration issued on 24-11-2006 <sup>66</sup> Reservation issued on 24-11-2006 <sup>67</sup>	03-02-2004	24-11-2006
International Covenant on Economic, Social and Cultural Rights (1966) <u>Reservation/Declaration:</u> Declaration issued on 23-09-2003 <sup>68</sup> Reservation issued on 23-09-2003 <sup>69</sup>	15-08-2000	23-09-2003
Optional protocol to the International Covenant on Economic, Social and Cultural Rights (2008) <u>Reservation/Declaration:</u> N/A	N/A	N/A

<sup>64</sup> "The Republic of Turkey declares that; it will implement its obligations under the Covenant in accordance to the obligations under the Charter of the United Nations (especially Article 1 and 2 thereof).

The Republic of Turkey declares that it will implement the provisions of this Covenant only to the States with which it has diplomatic relations.

The Republic of Turkey declares that this Convention is ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied."

<sup>65</sup> "The Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the International Covenant on Civil and Political Rights in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendixes."

<sup>66</sup> "The Republic of Turkey declares that the three declarations and the reservation made by the Republic to the International Covenant on Civil and Political Rights shall also apply to the present Optional Protocol." "The Republic of Turkey interprets article 1 of the Protocol as giving the Committee the competence to receive and consider communications from individuals subject to the jurisdiction of the Republic of Turkey who claim to be the victims of a violation by the Republic of any of the rights set forth in the Covenant."

<sup>67</sup> "The Republic of Turkey formulates a reservation concerning article 5 paragraph 2 (a) of the Protocol to the effect that the competence of the Committee: a) shall not apply to communications from individuals if the same matter has already been considered or is being considered under another procedure of international investigation or settlement. b) shall be limited to communications concerning alleged violations which result either from acts, omissions, developments or events that may occur within the national boundaries of the territory of the Republic of Turkey after the date on which the protocol enters into force for the Republic of Turkey, or from a decision relating to acts, omissions, developments or events that may occur within the national boundaries of the territory of the Republic of Turkey after the date on which the Protocol enters into force for the Republic of Turkey. c) shall not apply to communications by means of which a violation of article 26 of the International Covenant on Civil and Political Rights is reprimanded, if and insofar as the reprimanded violation refers to rights other than those guaranteed under the aforementioned Covenant."

Statements: "The Republic of Turkey declares that the three declarations and the reservation made by the Republic to the International Covenant on Civil and Political Rights shall also apply to the present Optional Protocol." "The Republic of Turkey interprets article 1 of the Protocol as giving the Committee the competence to receive and consider communications from individuals subject to the jurisdiction of the Republic of Turkey who claim to be the victims of a violation by the Republic of any of the rights set forth in the Covenant."

"The three declarations and the reservation made by the Republic of Turkey to the International Covenant on Civil and Political Rights read as follows:

Instruments	signature	ratification
Convention on the Elimination of All Forms of Discrimination against Women (1979) <u>Reservation/Declaration:</u> Reservation issued on 20-12-1985 as partially withdrawn on 20-09-1999 and 29-01-2008 <sup>70</sup>	N/A	Accession: 20-12-1985
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999) <u>Reservation/Declaration:</u> No reservations or declarations	08-09-2000	29-10-2002
Convention on the Rights of the Child (1989) <u>Reservation/Declaration:</u> Reservation issued on 14-09-1990 and confirmed on 04-04-1995 <sup>71</sup>	14-09-1990	04-04-1995
The Convention on the Rights of Persons with Disabilities (2006) <u>Reservation/Declaration:</u> No reservations or declarations	30-03-2007	28-09-2009
Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006) <u>Reservation/Declaration:</u> Declaration issued on 26-03-2015 <sup>72</sup>	28-09-2009	26-03-2015

The Republic of Turkey declares that; it will implement its obligations under the Covenant in accordance to the obligations under the Charter of the United Nations (especially Article 1 and 2 thereof).

The Republic of Turkey declares that it will implement the provisions of this Covenant only to the States with which it has diplomatic relations. The Republic of Turkey declares that this Convention is ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied.

The Republic of Turkey reserves the right to interpret and apply the provisions of Article 27 of the International Covenant on Civil and Political Rights in accordance with the related provisions and rules of the Constitution of the Republic of Turkey and the Treaty of Lausanne of 24 July 1923 and its Appendices.”

<sup>68</sup> “The Republic of Turkey declares that; it will implement its obligations under the Covenant in accordance to the obligations under the Charter of the United Nations (especially Article 1 and 2 thereof).

The Republic of Turkey declares that it will implement the provisions of this Covenant only to the States with which it has diplomatic relations.

The Republic of Turkey declares that this Convention is ratified exclusively with regard to the national territory where the Constitution and the legal and administrative order of the Republic of Turkey are applied.”

<sup>69</sup> “The Republic of Turkey reserves the right to interpret and apply the provisions of the paragraph (3) and (4) of the Article 13 of the Covenant on Economic, Social and Cultural Rights in accordance to the provisions under the Article 3, 14 and 42 of the Constitution of the Republic of Turkey.”

<sup>70</sup> “With respect to article 29, paragraph 1

In pursuance of article 29, paragraph 2 of the Convention, the Government of the Republic of Turkey declares that it does not consider itself bound by paragraph 1 of this article.” [.....]

<sup>71</sup> “The Republic of Turkey reserves the right to interpret and apply the provisions of articles 17, 29 and 30 of the United Nations Convention on the Rights of the Child according to the letter and the spirit of the Constitution of the Republic of Turkey and those of the Treaty of Lausanne of 24 July 1923.”

<sup>72</sup> “Turkey declares that [its] ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities neither amounts to any form of recognition of the Greek Cypriot Administration’s pretention to represent the defunct ‘Republic of Cyprus’ as party to that Protocol, nor should it imply any obligation on the part of Turkey to enter into any dealing with the so-called Republic of Cyprus within the framework of the said Protocol.”

