

The process of reforming and improving human rights protection in Turkey slowed down in 2006.

The use of indiscriminate and excessive force by security forces as well as bomb attacks by non-state groups resulted in numerous deaths. Resurgence of the armed activity against the authorities seemed to bolster the nationalist reaction in the government structures, media and the civil society, and human rights activists were both harassed by the authorities and threatened by paramilitary groups. Independent journalists and human rights groups in Turkey observed a proliferation of racist and isolationist groups engaged in hate propaganda against minorities, liberal intellectuals and human rights activists.

Comprehensive reforms were still needed to ensure the independence of the judiciary and legal proceedings conforming to international standards, and efforts to prevent and remedy torture remained unsatisfactory. Members of ethnic minorities and IDPs were also the targets of aggressive nationalism and mob violence, which the authorities often failed to condemn and the perpetrators of which rarely were brought to justice.

In October, the Worker's Party of Kurdistan (PKK) (also known as Kongra-Gel) declared a unilateral peace-fire, which gave rise to hopes for a decrease in violent clashes in the country.

Turkey ratified the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) in March, thus enabling the Human Rights Committee to consider complaints by individuals claiming to be victims of human rights violations by Turkey. However, Turkey retained its reservations on several clauses of the covenant, including article 27, which safeguards minority rights. At the end of the year, Turkey had yet to submit its initial reports under the ICCPR (due in 2004) and the Inter-

national Covenant on Social, Economic and Cultural Rights (ICESCR) (due in 2005).

During the year Turkey ratified the Revised European Social Charter, however, with reservations to the provisions on the right to organize, the right to collective bargaining and the right to a decent standard of living.

Right to life

Protection of the right to life deteriorated due to a growing number of cases of indiscriminate and disproportionate use of lethal force by security services as well as deadly attacks perpetrated by non-state actors. According to the Human Rights Foundation of Turkey (HRFT), 62 persons were killed by security forces, while 42 persons died in armed attacks on civilians carried out by illegal non-state organizations in October 2005-October 2006.¹

In several cases, excessive use of force by security services during demonstrations resulted in deaths of protestors and standers-by.

◆ In March, demonstrations held to protest the killing of PKK members by security forces escalated into violent protests in the city of Diyarbakir. In the clashes that followed, four demonstrators were killed by the security forces. This triggered demonstrations in other towns, during which nine other people, including at least four children, were killed by security forces.²

Deadly bomb attacks by non-state actors took place *inter alia* in the holiday resort Antalya (June and August) and in Diyarbakir.

◆ A bomb attack in the Baglar neighbourhood of Diyarbakir in September killed 11 civilians, including seven children, and injured 15 others. A group called Turkish Revenge Brigades claimed responsibility for the attack.³

A large number of past extrajudicial and political killings remained unsolved,

particularly in the southeastern part of the country.

Rule of law and fair trial

Both the government and the military maintained their influence on the judiciary, and corruption remained widespread in the judiciary.⁴

Violations of fair trial and due process rights continued to be frequently reported. With respect to terrorist suspects, Amnesty International documented a range of violations, including failure to investigate allegations of torture and ill-treatment; the admission of statements made under duress as evidence; denial of equality of arms and the right to an effective defense; and excessively long pre-trial detention and protracted criminal proceedings. A considerable number of people charged with terrorism-related crimes, some of whom had been arrested as far back as in 1993, remained in detention in maximum security prisons pending trial.⁵

In a positive development, amendments to the military penal code adopted in June restricted the competence of military courts to try civilians unless they are involved in crimes committed together with military personnel. The amendments also allowed for retrials by military courts in cases where the European Court of Human Rights (ECtHR) finds a breach of the European Convention in relation to a trial before such courts.

