

## AVRUPA KONSEYİ PARLAMENTER MECLİSİ GENEL KURULU

29 EYLÜL – 2 EKİM 2015

29 Eylül 2015, Salı

### ***Debate: public health and the interests of the pharmaceutical industry: how to guarantee the primacy of public health interests***

Mr ÇONKAR (*Turkey*) – As a result of ageing populations, extended life spans and socioeconomic changes around the world, health care is among the most important topics of the 21st century. As the average life expectancy increases, innovative and efficient drugs and new treatments, which can help prevent diseases and reduce treatment costs, become increasingly important. In line with the need for efficient drugs, the pharmaceutical industry has increased its economic value, and its revenue in 2014 was almost \$1 trillion. Of course, such volume throws up ethical questions about the relationship between the industry and various actors in the health sector, and there is mutual recognition of the need for regulation. I thank the rapporteur for examining the issue in depth and for presenting concrete recommendations.

In terms of public health, Turkey has undergone great development, especially in the last 15 years. Our health care transformation programme, implemented in 2014, was accompanied by a social security transformation programme, and led to a major development in public access to health services and treatments. As a result, physician consultations per capita have increased fivefold, and the average life span, having increased by 24% in the last 30 years, has now reached 74 years.

I must stress that none of these developments in my country has been achieved in return for unjust gain by the pharmaceutical industry. Since 2004, legislation on drug prices has been updated with the aim of controlling asymmetrical increases, as affordable prices and sustainable health economics are beneficial both for public health and for firms. Under the new legislation adopted in 2012, the relationship between the industry and health sector professionals is regulated in detail. Meetings and seminars sponsored by drug firms are now registered in a database, and the number of such events that a doctor can attend is limited. Financial transfers such as donations are also registered to monitor and audit relationships in the sector. Such regulations are highly beneficial to the public and should be implemented along with the recommendations highlighted in the report.

### ***Current affairs debate: a comprehensive humanitarian and political response to the migration and refugee crisis in Europe***

Mr DENEMEÇ (*Turkey*) – The ongoing migration crisis in Europe and elsewhere has led to a humanitarian tragedy unprecedented in recent history. All figures point to one fact: this crisis is escalating and is taking an immense humanitarian toll. What will be Europe's response to the humanitarian tragedy unfolding before our eyes? Will we build a fortress so that the refugees lose their lives trying to reach Europe? Preventing refugees from reaching safety in Europe contradicts our common values and traditions.

Turkey spares no effort in offering protection to refugees fleeing persecution and war. Turkey currently hosts more than 2 million Syrians, who are our guests and benefit from our protection regime. Turkey strictly complies with the principle of non-refoulement at the border. However, Turkey feels that there is a clear deficit of solidarity on the part of the international community in sharing the burden of the Syrian crisis.

The number of irregular migrants crossing Turkey's borders to go to European countries has sharply increased in recent years. Approximately half a million irregular migrants attempted to cross our territory in the nine years from 2005. Since the beginning of 2015, Turkish coastguards have rescued more than 50 000 migrants from the sea—that is more than the total number of migrants rescued across the world in the previous five years—and have apprehended 95 migrant smugglers, which shows that Turkish authorities take the humanitarian dimension seriously during their search and rescue operations.

However, no country is capable of addressing the illegal migratory flows alone. Saving and helping people in distress should be the joint responsibility of humanity. Given the complex and cross-border nature of the problem, international co-operation and solidarity are indispensable in finding a solution for irregular migration. Turkey is co-operating with her neighbours and is participating in almost every international and regional activity in this field. We must not forget that the figures represent actual people who have escaped life-threatening dangers and deserve to be welcomed with compassion. They should not be made to experience further trauma.

### ***Joint debate resumed***

Mr DIŞLI (*Turkey*) – I thank Ms Strik for preparing this high-quality report which touches on one of the pressing challenges that Europe needs to confront in solidarity. The externalisation of Europe's border controls has important effects not only on the management of migration but on the human rights of refugees and migrants. In this context, the issue of transit migration merits more attention and detailed analysis by the international community.

As the report rightly points out, the human rights of migrants should not be put on the backburner, but constitute a central component when migration policies are

designed. It is evident that security measures constitute only one pillar in combating irregular migration, and unless we address the root causes of irregular migration, such as economic, political and social instabilities and conflicts, they would yield only temporary and limited success.