Instruments	signature	ratification
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) <u>Reservation/Declaration:</u> Reservation issued on 02-08-1988 <sup>73</sup> Declaration issued on 02-08-1988 <sup>74</sup>	25-01-1988	02-08-1988
Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998) <u>Reservation/Declaration:</u> N/A	N/A	N/A
Geneva Convention (III) relative to the Treatment of Prisoners of War (1949)	12-08-1949	10-02-1954
Geneva Convention (IV) relative to the protection of Civilian Persons in Time of War (1949)	12-08-1949	10-02-1954
Protocol Additional (I) to the Geneva Conventions relating to the Protection of Victims of International Armed Conflict (1977) <sup>75</sup>	N/A	N/A
Protocol Additional (II) to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts (1977) <sup>76</sup>	N/A	N/A
Convention on the Law of the Non-navigational Uses of International Watercourses (1997) <u>Reservation/Declaration:</u> No reservations or declarations	N/A	N/A

Table 3. ILO conventions

Instruments	Signature	Ratification
ILO Forced Labour Convention, no. 29 (1930)		30-08-1998
ILO Recruiting of Indigenous Workers Convention, no. 50 (1936) (shelved convention)		N/A

<sup>73</sup> Declarations made under articles 21 and 22: "The Government of Turkey declares, pursuant to article 21, paragraph 1, of the Convention that it recognizes the competence of the Committee Against Torture to receive and consider communications to the effect that a State Party is not fulfilling its obligations under the Convention.

The Government of Turkey declares, pursuant to article 22, paragraph 1, of the Convention that it recognizes the competence of the Committee Against Torture to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention."

<sup>74</sup> "The Government of Turkey declares in accordance with article 30, paragraph 2, of the Convention, that it does not consider itself bound by the provisions of paragraph 1 of this article."

<sup>75</sup> See, <https://www.icrc.org/ihl/INTRO/470> (current as of 17-06-2016).

<sup>76</sup> See, <https://www.icrc.org/ihl/INTRO/475?OpenDocument> (current as of 17-06-2016).



<b>Instruments</b>	<b>Signature</b>	<b>Ratification</b>
ILO Food and Catering (Ships' Crews) Convention, no. 68 (1946) (instrument to be revised)		17-03-2005
ILO Plantations Convention, no. 110 (1958)		N/A
ILO Hygiene (Commerce and Offices) Convention, no. 120 (1964)		N/A
ILO Occupational Safety and Health (Dock Work) Convention, no. 152		17-03-2005
ILO Convention no. 161 concerning Occupational Health Services		22-04-2005
ILO Safety and Health in Construction Convention, no. 167 (1988)		23-03-2015
ILO Convention no. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989)		N/A
ILO Work in Fishing Convention, no. 188 (2007)		N/A

## C. Regional/Europe

Table 4. European instruments

	Signature	Ratification
European Convention on Human Rights (1950) <sup>77</sup> <u>Reservation/Declaration:</u> No reservations or declarations	04-11-1950	18-05-1954
UNECE London Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International lakes (1999) <sup>78</sup> <u>Reservation/Declaration:</u> No reservations or declarations	N/A	N/A

## CHAPTER 3: DOMESTIC LEGISLATION ON WATER

## A. Water law

1. **Is the right to water or the right to sanitation mentioned in the Constitution?**

The right to water is not mentioned directly in the Turkish Constitution.

2. **Does the Constitution otherwise reference water and sanitation?**

There are indirect references to water and sanitation in the Constitution.

3. **Is there a water code or a law specific to water resources? Please specify.**

For instance, it is the state's main goal and duty to provide necessary conditions for the improvement of physical and mental well-being of humans. The physical well-being of humans relies on water as a nutritional resource and as a means to provide sanitation. Additionally, the Turkish Constitution regulates people's right to benefit from coasts. Accordingly, coasts are under the command and disposal of the state, and coasts and coastlines' depth, along with the conditions upon which people could benefit from these, shall be regulated by laws. Both rights to water and sanitation can be derived from this article since both of

these are required for the proper utilization of water resources prioritizing public welfare. Furthermore, the Turkish Constitution recognizes people's right to live in a healthy environment. Citizens have a duty to protect environmental health, improve the environment and prevent environmental pollution. It is further stated that the state should provide a healthy life to everyone. Therefore, we may interpret that water is implicitly covered in the Turkish Constitution.

4. **Is there national strategy / policy, action plan or similar document on water?**

Law no. 831 covers the supply of water and stipulates an obligation for government or administrative authorities to supply water to citizens. Hence, this law implicitly includes people's right to water and sanitation. In addition, there are certain laws regulating water and sanitation governance. Additionally, Law no. 831, Law no. 5686, and Law no. 167 can be characterized as the main water sources-specific legislation.

5. **Are there any other major regulations, decrees, orders, circulars, or similar official**

<sup>77</sup> See, <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005> (current as of 17-06-2016).

<sup>78</sup> See, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg\\_no=XXVII-5-a&chapter=27&lang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=XXVII-5-a&chapter=27&lang=en) (current as of 17-06-2016).

**documents (such as pricing, water policing, utility easements, public domain occupation...etc.) related to the rights to water and sanitation?**

There is no legislation drawing up a national strategy on water. However, the development plans issued by the Parliament include certain strategies on water. For instance, the 10<sup>th</sup> Development Plan issued for 2014-2018 includes strategies on Soil and Water Resources Management. In the same vein, the Strategy Plan issued by the Ministry for 2017-2021 set forth key strategies on water.

**B. Extraction and/or use of water**

**1. Does the legislation regulate the right to abstract water? (surface, groundwater, etc.)?**

Law no. 831 regulates the right to abstract water. Accordingly, supply and management of surface water sources belong to municipalities and villages, whereas natural mineral and geothermal waters belongs to the State.