A general invitation from the Turkish government to UN human rights special rapporteurs to visit the country excluded the Special Rapporteur on the independence of judges and lawyers.⁶

Torture and ill-treatment

Torture remained a serious concern, although the reported number of cases of abuse continued to decrease. The HRFT received about 200 complaints from persons alleging to be victims of torture dur-

ing the year. It also registered two cases in which persons died while held in custody by the security services, and 14 deaths of remand and convicted prisoners under circumstances giving rise to concern that the victims may have been subjected to treatment amounting to torture.⁷

◆ The Diyarbakir Bar Association reported that hundreds of people, including children, were rounded up and allegedly ill-treated and tortured in connection with demonstrations held in the city in March.⁸

The implementation of legislation aimed at preventing torture remained ineffective and, as observed by the UN Special Rapporteur on Torture, safeguards against torture – such as access to a lawyer and qualified forensic doctors – were not adequately enforced.⁹ The process of investigating and remedying abuse also remained marred by problems, contributing to widespread impunity. Police sometimes refused to accept complaints about torture; complaints were often not properly investigated, and legal proceedings were complicated by the fact that the burden on proof remained on the person alleging torture.¹⁰

An amendment to the Law on the Prosecution of Public Servants re-introduced privileges preventing prosecution of officials accused of torture and ill-treatment.¹¹ Officials found guilty of torture and ill-treatment were rarely suspended.¹²

◆ The case of a woman who was tortured by 11 gendarme intelligence officers in 2003 was concluded by the Corum Aggravated Penal Court in December. The court acquitted the defendants despite a forensic report indicating that the victim was tortured and statements by a gendarme officer that the victim was in custody of the intelligence officers.¹³

HRFT criticized new anti-terror legislation adopted during the year for encouraging the use of torture and ill-treatment by

expanding guarantees for the impunity of security officials resorting to abusive treatment.¹⁴

Freedom of expression

According to the HRFT, the authorities initiated legal proceedings against more than 100 writers and journalists who had merely exercised their internationally protected right to freedom of expression by engaging in debates about and challenging current and past official policies.

Prosecution was facilitated by a number of problematic provisions of the penal code, which courts readily interpreted so as to punish legitimate criticism. These provisions included in particular article 301, which criminalized “defamation” of “Turkishness,” the Turkish Republic, and government institutions and branches; article 305, which criminalized activities con-

sidered to undermine the integrity of the state, national security, fundamental principles of the Turkish Republic and other fundamental national interests.

Journalists, writers and others criticizing official views and policies were also the targets of defamatory media campaigns as well as physical attacks typically perpetrated with impunity by nationalist groups, such as groups affiliated with the Nationalist Action Party.

◆ In September, a new criminal proceeding was launched against prominent Turkish-Armenian journalist Hrant Dink on charges of “insulting Turkishness” after he used the term “genocide” to describe the massacres of Armenians that took place in the Ottoman Empire in 1915 in an interview for *Reuters*. It was the third time he was prosecuted on the same charges, and in October 2005 he was given a six-month suspended prison sentence, which was upheld on appeal in June 2006.¹⁵ On 19 January 2007, Dink was shot dead in Istanbul, outside the office of the *Agos* newspaper, for which he was an editor. It was believed that he was murdered because of his work as a journalist, in particular his outspokenness regarding the mass killing of Armenians.¹⁶ A few days after the murder, seven suspects were arrested.

Criminal code provisions on hate speech (article 216) remained of concern, as hate speech motivated by nationality, sexual orientation, and political, philosophical or religious conviction was excluded from its scope.

Internally displaced persons and refugees

A considerable part of the estimated 400,000 persons or more, who were forced to flee during the armed conflict with the PKK and other armed groups in the 1980s-1990s, remained displaced in the eastern and southeastern parts of the country. Following criticism by the ECtHR in



Hrant Dink, a journalist with the Turkish-Armenian newspaper Agos, was charged with “denigrating Turkishness” for using the term “genocide” for the massacres of Armenians in the Ottoman Empire in 1915. He was gunned down in broad daylight outside his newspaper’s office on 21 January 2007. © AP/ Orsal

2004 of domestic remedies available for IDPs, a new law was adopted, providing for a system of so-called administrative damage assessment committees to consider applications for compensation of damage. In a January 2006 decision, the court deemed this law to provide effective remedies for IDPs, and thereby to facilitate return.¹⁷

According to Human Rights Watch (HRW), the work of the assessment commissions deteriorated after the ECtHR 2006 decision; the commissions excluded large numbers of applicants from the coverage of the law.¹⁸

A new Law of Resettlement introduced in December gave rise to concern that IDPs who do not agree to resettle in the designated places may be deprived of benefits.