Turkey, traditionally a source and transit country for migration, has now, with her strengthening economy, become a destination country. In parallel, a substantial increase has been observed in the number of asylum seekers in recent years. To manage this increasing migration flow, Turkey adopted the law on foreigners and international protection, which forms the basis of an effective and strong migration management system by establishing the necessary legal and administrative infrastructure. Prepared with the participation of all relevant national and international stakeholders in a transparent and inclusive manner, the new law aims to establish a viable migration system with full consideration of respect for human rights.

The ongoing humanitarian tragedy in Syria has led to an influx of Syrian refugees to Turkey and other countries in the region. Turkey is resolved to spare no effort to protect human lives, with a view to strengthening co-operation in the international forums. Turkey today shelters more than 2 million Syrians and Iraqis under temporary protection, and has so far spent more than \$6 billion on Syrians in Turkey. However, the contribution we have received from the international community has been below all expectations.

I conclude by underlining that irregular migration is a global problem with global repercussions. Therefore, this issue requires a global and comprehensive approach, and all countries should exert joint efforts to prevent and overcome the problems brought by irregular migration.

Ms ERKAL KARA (*Turkey*) – The adverse effects of the Dublin system on Council of Europe member States that are not members of the European Union should be taken into account with a view to achieving a better understanding of the consequences of the Dublin system for the whole of Europe.

Mr DENEMEÇ (*Turkey*) – The non-EU member countries of the Council of Europe are affected by the Dublin system and we require that factor to be taken into account.

Mr DENEMEÇ (*Turkey*) – As it is the biggest refugee-hosting country, hosting more than 2 million Syrians and Iraqis according to UNHCR data, I underline that, with

no concrete evidence for shortcomings, claims of ineffective implementation by Turkey are unfounded and unacceptable.

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30 Eylül 2015, Çarşamba

***The activities of the Organisation for Economic Co-operation and Development (OECD) in 2014–2015***

Ms ERKAL KARA (*Turkey*) \* – I thank the rapporteur for this excellent report, which stresses the essential notions of the world economy. One of the essential points stressed by the report is ecological sustainability. Sustainability is a concept that promotes equality between the humans of today and of tomorrow. Furthermore, economic sustainability is based on the notion that human beings have the capacity to overexploit our natural resources, leaving only polluted water and infertile ground for future generations. Water, soil and many natural resources are overexploited by our economic activities. As the report suggests, we must fix specific objectives in order to maintain the use of water, soil and other natural resources at sustainable levels.

Another concept that I would like to highlight is that of green growth. Green growth is the new model of revolutionary development that supports economic growth while promoting sustainability in terms of climate and environment. Green growth also underscores the sustainable economic growth of the environment in order to promote an economy with low carbon emission levels and socially inclusive development.

Inclusive development is another important aspect of the world economy that we need to think about. Growth, even at record levels, has not been able to tackle poverty inequality and unemployment. Certainly not all kinds of growth are inclusive, and they cannot be equally inclusive. Attaining high levels of growth should reduce poverty and increase human well-being, so governments should take necessary measures to be able to increase the income level of average and lower-income households. Inclusive growth that leads to employment of sufficient quality should become a focal point for the OECD, which should examine the causes of

low productivity, the growth of informal or non-formal labour and the number of non-standard jobs, the decline in the share of work and the increase in inequalities. We should make use of all strategies to face up to these tendencies, and their effects on the distribution of well-being should be developed and improved. A fair share would mean that everyone would benefit from growth.

### ***Freedom of religion and living together in a democratic society***

Mr DIŞLI (*Turkey*) – I thank the rapporteur for his huge efforts and diligence. The report handles the subject in a detailed and systematic manner and touches on many social, philosophical and concrete aspects. It is my impression, however, that the rapporteur attached so much importance to producing a balanced report that ultimately it led to divergence from the true intent.

Many of you might remember that the initiative leading to the preparation of the report was intended as a response to a previous report of the Assembly that categorised circumcision as a violation of the physical integrity of children. Despite the generally positive conclusions it reaches, the report expands the scope of the discussion by including other manifestations of belief such as ritual slaughter alongside circumcision.

I believe that it is an unfair burden for the Assembly to have to evaluate each and every social behaviour and to reach a verdict on them. The true calling of the Assembly is not to make a list of “controversial” or “divisive” social practices but rather to encourage European societies to develop the culture of living together within the framework of European conventions. It is disappointing, therefore, that we are discussing why, how and to what extent freedom of religion can be limited.