**2. Does the legislation distinguish between the extraction of drinking water and water for other uses?**

There are no legislative priorities in the allocation of water for different users. In general, public has a right to use water for drinking, washing, bathing, for the watering of cattle and for recreational purposes subject to certain limitations (e.g. According to the Regulation on Water Pollution Control, swimming, fishing, backpacking, hunting in places which are closer than 300 meters to water receipt points is forbidden).

**3. Is the right to use water connected to land ownership?**

Turkish Civil Code numbered 4721 published in the Official Gazette numbered 24607 and dated December 8, 2001 defines two different types of water: Private water and general water. Accordingly, beneficial public water properties, which are known as general water in the doctrine, unless provided otherwise, cannot be the subject to private ownership and State has the full control over it. Additionally, pursuant to this

law, the right to use groundwater is not linked to ownership of land because this type of water is a part of beneficial public water. Rights to use water can be linked to ownership of land only if private water is within the boundaries of the property in question.

**4. Are permits/licenses required for water use (e.g. domestic, agricultural, industrial)?**

Law no. 167 regulates groundwater exploration and extraction. Any extraction with the purpose of irrigation, utilization, or sale may be leased by special provincial administration in accordance with Law no. 2886. It is primarily required to have an exploration certificate from the DSI in order to conduct related exploration activities within this scope. Other persons/entities are able to use ground water sources based on utilization certificate which is also granted by the DSI after having granted the exploration certificate. According to the Law no. 1380, livestock/fisheries are subject to permits granted by the Ministry of Agriculture and Rural Affairs. Pursuant to Law no. 167, all documents are recorded under a registry by the DSI.

**5. Can permits/licenses be suspended? Under what circumstances?**

Pursuant to Law no. 167, the exploration certificate is provided for one year. If the certificate holder applies for an extension during the last month of the valid term of the certificate, the term of the certificate will be extended for another year. If certificate holder cannot complete its exploration within that time, the certificate becomes invalid and a new certificate has to be obtained.

The terms and conditions of exploration and utilization certificates are regulated under Law no. 167. According to information provided by the DSI verbally, the term of these certificates depend on the area of activity and water basin. We have been further informed that the terms and conditions of these certificates vary depending on the certificate holder's area of activities.

Certificates in question are unlikely to be lost because they are computerized by the related registry units. On the other hand, if any changes occur after the issuance of the relevant certificate, the certificate holder should apply for a renewal.

Additionally, in the event that the certificate holder does not comply with its obligations arising from Law no. 167 such as compliance with the utilization purpose or the limitation criteria on water abstraction, the DSI is entitled to cancel exploration and utilization certificates. In addition to the suspension of

operation, administrative fines may be imposed on the certificate holders.

6. **Can water abstraction licenses be transferred? Is transferability subject to restrictions?**

Water abstraction certificates for shafts are given to properties' ownerships. These certificates may be transferred to third persons via properties' sale or inheritance.

7. **Are there priorities in the allocation of water for different uses?**

There are no legislative priorities in the allocation of water for different users.

## CHAPTER 4. THE HUMAN RIGHTS TO WATER AND SANITATION:

### A. Availability and accessibility

#### 1. Does the law ensure that a minimum essential level of water is available to all?

According to the general equality and social state principle regulated under the Turkish Constitution, Water should be provided to all in essential amounts. However, there is no explicit legal provision that ensures a minimum essential level of water that is available to all.

#### 2. What are the standards on the amount of water to be made available/is there any guidance in the law in this respect?

If the principle of general equality and the social state principle regulated under the Turkish Constitution is breached, applications may be made to the Council of State or Constitutional Court, and their decisions on the cancellation of legislation breaching the principle can be considered as guidance.

#### 3. Does the law ensure continuous supply of water for all?

There is no explicit provision in the law that ensures a continuous supply of water for all.

#### 4. Does the law prioritize water for domestic uses over other uses?

There is no explicit prioritization in the uses of water for domestic purposes over other.

#### 5. What are the grounds for disconnecting, interrupting or altering water supply and sanitation services (e.g., authorities may alter water supply in case of droughts or emergencies, in which cases are disconnections possible...)?

According to the Regulation on Water intended for Human Consumption, spring and drinking water facilities are subject to annual controls by the Ministry of Health, and also controlled quarterly by the Local Health Authority's related public health units. If the parameters of water quality, as determined in the relevant legislation, decrease, necessary actions should be taken. As the relevant regulation does not specify necessary actions; these may include

interruption, disconnection or alteration. Additionally, if water becomes a threat for human health, water supply may be prevented or limited. In such a case, the public should be informed before the prevention or limitation occurs.

#### 6. What are the procedural standards/criteria for permitting interruption, disconnection or alteration of water supply and sanitation services?

The procedural standards/criteria required for permitting the interruption, disconnection or alteration of water supply and sanitation require that the Ministry of Health conduct regular annual controls and the Local Health Authority facilitates this quarterly. In the event that the parameters of water quality decreases, necessary action must be taken.

#### 7. Are alternative ways of water supply and sanitation services provided for in case of alteration of supply and/or service?

Not Applicable.

#### 8. Does the law provide guidance on: the number of water outlets?

The law does not provide any guidance on such information.

the safety, distance and time from a dwelling or structure to reach water outlet or sanitation facilities (e.g., laws that specify water outlets must be available within a certain distance from a school or household)?

Pursuant to the verbal information provided by the Istanbul Directorate of Waters' related unit, these are dealt by engineers and are not legislative matters.

#### 9. technical safety of water outlets or sanitation facilities (e.g. law requiring that certain standards are applied in the constitution of those facilities or of buildings)?

See above.