◆ In May, security forces reportedly failed to prevent mob violence against Kurdish IDPs in Izmir.¹⁹

Turkey continued to apply the 1951 Refugee Convention in a restrictive manner by excluding non-European asylum seekers from refugee status. As a result, among others, asylum seekers from Chechnya were denied protection.

Human rights defenders

Harassment of human rights and pro-democracy activists, lawyers and journalists

remained a concern in 2006, and ranged from intimidation and attacks by nationalist groups acting with impunity to politically motivated legal cases.

◆ In March, lawyer Eren Keskin, vice chairperson of the Human Rights Association, was fined and sentenced to ten months in prison for "denigrating the armed forces" because she had made public cases of sexual assaults by soldiers.²⁰ Following the trial, she received threatening letters by nationalist groups.²¹

◆ In July, the public prosecutor of Izmir launched a case against Nalan Erken, a lawyer working on prevention of torture, after she alleged that child prisoners held in a prison in Izmir were tortured.²²

◆ In July, a research group who published their findings on the situation of the IDPs in Turkey was attacked by a group of right-wing lawyers and activists during the presentation of their report.²³ No investigation was conducted into this incident and no one was held accountable.

Visiting human rights defenders also faced obstacles in their work.

◆ In April, HRW researcher Jonathan Sugden was arrested by the gendarmery and deported from Turkey while researching the situation of internally displaced persons in the south east.

SOURCES FOR FURTHER INFORMATION:

Organizations:

- ◆ Human Rights Platform, at www.ihop.org.tr
- ◆ Human Rights Foundation, at www.tihv.org.tr
- ◆ Human Rights Association, at www.ihd.org.tr/eindex.html
- ◆ Human Rights Agenda Association, at www.rightsagenda.org
- ◆ Mazlum-Der (human rights databank), at www.mazlumder.org
- ◆ Amnesty International Turkey, www.amnesty.org.tr
- ◆ Human Rights Watch, www.hrw.org

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- ◆ European Commission, *Turkey 2006 Progress Report*, November 2006, at www.ecoi.net/file_upload/16_1163066152_turkey-2006.pdf

Endnotes

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- ² Amnesty International, "Turkey: Recent human rights violations must be investigated," 12 April 2006, at <http://web.amnesty.org/library/Index/ENGEUR440052006?open&of=ENG-TUR>.
- ³ Reuters, "Turkish police raid houses as bomb toll rises," 13 September 2006, at today.reuters.com/news.
- ⁴ Report of the Special Rapporteur, Manfred Nowak, par. 10-11.
- ⁵ Amnesty International, *Justice Delayed and Denied*.
- ⁶ Report of the Special Rapporteur, Manfred Nowak, par. 337
- ⁷ HRFT, *Annual Evaluation*.
- ⁸ Diyarbakir Bar Association, "Assessment of the Events in Diyarbakir on 28 March 2006" (in Turkish), at www.diyarbakirbarosu.org.tr/.
- ⁹ UN Commission on Human Rights, *Torture and other cruel, inhuman or degrading treatment or punishment - Report of the Special Rapporteur, Manfred Nowak*.
- ¹⁰ *Ibid.*, par. 312.

- ¹¹ Ibid, par. 318
- ¹² Ibid, par. 321-22.
- ¹³ HRFT, "Another torture case ended in impunity (Turkish)," 26 January 2007, at www.tihv.org.tr/index.php?option=com_content&task=view&id=93&Itemid=1/.
- ¹⁴ BIA, "Yeni TMY 'flkenceciye Tolerans' Demek" (New Anti-Terror Legislation Tolerates the Torturer), 26 April 2006, at www.bianet.org/2006/04/26/78252.htm.
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- ²⁰ See Human Rights Watch World Report 2007, Turkey.
- ²¹ Human Rights Agenda Association, "End the Lynch Campaign Against Eren Keskin" (Turkish), 7 June 2006.
- ²² Human Rights Agenda Association, "A Standard in Turkey: Don't Prevent Torture or You Will Be Prosecuted" (Turkish), 19 September 2006.
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