Regardless of that, I find it encouraging that the report points to the threats caused by extremism and xenophobia, but it must be strongly stated that these are two sides of the same coin, and one cannot choose to emphasise one over the other. I definitely support the recommendation to set up an officially recognised platform for dialogue with representatives of religions, beliefs and other organisations to foster a culture of living together.

Mr DENEMEÇ (*Turkey*) – There is a contradiction here. The paragraph to be deleted by the amendment refers to a previous resolution adopted unanimously by the committee and this Assembly. It was also the position of the United Nations Human Rights Committee. Mr Jensen was the rapporteur. For that reason, accepting this amendment would mean that the Assembly was disregarding, and diverging from, its own resolution. I invite all members to object to the amendment.

Mr DENEMEÇ (*Turkey*) – Bearing in mind that the report is about freedom of religion and the exercise of that right, it would be more appropriate to refrain from

using prohibitive language. Instead of “not to be allowed unless”, we offer “to be”. The amendment aims to formulate the obligation of member States in a more positive manner, while keeping the meaning and content perfectly intact.

1 Ekim 2015, Perşembe

### ***Abuse of pretrial detention in States Parties to the European Convention on Human Rights***

Mr KÜRKCÜ (*Turkey*) – The draft resolution calls on all member States to “implement measures aimed at reducing pretrial detention” and to “release all detainees currently held for any abusive purposes.” We heartily welcome those statements.

However, the Assembly’s help in providing a political direction to overcome what is a basic structural flaw in the States under discussion is too little, too late. Pretrial detention is one effect of the instrumentalisation of justice by the ruling power. Critical jurists increasingly refer to the return of enemy criminal law, as opposed to citizens’ criminal law. Even in countries with democratic traditions, the rise of gentile totalitarianism is discussed, while criminal law is stripped of its liberal form. Hence, pretrial detention is part of a political question that cannot be resolved through procedural improvements.

Procedural improvements would, no doubt, improve the situation to an extent, but the essential threat remains. As long as the supremacy of the state over civil society is not challenged through citizens’ control at all levels, including over the organs of the state, justice, as well as law making, will remain subject to instrumentalisation. The result is pretrial detention.

The lack of such a methodological backbone inevitably obscures the rapporteur’s fact-finding mission. The rapporteur was tasked in 2012, when Turkey was swept by waves of mass arrests, but the section of the report on Turkey leaves out those waves of pretrial detention, which were targeted at Kurdish politicians and rights activists. Between 2009 and 2013, 6 000 affiliates of my party, including six elected MPs and 31 mayors, 94 journalists and 36 lawyers remained in pretrial detention. There is no reference to that in the report. Such negligence is unacceptable given that, since July, Turkey has witnessed the resumption of mass pretrial detention, alongside uninterrupted 24-hour curfews. In Cizre, nine days of curfew resulted in 23 civilian deaths without any prosecutions. The report’s evasion of political conflicts inevitably distances it from the political facts and damages its reliability.

In that context, I invite the Assembly to pay further attention to the following cases. Mr Grigore Petrenco, a former member of the Assembly and the Group of the

Unified European Left, has been in pretrial detention in Moldova since 6 September for joining public protests against the government. Ms Khalida Jarrar, a member of the Palestinian Legislative Council, has been in administrative detention in Ramallah since 4 April 2015 on the orders of an Israeli military court. Mr Abdullah Demirbaş, a former Kurdish mayor of the Sur district of Diyarbakır, has been in pretrial detention on baseless corruption charges since 5 June 2015, years after he was in office. Six anonymous activists in Ukraine have been in pretrial detention in Odessa since 2 May 2014.

Finally, politicians are not exempt from legal prosecution, but politicians who are in power should be strongly deterred from instrumentalising justice as a weapon of power.

Mr DIŞLI (*Turkey*) – It is a crime under Turkish law to insult the president. A 16-year-old student who did so was arrested and released within two days. The courts decide such cases case by case and evaluate all the factors. Independent judicial procedures cannot be used as a tool to silence critical voices.

Mr DIŞLI (*Turkey*) – The report is entitled “Abuse of pretrial detention in States Parties to the European Convention on Human Rights”. The Russians are not here. Turkey is out place in the draft resolution, so I propose to delete the reference to it.

#### ***Progress of the Assembly’s monitoring procedure (October 2014–August 2015)***

Mr DENEMEÇ (*Turkey*) – I thank Mr Schennach for his efforts in the preparation of this report.