Is there provision in the law for availability and accessibility of water and sanitation

**facilities in non-domestic places such as schools, hospitals, work places, prisons, refugee camps, etc.?**

There is no provision in the law to accommodate this.

## B. Quality and safety

### 1. **Are there parameters of quality and safety for drinking water established under law?**

The Regulation on the Quality of Surface Water, the Regulation on Procedures and Principles Used in Municipal Water and Sewerage Services, and the Regulation on Water intended for Human Consumption set quality standards for water intended for human consumption. For wastewater treatment, the Regulation on Urban Wastewater Purification sets quality standards. The quality standards defined in the relevant legislation are based on certain technical parameters which should be evaluated by experts. However, in general, it may be concluded that water quality standards are based on the water's chemical condition, ecological potential, certain environmental quality standards, and technical levels such as trophic levels.

### 2. **Is monitoring of drinking water quality or wastewater required by law? If so, which actor is required to monitor it and how often (according to the law)?**

The Regulation on Monitoring Surface and Underground Water deals with drinking water/wastewater monitoring. With the coordination of the Ministry, a national monitoring network is formed with relevant institutions. Monitoring of drinking water sources is carried out by the General Directorate of Water and Sewerage Administration within metropolitan municipalities and by the DSI outside the municipal boundaries, and information is reported to the Ministry according to the Regulation on Urban Wastewater Purification. Upon a request by the Ministry of Environment, the relevant administrations report the quality of waste water to the Ministry. Please also note that this is applicable to both public and private service providers.

### 3. **Do laws/regulations include guidance on the safe construction of water and sanitation Infrastructure (e.g. to ensure no contact with excreta, ventilation, respect construction guidelines)?**

The Regulation on Inspection of Hydraulic Structures regulates all sorts of hydraulic constructions and hydroelectric energy production plants

### 4. **Do laws/regulations include requirements or guidance on safe emptying of latrines as well as safe treatment and disposal of treated sludge?**

The Act No. 5393 on Municipalities (2005) assigns numerous powers and duties to municipalities which are, for example, the construction of urban water supply and sewerage systems and wastewater treatment plants.

### 5. **Do laws/regulations establish requirements on household water treatment and storage (e.g. quality requirement with respect to water containers, rainwater harvesting limitations, etc.)?**

There are no specific uniformly applicable laws or regulations that establish requirements on household treatment and storage, especially in the context of quality requirements with respect to water containers or rainwater harvesting limitations.

## C. Water pollution control

### 1. **Are there legislative provisions concerning waste disposal activities? Which authorities are responsible for monitoring to determine if waste has caused pollution of bodies of water?**

The Regulation on Monitoring Surface and Underground Water deals with drinking water/wastewater monitoring. With the coordination of the Ministry, a national monitoring network is formed with relevant institutions. Monitoring of drinking water sources is carried out by the General Directorate of Water and Sewerage Administration within metropolitan

municipalities and by the DSI outside the municipal boundaries, and information is reported to the Ministry according to the Regulation on Urban Wastewater Purification. Upon a request by the Ministry of Environment, the relevant administrations report the quality of waste water to the Ministry. Please also note that this is applicable to both public and private service providers.

**2. Is there legislation which regulates the contamination of groundwater?**

Law no. 2872 and Regulation on Water Pollution Control regulates water pollution including groundwater pollution.

**3. Is permission required to discharge effluents? What are the criteria used for considering applications and granting permits?**

In order to discharge any kind of effluent, an environmental permit must be obtained from the Ministry's related units. There is no exception to the permission requirement for discharging effluents. However, if an institution documents that they have discharged water without changing the water's quality, then it is assumed that they have not violated the standards set in the relevant regulation.

The institution requesting the permit must present certain documents (e.g. Discharge Technical Information List) that are foreseen in the relevant legislation. Additionally, a specimen (including composite waste water of twenty-four hours), taken and analyzed in accordance with the technical criteria stipulated in the relevant legislations, must be presented. The results of this analysis should also meet the technical requirements.

**4. Can waste discharge permits be lost/suspended/modified during their lifespan? Under what circumstances? Is compensation payable?**

These records are kept electronically before relevant registry units; therefore, these cannot be lost. On the other hand, if the certificate holder wants to vary its certificate, it should apply for renewal.

5. If the competent authority determines inconsistencies with the permits, the institutions are given a limited time in order to rectify the relevant inconsistencies and comply with related regulations. In case of non-compliance within this period, permits may be cancelled.

**6. Are instances of pollution of water sources subject to penalties / fines? Which institution is in charge of the administration of the penalties?**

In the event that a holder of a water abstraction certificate does not comply with its obligations arising from Law no. 167, such as compliance with the utilization purposes or the limitation criteria on water abstraction, the DSI is entitled to cancel the exploration and utilization certificates. In addition to the suspension of operation, administrative fines may be imposed on the certificate holders.

Charges are also payable against the disposal of waste into streams, lakes, underground aquifers, and other water bodies. A circular related to administrative fines issued in accordance with Law no. 2872 regulates different types of charges for vessels, institutions and houses.

In addition, persons polluting the environment and those causing environmental destruction have strict liability for damages resulting from pollution and degradation regardless of existence of their fault, and, therefore, are obliged to compensate damage on a joint and several basis regardless of the extent of their contribution to such damage, and to pay applicable administrative fines.

**D. Affordability**

**1. How does the law address affordability of water supply and sanitation services?**

Public services (e.g. water supply and sanitation services) should be provided equally to all with an affordable and fair price pursuant to the equality and social state principle regulated under the Constitution.

**2. What mechanisms must be established by law to ensure affordability of water and**



**sanitation services?**

In case of a breach of the overarching principle of equality and the social state principle, the Council of State or the Constitutional Court may be seen as a mechanism which may decide to cancel the legislation breaching the principle.

3. **How are tariffs established under law and what is the process for updating these tariffs?**

According to the Regulation on the Procedures and Principles of Determination of Tariffs with respect to Waste Water, Infrastructure and Domestic Solid Waste Disposal Facilities of Waste Water; water disposal services can be priced at three different tariffs: (i) Tariff depending on pollution and flow rate, (ii) Constant tariff, (iii) Tariff depending on connection fee.

4. **Does the tariff vary depending on the regions/circumstances?**

Tariff varies depending on the regions, and each metropolitan municipality regulates this issue differently according to its [water and sewerage administration](#) regulations.

5. **Which actor is responsible for and involved in setting and/or approving tariffs for water supply and sanitation services?**

The [Water and Sewerage Administration](#) is responsible for setting and/or approving tariffs for water supply and sanitation services.

6. **Does the law allow disconnection from water supply and sanitation services for non-payment? What procedures must be followed in such cases prior to disconnecting the supply and service?**

The Directorate of Waters' related unit is entitled to disconnect the water supply in case of non-payment. According to subscription agreements between [Water and Sewerage Administration](#) and water users, debts and default interest should be paid as well to the relevant [Water and Sewerage Administration](#).

## E. Acceptability

1. **Is there provision in the law or contracts with service providers that relate to the need to take into account cultural and social**

**dimensions of acceptability (e.g. colour or odour of water, or the positioning of a facility)?**

Turkey is a member of the World Health Organization, whose decision-making body, the World Health Assembly, adopted by consensus in May 2011 resolution 64/24 which »urges Member States to ensure that national health strategies contribute to the realization of water- and sanitation-related Millennium Development Goals while coming in support to the progressive realization of the human right to water and sanitation that entitles everyone, without discrimination, to water and sanitation that is sufficient, safe, acceptable, physically accessible and affordable for personal and domestic uses.

Moreover, The DSI is responsible for taking positive action to ensure a universal realization of the right to water and sanitation.

2. **Is there provision in the law or contracts with service providers that relate to the need to ensure dignity and privacy (e.g.in work places, but also in the design of shared sanitation facilities for certain communities)?**

There is no specific legal provision to this effect.

## F. Non-discrimination, equality and universal access

1. **Is there any legislation about the prohibition of direct and indirect discrimination (on all grounds) and promotion of equality in accessing water and sanitation services?**

Turkish Constitution forbids any kind of discrimination, and Turkish Criminal Code no. 5237, which was published in the Official Gazette numbered 25611 and dated October 12, 2004, penalizes discriminatory behavior.

2. **Are there any specific provisions that address that seek to ensure (physical) access to water and sanitation services for persons with disability, children or the elderly?**

According to Article 6 Fundamental Guidance on Accessibility for Persons with



disabilities in Health Institutions, TS 9111 and TS 12576 Standards, Circular numbered (2009/90) and dated December 17, 2009 published by the Ministry of Education, there must be toilets for disabled students. As per Article 34 of the Private Hospitals Regulation, private hospitals are required to have toilets and bathrooms for the disabled.

#### G. Right to information:

**1. Is there any specific legislation about the right to seek, receive and impart information held by public authorities? Does the law expressly set out the right to seek, receive and impart information on water related issues?**

Right to access information is primarily guaranteed by the Turkish Constitution. In addition, the Law on Right to Seek Information numbered 4982 and published in the Official Gazette numbered 25269 and dated October 24, 2003 (the “**Law no. 4982**”), and the Regulation on the Basis and Procedures of Implementation of the Law on Right to Seek Information published in the Official Gazette numbered 25445 and dated April 27, 2004 (the “**Right to Seek Information Regulation**”), set forth the details regarding the exercise of this right.

**2. Does the right to information require the payment of a fee? Is there a provision on the affordability of such fee?**

In principle, applications to governmental bodies for information requests do not require a fee; however, Law no. 4982 allows governmental bodies to ask for a fee that covers the cost of the information/documents to be provided in response to the request, and the relevant tariff is issued by the Ministry of Finance. The applicant is deemed to have withdrawn its request if the fee is not paid within 15 business days. There is no provision in relation to the affordability of, or exemption from, such fee requirement once requested by the relevant governmental body. However, it should be noted that a fee cannot be requested for information/documents up to ten pages and

associated postage costs pursuant to the Right to Seek Information Regulation.

**3. Are there any exceptions with regard to who or what type of water and environment related information held by public authorities can be accessed?**

The right to access environment-related information is specifically addressed under Law no. 2872 which stipulates that everyone has the right to access environment-related information within the scope of Law no. 4982, except for information which may damage the environment, such as breeding sites and rare species, once disclosed.

Please note that Law no. 4982, in general, excludes the following from the scope of the right to access information (which also applies to the water-related information requests):

Any state secret;

Any damage to the economic interests of the country;

Any intelligence information;

Any trade secret;

Certain information in relation to administrative or legal investigation or proceedings;

Any violation of confidentiality of communication or privacy;

Certain internal regulations of institutions; and

Recommendations and opinion requests from institutions.

**4. Which institutions are required by law to make information on water public? Does the law reference only the right to access information or also the obligation to make public such information on water related issues (e.g., are institutions obligated to provide information only upon demand, or are they obligated to publish or make available information at certain periodic intervals, on the occurrence of certain circumstances, etc.)?**

Under Law no. 4982, all governmental bodies, subject to the restrictions included therein, are obliged to provide the requested information. They are also obliged to take all necessary administrative and technical steps

to finalize applications as soon and as accurate and effective as possible. For water-related matters, municipalities, the Ministry and its sub-organs (e.g. the DSI) are to be applied to at the first stage. Please note that any official failing to respond to an individual's request for information shall be penalized with disciplinary action.

5. **What are the requirements listed in the law in relation to the language, locations, format, timing and means used for providing water related information to the public? How does the law ensure that information is made available to all including to minorities?**

Since there is no specific regulation regarding access to water-related information, the provision of such information to the public is subject to the general provisions under Law no. 4982. In this respect, the information should be provided in writing or electronically along with relevant documents to the applicant.