I want to draw to your attention paragraph 2.3.4 of the report, which focuses on Turkey. I am disappointed that paragraphs 91 to 98 contain numerous allegations with serious accusations that are not based on concrete or reliable information. This harms the credibility and objectivity of this report which will become today an official PACE document. For instance, paragraph 91 includes allegations about "undue limitations on the fundamental freedoms of association and expression, as well as electoral rights" without any concrete example of the breach of these fundamental rights. Similarly, paragraph 96 mentions the possible cancellation of individual appeals to the constitutional court, which is not on the agenda of Turkish authorities.

Regarding act 5651, on the internet, we have already informed the monitoring and media committees about its scope, aims and content. This law protects the balance between the protection of the privacy and freedom of expression and aims to address cases of breach of privacy of persons. The security act referred to in

paragraph 99 does not give the police the authority to search homes and vehicles. According to the law, only police chiefs have the authority to initiate searches and a monitoring mechanism is established in order to avoid abuses, as is practised in several EU countries. The law gives Turkish police the right to hold a suspect under custody for 24 hours with the approval of the public prosecutors, and for 48 hours for collective crimes only. This provision is limited to “in flagrante delicto” cases and to serious offences such as deliberate murder, child abuse, sexual assault, and manufacturing and trafficking of narcotic substances.

Accusing the Turkish authorities of the suspension of the peace process would be a shame for our Assembly when, in these difficult times, we should be condemning terrorism. Turkey has lost tens of young people in a couple of weeks despite all its efforts regarding the peace process.

I would like to reiterate that Turkey is determined to complete the reform process necessary for the closing of the post-monitoring dialogue process. However, the Assembly’s evaluations and recommendations should be fair, balanced and realistic. In this vein, I ask for your support for our amendments.

Mr KÜRKCÜ (*Turkey*) – I want to criticise the report, although not from the same standpoint as Mr Denemeç, who said that it was full of biased and unprincipled criticism of how the Turkish government is functioning. Instead, I criticise the rapporteur for being overly balanced and taking an overly neutral approach towards what is going on in Turkey these days. What we have now is not a constitutional state, but one ruled arbitrarily by the President of Turkey, Tayyip Erdoğan, who openly expresses that his position is contrary to the constitution and that the constitution has to be changed, but not his attitude. Turkey is now drifting away from every principle that it has signed up to under European conventions, and therefore, the situation in Turkey is urgent.

This Assembly should be aware of what is going on in Turkey. On 1 November, Turkey will decide on either returning to democracy or descending into tyranny. This is the dramatic point that we are passing through. Unfortunately, the report perhaps reflects the situation in Turkey one, two or three years ago, but in the last six months, the situation has changed drastically. This morning, Turkey opened its eyes to reports that a famous TV presenter from a major media group was assaulted the night before. That media group has been targeted by Tayyip Erdoğan for months. On the night of 7 September, our party branches in 400 places and the workplaces of Kurdish business men were raided by gangs. All our party’s premises, including our headquarters, were smashed up. No one – not even one person – has been prosecuted for that. Only one person was questioned by a prosecutor. It was the leader of our party, who called on the party membership to protect themselves from those mobs, which is a basic right under the Turkish constitution and criminal law. This is the situation in Turkey.

Turkey is no longer a normal state in which we can criticise with reference to the Council of Europe's values. The situation could change if our party can overcome the barrier of national elections despite the unlawful, arbitrary pressure that is applied, particularly on the Kurdish people in the south-east of Turkey. I am sure, and I am assured, that the Turkish public and all other nationals living in Turkey cannot go along with this retrograde position of Turkey's statehood. Either the President will change, or Turkey will change without this President. This is a very serious time for Turkey, and the Council of Europe should take those issues into account when evaluating the report, which is unbalanced because the situation is even graver than it recognises.

Mr DENEMEÇ (*Turkey*) – Accusing the Turkish authorities of suspending the peace process would shame this Assembly. In these difficult times we should be condemning terrorism. The measured condition of the peace process was the disarmament of the PKK terrorist organisation, which has not been fulfilled. Turkey has lost tens of young people in the past couple of weeks, despite all its efforts in the peace process.

Mr DENEMEÇ (*Turkey*) – Religious minorities already have appropriate legal status in Turkey under the 1923 treaty of Lausanne.

### ***Free debate***

Mr KÜRKCÜ (*Turkey*) – In this free debate, I would like to stress what I said in the morning sitting about the precarious situation in Turkey. I draw the attention of the Assembly to the special mission that it is sending to Turkey to follow the elections. As I have said, those elections will be historic – they hold much more importance than anybody who looks at them from outside Turkey could imagine.