6. **Are there any legal provisions requiring certain authorities to educate the population on water related issues?**

No, there are no legal provisions to this effect. However, some foundations and governmental bodies have taken some steps to educate certain target groups (e.g. children, agriculture engineers) on the use of water.

7. **Are the legal requirements concerning informing the population about regulations, restrictions, prohibitions and discontinuations in water services? Does the law require that information be made available about the existence of complaint mechanisms for water supply and sanitation services to users of such services?**

There are no specific requirements in this respect.

8. **Are there any requirements in relation to access to information in contracts with water and sanitation operators?**

There are no specific requirements in this respect.

## H. Public participation

1. **Is there a law which addresses public participation?**

Public participation is not a general concept under Turkish law.

However, Pursuant to Law no. 2872, entities seeking licenses, permits, and incentives for their projects or facilities must receive either (i) an EIA affirmative decision, or (ii) a decision that an EIA is not required from the Ministry of Environment. Before the commission evaluates an application for an EIA, a public participation meeting takes place in order to inform those who will possibly be affected by the project on the features and possible outcomes of it, and the public presents its opinion to the commission which will be taken into consideration in the assessment. Therefore, in theory, public participation meetings in the EIA process is an important step towards a free, active and meaningful participation; however, in practice, it is not possible to assess how much weight is attached, by the commission, to public opinion when arriving at the final assessment result.

Additionally, according to Law no. 5393, municipalities may conduct public enquiries on matters concerning their services. Please note that the procedures associated with such enquiries are not described in any secondary legislation.

2. **What are the criteria listed in the law in relation to participation in water-related issues (e.g. allocated time to provide comments, invitation to public hearings, etc.)?**

Public participation is only regulated within the scope of the EIA process, and there are no other specific regulations addressing the criteria for participation in water related issues. In relation to the EIA, the venue and date of the meeting is determined by the competent state authority and announced to public along with the description of the project. The participants may be asked to share their opinions and/or suggestions in writing.

3. **Do the contracts between governmental authorities and operators of water and sanitation services impose upon the operators an obligation to ensure or provide for public participation at any levels at which the applicable services are delivered?**

This cannot be determined as such contracts are not publicly available.

4. **Is the establishment of regional or local associations or other groupings of water users provided for and regulated by laws or regulations? How do they interact with or connect into other agencies or regulators?**

Water is allocated, in practice, by a variety of agencies and users operating independently of each other. These include State Hydraulic Works (Turkish acronym DSI), surface and groundwater water management organizations (irrigation associations, irrigation cooperatives etc.), municipalities and industries. The Law No. 6200 establishing DSI defines it as the main state agency to develop surface and groundwater resources, to make optimal use of them and to develop them in such a way as to achieve optimum benefit.

The Establishment Law 6200 entitles the DSI to transfer operation and maintenance (O&M) of irrigation systems to irrigation management organizations, such as village administrations, municipalities, cooperatives, irrigation associations<sup>9</sup> and other private legal entities. From the early 1960s DSI had a programme for such transfers relating to secondary and tertiary canals. Until 1993, however, the DSI was able to transfer O&M irrigation systems amounting to only approximately 70,000 hectares to various types of irrigation management organizations. The process has gained momentum since 1993, and within the past seventeen years the management of irrigation covering more than 2 million hectares has been handed over to local administrations or to Irrigation Associations.<sup>10</sup> Irrigation management organizations are currently constituted

under the Local Government Associations Law No. 5355.

## I. Sustainability

1. **How does legislation ensure that water and sanitation services are delivered in a sustainable manner, considering the availability of water resources, competing demands and generally the needs of present and future generations?**

The Environment Law of 1983 (No. 5491) which was revised on 26 April 2006, is a framework document that determines general principles concerning the protection of the environment and the prevention of pollution. It endorses the 'Polluter Pays Principle' and handles environmental issues broadly. The aim of the law, which considers the environment as a whole, is not only to prevent and eliminate environmental pollution, but also to allow for the management of natural and historical values and land in such a way as to utilize and preserve its richness for future generations. According to its basic principles, citizens as well as the State bear responsibility for the protection of the environment. It emphasizes that every effort should be made to minimize and solve environmental problems in economic activities, in particular when determining production methods.

2. **How does the legislation ensure that delivery of water and sanitation services are economically sustainable, with sufficient expenditure for operation and maintenance?**

Greater private sector involvement has been also envisaged in order to construct and operate drinking water plants based on Build Operate-Transfer (BOT) contracts. Under a BOT contract, the private sector finances, builds and operates a new facility in accordance with performance standards set by the government. The government retains ownership, and the facility is reverted to the state after an operation period of typically 10 to 20 years. With the Electricity Market Law No. 4628 of 2001 and the Renewable Energy Law No. 5346 of 2005, the Turkish

government envisaged the accelerated  
development of the underexploited

potential by inviting private investors and  
private financial service institutions.

## CHAPTER 5. JUDICIARY SYSTEM

### A. Preliminary questions

1. **What is the relationship between international law and national law (i.e. is the state a monist or dualist system--how is international law interpreted in relation with domestic law)?**

Pursuant to the Turkish Constitution, international treaties and national laws have equal force. In case of a conflict between international law treaties on fundamental rights and national laws, the former prevails. Please note that international treaties may not be brought before the Constitutional Court on the ground that they are unconstitutional.

2. **What is the hierarchical structure of the legal system?**

The Turkish legal system gives superiority to the Turkish Constitution. Laws, decrees having the force of law and international treaties follow the Turkish Constitution, each having the same power. These are followed by-laws and then regulations respectively.

3. **Has the State ratified the relevant international conventions establishing regional or international complaint mechanisms?**

Turkey has signed and ratified, amongst others, the European Convention on Human Rights and the International Covenant on Civil and Political Rights.

### B. Remedies and complaint procedures/accountability

1. **Are there remedies provided by law to file complaints or other ways of accessing justice in reference to water and sanitation? Who may file them? Are the decisions appealable?**

The administration may take necessary measures upon receipt of a complaint. In terms of remedies, relevant laws provide a right to claim compensation, provided that certain conditions are satisfied. If an administrative act damages access to water or sanitation of a person/entity, this person/entity has the right to request

compensation from the administration through compensation lawsuits filed against the State under administrative law. Such person/entity is also entitled to file a lawsuit requesting cancellation of an administrative act.

2. **Are such complaint procedures required to be provided in conformity with human rights principles (such as non-discrimination, equity)?**

The conditions encapsulated within these complaint procedures are in conformity with human rights principles.

3. **Does the law provide for financial assistance for legal counsel in cases concerning water and sanitation?**

Civil Procedure Law numbered 6100 published in the Official Gazette dated February 4, 2011 and numbered 27836 requires that legal aid be provided for both litigation expenses and legal counsel. People who are unable to pay partial or full proceeding costs can benefit from legal aid in their prosecution and defense and execution proceedings and can request temporary legal protection, unless they do not submit a justification.

4. **Who monitors the administrative level bodies and/or service providers?**

Service providers are mostly public entities in Turkey and the relationship between the service providers and the State is based on administrative tutelage. However, a concession agreement may be executed between the State and a private entity with respect to the procurement of drinking, utility and industrial water, the disposal of waste and rain water, building/operating necessary plants for the services mentioned, and operating natural water facilities. Pursuant to Law no. 5393, a concession agreement may be executed after obtaining the opinion of Council of State and the decision of the Ministry of Interior for a period up to 49 years. Nevertheless, the State has the right and obligation to monitor whether the services within the context of

the concession agreement are being performed duly.

**5. Is there a possibility to appeal against the decisions of service providers? With whom would such an appeal be lodged, and under which conditions is such an appeal possible?**

Since service providers are usually public entities in Turkey, it is possible to bring an action against a service provider in administrative courts in order to cancel their decision if such decision contradicts the law in terms of power, form, cause, subject matter or purpose. Moreover, an administrative action for damages can be brought before an administrative court on the basis of a violation of a personal right even if there is no illegality

**6. What remedies are available at an administrative level?**

Governmental authorities must respond to any petition requesting information, relating to the status of ongoing proceedings, within 30 days after receipt of such a petition. If the relevant governmental authority fails to respond within 30 days or dismisses the petition, an action against such governmental authority may be brought before administrative courts. In addition, if a service provider's performance of its services is deemed an administrative act and such service provider damages a person/entity while performing its services, then the damaged person/entity is entitled to request compensation from such service provider if the person/entity files a compensation lawsuit in accordance with administrative law.

If the service provider is a public entity, the Administrative Jurisdiction Procedures Law numbered 2577 published in the Official Gazette numbered 17580 and dated January 20, 1982, entitles consumers to apply to a higher authority for reversal or amendment of decisions of services providers.

**7. Who monitors these administrative level bodies?**

Administrative level authorities are monitored by higher level administrative authorities based on hierarchy, and administrative protection principles, and by

administrative courts which are entitled to cancel the acts of an administrative authority through a cancellation lawsuit.

**8. Are such administrative bodies legally independent entities according to the law?**

Yes, administrative authorities shall act impartially and be independent as per the Turkish Constitution.

**9. Is there any evidence (e.g., case law) that courts in the country have (or may have) jurisdiction to enforce any economic, social or cultural rights?**

Economic, social and cultural rights are recognized by the Turkish Constitution and relevant national legislation. Therefore, economic, social and cultural rights are judicially enforceable. Particularly, Decision of Turkish Constitutional Court dated January 26, 2012 with file number 2011/6 and decision number 2012/16 and Decision of Turkish Constitutional Court dated July 3, 2014 with file number 2013/89 and decision number 2014/116 address the right to water, as encapsulated within international instruments. However, access is available to only certain decisions of the Court of Appeals, Council of State and Constitutional Court as there is no public database that includes all court decisions in Turkey.

**10. Do courts in the country have jurisdiction to hear cases regarding the obligations to respect, protect and fulfil the human rights to water and sanitation? Is there any existing case law?**

If obligations to respect, protect and fulfil the human rights to water and sanitation are violated, the court may proceed on cases provided that the process for initiating the lawsuit is duly performed. We are aware of decisions rendered by the Constitutional Court where the Constitutional Court recognizes or refers to international documents regarding the right to water under the reasoning section.

**11. Provide a brief overview of the judicial procedure involving a human rights violation case.**

Although certain cases can only be reviewed by the supreme courts under Turkish Law, violations of human right to



water and sanitation are not among such. Therefore, it is possible to apply to local courts (i.e. first instance courts) in case laws relating to the human right to water and sanitation are violated. Please note that only the Constitutional Court can evaluate whether there is a human rights violation; local courts are entitled to decide whether an act is against the law or not.

Judicial system in Turkey is composed of civil and administrative jurisdictions, which are then divided into first instance, district and high appeal courts.

For civil jurisdiction, the first instance courts are courts of civil law and criminal law, the district court is the district courts of appeals and the high appeal court is the Court of Appeals (*Yargıtay*).

For administrative jurisdiction, the first instance courts are administrative courts and tax courts, the district courts are administrative district courts and the high appeal court is the Council of State (*Danıştay*).

There is also the Court of Jurisdictional Conflicts (*Uyuşmazlık Mahkemesi*) which, as the final authority, settles disputes concerning the verdicts and competences of the civil and administrative courts.