Turkey, with its population of 78 million people, its multi-ethnic and multi-religious background, its huge capacity for production and its well-educated sections of society, could become one of the trend-setting countries of the region in the direction of peace and prosperity. However, there are unresolved questions that are the remnants of age-old inequalities, dating back to the Ottoman days, the First World War and the partition of the Middle East by the big powers. We are trying to find a peaceful way out of those contradictions.

We would like the Parliamentary Assembly of the Council of Europe, without prejudices, to pay attention to the broader issues and not just place importance on economic issues. The Assembly should help Turkey to settle its contradictions using its own means by giving strength to civil society, political parties and citizens' organisations. That must be done not by the use of state apparatus, but through citizens' organisations. With the backing of the democratic, enlightened

and progressive sections of Europe, Turkey can solve those age-old questions. Only in that way can Turkey become one of the trend-setting countries of Europe.

If Europe looks at Turkey from the standpoint of short-sighted interests, it will see only the Syrian disaster that we are passing through. Europe and the United States see Turkey as an auxiliary country in their war in Syria and we are now seeing the result of that. We therefore ask the Parliamentary Assembly of the Council of Europe to pay the greatest attention to Turkey's civil society and democratic institutions during the life or death struggle of the 1 November elections.

Mr DİŞLİ (*Turkey*) – Terrorism poses a great threat to international peace and security. Terrorism cannot have any justification and should be condemned unconditionally. Any attempt to affiliate terrorism with any religion or ethnic group is utterly wrong, and in fact would play into the hands of terrorists. Turkey is combating all kinds of terrorism and terrorist organisations without any discrimination, including Daesh and the PKK. Our counterterrorism efforts and our contribution to international co-operation to that end are known by our partners. We will not let our determination to counter terrorism be questioned by anyone.

Syria has become a broken country in the hands of a brutal regime. More than 300 000 people have lost their lives, half the population is displaced and its economy and infrastructure are in ruins. The regime is getting weaker and more desperate. It has lost control in many parts of the country and terrorists and foreign fighters are filling the vacuum. Russia has now entered the equation and all three groups are bombing the Syrian people. As long as Assad stays in power, Syria will remain in this vicious cycle.

The conflict environment has become a clear threat to the stability of the entire region, with strategic future ramifications. The situation in Syria has therefore turned into a national security issue for Turkey. We share a 911-kilometre border with Syria, and we are hosting close to 2 million Syrians. Daesh poses a clear and imminent threat to Turkey. We have a firm determination to fight, degrade and ultimately destroy Daesh. Turkey has been actively participating in the international coalition against Daesh, and we have opened our airbases to the use of the coalition. We have been conducting joint air operations with the United States against Daesh elements in northern Syria, as of 28 July. We are also deepening our bilateral co-operation with the US in countering Daesh and other terrorist organisations.

We emphasize that Daesh cannot completely be defeated without solving Syria first. We have long argued that there cannot be a military solution to the ongoing conflict. We need to get the political track going to stop the bloodshed. Assad and

his close associates are the root cause of the chaos and destruction in Syria. They should leave the scene immediately.

2 Ekim 2015, Cuma

***Equality and shared parental responsibility: the role of fathers***

Ms BİLGEHAN (*Turkey*)\* – Dear colleagues, on the question of shared parental responsibility, we have been considering the family unit, which is the bedrock of our society. I thank the rapporteur, Ms Hetto-Gaasch, for the breadth of her work and for having drawn our attention to a subject that is often overlooked. I also thank Mr Schennach, who has given us his own personal experience, which is an example of good practice.

In recent decades, the family has evolved and changed in terms of household structure and the fairer sharing of tasks between parents, but of course we do not yet have 50:50 equality. Parents often disagree about what should happen to the children when they break up, and sometimes fathers are subject to stereotyping that can affect their relationship with their children. How can we ensure that fathers maintain contact with their children after separation? If there is no regular contact, that is particularly difficult. We must allow the child to spend time living with each parent through shared residence arrangements, but it must be implemented sensitively and should never be an automatic response. It must be decided on a case-by-case basis, taking into account the needs of the child.

The draft resolution was adopted unanimously by our committee at the beginning of September. I call on you as members of this Assembly, which stands up for human rights, to support the rights in it and how they translate into the family. I commend the report and the draft resolution to you.