The Constitutional Court is the highest legal body for constitutional review in Turkey. This Court also functions as the Supreme Criminal Court and can hear any case involving the President of Turkey, members of the Council of Ministers, or presidents and members of the high courts.

**12. Is there a Constitutional /Supreme Court? Cases are heard as the last appeal or may cases be referred directly?**

Court of Appeals and the Council of State are the last appeal courts. There are no federal courts, but as previously stated, there are district courts that work as first appeal courts for certain disputes. Only in

exceptional cases and for disputes including human rights/fair trial etc. concepts, may also be initiated before the Constitutional Court as a last resort.

**13. Have domestic courts applied international human rights law in past cases or have they referred to decisions from international human rights bodies?**

International agreements which are duly in force have the force of law. In case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws, due to differences in provisions on the same matter, the provisions of international agreements shall prevail.

Therefore, it may be concluded that the application of such international human rights law instruments are encouraged.

**14. Are court proceedings conducted in only one principal language, or are they also conducted in local languages, including minority and indigenous languages? Does the law require that information is made available in local languages?**

The procedures adopted in a proceeding are regulated by law, and the proceeding should be conducted in accordance with law. Therefore, the proceedings should be understandable. The proceedings are only held in Turkish. However, if the relevant persons do not speak Turkish, they may demand translators as part of the right to a fair trial.

**15. Have domestic courts applied (or referenced) recommendations of national human rights institutions?**

Courts have the discretion to take into consideration recommendations from national human rights institutions.

## C. National human rights institutions

### 1. **Is there an independent national human rights institution?**

In Turkey, there is a national human rights institution which is named the Human Rights and Equality Institution of Turkey. The authorities and duties of the Human Rights and Equality Institution of Turkey are regulated by the Law on Human Rights and Equality Institution no. 6701. Pursuant to Law no. 6701, the Board of the Human Rights and Equality Institution of Turkey shall act independently while performing its duties.

### 2. **Does the mandate of the national human rights institution cover the entire human rights framework, including economic, social and cultural rights?**

The Human Rights and Equality Institution of Turkey is authorized to work on promoting human rights that are regulated under the Turkish Constitution and the international agreements to which Turkey is party. Certain economic, social and cultural rights are regulated under the Turkish Constitution and under some of the international agreements to which Turkey is party (e.g. International Covenant on Economic, Social and Cultural Rights).

### 3. **Is the national human rights institution authorized to receive and adjudicate complaints of violations of human right to water and sanitation right?**

The Human Rights and Equality Institution of Turkey is authorized to receive and resolve human rights violation complaints. However, such resolutions are not binding, but rather 'advisory'.

The Constitutional Court of Turkey works as a binding decision-making authority for individual applications. Persons claiming that their human rights were violated by a state authority may apply to the Constitutional Court. However, the jurisdiction of the Constitutional Court of Turkey, in examining individual applications, is limited to a number of human rights, mainly civil and

political rights, which are also regulated under European Convention of Human Rights. The right to water and sanitation is not directly regulated as an individual human right under the Turkish.

### 4. **Does the national human rights institution have a legal basis or authority to initiate an action to address systemic human rights violations?**

The Human Rights and Equality Institution is authorized to examine human rights violation complaints, and it can also initiate an examination ex officio if there are indications of a human rights violation.

The Human Rights and Equality Institution is also allowed to request written or oral information from other administrative authorities, and if necessary, it can also conduct physical site visits. However, since the Human Rights and Equality Institution is not a judiciary body, it does not have the authority to initiate hearings is not regulated under Law no. 6701.

### 5. **What type of remedies does the national human rights institution have the authority to impose?**

The Human Rights and Equality Institution's decisions are of an advisory nature, and the Human Rights and Equality Institution mainly prepares reports with respect to the performance of administrative authorities regarding protection of human rights.

### 6. **Is the institution allowed to initiate investigations/hearings?**

Although the institution is allowed to initiate investigations, it is not a judicial body and therefore cannot initiate hearings..

### 7. **Does the national human rights institution have the authority to monitor how remedies for violations of rights to water and sanitation are implemented by governmental authorities, service providers or others agencies/entities?**

Pursuant to Article 9 of Law no. 6701, the Human Rights and Equality Institution has a duty to monitor the results of its decisions even though such decisions are not binding.

8.



## D. Regulation

### 1. **Is there a water regulator established by law?**

The DSI may be viewed as the national agency for water and sanitation.

### 2. **Is the water regulator an independent entity?**

The DSI has a separate public legal personality and is associated with the Ministry.

The Water Management Coordination Committee under the Ministry provides coordination and cooperation when determining measures to protect environment, improvement of water investment, development of strategies, and evaluating the implications of relevant public authorities in relation to the basin plans. The Water Management General Directorate of the Ministry pursues and coordinates the application of the decisions of this committee.

### 3. **What are the oversight mechanisms and responsibilities related to drinking water supply and sanitation services of the regulator?**

The Turkish Constitution provides certain mechanisms for the accountability of the government; which are: (i) question

mechanism where a written question is directed to the Prime Minister or Council of Ministers; (ii) parliamentary inquiry which is an examination conducted to obtain information on a specific subject; (iii) a general debate which is the consideration of a subject, relating to the community and the activities of the State, at the Plenary of the Grand National Assembly of Turkey; (iv) censure which is a removal mechanism allowing for the discharge of a minister or council of ministers and (v) parliamentary investigation which may result in the trial of Prime Minister, Vice Presidents or Ministers.

As per the recent amendments to the Turkish Constitution, Ministers and Vice Presidents will only be responsible to the President and since there are no more censure motions, the Parliament will no longer have the competence to monitor/discharge them. Written questions will be addressed only to Vice presidents and Ministers given that there will no longer be a Prime Minister or Council of Ministers. No written questions can be addressed to the President. Lastly, parliamentary investigations may result in a criminal trial of Vice Presidents, Ministers and the President.

